

Appellate Court Decisions - Week of 8/24/15

First Appellate District of Ohio

State v. Haynes, 2015-Ohio-3432

Search and Seizure

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2015/2015-Ohio-3432.pdf>

Summary from the First District:

“The trial court did not err in denying a motion to suppress evidence obtained from the defendant’s person during a search incident to his lawful arrest: the police had probable cause to arrest the defendant where an undercover police officer had witnessed the defendant drive a car into a parking lot that was under surveillance following complaints for drug activity, had observed the defendant as he remained in the car with the engine running and acted as a lookout while the defendant’s passenger left the car to engage in activity consistent with drug trafficking with the driver of a second car, and had then broadcast a description of those events to other officers, who followed and then stopped the defendant’s car, and noticed on the defendant’s side of the interior console a digital scale with residue on it.”

In re: M.M., 2015-Ohio-3485

Motion to Suppress: CCW: Sufficiency: Weight: Double Jeopardy

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2015/2015-Ohio-3485.pdf>

Summary from the First District:

“The trial court did not err when it denied defendant’s motion to suppress evidence, because the stop of the car was reasonable where police had an objectively reasonable basis for their belief that the car’s cracked windshield rendered it unsafe.

“The state presented sufficient evidence that defendant had carried a concealed weapon, even though the gun was inoperable, because the gun had been designed as a weapon and could have been used as a bludgeon.

“The state presented sufficient evidence that the gun was concealed where the police officer saw the gun in defendant’s waistband only after the car windows had been rolled down and defendant had shifted in the back seat.

“The defendant’s delinquency adjudication for carrying a concealed weapon was not barred by double jeopardy, because the trial court’s adoption of the magistrate’s decision dismissing the carrying-a-concealed-weapon charge prior to the state filing objections was preliminary, and jeopardy did not attach until the court had completed its independent review and issued a decision.”

Second Appellate District of Ohio

Salgado v. Montgomery Cty. Sheriff, 2015-Ohio-3387

Concealed Carry Application

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/2/2015/2015-Ohio-3387.pdf>

The trial court abused its discretion in affirming the decision of the Montgomery County Sheriff denying appellant’s application for a license to carry a concealed weapon because the denial was based on his prior conviction of possession of drug paraphernalia. Although the Second District agreed that the offense of drug possession necessarily involves the use or possession of a drug of abuse, because appellant’s prior conviction was a minor misdemeanor at the time of the license application, the denial of the license application was error.

Third Appellate District of Ohio

State v. Foster, 2015-Ohio-3401

Search: Motion to Suppress

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/3/2015/2015-Ohio-3401.pdf>

The trial court erred in denying appellant’s motion to suppress the evidence found during the search of his home. The officers responded to the home because a security alarm went off – although no emergency phone calls were made. When they arrived, the front door was cracked open, but the garage door was shut – although not secured. The officers decided to sweep the home for intruders. When they entered the garage, they smelled marijuana and realized they should get a search warrant, but first decided to continue looking for intruders. As they searched the home, they found no people, but smelled a stronger odor of marijuana, and found blunts, plastic baggies, some with missing corners, cash, and a large amount of crack.

The Third District held that the trial court did not abuse its discretion in finding that the officers could search the home for intruders because of exigent circumstances. However, they could not open the bag that contained the crack cocaine. The bag was too small to hold a person and it had to be manipulated to see its contents. It doesn't matter that the officers may have had probable cause to get a search warrant, or if they had gotten one the drugs would have inevitably been discovered. The fruits of the illegal search were included as a basis for the warrant, so the warrant itself was tainted.

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

State v. Ross, 2015-Ohio-3399

Sentencing

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/9/2015/2015-Ohio-3399.pdf>

Appellant originally successfully appealed his sentences on multiple convictions. The Ninth Circuit remanded them for a determination of whether any of the convictions were allied offenses. The trial court erred where, although it determined the convictions were not allied, it still re-

sentenced appellant and gave him a longer prison term. The trial court lacked authority to conduct a de novo resentencing where it determined the convictions were not allied, because then there was no error to correct.

Tenth Appellate District of Ohio

Nothing new.

Eleventh Appellate District of Ohio

Nothing new.

Twelfth Appellate District of Ohio

State v. Osie, 2015-Ohio-3406

Post-Conviction Relief

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/12/2015/2015-Ohio-3406.pdf>

Appellant was convicted of aggravated murder, among other convictions, and sentenced to death. The conviction was upheld by The Supreme Court of Ohio. Appellant then filed for post-conviction relief. There, the trial court abused its discretion in dismissing appellant's first and second claims for relief – that his trial counsel was ineffective at the mitigation phase of his capital trial where they failed to “investigate and present competent, expert psychological evidence that the capital defendant had a neurological impairment” – because it did not conduct an evidentiary hearing despite the fact that appellant did present supporting affidavits demonstrating sufficient operative facts to establish substantive grounds for relief on those claims for relief. Therefore, the Twelfth District remanded the case for an evidentiary hearing on those issues.

Supreme Court of Ohio

Nothing new.

Sixth Circuit Court of Appeals

Nothing new.

Supreme Court of the United States

State ex rel. Williams v. Trim, 2015-Ohio-3372

Mandamus: Prohibition: Injunction

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/o/2015/2015-Ohio-3372.pdf>

“We affirm in part, reverse in part, and remand this appeal of an original action, to allow briefing and consideration of the mandamus claim of appellant, Agatha Martin Williams. Williams, an inmate, objects to the Ohio Department of Rehabilitation and Correction’s attachment of money in her prison account because it originated from a pension, and she claims that the money is therefore exempt from garnishment or attachment under R.C. 2329.66.

“In her complaint below, Williams sought several different forms of relief, including an injunction, a writ of prohibition, and a writ of mandamus. Following a preliminary motion below, the court of appeals, without notice, dismissed Williams’s entire case. The court of appeals correctly dismissed most of Williams’s complaint, even without notice. However, her mandamus claims regarding, among other things, the exempt status of the pension money placed in her prison account, should not have been dismissed. Rather, the court should have given her notice that it intended to consider her mandamus claims and allowed her to brief the issues before deciding the merits.

“Therefore, we affirm in part, reverse in part, and remand to the court of appeals to allow Williams to brief her mandamus claims before the court of appeals decides them on the merits.”