# Appellate Court Decisions - Week of 7/23/18

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

## First Appellate District of Ohio

***State v. Nix*, 2018-Ohio-2898**

**Appellate Review: Sentencing: Jurisdiction: Crim.R. 36**

**Full Decision:**
**http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2018/2018-Ohio-2898.pdf**

**Summary from the First District:**

**"The second appeal filed from the same common pleas court order was subject to dismissal as duplicative of the first appeal.**

**"The common pleas court properly declined, because it had no jurisdiction, to resentence defendant based on his claim in his postconviction motion that former R.C. 2929.14(D)(1)(b) precluded sentencing him for each firearm specification accompanying his two felonious-assault offenses.**

**"The constitutional protections against double jeopardy are not implicated by sentencing on multiple firearm specifications, because specifications are penalty enhancements, not offenses.**

**"The common pleas court erred in not correcting under Crim.R. 36 the clerical error contained in defendant's judgment of conviction with a nunc pro tunc entry indicating that he had been convicted following a jury trial, not, as the entry stated, upon guilty pleas."**

***In re: A.T.*, 2018-Ohio-2899**

**Fourth Amendment: Search: Motion to Suppress**

**Full Decision:**
**http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2018/2018-Ohio-2899.pdf**

**Summary from the First District:**

**"The trial court properly denied defendant's motion to suppress evidence obtained from searches of a vehicle and defendant's person where defendant was a passenger in a vehicle that was lawfully stopped for a**

**traffic violation, the police officer smelled marijuana in the vehicle, and the driver of the vehicle admitted that there was marijuana in the vehicle, but did not admit that it was his. [*But see* DISSENT: The trial court erred in overruling defendant's motion to suppress where there was no evidence that defendant smelled of marijuana and no other evidence to support probable cause to believe that defendant had marijuana on his person.]"**

***State v. Littlepage*, 2018-Ohio-2959**

**Jurisdiction: Postconviction: Grand Jury**

**Full Decision:**
**http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2018/2018-Ohio-2959.pdf**

**Summary from the First District:**

**"The common pleas court properly declined, because it had no jurisdiction, to grant the relief sought in defendant's postconviction motions: the trial court's failure to make sentencing findings was neither reviewable under any postconviction proceeding provided by statute or rule, nor correctable under a court's jurisdiction to correct a void judgment; and R.C. 2939.19 and Crim.R. 6(E) did not confer upon the common pleas court jurisdiction to order disclosure of grand-jury proceedings, when no proceeding within that court's jurisdiction was pending.**

**"The court of appeals dismissed for lack of jurisdiction the appeals from the common pleas court's judgments overruling defendant's postconviction motions challenging the trial court's failure to make sentencing findings and seeking disclosure of grand-jury proceedings, because those judgments were not reviewable under the jurisdiction conferred upon an intermediate appeals court by R.C. 2953.02 or 2953.08 to review a judgment of conviction entered in a criminal case, by R.C. 2953.23(B) to review an order denying postconviction relief, or by R.C. 2505.03(A) to review, affirm, modify, or reverse a 'final order, judgment or decree.'"**

***State v. Thornton*, 2018-Ohio-2960**

**OVI: Motion to Suppress**

**Full Decision:**
**http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2018/2018-Ohio-2960.pdf**

**Summary from the First District:**

**"The trial court erred by granting defendant's motion to suppress evidence where sufficient indicia of impairment existed to cause an objectively reasonable police officer to conclude that defendant was operating a motor vehicle while under the influence of alcohol, including defendant's (1) erratic driving; (2) slow response, lethargy, confusion, and disorientation; (3) odor of alcohol about him; (4) slurred and slow speech; (5) bloodshot and watery eyes; (6) repeated attempts to open a locked glove compartment with the wrong key; (7) admission to the consumption of alcohol; and (8) demonstrating four out of six clues of impairment on the HGN test, two out of eight clues of impairment on the walk-and-turn test, and two out of four clues of impairment on the one-leg-stand test."**

***State v. Pryor*, 2018-Ohio-2985**

**Juvenile: Bindover: Procedure: Having Weapons Under Disability**

**Full Decision:**
**http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2018/2018-Ohio-2985.pdf**

**Summary from the First District:**

**"In a discretionary-transfer proceeding, the juvenile court complied with R.C. 2152.12 and Juv.R. 30(G) where the juvenile court orally stated at the amenability hearing its specific reasons for transferring the juvenile's case to common pleas court."**

## Second Appellate District of Ohio

***State v. Taylor*, 2018-Ohio-2858**

**Court Costs**

**Full Decision:**
**https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2018/2018-Ohio-2858.pdf**

**Summary from the Second District: "The trial court erred in ordering defendant to pay a $130 court-appointed counsel fee. Defendant's trial counsel was not ineffective for failing to request a waiver of the supervision fee and court costs. Judgment reversed in part and affirmed in part, and the matter is remanded for the filing of an amended judgment entry that omits the imposition of court-appointed counsel fees. (Welbaum, J., dissenting.)"**

## Third Appellate District of Ohio

***Nothing to report.***

## 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. H.M.*, 2018-Ohio-2946**

**App.R. 11.1: Sealing Records of Conviction: R.C. 2953.32**

**Full Decision:**
**http://www.supremecourt.ohio.gov/rod/docs/pdf/8/2018/2018-Ohio-2946.pdf**

**Summary from the Eighth District:**

**"The trial court did not abuse its discretion in granting defendant's application to seal his conviction. Pursuant to R.C. 2953.32, the trial court was not required to make specific findings, but the trial court was required to consider the reasons for and against granting the application for sealing the conviction, which was evidenced by the record."**

## 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

***Nothing to report.***

## Sixth Circuit Court of Appeals

***Nothing to report.***

## Supreme Court of the United States

***Nothing to report.***