

## **Appellate Court Decisions - Week of 9/5/16**

### **First Appellate District of Ohio**

#### **State v. Landrum, 2016-Ohio-5666**

**Aggravated Menacing: Sufficiency: Manifest Weight**

**Full Decision:**

**<https://www.supremecourt.ohio.gov/rod/docs/pdf/1/2016/2016-Ohio-5666.pdf>**

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

“The defendant’s aggravated-menacing conviction was supported by sufficient evidence and was not against the manifest weight of the evidence with regard to whether the victim, the defendant’s niece, believed that the defendant would cause her serious physical harm: the evidence presented at trial showed that the defendant had run toward the victim, while brandishing a knife and yelling threats, and although the victim testified that she had not expected her aunt to actually use the knife, the victim testified that she had been in a state of fear and had felt threatened.”

#### **State v. Blair, 2016-Ohio-5714**

**Expungement: Acquittal: Community Control**

**Full Decision:**

**<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2016/2016-Ohio-5714.pdf>**

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

“While probation under former Ohio law was civil in nature, it was replaced with community control, which is criminal in nature.

“In a case of first impression, the trial court did not err in overruling the defendant’s motion to seal the record in a criminal case in which she had been acquitted, because she had a pending criminal proceeding where she was on community control for a misdemeanor in another case.”

#### **State v. Whatley, 2016-Ohio-5713**

**Aggravated Burglary: Sufficiency: Manifest Weight**

**Full Decision:**

<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2016/2016-Ohio-5713.pdf>

**Summary from the First District:**

“To satisfy the elements of aggravated burglary, the defendant may form the purpose to commit the criminal offense and acquire the deadly weapon at any point during the course of the trespass.

“The defendant’s conviction for aggravated burglary was based on sufficient evidence where the defendant brought a pocketknife with him, and, during his trespass in the victim’s apartment, acquired a butcher knife and a pair of scissors, with which he stabbed the victim.”

**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**

**Robinson v. Green, 2016-Ohio-5688**

Habeas Corpus

**Full Decision:**

<https://www.supremecourt.ohio.gov/rod/docs/pdf/7/2016/2016-Ohio-5688.pdf>

The Petitioner filed a petition for writ of habeas corpus, alleging the county sheriff was unlawfully detaining him as a material witness. The trial court ordered Petitioner held without bond as a material witness in a criminal case. The Seventh District granted the Petitioner's writ of habeas corpus. Petitioner's incarceration as a material witness was not in compliance with R.C. 2941.48 or R.C. 2937.18. When Petitioner was initially jailed without bond, there was no reference to a warrant being issued or that the incarceration was supported by probable cause. A second judgment entry referenced a warrant, but there was no evidence it was served on Petitioner. The trial court also never Petitioner an opportunity to seek a bond. Finally, Petitioner was jailed with the general population in direct contravention of R.C. 2937.18.

## Eighth Appellate District of Ohio

### ***State v. Parr, 2016-Ohio-5629***

Jury Instructions: Felonious Assault: Aggravated Assault: Lesser-Included Offense

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2016/2016-Ohio-5629.pdf>

Summary from the Eighth District: "The trial court defined aggravated assault in the jury instructions as a lesser included offense of felonious assault and instructed the jury that it could only find the defendant guilty of aggravated assault if it found her not guilty of felonious assault. The court found that the erroneous jury instruction amounted to plain error."

***State v. Davis, 2016-Ohio-5630*** This case is really interesting. Worth a read.

Jury Instructions: Self-Defense

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2016/2016-Ohio-5630.pdf>

Summary from the Eighth District: "After the jury asked the court for clarification on the jury instructions regarding self-defense, the trial court erred in giving further instructions to the jury that instructed the jury to find appellant guilty of felonious assault unless all the jurors agreed that appellant had affirmatively demonstrated self-defense. The record is clear that at least one juror believed appellant acted in self-defense, and therefore, the verdict was not unanimous."

**In re A.G., 2016-Ohio-5616 On remand from the Ohio Supreme Court.**

**Delinquency: Sentencing: Merger**

**Full Decision:**

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2016/2016-Ohio-5616.pdf>

**Summary from the Eighth District: “The juvenile court committed plain error by failing to merge a juvenile defendant’s adjudications of aggravated robbery and kidnapping where the facts in the record established that the offenses were allied offenses of similar import under R.C. 2941.25.”**

**Appellant pulled out a gun and ordered the victim to get into a car, presumably so he could rob the victim.**

**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.*