# Appellate Court Decisions - Week of 6/5/17

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

## First Appellate District of Ohio

### *State v. Newell*, 2017-Ohio-4143

**Search: *Miranda***

**Full Decision:**
**http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2017/2017-Ohio-4143.pdf**

**Summary from the First District:**

"In a prosecution for driving under the influence of alcohol, the trial court erred in granting defendant's motion to suppress evidence where defendant failed to sustain her initial burden of proof to demonstrate that her stop and seizure were warrantless and that her statements were the result of custodial interrogation."

### *State v. Martin*, 2017-Ohio-4144

***Anders***

**Full Decision:**
**http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2017/2017-Ohio-4144.pdf**

**Summary from the First District:**

"Where counsel has filed a no-error brief pursuant to *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967), and the appellate court determines that the appeal is wholly frivolous, the court may decide the appeal on its merits without appointing new counsel.

"Where the trial court announced the statutory findings for consecutive sentences in open court, but omitted the consecutive-sentencing findings from the sentencing entry, the court did not commit error prejudicial to defendant: the omission is a clerical error that may be corrected on remand by a nunc pro tunc entry."

### *State v. Royal*, 2017-Ohio-4146

**Ineffective Assistance**

**Full Decision:**

**http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2017/2017-Ohio-4146.pdf**

**Summary from the First District:**

"Defense counsel's mere inaccurate prediction of defendant's sentence did not constitute ineffective assistance of counsel.

"The trial court did not abuse its discretion by denying defendant's postsentence Crim.R. 32.1 motion to withdraw his guilty pleas where manifest injustice did not result from defense counsel's erroneous sentence prediction and where the record supports a finding that defendant's guilty pleas were voluntarily and intelligently made."

## 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

***Nothing to report.***

## Sixth Appellate District of Ohio

***Nothing to report.***

## Seventh Appellate District of Ohio

***Nothing to report.***

## Eighth Appellate District of Ohio

***State v. Williamson*, 2017-Ohio-4192**

**Post-Conviction: DNA**

**Full Decision:**
**https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2017/2017-Ohio-4192.pdf**

**Summary from the Eighth District:**

"Trial court erred in denying appellant's application for DNA testing as 'untimely' because there are no timeliness requirements under R.C. 2953.72 through 2953.74 as to when an inmate must file an application for DNA testing."

## Ninth Appellate District of Ohio

***State v. Pari*, 2017-Ohio-4165**

**Sentencing**

**Full Decision:**
**https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2017/2017-Ohio-4165.pdf**

**The trial court's sentence was clearly and convincingly contrary to law where the court sentenced Appellant to an omnibus sentencing package rather than individual sentences for each conviction.**

## Tenth Appellate District of Ohio

***Nothing to report.***

## Eleventh Appellate District of Ohio

***Nothing to report.***

## Twelfth Appellate District of Ohio

***State v. Ketterer*, 2017-Ohio-4117**

**Postconviction Relief**

**Full Decision:**
**https://www.supremecourt.ohio.gov/rod/docs/pdf/12/2017/2017-Ohio-4117.pdf**

**Summary from the Twelfth District:**

"The trial court did not err in denying capital defendant's motion to reconvene the three-judge panel that sentenced him to death, for purposes of ruling on his

postconviction relief ('PCR') petition. The trial court issued insufficient findings of facts in denying capital defendant's PCR petition where the trial court summarily denied the majority of the grounds for relief on the basis of res judicata. Trial court's denial of capital defendant's motion for leave to conduct discovery is reversed and remanded in light of newly-amended R.C. 2953.21 which makes substantial changes regarding PCR petitions in death-penalty cases, and in particular, allows capital petitioners to get discovery in aid of their petition if good cause is shown."

## Supreme Court of Ohio

***Nothing to report.***

## Sixth Circuit Court of Appeals

***United States v. Riley*, No. 16-6149**

**Fourth Amendment: GPS**

**Full Decision: http://www.opn.ca6.uscourts.gov/opinions.pdf/17a0118p-06.pdf**

**Summary from the Sixth Circuit:**

"This case calls upon us to clarify the rules by which police may seek to find miscreants: When a fugitive subject to an arrest warrant for armed robbery hides in a motel, may the government track his cell phone's GPS coordinates to locate and arrest him?

"Yes, the district court held—and we affirm, holding that the government's detection of Montai Riley's whereabouts in this case, which included tracking Riley's real-time GPS location data for approximately seven hours preceding his arrest, did not amount to a Fourth Amendment search under our precedent in *United States v. Skinner*, 690 F.3d 772, 781 (6th Cir. 2012). The government used Riley's GPS location data to learn that Riley was hiding out at the Airport Inn in Memphis, Tennessee—but only after inquiring of the front-desk clerk did the government ascertain Riley's specific room number in order to arrest him. The GPS tracking thus provided no greater insight into Riley's whereabouts than what Riley exposed to public view as he traveled 'along public thoroughfares,' *id.* at 774, to the hotel lobby. Therefore, under *Skinner*, Riley has no reasonable expectation of privacy against such tracking, and the district court properly denied Riley's motion to suppress evidence found upon Riley's arrest."

***United States v. Ray*, No. 16-1785**

***Seibert*: *Miranda*: Suppression**

**Full Decision: http://www.opn.ca6.uscourts.gov/opinions.pdf/17a0318n-06.pdf**

**This is one of those cases you just need to read, but here is the basic idea:**

"This case is before us a second time, following a remand to the district court to conduct an evidentiary hearing on Alvin Ray's motion to suppress statements he made to the police after receiving a "midstream" Miranda warning. *See United States v. Ray* (*Ray* I), 803 F.3d 244 (6th Cir. 2015). On remand, the district court conducted a hearing and applied the midstream Miranda warning test from *Missouri v. Seibert*, 542 U.S. 600 (2004), as we instructed, but still found Ray's post-*Miranda* confession admissible. *United States v. Ray*, No. 13-20143, 2016 WL 3180184 (E.D. Mich. June 8, 2016). As explained below, however, a reasonable person in Ray's shoes would not have viewed the post-*Miranda* questioning as a 'new and distinct experience' that presented "a genuine choice whether to follow up on [his] earlier admission.' *Ray I*, 803 F.3d at 272-73 (quotation omitted). Accordingly, we reverse and remand for a new trial."

## Supreme Court of the United States

***Nothing to report.***