

## **Appellate Court Decisions - Week of 8/18/14**

### **First Appellate District of Ohio**

#### **State v. Caldwell, 2014-Ohio-3566**

**Arson: Registration: Constitutionality: Sentencing**

**Full Decision: [http://www.hamilton-co.org/appealscourt/docs/decisions/C-130812\\_08202014.pdf](http://www.hamilton-co.org/appealscourt/docs/decisions/C-130812_08202014.pdf)**

#### **Summary from the First District:**

“Ohio’s newly-enacted arson-offender registration scheme may be applied to offenders who committed their crimes prior to the effective date of the law, without violating the prohibition on retroactive legislation in Article II, Section 28 of the Ohio Constitution. The General Assembly expressly provided for retroactive application of the law, and retroactive application does not burden any vested right or finality interest.

“The trial court is required to notify arson offenders who are not sentenced to a prison term of their duty to report within ten days of the sentencing hearing, whereas prison officials must notify arson offenders sentenced to a term of imprisonment of their duty to report within ten days of their release. Because the defendant was sentenced to a prison term, the trial court’s decision to explain the new registration law to him at the sentencing hearing did not trigger a duty to report within ten days of that hearing.”

#### **State v. Jackson, 2014-Ohio-3612**

**Insanity**

**Full Decision: [http://www.hamilton-co.org/appealscourt/docs/decisions/C-130240\\_08222014.pdf](http://www.hamilton-co.org/appealscourt/docs/decisions/C-130240_08222014.pdf)**

#### **Summary from the First District:**

“In a review hearing for the defendant, who had been found not guilty by reason of insanity, the trial court erred in failing to inform the defendant of the rights set forth in R.C. 2945.40(C), because that statute’s requirements are mandatory.

“The defendant did not waive any of his rights: a waiver is a voluntary relinquishment of a known right and the record did not demonstrate that the defendant knew of his rights, much less that he waived them.”

## **State v. Clark, 2014-Ohio-3612**

### **Expungement**

**Full Decision:** [http://www.hamilton-co.org/appealscourt/docs/decisions/C-130672\\_08222014.pdf](http://www.hamilton-co.org/appealscourt/docs/decisions/C-130672_08222014.pdf)

### **Summary from the First District:**

“The trial court’s denial of the defendant’s application to expunge a fourth-degree-misdemeanor domestic-violence conviction was arbitrary and an abuse of discretion, because the record demonstrates that the decision was based on the court’s policy to deny all applications to expunge such convictions, even though statutorily eligible. [*But see* DISSENT: The majority erroneously concludes that the trial judge’s statement that she was ‘not willing to expunge a domestic violence’ was a definitive statement of a policy to deny all applications to expunge convictions involving the offense of domestic violence; the trial court performed its legal duty and appropriately considered the defendant’s expungement request as well as the R.C. 2953.32 factors in denying the defendant’s application for expungement.]”

### **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**

## **State v. Mills, 2014-Ohio-3563**

### **Failure to Stop After an Accident: Sufficiency**

**Full Decision:**

<http://www.supremecourt.ohio.gov/rod/docs/pdf/5/2014/2014-ohio-3563.pdf>

**The trial court erred in finding Appellant guilty of failing to stop after an accident under R.C. 4549.02. The evidence showed there was no damage to persons or property “upon any of the public roads or highways.” The damage took place on private property, so the appropriate charge would**

have been under R.C. 4549.021, “[d]uty to stop after accident occurring on property other than public highways.”

### **Sixth Appellate District of Ohio**

*Nothing new.*

### **Seventh Appellate District of Ohio**

*Nothing new.*

### **Eighth Appellate District of Ohio**

#### **State v. Jackson, 2014-Ohio-3583**

**Jury Instruction: Flight**

**Full Decision:**

<http://www.supremecourt.ohio.gov/rod/docs/pdf/8/2014/2014-ohio-3583.pdf>

The trial court erred in giving the jury an instruction on flight where there was no evidence Appellant fled to a location where he could not be located or that he evaded police once detected. Simply leaving the scene does not justify a flight instruction. However, the error was harmless.

#### **Cleveland v. Bendycki, 2014-Ohio-3594**

**Traffic Violation: Citation**

**Full Decision:**

<http://www.supremecourt.ohio.gov/rod/docs/pdf/8/2014/2014-ohio-3594.pdf>

The trial court erred in finding Appellant guilty of driving without a license where the citation was fatally defective. The citation did not refer to any ordinance or statute, and the city never amended the charge to reflect the ordinance or statute that was allegedly violated.

## **Ninth Appellate District of Ohio**

***State v. Hendrix, 2014-Ohio-3577***

**Search: Motion to Suppress**

**Full Decision:**

**<http://www.supremecourt.ohio.gov/rod/docs/pdf/9/2014/2014-ohio-3577.pdf>**

**The trial court did not err in granting Appellant's motion to suppress where the police's warrantless entry into the home was not authorized under the emergency aid exception. The police entered Appellant's home and found a marijuana grow operation after receiving a call from a neighbor that the garage door of the home had been open for several days, and that was unusual. The mail carrier also told police Appellant did not collect the mail every day, and had not the day prior to the police entering the home. These circumstances would not lead one to reasonably believe that anyone in the house was in immediate need of aid.**

## **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.***