

## Appellate Court Decisions - Week of 7/3/17

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

### First Appellate District of Ohio

*Nothing to report.*

### Second Appellate District of Ohio

**State v. Davis, 2017-Ohio-5613**

Motion to Suppress: Search

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2017/2017-Ohio-5613.pdf>

The trial court erred in denying Appellant's motion to suppress the search of her handbag and her person where the officers lacked probable cause to arrest her for "providing false information." While they had reasonable suspicion she lied about her name to police, where that suspicion was only based on a reference by one hospital security officer to a name different than the one Appellant gave to police, it was not enough to rise to the level of probable cause.

### 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

**State v. Johnson, 2017-Ohio-5708**

## Motion to Suppress: Search

### Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/7/2017/2017-Ohio-5708.pdf>

The trial court erred in denying Appellant's motion to suppress the search of his book bag. Appellant did not have standing to challenge the search of the apartment, but his bag was sealed and police had reason to believe it was his, and not the apartment's tenant's bag. The tenant's consent gave police sufficient support to seize the bag and get a warrant to search it, but not for a warrantless search of the bag. The search incident to arrest exception did not justify the search either.

## Eighth Appellate District of Ohio

***State v. Rosser, 2017-Ohio-5572***

## Juvenile Bindover: Ineffective Assistance

### Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2017/2017-Ohio-5572.pdf>

Summary from the Eighth District: "Statute of limitations for attempted rape was not violated because the prosecution was commenced within the relevant 25-year statutory period. Counsel was not ineffective for failing to move for dismissal for preindictment delay because the defendant failed to demonstrate actual prejudice. However, counsel was ineffective for failing to move for dismissal for lack of jurisdiction because the juvenile court improperly bound the defendant over to the general division without conducting an amenability hearing as required under R.C. 2152.12(B)."

***State v. Nelson, 2017-Ohio-5568***

## Aggravated Murder: Sufficiency

### Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2017/2017-Ohio-5568.pdf>

Summary from the Eighth District: "Appellant's conviction for aggravated murder in violation of R.C. 2903.01(A) is vacated because there is not sufficient evidence that he acted with prior calculation and design. Appellant's remaining convictions are supported by sufficient evidence and

are not against the manifest weight of the evidence. Appellant was not denied his constitutional right to effective assistance of counsel. The trial court did not commit plain error by permitting a state's witness to identify appellant in court as the shooter. Pursuant to R.C. 2929.14(B)(1)(g), the trial court did not err by ordering appellant to serve the three-year firearm specifications underlying appellant's convictions for aggravated murder, attempted murder, and aggravated robbery consecutively."

***State v. Bennett, 2017-Ohio-5589***

Escape: Sufficiency

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2017/2017-Ohio-5589.pdf>

Summary from the Eight District: "The trial court erred in finding appellant guilty of escape after a no contest plea where an essential element of the crime, being on supervised release detention, was lacking in the case and was apparent from the state's recitation of the facts underlying the charge."

**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**

***State v. Anderson, 2017-Ohio-5656***

Sentencing: Trial Tax

**Full Decision:**

<https://www.supremecourt.ohio.gov/rod/docs/pdf/o/2017/2017-Ohio-5656.pdf>

**Syllabus of the Court:**

1. Where one defendant pleads guilty to three felonies, agrees to testify against a codefendant, and receives a sentence of nine years, and the codefendant is convicted by a jury of four felonies and is sentenced to 19 years, and when the trial court specifically states that the sentence is not being imposed as a penalty for going to trial, no inference of impropriety arises if the sentence is within the range of penalties provided by law.
2. Imposing a mandatory minimum sentence of three years on juvenile offenders for aggravated robbery and for kidnapping does not violate the Eighth Amendment's prohibition against cruel and unusual punishment.
3. A mandatory three year prison sentence imposed on a juvenile offender tried as an adult for a conviction of a firearm specification does not violate the Eighth Amendment because it serves a legitimate penological goal, is proportional to the crimes committed, and is not one of the harshest possible penalties for a juvenile offender.

**State ex rel. Love v. O'Donnell, 2017-Ohio-5659**

**Writ of Mandamus: Sentencing: Verdict Forms**

**Full Decision:**

<https://www.supremecourt.ohio.gov/rod/docs/pdf/o/2017/2017-Ohio-5659.pdf>

**Appellant's mandamus claim is barred by res judicata.**

**Sixth Circuit Court of Appeals**

*Nothing to report.*

**Supreme Court of the United States**

*Nothing to report.*