

Appellate Court Decisions - Week of 8/11/14

First Appellate District of Ohio

State v. Vu, 2014-Ohio-3463

OVI: Motion to Suppress: Intoxilyzer 8000

Full Decision: http://www.hamilton-co.org/appealscourt/docs/decisions/C-130405_08132014.pdf

Summary from the First District:

“The trial court erred by granting the defendant’s motion to suppress the results of his breath test taken on an Intoxilyzer 8000 machine on the ground that the state failed to demonstrate compliance with the rule, set forth in Ohio Adm.Code 3701-53-04(C), that the machine be certified ‘no less frequently than once every calendar year’: the machine used to administer the defendant’s test had been certified as required by the rule at the time of the test, because the rule means that a successful certification in a calendar year is valid until December 31 of the following calendar year, absent specified circumstances.”

Second Appellate District of Ohio

Nothing new.

Third Appellate District of Ohio

Nothing new.

Fourth Appellate District of Ohio

State v. Burgette, 2014-Ohio-3483

Sentencing: Community Control Revocation

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/4/2014/2014-ohio-3483.pdf>

The trial court erred in revoking Appellant’s community control sanction and reimposing the balance of his prison sentence for failure to make restitution where the it failed to fully inquire into the reasons for his failure to pay, and the evidence before the court was insufficient to establish that his failure to pay was willful or intentional.

Fifth Appellate District of Ohio

State v. Barzacchini, 2014-Ohio-3467

OVI: Motion to Suppress

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/5/2014/2014-ohio-3467.pdf>

The trial court erred in denying Appellant's motion to suppress in his OVI case because the community caretaker exception to the Fourth Amendment did not justify the stop of Appellant's vehicle where the officer observed him waving his arm around out of an open window on a dark night because he was having an argument on the phone with his wife. The officer observed no indicia of impaired driving.

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

State v. Vanscoy, 2014-Ohio-3482

Sentencing: No-Contact Order

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/9/2014/2014-ohio-3482.pdf>

The trial court erred in ordering Appellant to have no contact with the victim in its sentencing entry when Appellant was never informed of that provision at the sentencing hearing.

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

Nothing new.

Sixth Circuit Court of Appeals

Nothing new.

Supreme Court of the United States

Nothing new.