

Appellate Court Decisions - Week of 9/22/14

First Appellate District of Ohio

State v. Alsip, 2014-Ohio-4180

Pleas: Crim.R. 32.1

Full Decision: http://www.hamilton-co.org/appealscourt/docs/decisions/C-130699_09242014.pdf

Summary from the First District:

“The trial court did not abuse its discretion in denying the defendant’s Crim.R. 32.1 motion to withdraw his no-contest plea, because the defendant failed to demonstrate that a manifest injustice occurred where the trial court sentenced the defendant to a maximum prison term, despite defense counsel’s promise that the maximum sentence would not be imposed, but the defendant failed to set forth any evidence indicating that he had substantially relied upon counsel’s advice in entering his plea.”

Note: This case seems to indicate that if you are filing a motion to withdraw a guilty plea, you will need to place on the record the exact reason you are asking to withdraw the plea. If you do not and the motion is denied, the appeal that comes after will also fail.

State v. Washington, 2014-Ohio-4178

Juvenile: Bindover: *Miranda*

Full Decision: http://www.hamilton-co.org/appealscourt/docs/decisions/C-130213_09242014.pdf

Summary from the First District:

“The juvenile court did not abuse its discretion when it bound over the 15-year-old defendant to the common pleas court for the prosecution of two aggravated murders and related charges where the court properly considered the R.C. 2152.12(D) and (E) factors, and concluded that the juvenile system was not equipped to rehabilitate the defendant safely within the available time period.

“The trial court did not err when it refused to suppress statements made by the defendant during a police interview, and recorded electronically in their entirety, where nothing in the recorded interview refuted the presumption, under R.C. 2933.81(B), that the defendant had waived his *Miranda* rights voluntarily, and the court’s finding that the defendant had knowingly and intelligently waived his rights was supported by the record.”

State v. Harris, 2014-Ohio-4237

Assault: Evidence: Sentencing: Postrelease Control

Full Decision: http://www.hamilton-co.org/appealscourt/docs/decisions/C-130442_09262014.pdf

Summary from the First District:

“The admission of the defendant’s medical records, which included his statement to his treating physician at the hospital that he had stabbed his girlfriend, did not rise to the level of plain error: the Confrontation Clause did not prohibit the admission of the defendant’s own statements, even if they were testimonial, and, in light of the other evidence, the defendant could not demonstrate that, absent the admission of the arguably privileged records, the outcome of the trial clearly would have been otherwise.

“The defendant’s conviction for felonious assault was supported by sufficient evidence and was not against the manifest weight of the evidence, where the evidence at trial, including the victim’s testimony, her medical records, the evidence at the crime scene, and the defendant’s admission to a police officer, showed that when he brutally stabbed his girlfriend on her face, neck, and chest, he did so with knowledge that he was causing her harm.

“When a sentencing court, acting under R.C. 2929.141, ‘impose[s]’ a prison term for a postrelease-control violation related to a new felony, the court is actually executing the prison term that was imposed as part of the postrelease-control portion of the sentence imposed for the earlier felony, and the statute does not constrain the sentencing court from entering that judgment in the earlier felony case.

“The trial court erred when calculating the length of the defendant’s prison term for a postrelease-control violation because it failed to credit the defendant for the full amount of time that the defendant had spent on postrelease control, which, in this case, did not terminate until the defendant was sentenced for the postrelease-control violation.”

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

Cleveland v. Johnson, 2014-Ohio-4083

Alibi

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/8/2014/2014-ohio-4083.pdf>

Appellant's conviction is reversed and remanded for a new domestic violence trial because the trial court erred in a bench trial where, although it allowed Appellant's alibi witnesses to testify, it made statements indicating it believed an alibi defense was only applicable where there is an issue of identity, and not where the only issue is whether the incident occurred.

Ninth Appellate District of Ohio

State v. Bortner, 2014-Ohio-4121

Sentencing: Plea Withdrawal

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/9/2014/2014-ohio-4121.pdf>

The trial court abused its discretion in denying Appellant's motion to withdraw his guilty plea where, at his first sentencing hearing, appellant was told he would be sentenced pursuant to a plea agreement to one year,

120 days in prison, but after the PSI and Appellant's *capias* on the second hearing, Appellant was finally sentenced to 11.5 years in prison.

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

State v. Schleiger, 2014-Ohio-3970

Right to Counsel: Resentencing

Full Decision: <http://www.sconet.state.oh.us/rod/docs/pdf/o/2014/2014-ohio-3970.pdf>

A resentencing hearing pursuant to R.C. 2929.191 is a "critical stage" of a criminal proceeding. A defendant is entitled to counsel at a resentencing hearing held for the limited purpose of imposing statutorily mandated postrelease control.

State v. Quarterman, 2014-Ohio-4034

Juvenile: Bindover: Preservation of Claim

Full Decision: <http://www.sconet.state.oh.us/rod/docs/pdf/o/2014/2014-ohio-4034.pdf>

Appellant forfeited his challenge to the constitutionality of the mandatory juvenile bindover statutes "by failing to present it to the juvenile court and the general division of the common pleas court, and he did not make any attempt to demonstrate that applying the mandatory bindover statutes in these circumstances rises to plain error."

State v. Wine, 2014-Ohio-3948

All-or-Nothing Defense: Jury Instructions

Full Decision: <http://www.sconet.state.oh.us/rod/docs/pdf/o/2014/2014-ohio-3948.pdf>

“[A] criminal defendant does not have the right to prevent a trial court from giving lesser-included-offense jury instructions; whether to include such jury instructions lies within the discretion of the trial court and depends on whether the evidence presented could reasonably support a jury finding of guilt on a particular charge.”

Sixth Circuit Court of Appeals

Nothing new.

Supreme Court of the United States

Nothing new.