

Appellate Court Decisions - Week of 8/16/21

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

First Appellate District of Ohio

State v. Long, 2021-Ohio-2835

Motion for leave to file motion for new trial; newly discovered evidence

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/1/2021/2021-Ohio-2835.pdf>

In conviction in 2004 for murder, trial court erred in denying appellant's motion for leave to file a motion for a new trial, pursuant to Crim.R. 33 "because the record provides clear and convincing proof that [appellant] had, within 120 days of the return of the verdict, been unavoidably prevented from discovering, and from presenting in a new-trial motion, the evidence upon which his proposed new-trial motion depended." Appellant had obtained the police case file in May 2019, and filed his motion in August 2019. Appellant had been diligently pursuing access to those records for his 2015 postconviction petition, but it was not until 2016, when the OSC held in *State ex rel. Caster v. Columbus*, 151 Ohio St.3d 425, 2016-Ohio-8394, 89 N.E.3d 598, ¶ 47, overruling in part *State ex rel. Steckman v. Jackson*, 70 Ohio St.3d 420, 639 N.E.2d 83 (1994), and *State ex rel. WLWT-TV5 v. Leis*, 77 Ohio St.3d 357, 673 N.E.2d 1365 (1997), that the R.C. 149.43(A)(2)(c) exception to public-records access "does not extend past the completion of the criminal procedure for which the requested information had been gathered" allowed him to access the police case file.

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

State v. Craig, 2021-Ohio-2790

Sufficiency; money laundering

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2021/2021-Ohio-2790.pdf>

State presented insufficient evidence to support convictions for money laundering; “appellant cannot be convicted for money laundering under R.C. 1315.55(A)(3) for simply spending stolen funds to purchase real property for his own use, where such use does not ‘promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on of corrupt activity.’ ”

Seventh Appellate District of Ohio

State v. Lamp, 2021-Ohio-2763

Allied offenses

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/7/2021/2021-Ohio-2763.pdf>

Trial court committed plain error when it failed to merge appellant’s conviction for aggravated robbery with his conviction for obstructing official business. “The act of reaching for the [police officer’s] service weapon constituted both offenses and the harm was the attempt to prevent the officer from performing his duties. Furthermore, the harm that resulted from each offense is not separate. Attempting to remove the firearm was an attempt to disarm the officer and stop the officer from performing his duties. Merger was required given the facts.”

Eighth Appellate District of Ohio

E. Cleveland v. Thomas, 2021-Ohio-2779

Sufficiency; marked lanes violation

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2021/2021-Ohio-2779.pdf>

Trial court committed plain error in convicting appellant of marked lanes violation where appellant made a left turn. State failed to present sufficient evidence that appellant violated the city ordinance where the ordinance dealt

“solely with the operation of vehicles within lanes,” and did “not pertain to prohibitions regarding turns”

Ninth Appellate District of Ohio

Nothing to report.

Tenth Appellate District of Ohio

Nothing to report.

Eleventh Appellate District of Ohio

State v. Williams, 2021-Ohio-2814

Restitution

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2021/2021-Ohio-2814.pdf>

After defense counsel objected to the amount of proposed restitution, the trial court erred when it imposed such restitution without holding a hearing as required by R.C. 2929.18(A)(1).

Twelfth Appellate District of Ohio

Nothing to report.

Supreme Court of Ohio

Nothing to report.

Sixth Circuit Court of Appeals

Nothing to report.

Supreme Court of the United States

Nothing to report.