

Appellate Court Decisions - Week of 5/13/13

First Appellate District of Ohio

State v. Walker, Appeal No. C-120549, Trial No. B-9207726-A

Postconviction: Allied Offenses

Full Decision: http://www.hamilton-co.org/appealscourt/docs/decisions/C-120549_05152013.pdf

Walker did not satisfy the time restrictions for postconviction relief under R.C. 2953.21(A)(2) or the jurisdiction requirements of R.C. 2953.23. Although a court has jurisdiction to correct a void judgment, the imposition of a sentence in violation of R.C. 2941.25 does not render a judgment of conviction void.

Summary from the First District:

The common pleas court had no jurisdiction to grant defendant the relief sought in his postconviction motion: the motion was reviewable as a postconviction petition under R.C. 2953.21 et seq., because it did not specify the statute or rule under which relief was sought, and because the postconviction statutes provide the exclusive means for collaterally challenging a criminal conviction; but the postconviction statutes did not confer jurisdiction to review the motion, because it did not satisfy R.C. 2953.21(A)(2)'s time restrictions or R.C. 2953.23's jurisdictional requirements; and defendant's allied-offenses claim, even if demonstrated, would not have rendered his sentences void. [*But see* DISSENT: The court had jurisdiction to entertain the allied-offenses claim because a sentence imposed in violation of R.C. 2941.25 is void; but R.C. 2941.25 authorized sentences for each offense because the record showed that they had been committed separately.]

State v. Martin, Appeal Nos. C-120481, C-120525; Trial No. B-0704444

Postconviction: Allied Offenses: Crim.R. 32.1

Full Decision: http://www.hamilton-co.org/appealscourt/docs/decisions/C-120525_05152013.pdf

Martin did not satisfy the time restrictions for postconviction relief under R.C. 2953.21(A)(2) or the jurisdiction requirements of R.C. 2953.23. Although a court has jurisdiction to correct a void judgment, the imposition of a sentence in violation of R.C. 2941.25 does not render a judgment of conviction void.

The common pleas court did not abuse its discretion in overruling Martin's Crim.R. 32.1 motion.

Summary from the First District:

The common pleas court had no jurisdiction to grant defendant the relief sought in his postconviction motion: the motion was reviewable as a postconviction petition under R.C. 2953.21 et seq., because it did not specify the statute or rule under which relief was sought, and because the postconviction statutes provide the exclusive means for collaterally challenging a criminal conviction; but the postconviction statutes did not confer jurisdiction to review the motion, because it did not satisfy R.C. 2953.21(A)(2)'s time restrictions or R.C. 2953.23's jurisdictional requirements; and defendant's allied-offenses claim, even if demonstrated, would not have rendered his sentences void. [*But see* DISSENT: The court had jurisdiction to entertain the allied-offenses claim because a sentence imposed in violation of R.C. 2941.25 is void; but R.C. 2941.25 authorized sentences for each offense because they involved separate victims.]

The common pleas court could not be said to have abused its discretion in overruling defendant's postsentence Crim.R. 32.1 motion to withdraw his guilty pleas: the appeals court did not have before it a transcript of the proceedings at the plea hearing, because defendant did not appeal his convictions or request a transcript for the common pleas court's decision on the motion; and without a transcript, the common pleas court's determination, implicit in its overruling of the motion, that withdrawing the pleas was not necessary to correct a manifest injustice, was not demonstrably arbitrary, unconscionable, or the product of an unsound reasoning process.

State v. Thompson, Appeal No. C-120516, Trial No. 12CRB-11190

Procedure/Rules: Sentencing

Full Decision: http://www.hamilton-co.org/appealscourt/docs/decisions/C-120516_05172013.pdf

The trial court erred when it failed to address Mr. Thompson personally and ask him if he had anything to say in mitigation, but the error was harmless because Mr. Thompson did have an opportunity to address the court before the judgment entry.

Summary from the First District:

The trial court erred in failing to address the defendant personally and ask whether he wished to exercise his right of allocution as required by Crim.R. 32(A)(1) before indicating the sentence that the court expected to impose, but the error was harmless where the defendant requested and was granted an opportunity to personally address the court and make his case in mitigation before the court finally pronounced sentence.

Fifth Appellate District of Ohio

State v. Johnson, Case No. 12 CA 61

Sentencing: Allied Offenses

Full Decision: <http://www.sconet.state.oh.us/rod/docs/pdf/5/2013/2013-ohio-1961.pdf>

Aggravated Assault and misdemeanor Assault are allied offenses of similar import.

That's all you need to note about this decision.

Twelfth Appellate District of Ohio

State v. Richardson, Case No. CA2012-06-043

Sentencing: Allied Offenses

Full Decision: <http://www.sconet.state.oh.us/rod/docs/pdf/12/2013/2013-ohio-1953.pdf>

Safecracking and Grand Theft are allied offenses of similar import.

That's all you need to note about this decision.

Supreme Court of Ohio

State v. Athon, 2013-Ohio-1956 (May 15, 2013)

Discovery: Public Records Requests: Reciprocal Duty

Full Decision: <http://www.sconet.state.oh.us/rod/docs/pdf/0/2013/2013-ohio-1956.pdf>

“When an accused directly or indirectly makes a public-records request for information that could have been obtained from the state through discovery, that public-records request is the equivalent of a demand for discovery, and a reciprocal duty of disclosure arises in accordance with Crim.R. 16.”

The state appealed from a First District ruling that reversed an order from the trial court compelling Gary Athon to provide reciprocal discovery to the state after he used a public records request instead of Crim.R. 16 to obtain information relating to his pending criminal case from the State Highway Patrol. The issues presented to The Supreme Court of Ohio were: “whether an accused in a criminal case may request public

records to obtain information that could be demanded from the state during discovery, and if so, whether such a request triggers a reciprocal duty of disclosure to the state.”

The Supreme Court of Ohio held that the accused can obtain records through public records requests, but, “[w]hen an accused directly or indirectly makes a public records request for information that could have been obtained from the state through discovery, that public records request is the equivalent of a demand for discovery, and a reciprocal duty of disclosures arises in accordance with Crim.R. 16.” The Court then said, “[b]ecause Athon received evidence from the State Highway Patrol that could have been obtained from the prosecutor through discovery, he had a reciprocal duty to provide discovery to the state as provided in Crim.R. 16.”

Sixth Circuit Court of Appeals

Nothing new.

Supreme Court of the United States

Nothing new.