

Appellate Court Decisions - Week of 9/19/16

First Appellate District of Ohio

Nothing new.

Second Appellate District of Ohio

State v. Fowler, 2016-Ohio-5867

Juror Misconduct

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2016/2016-Ohio-5867.pdf>

Summary from the Second District: “The trial court abused its discretion by failing to inquire about reported juror misconduct after a juror reportedly looked up the definition of involuntary manslaughter and discussed it with at least one other juror, depriving Fowler of due process to discern if his substantial rights were affected thereby.”

Third Appellate District of Ohio

Nothing new.

Fourth Appellate District of Ohio

State v. Walters, 2016-Ohio-5783

Sentencing: Hybrid Sentence

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/4/2016/2016-Ohio-5783.pdf>

The trial court committed plain error in sentencing Appellant to a hybrid prison sentence. The trial court’s sentence was “a mandatory stated prison term of seven (7) years, in the Ohio Department of Rehabilitation and Corrections, with minimum mandatory Two (2) years.”

Fifth Appellate District of Ohio

State v. Hall, 2016-Ohio-5787

Motion to Dismiss: OVI

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2016/2016-Ohio-5787.pdf>

The trial court erred in denying Appellant's motion to suppress where there was no reasonable basis for the trooper to ask Appellant to step out of his car and perform field sobriety tests. While there was an odor of alcohol emanating from Appellant's car and his person and he had red, watery, and bloodshot eyes, there were no additional indicia of intoxication.

State v. Wright, 2016-Ohio-5894

Complaint: Motion to Amend

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2016/2016-Ohio-5894.pdf>

The trial court erred in allowing the state to amend Appellant's child enticement charge from R.C. 2905.05(A) to R.C. 2905.05(C). The (C) subsection adds an additional element of "unlawful purpose" not contained in the (A) subsection. The additional element changed the identity of the crime.

State v. Miller, 2016-Ohio-5911

Miranda: Motion to Suppress

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2016/2016-Ohio-5911.pdf>

The trial court erred in denying Appellant's motion to suppress his statements to police. Appellant invoked his right to counsel several times never revoked that right before he spoke with police.

Sixth Appellate District of Ohio

Nothing new.

Seventh Appellate District of Ohio

Nothing new.

Eighth Appellate District of Ohio

State v. Haugabrook, 2016-Ohio-5838

Ineffective Assistance

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2016/2016-Ohio-5838.pdf>

Husband (Appellant) and wife had the same defense counsel. Appellant expressed reservations to the trial court with defense counsel representing both of them because his wife was innocent but they were subject to a package plea deal. The trial court “erred by not explaining to [Appellant] the risks of dual representation, as well as the fact that he had a constitutional right to effective representation free of conflicts.” The Eighth District, notably, gave the perplexing order on remand “for the trial court to fulfill its affirmative duty to obtain a voluntary, knowing, and intelligent waiver of the conflict of interest.”

State v. Ramos, 2016-Ohio-5835

Kidnapping

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2016/2016-Ohio-5835.pdf>

Summary from the Eighth District: “There was insufficient evidence of kidnapping where the evidence failed to show that defendant choked his wife to restrain her liberty. Court erred by instructing the jury that defendant’s flight from scene of a crime could be viewed as evidence showing a consciousness of guilt because there was no evidence to show that at the time the defendant left the crime scene, he did so for the purpose of eluding an active investigation.” The error regarding the flight instruction was harmless, however.

State v. Jones, 2016-Ohio-5923

Sentencing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2016/2016-Ohio-5923.pdf>

This is an interesting case. Pursuant to R.C. 2953.08(G)(2), the Eighth District reversed the Appellants' sentences and remanded for resentencing in order for the trial court to develop the record regarding the sentencing factors in R.C. 2929.11 and 2929.12. It said it needs "a more developed record to determine whether, by clear and convincing evidence, the record does not support the sentences * * *." F

Ninth Appellate District of Ohio

Nothing new.

Tenth Appellate District of Ohio

Nothing new.

Eleventh Appellate District of Ohio

State v. Silka, 2016-Ohio-5784

Double Jeopardy: OVI

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2016/2016-Ohio-5784.pdf>

Appellee was charged with two counts of OVI and one count of Failure to Maintain an Assured Clear Distance. He entered a guilty plea to one first-degree misdemeanor count of OVI and a no-contest plea to the assured clear distance count. The pleas were accepted, but before sentencing, the state filed a motion to dismiss without prejudice, arguing the OVI should have been filed as a third-degree felony.

The state then charged Appellee with third-degree OVIs. Appellant filed a motion to dismiss the felonies on double jeopardy grounds, which the trial court granted. The Eleventh District affirmed.

Twelfth Appellate District of Ohio

Nothing new.

Supreme Court of Ohio

Nothing new.

Sixth Circuit Court of Appeals

Nothing new.