

Appellate Court Decisions - Week of 7/21/14

First Appellate District of Ohio

State v. Germany, 2014-Ohio-3202

Forfeiture

Full Decision: <http://www.sconet.state.oh.us/rod/docs/pdf/1/2014/2014-ohio-3202.pdf>

Summary from the First District:

“Absent a proper record, the trial court erred in denying the defendant’s motion to return property seized pursuant to a search warrant: the state had not initiated a forfeiture action with respect to the property, and there was nothing in the record on which the trial court could have determined that the property was needed as evidence or for another lawful purpose.”

State v. Barker, 2014-Ohio-3245

Juvenile: Bindover: *Miranda*: Ineffective Assistance

Full Decision: http://www.hamilton-co.org/appealscourt/docs/decisions/C-130214_07252014.pdf

Summary from the First District:

“The juvenile court did not abuse its discretion when it bound over the 15-year-old defendant to the common pleas court for the prosecution of two aggravated murders and related charges where the court properly considered the R.C. 2152.12(D) and (E) factors, and concluded that the juvenile system was not equipped to rehabilitate the defendant safely within the available time period.

“The trial court did not err when it refused to suppress statements made by the defendant during a police interview where nothing in the recorded interview refuted the presumption that the defendant had waived his *Miranda* rights voluntarily, and the court’s finding that the defendant had knowingly and intelligently waived his rights was supported by the record.

“The defendant did not demonstrate that his trial counsel’s performance was deficient where, at the amenability hearing, counsel argued on the defendant’s behalf, emphasizing the defendant’s low intelligence, limited participation in the offenses, and the lack of services the defendant had received during previous contacts with the juvenile system, and where evidence of the defendant’s limited intelligence and low reading comprehension would not have changed the result of the hearing on the motion to suppress statements the defendant made to police.”

Second Appellate District of Ohio

Nothing new.

Third Appellate District of Ohio

In Re: N.G., 2014-Ohio-3190

Juvenile: Sentencing: Void Sentence

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/3/2014/2014-ohio-3190.pdf>

Appellant's sentence was void where the trial court invoked the adult portion of Appellant's serious youthful offender disposition without Appellant ever having been sent to a DYS facility – the facility he was sent to was actually a CCF facility, not a DYS facility.

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

Strongsville v. J.M.B., 2014-Ohio-3144

Expungement

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/8/2014/2014-ohio-3144.pdf>

Appellant was convicted of a drug paraphernalia offense and reckless operation. She filed an application to seal the record of the drug paraphernalia conviction, but the trial court summarily denied the application, finding that R.C. 2953.61 applied. The Eighth District reversed, holding that R.C. 2953.61 did not apply to this because the disposition was the same in both cases. It remanded for the trial court to hold a hearing on the motion to seal, because the trial court also erred in denying the motion without a hearing.

Ninth Appellate District of Ohio

State v. Wilson, 2014-Ohio-3182

OVI: Verdict Form

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/9/2014/2014-ohio-3182.pdf>

Appellant's convictions must be reduced to first-degree misdemeanors because neither verdict form included a finding that Appellant had three prior OVI convictions within six years of her current offenses, nor did they include the degree of the offenses.

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

In Re I.A., 2014-Ohio-3155

Juvenile: Classification: Juvenile-Offender Registrant: R.C. 2152.83(B):
Timing of Hearing

Full Decision: <http://www.sconet.state.oh.us/rod/docs/pdf/o/2014/2014-ohio-3155.pdf>

“[P]ursuant to R.C. 2152.83(B)(1), a court that commits a child to a secure facility may conduct at the time of disposition a hearing regarding the appropriateness of juvenile-offender-registrant classification for that child.”

State v. Amos, 2014-Ohio-3160

R.C. 2951.03(A)(1): Crim.R. 32.2: PSI

Full Decision: <http://www.sconet.state.oh.us/rod/docs/pdf/o/2014/2014-ohio-3160.pdf>

A “[t]rial court must order and review a presentence investigation report before imposing a sentence of one or more community-control sanctions on a felony offender.”

State v. Bonnell, 2014-Ohio-3177

R.C. 2929.14(C)(4): Consecutive Sentences

Full Decision: <http://www.sconet.state.oh.us/rod/docs/pdf/o/2014/2014-ohio-3177.pdf>

“In order to impose consecutive terms of imprisonment, a trial court is required to make the findings mandated by R.C. 2929.14(C)(4) at the sentencing hearing and incorporate its findings into its sentencing entry, but it has no obligation to state reasons to support its findings.”

Sixth Circuit Court of Appeals

Nothing new.

Supreme Court of the United States

Nothing new.