

Appellate Court Decisions - Week of 6/2/14

First Appellate District of Ohio

State v. Mitchem, 2014-Ohio-2366

Search and Seizure

Full Decision: http://www.hamilton-co.org/appealscourt/docs/decisions/C-130351_06042014.pdf

Summary from the First District:

“In a prosecution for carrying concealed weapons and having weapons under a disability, the trial court properly overruled defendant’s motion to suppress the handgun he unlawfully possessed, because the warrantless seizure of the handgun when it appeared in plain view during his arrest comported with the Fourth Amendment to the United States Constitution: defendant violated R.C. 2921.29(A)(1) when, in a public place, he refused to identify himself to police acting under a reasonable suspicion that defendant had committed the crime of trespassing; R.C. 2935.03(A) authorized the police to arrest defendant for violating R.C. 2921.29(A)(1); and ‘hot pursuit’ provided the exigency justifying the warrantless entry of the police onto defendant’s front porch to arrest him.

“Defendant’s driveway, where he first encountered police, was a public place, and thus not an area protected under the Fourth Amendment as part of his home’s curtilage, because it was not enclosed in a manner that shielded it from public view, nor was it otherwise shown to harbor the intimate activity associated with the sanctity of a home and the privacies of life; but defendant’s front porch, where he retreated to avoid arrest, was part of his home’s curtilage, and thus protected, because it was an area adjacent to his home, to which the activity of home life extended.”

In re: K.D., 2014-Ohio-2368

Delinquency: Sentencing

Full Decision: http://www.hamilton-co.org/appealscourt/docs/decisions/C-130689_06042014.pdf

Summary from the First District:

“The juvenile court erred in committing a juvenile to the Department of Youth Services for a minimum period of 24 months, when the juvenile had been adjudicated delinquent for committing an act that, if committed by an adult, would have constituted the second-degree felony of felonious assault, and R.C. 2152.16(A)(1)(d) provides that the minimum term of commitment for the equivalent of a second-degree felony is one year.”

State v. Reholz, 2014-Ohio-2429

R.C. 2905.05: Child Enticement: Motion to Dismiss: Unconstitutional

Full Decision: http://www.hamilton-co.org/appealscourt/docs/decisions/C-130636_06062014.pdf

Summary from the First District:

“The trial court erred in denying the defendant’s motion to dismiss the charge of child enticement under R.C. 2905.05, because the Ohio Supreme Court declared that statute to be unconstitutional in *State v. Romage*, 138 Ohio St.3d 390, 2014-Ohio-783, 7 N.E.3d 1156.”

Second Appellate District of Ohio

Nothing new.

Third Appellate District of Ohio

Nothing new.

Fourth Appellate District of Ohio

State v. Felts, 2014-Ohio-2378

Plea: Crim.R. 11

Full Decision:
<http://www.supremecourt.ohio.gov/rod/docs/pdf/4/2014/2014-ohio-2378.pdf>

Appellant’s plea was not knowingly and intelligently made where it was based on his understanding that he would be able to appeal the denial of his motion in limine.

Fifth Appellate District of Ohio

Nothing new.

Sixth Appellate District of Ohio

State v. Polus, 2014-Ohio-2321

Sentencing: R.C. 2929.41: Consecutive Sentences Felony/Misdemeanor

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/6/2014/2014-ohio-2321.pdf>

The Sixth District held that R.C. 2929.41(A) and (B)(1) create an ambiguity that must be construed against the state, and therefore a trial court must order felony and misdemeanor sentences be served consecutively, unless (B)(2) or (B)(3) apply. This creates a conflict with the Fifth and Eighth District Courts of Appeals, and the Sixth therefore certified the conflict to the Supreme Court of Ohio. The opinion also has a nice summary of how this confusing issue came to be, if you're interested.

Seventh Appellate District of Ohio

Nothing new.

Eighth Appellate District of Ohio

State v. Daniel, 2014-Ohio-2387

Sentencing: R.C. 2945.401(G): Mental-Health Facility

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/8/2014/2014-ohio-2387.pdf>

The trial court erred, pursuant to R.C. 2945.401(G), in denying Appellant's release from a fully-secured mental-health facility where the state failed to prove by clear and convincing evidence that Appellant's release to a less restrictive environment at a "dual-diagnosis" treatment residential group facility would represent a threat to public safety or to the safety of any other person. The mere fact, on its own, that Appellant violated his conditional release in the past was not enough to show that he might violate in the future, and therefore be a risk of harm to the public.

Ninth Appellate District of Ohio

Nothing new.

Tenth Appellate District of Ohio

Nothing new.

Eleventh Appellate District of Ohio

Nothing new.

Twelfth Appellate District of Ohio

Nothing new.

Supreme Court of Ohio

Nothing new.

Sixth Circuit Court of Appeals

Nothing new.

Supreme Court of the United States

Nothing new.