

Appellate Court Decisions - Week of 4/8/13

Note: Anything that has "OVERVIEW" in front of it is the Lexis summary of a case.

First Appellate District of Ohio

***State v. Ingles*, Appeal No. C-120238; Trial Nos. B-9802147, B-9800321**

Appellate Review: Postconviction: Jurisdiction/Venue: Sentencing

Full Decision: http://www.hamilton-co.org/appealscourt/docs/decisions/C-120238_04122013.pdf

The common pleas court was confronted with substantially the same facts and issues involved in the appellant's previous appeals. Therefore, the court was bound by the law of the appellate court decisions in those appeals, and appellant's postconviction motions were reviewable under the standards provided by R.C. 2953.21 et seq. R.C. 2953.21 et seq. did not confer upon the common pleas court jurisdiction to entertain the appellant's sentence-enhancement challenge, because the motion did not satisfy either the time restrictions of R.C. 2953.21(A)(2) or the jurisdictional requirements of R.C. 2953.23. The verdict-form challenge was not reviewable on appeal when it had not been advanced in postconviction motions.

Summary from the First District:

The common pleas court properly declined to "correct" defendant's kidnapping sentences: under the doctrine of the law of the case, the court was bound by the court of appeals' decisions in defendant's previous appeals that he was not entitled to correction of his sentences, because R.C. 2953.21 et seq. did not confer upon the common pleas court jurisdiction to entertain defendant's sentence-enhancement challenge, because his verdict-form challenge was not reviewable in the appeal when it was not advanced in his postconviction motions, and because the claimed errors, even if demonstrated, would not have rendered defendant's sentences void. [*But see* DISSENT: Although R.C. 2953.21 et seq. did not confer on the common pleas court jurisdiction to entertain defendant's postconviction claims, the court had jurisdiction to vacate and remand for resentencing on the kidnapping charges, because the sentences were not authorized by law and were thus void: R.C. 2945.75(A) authorized only sentences for the least degree of the offenses, because the verdict forms finding defendant guilty of kidnapping did not state the degree of the offenses; and former R.C. Chapter 2971 did not authorize enhancement of defendant's kidnapping sentences based on sexually-violent-predator specifications, because the "sexually violent predator" finding was not, as former R.C. 2971.01(H)(1) had required, based on a preexisting sexually-violent-offense conviction.]

Supreme Court of Ohio

Nothing new.

Sixth Circuit Court of Appeals

Nothing new.

Supreme Court of the United States

Nothing new.