

Appellate Court Decisions - Week of 8/1/16

First Appellate District of Ohio

State v. Ridder, 2016-Ohio-5195

Evidence: Rape: Gross Sexual Imposition: Prosecutorial Misconduct: Sentencing

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2016/2016-Ohio-5195.pdf>

Summary from the First District:

“The trial court did not commit plain error by allowing the state to play for the jury the video recording of the child-victim’s interview with the social worker, or by admitting that recording into evidence, where the child’s statements were made for the purpose of medical diagnosis or treatment pursuant to Evid.R. 803(4).

“The prosecutor did not engage in misconduct by asking a few leading questions or by making a series of comments during closing argument that were fair comments on the evidence presented and the arguments made by defense counsel.

“Defendant’s convictions for four counts of rape of a child under ten and one count of gross sexual imposition were based upon sufficient evidence and were not against the weight of the evidence where the child-victim testified to at least two instances of digital penetration of her vagina or anus, at least one instance of cunnilingus, at least one instance of fellatio, and at least one instance in which the child was forced to rub defendant’s penis with her hand with a level of detail that allowed the jury to conclude that the testimony was not the product of coaching.

“Defendant’s convictions were not against the sufficiency and weight of the evidence where the child-victim and other witnesses testified that the events all occurred in Hamilton County, Ohio, despite the child stating in her forensic interview that they had occurred in Kentucky.

“The trial court properly sentenced defendant to four terms of life in prison without parole for rape and 18 months in prison for gross sexual imposition where the crimes were committed against a child under the age of ten and where there was no showing that the trial court had failed to consider the purposes and principles of sentencing or any of the factors set forth in R.C. 2929.11(B) and 2929.12(A)-(E).

“Pursuant to R.C. 2929.41(A), defendant’s prison sentences were to be served concurrently where the trial court was silent on whether the sentences were to be served concurrently or consecutively.”

State v. Jackson, 2016-Ohio-5196

Constitutional Speedy Trial

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2016/2016-Ohio-5196.pdf>

Summary from the First District:

“The trial court did not err in dismissing the charges against the defendant on speedy-trial grounds, because the state failed to demonstrate that its efforts to bring the defendant to trial were reasonably diligent, particularly in light of the defendant’s imprisonment in Ohio for 18 months of the four-year delay, and the length of the delay and the state’s inaction resulted in presumptive prejudice to the defendant.”

State v. Pickens, 2016-Ohio-5257

Postconviction

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2016/2016-Ohio-5257.pdf>

Summary from the First District:

“The common pleas court’s entry dismissing an R.C. 2953.21 petition for postconviction relief must be reversed, because the court’s ex parte communication with the state in making its findings of fact and conclusions of law violated due process and undermined confidence that the court had engaged in the deliberative process mandated by R.C. 2953.21(C), and because the deprivation of due process cannot be said to have been harmless.”

State v. Allen, 2016-Ohio-5258

R.C. 2941.25: Allied Offenses: Pleas

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2016/2016-Ohio-5258.pdf>

Summary from the First District:

“By failing to request the merger of alleged allied offenses before the trial court, defendant forfeited an allied-offense argument on appeal, and no plain error resulted from the trial court’s failure to merge the offenses of involuntary manslaughter and aggravated robbery at sentencing.

“Defendant’s plea of guilty removed issues of factual guilt from the case and prohibited defendant from challenging the sufficiency of the evidence supporting the offense to which he had pled guilty.”

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

Nothing new.

Ninth Appellate District of Ohio

Nothing new.

Tenth Appellate District of Ohio

State v. Hill, 2016-Ohio-5205

Aggravated Murder: Sufficiency

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/10/2016/2016-Ohio-5205.pdf>

There was insufficient evidence to convict Appellant of aggravated murder where there was no evidence of prior calculation and design. Simply carrying a gun in a neighborhood police routine call a high-crime neighborhood was not indicative of a plan to shoot someone. While Appellant told his cousin to shoot at a truck to scare the driver, there was no evidence the order was part of a plan.

Eleventh Appellate District of Ohio

Nothing new.

Twelfth Appellate District of Ohio

Nothing new.

Supreme Court of Ohio

Nothing new.

Sixth Circuit Court of Appeals

Nothing new.