

Appellate Court Decisions - Week of 8/7/17

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

First Appellate District of Ohio

State v. Howell, 2017-Ohio-7182

Jury Waiver

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2017/2017-Ohio-7182.pdf>

Summary from the First District:

“The trial court was without jurisdiction to conduct a bench trial for the misdemeanor offense of operating a vehicle while under the influence of alcohol where defendant had timely filed a written jury demand and had not executed a written waiver of the jury demand.

“Defendant was not entitled to a jury trial on the unclassified misdemeanor offense of driving under a financial responsibility act suspension, because the offense did not subject defendant to a term of imprisonment or a fine greater than one thousand dollars.”

Second Appellate District of Ohio

State v. Beverly, 2017-Ohio-7093

Reopening Appeal: Ineffective Assistance: Appellate Counsel

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2017/2017-Ohio-7093.pdf>

Summary from the Second District:

“Appellant's application for reopening under App.R. 26(B) is granted with respect to his first proposed assignment of error, which challenges his resentencing on counts for which he claims he already had completed his sentence. The court finds that a genuine issue exists as to whether appellate counsel provided prejudicially deficient representation by failing to challenge appellant's resentencing on counts for which he at least potentially already had completed his sentence. In all other respects, the application for reopening is denied. Granted, in part; denied, in part. (Donovan, J., concurring in part and dissenting in part).”

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. Large, 2017-Ohio-7104

Speedy Trial

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2017/2017-Ohio-7104.pdf>

Summary from the Sixth District:

“Where the state was aware that one act caused simultaneous injuries to four victims, and arrest records show that defendant was arrested for injuries caused to all victims on the same date and time, speedy-trial time is calculated at time of arrest even though defendant was initially charged as to only two victims and was charged as to remaining victims at a later date.”

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

Cleveland v. Bardwell, 2017-Ohio-7072

Traf.R. 10(F)

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2017/2017-Ohio-7072.pdf>

Summary from the Eighth District:

“The trial court erred when it denied the defendant's request to continue the trial because the defendant had never had a proper arraignment under Traff.R. 8 and 10.”

State v. Miller, 2017-Ohio-7091

Competency: Guilty Plea

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2017/2017-Ohio-7091.pdf>

Summary from the Eighth District:

“Trial court erred in failing to hold competency hearing before accepting defendant's guilty plea where there were indicia of incompetency and no indicia of competency.”

State v. McKinney, 2017-Ohio-7075

Allied Offenses: Disrupting Public Services: Criminal Damaging

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2017/2017-Ohio-7075.pdf>

Summary from the Eighth District:

“R.C. 2941.25 precludes a trial court from imposing separate sentences for disrupting public services and criminal damaging when a single, discrete act simultaneously constituted the commission of both crimes, and the state failed to demonstrate a separate identifiable harm.”

State v. Kushlan, 2017-Ohio-7177

Plea: Mandatory Prison Term: Crim.R. 11

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2017/2017-Ohio-7177.pdf>

Summary from the Eighth District:

“Guilty plea vacated where defendant did not subjectively understand at the plea hearing that he was subject to a mandatory prison term on the aggravated vehicle homicide count.”

State v. Grayson, 2017-Ohio-7175

Sentencing: Improperly Discharging a Firearm Into A Habitation

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2017/2017-Ohio-7175.pdf>

Summary from the Eighth District:

“Court erred in failing to merge four counts of improperly discharging a firearm into a habitation when defendant fired multiple successive shots into one window of a house occupied by several people. The "victim" of this offense is the occupied structure. The court did not err by failing to merge the improperly discharging a firearm into a habitation conviction with the defendant's assault convictions, as they are offenses of dissimilar import.”

State v. Phillips, 2017-Ohio-7164

Motion for Leave: Motion for a New Trial

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2017/2017-Ohio-7164.pdf>

Summary from the Eighth District:

“The trial court erred when it denied defendant's motion for leave to file a motion for new trial because the defendant set forth affidavits attached to his motion that established by clear and convincing proof that he was unavoidably prevented from discovering the new evidence.”

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

State v. Bradley, 2017-Ohio-7121

Notice: Failure to Send Child to School: R.C. 3321.38

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/12/2017/2017-Ohio-7121.pdf>

Summary from the Twelfth District:

“Trial court erred by amending charges and entering a guilty finding on an offense that the defendant was never charged with or put on notice that she may have to defend on such claims. The defendant was prejudiced in this case because she would have had a valid defense under the relevant truancy statutes.”

Supreme Court of Ohio

Nothing to report.

Sixth Circuit Court of Appeals

Nothing to report.

Supreme Court of the United States

Nothing to report.