

Appellate Court Decisions - Week of 4/6/15

First Appellate District of Ohio

State v. Flannery, 2015-Ohio-1360

Evidence: Hearsay

Full Decision: http://www.hamilton-co.org/appealscourt/docs/decisions/C-140426_04082015.pdf

Summary from the First District:

“The defendant waived his constitutional challenge to the aggravated-menacing statute because he did not raise the issue at the trial level.

“The trial court erred when it did not allow the defense witness to testify that he had not heard the defendant make a threat, because testimony about what someone did not hear someone say is not hearsay. The error was not harmless because admission of the testimony could have led to a different outcome in the trial.

“The defendant’s conviction for aggravated menacing was supported by sufficient evidence, because the victim’s testimony, together with the circumstantial evidence that the victim had immediately called the police and had followed police advice not to leave work alone, established the victim’s belief that the defendant would cause him serious physical harm.”

Second Appellate District of Ohio

Nothing new.

Third Appellate District of Ohio

Nothing new.

Fourth Appellate District of Ohio

Nothing new.

Fifth Appellate District of Ohio

Nothing new.

Sixth Appellate District of Ohio

State v. Lynch, 2015-Ohio-1275

Sentencing: Fines

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/6/2015/2015-Ohio-1275.pdf>

In an aggravated murder conviction, the trial court erred when it imposed a \$25,000 fine without properly determining Appellant's current or future ability to pay. Appellant had been incarcerated since the age of 16, never had a job, and may never be released from prison. He did receive a GED, however.

The trial court also "erroneously failed to orally inform appellant of his responsibility to pay the costs of prosecution and the \$1.00 citizens' reward program fee."

Seventh Appellate District of Ohio

Nothing new.

Eighth Appellate District of Ohio

Nothing new.

Ninth Appellate District of Ohio

Nothing new.

Tenth Appellate District of Ohio

Nothing new.

Eleventh Appellate District of Ohio

In re Z.N., 2015-Ohio-1213

Sentencing: Restitution

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/11/2015/2015-Ohio-1213.pdf>

The trial court erred in imposing restitution on Appellant for the victim's installation of a security system after his attempted trespass in their habitation (R.C. 2911.12(B)). An after-the-fact security system falls outside the definition of economic loss.

Twelfth Appellate District of Ohio

State v. Young, 2015-Ohio-1347

Motion to Suppress

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/12/2015/2015-Ohio-1347.pdf>

Summary from Judge Rodenberg:

FACTS

Appellant appeals trial court's decision denying his motion to suppress and sentencing him to 60 months in prison following his conviction for illegal assembly of chemicals for the manufacture of drugs. Appellant sought to suppress incriminating item found in an open trash bag atop a trash can located outside the back door on a fenced back patio.

CURTILAGE

Fenced back patio was part of home's curtilage as it was so intimately tied to the home itself that it should be placed under the home's "umbrella" of Fourth Amendment protection.

KNOCK AND TALK

Law enforcement officer may enter a home's curtilage without a warrant if he has a legitimate law-enforcement objective and the intrusion is limited. One such permissible warrantless intrusion is the investigative technique known as "knock and talk," where a police officer knocks on the front door of a home for purposes of speaking to the occupants or asking for consent to search the premises. Where knocking at the front door is unsuccessful in spite of indications that someone is in or around the house, an officer may take reasonable steps to speak with the person being sought out, such as going around the home to knock on a back door, even where such steps require an intrusion into the curtilage.

SUPPRESSION MOTION

Trial court properly denied motion to suppress. Although the fenced back patio was part of the home's curtilage, the officer was lawfully on the back patio under the knock and talk investigative technique when he observed, in plain view, a plastic bottle with white residue and its immediately apparent incriminating nature.

SENTENCING, THIRD-DEGREE FELONY DRUG OFFENSE

Trial court erred in sentencing appellant under R.C. 2925.041(C)(1) following his conviction for illegal assembly of chemicals for the manufacture of drugs. Trial court should have sentenced appellant under R.C. 2929.14(A)(3)(b).

Supreme Court of Ohio

Nothing.

Sixth Circuit Court of Appeals

Nothing new.

Supreme Court of the United States

Nothing new.