

Appellate Court Decisions - Week of 9/14/15

First Appellate District of Ohio

State v. Jackson, 2015-Ohio-3742

Restitution

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2015/2015-Ohio-3742.pdf>

Summary from the First District:

“Where defendant had broken into a retail store by smashing through the wall with a sledgehammer, the trial court did not err in ordering defendant to pay restitution for costs incurred by the victim in hiring security to guard the wall that defendant had destroyed until it was repaired.” **Note: The wall was already fixed. The cement blocks had been replaced. The only reason the store had security guards was the cement wasn’t dry. Yes, I intend on filing an MISJ in the Supreme Court.**

State v. McMullen, 2015-Ohio-3741

Restitution

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2015/2015-Ohio-3741.pdf>

Summary from the First District:

“The trial court did not err in ordering restitution without determining the defendant’s ability to pay, because the defendant agreed to pay restitution as part of a plea agreement in which the amount of restitution was actively negotiated.”

State v. Bowden, 2015-Ohio-3740

Sentencing: Community Control

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2015/2015-Ohio-3740.pdf>

Summary from the First District:

“The trial court did not err in revoking the defendant’s community control where the state presented substantial evidence that the defendant had been arrested for other, serious felony offenses within two weeks of the imposition of community control, and that the defendant had been notified to report to his probation officer and had failed to do so.

“Because the purpose of the probable-cause hearing in a community-control-violation proceeding is simply to prevent a defendant’s unjust imprisonment pending the revocation hearing, at which the ultimate determination of whether a violation has occurred will be made, the defendant’s failure to object timely to irregularities, including the failure to provide written notice of each alleged violation, constitutes the forfeiture of any error save plain error.

“Since R.C. 2929.15(B)(1) provides the trial court great latitude in sentencing an offender for community-control violations, the trial court did not err in sentencing the defendant to a ten-year term of imprisonment: the sentence was within the range authorized for a first-degree felony, and it did not exceed the term specified at the original sentencing hearing.

“The trial court’s failure to properly award jail-time credit is an error cognizable on direct appeal, and a reviewing court may modify or vacate the trial court’s jail-time-credit computation if it clearly and convincingly finds that the awarded credit is contrary to law.

“Where the trial court awarded jail-time credit, without further inquiry, based on the defendant’s own calculation of the period of time that the defendant had been incarcerated since the community-control violation, where the record reflects that the defendant had served an undetermined, but very substantial, period of pretrial confinement, where there was no indication that the defendant was being held on other charges, and where before imposing sentence, the trial court had told the defendant that he would be given credit for his nearly one-year period of incarceration if he violated the terms of his community-control sanction, a reviewing court cannot say that the trial court accurately determined the number of days that the defendant had been confined and thus the awarded credit was contrary to law.”

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

Nothing new.

Seventh Appellate District of Ohio

Nothing new.

Eighth Appellate District of Ohio

Nothing new.

Ninth Appellate District of Ohio

Nothing new.

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.