

## Appellate Court Decisions - Week of 6/22/15

### First Appellate District of Ohio

**State v. Carr, 2015-Ohio-2529**

**Appellate Review: Sentencing: Mootness**

**Full Decision:** [http://www.hamilton-co.org/appealscourt/docs/decisions/C-140172\\_06262015.pdf](http://www.hamilton-co.org/appealscourt/docs/decisions/C-140172_06262015.pdf)

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

“When the record certified for review can fairly be read to indicate that a criminal defendant challenging the imposition of a prison term has completed that period of incarceration and has been released from prison, an appellate court cannot afford the defendant meaningful relief in the form of an order affecting the imposition or duration of the prison term he challenges.

“The concept of mootness on appeal is that there is no meaningful remedy that the appellate court can provide in the event of a reversal; in the criminal sentence context, it is a recognition that once the defendant has been released from prison on a sentence that is challenged on appeal, there is no way the court of appeals can give him back the time served in prison, and thus the court has no duty to decide an assignment of error that is moot in the sense that the court cannot provide the appellant with any meaningful relief.”

### 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**

*Nothing new.*

## **Seventh Appellate District of Ohio**

*Nothing new.*

## **Eighth Appellate District of Ohio**

### **State v. Gaines, 2015-Ohio-2397**

**Plea: Crim.R. 11(C)(2)(c)**

**Full Decision:**

<http://www.supremecourt.ohio.gov/rod/docs/pdf/8/2015/2015-Ohio-2397.pdf>

### **Summary from the Eighth District:**

“The court did not strictly comply with Crim.R. 11(C)(2)’s requirement that the defendant be intelligently informed of his right not to testify at trial when it failed to adequately respond to the defendant’s question regarding the right but instead explained only the state’s burden of proof.”

## **Ninth Appellate District of Ohio**

### **State v. Cruz, 2015-Ohio-2472**

**Plea: Sentencing**

**Full Decision:**

<http://www.supremecourt.ohio.gov/rod/docs/pdf/9/2015/2015-Ohio-2472.pdf>

**Appellant’s “guilty plea was involuntary because the trial court failed to impose the sentence it promised to impose.” The trial court sentenced Appellant to 30 days in jail followed by community control, but before it signed the judgment entry, Appellant made a comment the trial court did not like. The trial court brought Appellant back into court and sentenced him to two years in prison.**

### **State v. Jackson, 2015-Ohio-2473**

**Sentencing: Attorney Fees**

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/9/2015/2015-Ohio-2473.pdf>

**The trial court erred in ordering Appellant to repay his court-appointed attorney fees without first determining his ability to pay.**

### 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

***State v. Brown, Slip Opinion No. 2015-Ohio-2438***

Search: Statutory Authority: Jurisdiction

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/0/2015/2015-Ohio-2438.pdf>

**The township police officer in this case exercised law-enforcement powers not granted to township police officers by the General Assembly where the officer stopped Brown for a minor misdemeanor traffic offense on an interstate highway. Because the officer lacked authority for the stop, the stop, the arrest, and the search were unreasonable and violated Article I, Section 14 of the Ohio Constitution.**

***State v. Rogers, Slip Opinion No. 2015-Ohio-2459***

Allied Offenses: Plain Error

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/0/2015/2015-Ohio-2459.pdf>

**“An accused’s failure to raise the issue of allied offenses of similar import in the trial court forfeits all but plain error, and a forfeited error is not reversible error unless it affected the outcome of the proceeding and reversal is necessary to correct a manifest miscarriage of justice. Accordingly, an accused has the burden to demonstrate a reasonable probability that the convictions are for allied offenses of similar import committed with the same conduct and without a separate animus; and, absent that showing, the accused cannot demonstrate that the trial court’s failure to inquire whether the convictions merge for purposes of sentencing was plain error.”**

**“As we recently decided in *State v. Ruff*, \* \* \* 2015-Ohio-995 \* \* \*, allied offenses are not offenses of similar import if the offender’s conduct constitutes offenses against different victims or if the harm that results from each offense is separate and identifiable.”**

### **Sixth Circuit Court of Appeals**

*Nothing new.*

### **Supreme Court of the United States**

*Nothing new.*