

## Appellate Court Decisions - Week of 9/15/14

### First Appellate District of Ohio

#### **State v. Downing, 2014-Ohio-2029**

##### Speedy Trial

Full Decision: [http://www.hamilton-co.org/appealscourt/docs/decisions/C-130319\\_09172014.pdf](http://www.hamilton-co.org/appealscourt/docs/decisions/C-130319_09172014.pdf)

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

“The trial court erred in refusing to dismiss the misdemeanor charges against the defendant for lack of a speedy trial where the defendant was not brought to trial on the charges within 90 days of arrest and the trial court’s journal entry sua sponte continuing the case did not include reasons for the continuance.

“The time for trial under Ohio’s speedy-trial statute was not extended by the trial court’s sua sponte entry of a continuance ‘for good cause shown,’ when no reason was given to explain the trial judge’s unavailability or to explain why the trial could not have been scheduled during the remaining statutory period; the broad assertion, without further explanation, that the continuance was ‘for good cause shown’ did not satisfy the court’s duty to demonstrate affirmatively in the record why the continuance was reasonable.”

#### **State v. Smith, 2014-Ohio-4030**

##### Sex Offenses: Registration: Megan’s Law

Full Decision: [http://www.hamilton-co.org/appealscourt/docs/decisions/C-130571\\_09172014.pdf](http://www.hamilton-co.org/appealscourt/docs/decisions/C-130571_09172014.pdf)

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

“Failure to notify of an address change under the Megan’s Law version of R.C. 2950.05 is a strict-liability offense.”

#### **State v. Taylor, 2014-Ohio-4070**

##### Sentencing

Full Decision: [http://www.hamilton-co.org/appealscourt/docs/decisions/C-130394\\_09192014.pdf](http://www.hamilton-co.org/appealscourt/docs/decisions/C-130394_09192014.pdf)

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

“The trial court erred when it imposed consecutive sentences without having made and incorporated into its judgment entry the findings required by R.C. 2929.14(C)(4).”

### **State v. Reinhardt, 2014-Ohio-4071**

#### **Pleas**

**Full Decision:** [http://www.hamilton-co.org/appealscourt/docs/decisions/C-130560\\_09192014.pdf](http://www.hamilton-co.org/appealscourt/docs/decisions/C-130560_09192014.pdf)

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

“The trial court did not err in denying the defendant’s postsentence Crim.R. 32.1 motion to withdraw her guilty plea to a misdemeanor theft charge because the defendant failed to show that defense counsel and the trial court coerced her into entering the guilty plea such that a manifest injustice occurred where the defendant had been offered multiple plea deals over a period of months, and although the trial court indicated that it would not accept a plea deal after trial started, the defendant still declined to take a deal at that time; other alleged actions of coercion and bias by the trial court occurred after the plea had been entered; defense counsel reasonably encouraged the defendant, who faced multiple felony charges, to take a plea deal that did not involve jail time; and the trial court engaged the defendant in a full Crim.R. 11 colloquy during which the defendant admitted that her plea was a product of free will.”

### **State v. Mack, 2014-Ohio-4072**

#### **Anders Brief**

**Full Decision:** [http://www.hamilton-co.org/appealscourt/docs/decisions/C-140054\\_09192014.pdf](http://www.hamilton-co.org/appealscourt/docs/decisions/C-140054_09192014.pdf)

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

“Where counsel has filed a no-error brief pursuant to *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967), and where the record indicates that, as part of a plea bargain, the defendant agreed to a two-year prison term for trafficking in cocaine, but the trial court’s entry states that the defendant was sentenced to four years for the trafficking offense, the appellate court must appoint new counsel to address legal points arguable on the merits raised by the sentencing inconsistency and any other issues counsel may wish to raise.”

### **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

***State v. Kiriakou, 2014-Ohio-4056***

OVI: Motion to Suppress

Full Decision: <http://www.sconet.state.oh.us/rod/docs/pdf/5/2014/2014-ohio-4056.pdf>

The trial court erred in denying Appellant's motion to suppress because the Trooper did not have an articulable and reasonable suspicion that Appellant was operating her motor vehicle in violation of the law (specifically, R.C. 4511.66) where she remained stopped at an intersection for 11 seconds after the traffic light had turned green. There were no other factors presented to indicate impaired driving.

### Sixth Appellate District of Ohio

***State v. Goble, 2014-Ohio-3967***

Search: Motion to Suppress

Full Decision: <http://www.supremecourt.ohio.gov/rod/docs/pdf/6/2014/2014-ohio-3967.pdf>

In Appellant's possessing criminal tools, possession of marijuana, and possession of marijuana paraphernalia case, the trial court erred in denying his motion to suppress where the only information to support the search warrant was: (1) information from 2010 from another police officer indicating Appellant was caught growing marijuana but not charged; (2) an undated and unreliable anonymous complaint that Appellant was growing marijuana; and (3) the discovery of "several" stems and two marijuana roaches during a trash pull from Appellant's home.

## **Seventh Appellate District of Ohio**

**State v. Creech, 2014-Ohio-4004**

Evidence: Stipulations

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/7/2014/2014-ohio-4004.pdf>

In Appellant's trial for having weapons while under disability, the trial court erred when it did not require the state to stipulate to the fact that Appellant had a disability because the risk of unfair prejudice was not outweighed by the probative value of the evidence. The Seventh District applied *Old Chief v. U.S.*, 519 U.S. 172, 117 S.Ct. 644 (1997) to Ohio law.

## **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.*