

Appellate Court Decisions - Week of 9/17/18

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

First Appellate District of Ohio

State v. Hendrix, 2018-Ohio-3754

Postconviction

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2018/2018-Ohio-3754.pdf>

Summary from the First District:

“Petitioner’s postconviction ineffective-counsel claim was not barred under the doctrine of res judicata, because it depended for its resolution upon evidence outside the trial record.

“The court of appeals must presume the regularity of, and thus affirm, the common pleas court’s judgment dismissing petitioner’s postconviction petition without a hearing, when in the absence of the defense exhibits, the record on appeal did not include a complete transcript of the proceedings necessary to the resolution of the challenge advanced on appeal.

State v. Bryant, 2018-Ohio-3756

R.C. 4549.02: Sufficiency/Weight

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2018/2018-Ohio-3756.pdf>

Summary from the First District:

“Defendant’s conviction under R.C. 4549.02 for failure to stop after an accident was supported by sufficient evidence and was not against the manifest weight of the evidence where defendant left the scene of a motor vehicle accident before giving his name and address to the police officer who responded to the scene of the accident. [*But see* DISSENT: Where defendant gave his name and address to the operator of the other vehicle, and that operator did not call the police until after defendant had left the scene of the collision an hour later, there was no officer at the scene and defendant did not violate R.C. 4549.02 by not providing him with the information.]”

State v. Schwegmann, 2018-Ohio-3757

Domestic Violence: Evidence: Sufficiency/Weight

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2018/2018-Ohio-3757.pdf>

Summary from the First District:

“An alleged prior threat by the victim to make a false accusation of domestic violence was not clearly probative of truthfulness or untruthfulness where the alleged threat was not made to defendant, and the victim testified that she had never made a false accusation of domestic violence against anyone; therefore, the trial court did not abuse its discretion in preventing defense counsel from cross-examining the victim about the alleged threat. [But see CONCURRENCE: The trial court erred in not allowing defense counsel to cross-examine the victim as to whether she had threatened to falsely accuse anyone of domestic violence, because a threat to make a false accusation of domestic violence is probative to truthfulness or untruthfulness in a domestic-violence case; but the error was harmless in light of the overwhelming evidence against defendant.]

“Defendant’s conviction for domestic violence was supported by sufficient evidence and was not against the manifest weight of the evidence where the state established cohabitation through the victim’s testimony that she had been dating the defendant for six months and had been living with him for a month when the altercation occurred.”

State v. Gordon, 2018-Ohio-3786

Restitution

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2018/2018-Ohio-3786.pdf>

Summary from the First District:

“In ordering restitution under R.C. 2929.28(A)(1) for criminal damaging, the trial court did not abuse its discretion in finding that the economic loss to the victim was the cost of repairing her vehicle where the victim produced repair estimates from three qualified collision repair companies and defendant produced evidence only of the car model’s trade-in value, but not its retail value.”

Second Appellate District of Ohio

State v. Webster, 2018-Ohio-3698

Gross Neglect of a Patient: Sufficiency

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2018/2018-Ohio-3698.pdf>

Appellant's conviction for gross neglect of a patient was based on insufficient evidence. Appellant was a state-tested nursing assistant working at an Alzheimer's community home. During his shift, one of the patients sustained a broken nose and other injuries. Appellant got scared and cleaned the patient and the room to cover for the fact that he did not visit the patient's room during his shift. The evidence, however, was insufficient that Appellant failed to make his rounds, or that his failure to do so would have caused the victim's injuries. There was also no evidence to support a theory that Appellant's delay in seeking treatment for the victim resulted in the physical harm in question. In sum, there was inadequate evidence of causation for gross neglect of a patient.

Third Appellate District of Ohio

Nothing to report.

Fourth Appellate District of Ohio

Nothing to report.

Fifth Appellate District of Ohio

State v. Lewis, 2018-Ohio-3681

Motion to Suppress: Search

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2018/2018-Ohio-3681.pdf>

The trial court did not err in granting Appellee's motion to suppress where Appellee's traffic stop was unconstitutionally prolonged – more than 30 minutes elapsed and nothing was found. “Nothing observed by any of the officers warranted detaining [Appellee] beyond the unproductive search of his vehicle.” The consent Appellee then gave to search his home was not voluntary because not only was he illegally detained at that point, but he

was presented with two options – consent to the search or beheld while a warrant was obtained to search his home. “[A]n grounds for actual issuance of a warrant were exceedingly thin.”

Sixth Appellate District of Ohio

Nothing to report.

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

Nothing to report.

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

Nothing to report.

Supreme Court of Ohio

State v. Goff, 2018-Ohio-3763

Aggravated Murder: Capital Punishment

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/o/2018/2018-Ohio-3763.pdf>

Summary from the Opinion:

“Appellant, James R. Goff, was convicted of the aggravated murder of

Myrtle Rutledge and sentenced to death. We affirmed his convictions and sentence on direct appeal. *State v. Goff*, 82 Ohio St.3d 123, 694 N.E.2d 916 (1998) ('Goff I').

“In 2010, concluding that Goff had received ineffective assistance of appellate counsel with respect to his right to allocution at trial, a federal court granted a writ of habeas corpus effective 120 days later ‘unless the Ohio courts reopen Goff’s direct appeal * * * to permit his counsel to raise this issue.’ *Goff v. Bagley*, 601 F.3d 445, 482 (6th Cir.2010) ('Goff II'). In 2015, after Goff’s direct appeal was reopened and the case was remanded for resentencing, the trial court conducted a resentencing hearing at which Goff offered a statement in allocution. The trial court again sentenced him to death. The court of appeals affirmed. *State v. Goff*, 12th Dist. Butler No. CA2015-08-017, 2016-Ohio-7834 ('Goff III').

“In this appeal as of right, Goff asserts four propositions of law. For the reasons explained below, we reject each of Goff’s propositions of law and affirm his death sentence.”

Sixth Circuit Court of Appeals

***Issa v. Bradsaw*, No. 15-447**

Habeas: Confrontation Clause

Full Decision:

<http://www.opn.ca6.uscourts.gov/opinions.pdf/18a0212p-06.pdf>

The Sixth Circuit ordered the district court to grant a conditional writ of habeas corpus to Appellant. Basically, the Sixth Circuit takes the Ohio Supreme Court to task for not examining the “totality of the circumstances” surrounding an out-of-court statement when conducting a Confrontation Clause analysis. The Sixth Circuit said: “By not considering any other facts, the Ohio Supreme Court applied ‘a preconceived and artificial litmus test’ and failed to consider ‘the totality of the circumstances,’ which is contrary to what a court ‘must’ do during this analysis.”

Supreme Court of the United States

Nothing to report.