

Appellate Court Decisions - Week of 9/4/17

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

First Appellate District of Ohio

State v. Williams, 2017-Ohio-7492

Sex offender classification.

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/1/2017/2017-Ohio-7492.pdf>

Trial court did not err in dismissing indictment for failure to verify current address and failure to give notice of address change, as well as vacating defendant's duty to register as a sex offender; defendant's prior conviction for attempted abduction was not a child-victim-oriented offense under Megan's Law because there was nothing in the record to show the age of the victim or that the victim was not defendant's child.

State v. Walker, 2017-Ohio-7493

Sex offender classification.

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/1/2017/2017-Ohio-7493.pdf>

Defendant's sex offender classification vacated because he had finished serving his prison sentence for GSI prior to July 1, 1997; under former R.C. 2950.04(A)(1)(a) ("Megan's Law"), only those persons serving a prison sentence for a sexually oriented offense on or after July 1, 1997 were required to register as sex offenders. Therefore, all of Defendant's prior convictions for failure to register vacated.

Second Appellate District of Ohio

State v. Brown, 2017-Ohio-7424

Ineffective assistance of counsel.

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2017/2017-Ohio-7424.pdf>

In conviction for felonious assault, trial counsel was ineffective in failing to request a jury instruction on self-defense, where there was a reasonable probability that the jury might have accepted the defendant's version of events and concluded he acted in self-defense.

State v. Henry, 2017-Ohio-7426

New trial.

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2017/2017-Ohio-7426.pdf>

Trial court abused its discretion in overruling defendant's *pro se* motion for leave to file a motion for a new trial without a hearing where trial court failed to consider whether the affidavits submitted by defendant established by clear and convincing proof that he was unavoidably prevented from discovering evidence of the affair between his trial counsel and ex-fiancé.

State v. Turpin 2017-Ohio-7435

Suppression of search.

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2017/2017-Ohio-7435.pdf>

In conviction for drug-related offense, trial court erred when it denied defendant's motion to suppress where, despite correctly finding that officer's warrantless entry into residence violated the Fourth Amendment, court incorrectly held that the attenuation doctrine (evidence would still be admissible if connection between unconstitutional police conduct and the evidence obtained was remote or had been interrupted by some intervening circumstance) applied since officer had no basis for a reasonable belief that the suspect in a vehicle theft lived at the residence.

Third Appellate District of Ohio

State v. Carter, 2017-Ohio-7443

Hearsay.

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/3/2017/2017-Ohio-7443.pdf>

In conviction of aggravated menacing, trial court abused its discretion in admitting hearsay statements without making specific findings as to which exception – excited utterance or present sense impression - permitted such statements; and neither exception applied since the record was unclear about the amount of time that elapsed between the event and the statements sought to be admitted.

Fourth Appellate District of Ohio

Nothing to report.

Fifth Appellate District of Ohio

Nothing to report.

Sixth Appellate District of Ohio

Nothing to report.

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

State v. Shaw, 2017-Ohio- 7404

Verdict forms.

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/8/2017/2017-ohio-7404.pdf>

In conviction of discharging a firearm on or near a prohibited premise, conviction should have been reduced to a first-degree misdemeanor because the verdict form failed to state either the degree of the offense or the offense enhancing language that would have elevated the offense to a third-degree felony, as required by R.C. 2945.75(A).

Ninth Appellate District of Ohio

Nothing to report.

Tenth Appellate District of Ohio

Nothing to report.

Eleventh Appellate District of Ohio

State v. Martin, 2017-Ohio-7453

Speedy trial.

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2017/2017-Ohio-7453.pdf>

In conviction of OVI, trial court erred when it denied defendant's motion to dismiss for speedy trial violations; trial court failed to journalize whether continuances were at the request of state or defendant and, strictly construing these continuances against the state, the speedy-trial clock continued to run between these dates and defendant is entitled to discharge under R.C. 2945.73.

Twelfth Appellate District of Ohio

Nothing to report.

Supreme Court of Ohio

State v. Mohamed, 2017-Ohio-7468

Kidnapping.

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/o/2017/2017-Ohio-7468.pdf>

In conviction for kidnapping, when determining whether a victim was released "in a safe place unharmed," R.C. 2905.01(C)(1), harm includes both physical and psychological harm.

State v. Jackson, 2017-Ohio-7469

Final, appealable order.

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/o/2017/2017-Ohio-7469.pdf>

In cases with multiple counts in an indictment, any dismissal of a count, with or without prejudice, resolves that count and does not prevent judgement of conviction on the remaining counts from being a final, appealable order.

Sixth Circuit Court of Appeals

United States v. Lanier et al., Nos. 16–6655/6657

Jury misconduct.

Full Decision:

<http://www.opn.ca6.uscourts.gov/opinions.pdf/17a0208p-06.pdf>

The Sixth Circuit vacated defendants's convictions and remanded their cases for a Remmer hearing to determine whether any external influence affected the jury's deliberations.

Supreme Court of the United States

Nothing to report.