

## Appellate Court Decisions - Week of 6/11/18

Note: This is not a comprehensive list of every case released this week.

### First Appellate District of Ohio

#### **State v. Durgan, 2018-Ohio-2310**

Motion to Suppress: *Miranda*: *Batson*: Ineffective Assistance

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2018/2018-Ohio-2310.pdf>

#### **Summary from the First District:**

“Where police believed defendant to be a witness to a murder and drove him to the police station in an unmarked car without restraints, defendant appeared eager to help and provided information voluntarily, and police drove him back to the scene of the crime to pick up his truck, defendant was not in custody, and no *Miranda* warnings were required.

“Where defendant was interviewed several days after the murder, came voluntarily in his own truck to the police station, was not handcuffed or searched, and provided more information on who may have wished to harm the victim, defendant was not in custody, and no *Miranda* warnings were required even though the police had suspicions about defendant and used the opportunity to put a GPS device on his car. The totality of the circumstances showed that defendant voluntarily waived his *Miranda* rights and made statements to the police where, even though the interrogation was lengthy, defendant was allowed to use the restroom and was given food, and defendant never stated that he did not wish to talk to the police, that he wanted to leave, or that he wanted a lawyer, and he never confessed to killing the victim.

“In reviewing the trial court’s ruling on a motion to suppress, the appellate court may only consider evidence presented at the suppression hearing.

“The trial court’s acceptance of the prosecutor’s race-neutral reasons to excuse two African-American prospective jurors was not clearly erroneous where the first prospective juror stated that he had a pending theft charge and did not feel he was being treated fairly by the justice system and the second prospective juror said his religion would not permit him to sign a guilty verdict and that he worked at the same company as defense counsel’s wife.

“Defendant was not denied the effective assistance of counsel where his counsel did not present expert testimony on police interrogation techniques and false confessions, because the decision not to call an expert witness is a matter of trial strategy, and counsel extensively cross-examined the lead detective about interrogation techniques.”

**Village of Evendale v. Lindsey, 2018-Ohio-2311**

Jurisdiction

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2018/2018-Ohio-2311.pdf>

Summary from the First District: “Where the mayor’s court failed to certify the case upon transfer to the municipal court as required by R.C. 1905.032(B)(1), the municipal court lacked jurisdiction over it.”

**Second Appellate District of Ohio**

*Nothing to report.*

**Third Appellate District of Ohio**

*Nothing to report.*

**Fourth Appellate District of Ohio**

*Nothing to report.*

**Fifth Appellate District of Ohio**

**State v. Baker, 2018-Ohio-2285**

OVI: Motion to Suppress

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2018/2018-Ohio-2285.pdf>

The trial court erred in denying Appellant’s motion to suppress where the trooper lacked reasonable suspicion to request Appellant perform field sobriety tests. The stop was for an equipment violation, not for erratic driving. The other factors were the time of night, the stop occurred in an area with a number of liquor establishments, appellant was trying to hide his eyes from the trooper, the trooper saw bloodshot eyes, and the trooper

smelled an odor of alcohol. Those factors did not add up to reasonable suspicion.

### Sixth Appellate District of Ohio

*Nothing to report.*

### Seventh Appellate District of Ohio

*Nothing to report.*

### Eighth Appellate District of Ohio

#### **State v. Cole, 2018-Ohio-2224**

Sentencing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2018/2018-Ohio-2224.pdf>

Summary from the Eighth District: “The trial court erred when it ordered the defendant to be returned to the county upon his release from prison to be placed in a community based correctional facility. The proper remedy pursuant to the Ohio Supreme Court’s decision in Paige is to vacate the improperly imposed CBCF term and leave the remaining conditions of the community control sanctions in place.”

#### **State v. McCaughey, 2018-Ohio-2231**

Speedy Trial

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2018/2018-Ohio-2231.pdf>

Summary from the Eighth District: “Trial court did not err by dismissing indictment on speedy trial grounds. The statutory time for defendant’s subsequent felony indictment began to run on the date of defendant’s arrest, and the subsequent indictment 13 months after the date of arrest, with no other additional facts, violated defendant’s constitutional rights.”

### Ninth Appellate District of Ohio

*Nothing to report.*

**Tenth Appellate District of Ohio**

*Nothing to report.*

**Eleventh Appellate District of Ohio**

*Nothing to report.*

**Twelfth Appellate District of Ohio**

*Nothing to report.*

**Supreme Court of Ohio**

*Nothing to report.*

**Sixth Circuit Court of Appeals**

*Nothing to report.*

**Supreme Court of the United States**

*Nothing to report.*