

Appellate Court Decisions - Week of 8/4/14

First Appellate District of Ohio

State v. Lott, 2014-Ohio-3404

Bond Forfeiture

Full Decision: http://www.hamilton-co.org/appealscourt/docs/decisions/C-130543_08062014.pdf

Summary from the First District:

“The trial court did not err in forfeiting three recognizance bonds posted by the defendant’s mother where the defendant had contacted his probation officer in Indiana to report that he had been charged with new offenses in Ohio; his probation officer had told him to return to Indiana; the defendant had then traveled to Indiana to report to his probation officer in person; and the defendant had been arrested in Indiana for violating his probation based upon the new Ohio charges: the trial court properly rejected the surety’s argument that it had been impossible as a matter of law for her to produce the defendant based upon his incarceration in Indiana, because it was foreseeable at the time the surety posted the bonds that the pending criminal charges in Ohio would have violated the terms of the defendant’s probation in Indiana, and that the defendant would be arrested upon personally reporting to his probation officer in Indiana.

“The trial court erred in affording the surety only 35 days between the date of the notice of forfeiture and the show-cause hearing before the magistrate, because the General Assembly had amended R.C. 2937.36 to extend the required time between the notice of forfeiture and the show cause hearing to 45 to 60 days; but the surety could not demonstrate any prejudice from the shortened time frame where the surety had appeared at the show-cause hearing, the surety had not asserted that she needed additional time to locate the defendant or to bring him back into the court’s custody, the surety was not entitled to counsel at the show-cause hearing, and nothing in the record demonstrated that the trial court would have had decided the forfeiture matter differently had the surety been represented by counsel at the show-cause hearing before the magistrate.”

City of Blue Ash v. Hensley, 2014-Ohio-3428

Jurisdiction/Venue: Procedure/Rules

Full Decision: http://www.hamilton-co.org/appealscourt/docs/decisions/C-130802_08082014.pdf

Summary from the First District:

“The municipal court acquires jurisdiction of an appeal from a mayor’s court decision under R.C. Chapter 1905 once a notice of appeal that complies with the requirements of R.C. 1905.23 is filed.

“Pursuant to R.C. 1905.24, the transcript of the proceedings that the clerk of the mayor’s court is required to deliver to the municipal court must contain an entry reflecting the defendant’s conviction in mayor’s court.

“A failure to include the documents required by R.C. 1905.24 in the transcript of the proceedings does not deprive the municipal court of jurisdiction over the appeal: the appellant bears the burden of objecting to the filing of an incomplete transcript of the proceedings.

“Crim.R. 12 requires that objections based on defects in the institution of the proceedings and defects in the indictment, information and complaint must be raised in a pretrial motion within 35 days of the defendant’s arraignment or seven days before the trial begins, whichever is earlier.

“Because the defendant did not timely raise his objection to the clerk of the mayor’s court’s failure to include in the transcript of the proceedings an entry reflecting his conviction in mayor’s court, any objection on that ground was waived.”

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

Nothing new.

Sixth Appellate District of Ohio

Wauseon v. Leveck, 2014-Ohio-3360

Search: Suppression

Full Decision: <http://www.sconet.state.oh.us/rod/docs/pdf/6/2014/2014-ohio-3360.pdf>

The trial court erred in denying Appellant's motion to suppress the search of his home where the officer's familiarity with Appellant and previous drug arrest of Appellant, along with the officer's observations of several beer cans in the apartment and an underage girl running toward the bathroom/bedroom, were not exigent circumstances to justify entering the home. Furthermore, the alleged offense – underage consumption – was a misdemeanor offense, so the exigent circumstances exception did not apply.

Seventh Appellate District of Ohio

Nothing new.

Eighth Appellate District of Ohio

State v. Gibson, 2014-Ohio-3421

Allied Offenses

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/8/2014/2014-ohio-3421.pdf>

The trial court erred in imposing separate sentences for Appellant's convictions of kidnapping with a sexual motivation and gross sexual imposition because the kidnapping was incidental to the gross sexual imposition where Appellant blocked the door to his apartment in order to commit the acts he committed.

Ninth Appellate District of Ohio

State v. Cabrera, 2014-Ohio-3372

Drug Offense: Manifest Weight

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/9/2014/2014-ohio-3372.pdf>

Appellant's conviction of possession of drugs was against the weight of the evidence where he was indicted for possession of a schedule III, IV, or V drug, but the laboratory result presented at trial showed the pills he allegedly possessed were a schedule II drug.

Tenth Appellate District of Ohio

Nothing new.

Eleventh Appellate District of Ohio

In re A.R.R., 2014-Ohio-3367

Juvenile: Delinquency: Juv.R. 37(A)

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/11/2014/2014-ohio-3367.pdf>

Appellant's rape conviction is reversed where the trial court did not comply with Juv.R. 37(A) when it failed to record the competency hearing of the alleged victim.

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.