

## Appellate Court Decisions - Week of 8/21/17

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

### First Appellate District of Ohio

#### **State v. Gonzalez, 2017-Ohio-7301**

##### **Jail-Time Credit**

##### **Full Decision:**

<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2017/2017-Ohio-7301.pdf>

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

“The common pleas court erred in overruling defendant’s Crim.R. 36 motion, when the rule authorized the court to correct a mistake of fact in defendant’s jail-time credit by the entry of judgment nunc pro tunc to the date of his original conviction.”

#### **In re M.N., 2017-Ohio-7302**

##### **Sentencing: Restitution**

##### **Full Decision:**

<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2017/2017-Ohio-7302.pdf>

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

“In an unauthorized-use-of-a-vehicle delinquency adjudication, the juvenile court did not abuse its discretion in awarding as restitution the cost to rekey the victim’s home and automobile where the delinquent minor had been in possession of the victim’s stolen vehicle, and had had access to the victim’s spare keys and vehicle registration papers, which contained the victim’s home address, because replacement of the locks was necessary to restore the security the victim had prior to the offense. [*But see* DISSENT: Absent any evidence that the delinquent minor had accessed the spare house keys or the registration papers, the cost to rekey the home was not an economic loss as contemplated by the statute.]”

#### **In re: \$593 U.S. Currency Seized From Noah Moore, 2017-Ohio-7330**

##### **Plain Error: Subject-Matter Jurisdiction: Civil Forfeiture: Notice**

**Full Decision:**

<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2017/2017-Ohio-7330.pdf>

**Summary from the First District:**

“The plain-error doctrine does not apply where the trial court has considered and ruled upon an objection.

“The trial court had subject-matter jurisdiction over the forfeiture proceeding; former R.C. 2981.05(A) conferred the authority on the common pleas court to hear and adjudicate a civil forfeiture action.

“The trial court erred in ordering a forfeiture where the state failed to comply with the notice requirements in former R.C. 2981.05(B): forfeiture statutes are in derogation of private-property rights and must be strictly construed, and the notice requirements in former R.C. 2981.05(B) were mandatory.”

**Second Appellate District of Ohio**

***State v. Bolton, 2017-Ohio-7263***

**Civil Forfeiture**

**Full Decision:**

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2017/2017-Ohio-7263.pdf>

**Summary from the Second District:**

“The trial court erred when it overruled appellant’s ‘Motion to Release Property.’ Pursuant to R.C. 2981.03(F), the trial court, upon appellant’s motion for return of his property, should have ordered the civil-forfeiture filing time extended and provided him with the procedural protections afforded by the civil-forfeiture statute. Judgment reversed and cause remanded for proceedings consistent with this opinion. (Hall, P.J., dissenting).”

**Third Appellate District of Ohio**

*Nothing to report.*

**Fourth Appellate District of Ohio**

*Nothing to report.*

## Fifth Appellate District of Ohio

***In re D.F., 2017-Ohio-7307***

### Sentencing

#### Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2017/2017-Ohio-7307.pdf>

Appellant was convicted of two counts of rape with a serious youthful offender specifications, and gross sexual imposition, all as a juvenile. He was sentenced to DYS for a minimum of two years and six months, with a maximum of up to his 21st birthday. Pursuant to the serious youthful offender specifications, the juvenile court imposed a suspended adult sentence of 15 years to life on each count of rape, to be served concurrently. Based on appellant's conduct while committed to DYS, the state moved to invoke the suspended adult sentence under the serious youthful offender specification. After a hearing, the trial court imposed the suspended sentence. However, the trial court erred in not appointing a guardian ad litem during those proceedings, as required by R.C. 2151.281(H) and Juv.R. 4(C). Therefore, the Fifth District reversed and remanded the case for further proceedings.

## Sixth Appellate District of Ohio

***State v. Korossy, 2017-Ohio-7275***

### No-Contest Plea: Explanation of Circumstances

#### Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2017/2017-Ohio-7275.pdf>

Appellant's conviction was based on insufficient evidence where the trial court failed to elicit the explanation of circumstances required by R.C. 2937.07 before accepting his no-contest plea and finding him guilty. Appellant did not waive the requirement for an explanation of circumstances.

## Seventh Appellate District of Ohio

*Nothing to report.*

## **Eighth Appellate District of Ohio**

**Cleveland v. Jones, 2017-Ohio-7320**

Double Jeopardy

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2017/2017-Ohio-7320.pdf>

Summary from the Eighth District: “The trial court erred when it denied defendant's motion to dismiss the indictment because double jeopardy barred further prosecution.” (This case has a long, complicated history)

## **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**

*Nothing to report.*

## **Sixth Circuit Court of Appeals**

*Nothing to report.*

## **Supreme Court of the United States**

*Nothing to report.*