

Appellate Court Decisions - Week of 7/17/17

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

First Appellate District of Ohio

State v. Stephens, 2017-Ohio-5868

Dangerous Dogs: Sentencing

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2017/2017-Ohio-5868.pdf>

Summary from the First District:

“The trial court erred in designating defendant’s two dogs as dangerous dogs under R.C. 955.222 as part of defendant’s sentences for failing to register the dogs: assuming that the trial court was entitled to enforce R.C. 955.222, the court failed to follow R.C. 955.222’s procedure in designating the dogs dangerous and failed to give the defendant notice that he could challenge the designations at a hearing.”

State v. Bumu, 2017-Ohio-6901

Appellate Review

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2017/2017-Ohio-6901.pdf>

Summary from the First District:

“The common pleas court did not abuse its discretion in overruling defendant’s R.C. 2943.031(D) motion to withdraw his guilty plea to drug possession on the ground that the trial court had not substantially complied with R.C. 2943.031(A) in advising him of the immigration consequences of his conviction: defendant bore the burden of proving that, under the totality of the circumstances surrounding the entry and acceptance of his plea, he had not subjectively understood his conviction’s immigration consequences and that he would not have pled if he had; the common pleas court determined that defendant had failed to sustain that burden; and that determination, in the absence from the record on appeal of a plea-hearing transcript conforming to the requirements of App.R. 9(B), cannot be said to have been arbitrary, unconscionable, or the product of an unsound reasoning process. [*But see* DISSENT: Bumu complied with App.R. 9(B) and 10(A); therefore this case should be decided on the merits: the record shows that the plea-hearing transcript was made a part of the record in the trial court and in the appellate court under App.R. 10(A); Bumu requested that a complete transcript of the

proceedings be filed; the clerk of the trial court did not transmit a bound copy of the plea-hearing transcript, as requested by Bumu; and Bumu made reasonable arrangements for the transcription of the plea hearing; therefore, the omission should be corrected and a supplemental record filed and transmitted as authorized by App.R. 9(E).]”

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. Nelson, 2017-Ohio-6883

Abduction: R.C. 2905.31(A): Weight of the Evidence

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2017/2017-Ohio-6883.pdf>

Summary from the Eight District:

“The trial court erred when defendant was found guilty of second-degree felony abduction because defendant did not hold the victim in ‘involuntary servitude.’ Defendant is guilty, however, of felony-three abduction under R.C. 2905.02(B) and R.C.

2905.02(A)(2), and we modify his finding of guilty accordingly. Because we found that Nelson is not guilty of second-degree felony abduction, defendant’s argument that abduction with the element of ‘involuntary servitude’ cannot be a lesser-included offense of kidnapping is moot. Defendant’s convictions are not against the manifest weight of the evidence because defendant’s arguments are based solely on the credibility of the victim, which we defer to the trial court, who as the finder of fact, was able to observe the witnesses’ demeanor and decide who was more credible. Finally, defendant’s argument that the trial court erred when it imposed costs without orally notifying him at the sentencing hearing is without merit because Nelson can move the court to waive costs at any time.”

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

Cleveland v. Oles, 2017-Ohio-5834

Constitutional Law: Fifth Amendment: Article I, Section 10 of the Ohio Constitution

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/o/2017/2017-Ohio-5834.pdf>

Summary from the Supreme Court:

“In this consolidated appeal, we address whether the Fifth Amendment to the United States Constitution and Article I, Section 10 of the Ohio Constitution require a law-enforcement officer to provide Miranda warnings to a suspect who is placed in the front seat of a police vehicle for questioning during a traffic stop. We hold that the placement of a suspect in the front seat of a police vehicle during a traffic stop is not alone

determinative of whether the suspect has been subjected to a custodial interrogation. The relevant inquiry is whether, under the totality of the circumstances, a reasonable person in the suspect's position would have understood himself or herself to be in custody. Accordingly, we answer the certified-conflict question in the negative. We also reverse the judgment of the Eighth District Court of Appeals because the circumstances here do not indicate that appellee, Benjamin S. Oles, was subjected to a custodial interrogation."

Sixth Circuit Court of Appeals

Nothing to report.

Supreme Court of the United States

Nothing to report.