

Supreme Court Update

by Evy M. Jarrett and Tammy G. Lavalette

Simpkins v. Grace Brethren Church of Delaware, Ohio, Slip Opinion No. 2016-Ohio-8118 (December 14, 2016)

This case involved an “as applied” constitutional challenge to the R.C. 2315.18(B), Ohio’s non-economic damages cap, as well as an interpretation of that statute. Appellant was the victim of sexual assault, including forced oral and vaginal penetration, by her pastor when she was fifteen years old. On a negligent hiring, retention and supervision claim against a related church, the jury returned a verdict including a large noneconomic damage award. The trial court reduced the award consistent with R.C. 2315.18(B). Appellant argued that the statute, as applied to her case violated various clauses of the Ohio Constitution. She further argued that the oral and vaginal penetration constituted separate occurrences and that a separate damage cap applied to each occurrence. Affirming the Fifth District, the Court rejected all constitutional challenges, finding that the statute at issue had previously been found constitutional and nothing in this appellant’s case caused the statute to be unconstitutional as applied to her. The Court further rejected the appellant’s arguments with regard to the number of “occurrences,” finding that the plain language of the statute required a finding of only one occurrence.

State v. Noling, Slip Opinion No. 2016-Ohio-8252 (Dec. 21, 2016)

Provision which denies appeals of right from rejections of applications for DNA testing in death penalty cases violates the equal protection rights guaranteed by the United States and Ohio Constitutions.

State v. Aalim, Slip Opinion No. 2016-Ohio-8278 (Dec. 22, 2016)

Ohio’s mandatory bindover procedure for juveniles violates due process rights under

Article I, Section 16 of the Ohio Constitution.

State v. Moore, Slip Opinion No. 2016-Ohio-8288 (Dec. 22, 2016)

A term-of-years prison sentence which exceeds a juvenile’s life expectancy violates the Eighth Amendment to the U.S. Constitution.

State v. Gonzales, Slip Opinion No. 2016-Ohio-8319 (Dec. 23, 2016)

Gonzales held that in cocaine possession cases (R.C. 2925.11(C)(4)) the state must prove that the weight of cocaine alone (excluding the filler) meets the statutory threshold for each offense. The Court’s majority opinion acknowledged that amici briefs indicated that Ohio’s state labs do not perform purity analyses of drugs

Agabrite v. Neer, Slip Opinion No. 2016-Ohio-8374 (Dec. 27, 2016)

This case involved the standard necessary to hold police officers liable for injuries suffered by innocent third parties in a high-speed police chase. The Second District held that, as a matter of law, a police officer who pursues a suspect is not the proximate cause of injuries to a third party unless the officer’s conduct is “extreme and outrageous” (following *Whitfield v. Dayton*). Based on that inquiry, the Second District affirmed the trial court’s dismissal of the claims against the police officers. The Court rejected that standard, holding that the correct inquiry is directed to R.C.2744.03(A)(6)(b), which establishes a defense or immunity for political subdivision employees unless behaving “with malicious purpose, in bad faith, or in a wanton or reckless manner.” Applying the correct standard (particularly the “wanton or reckless manner” inquiry), the Court analyzed the conduct of each named officer and concluded that no liability existed.

The Court ultimately affirmed the Second District.

State v. Creech, Slip Opinion No. 2016-Ohio-8440 (Dec. 29, 2016)

Creech resolved a question the Court has dodged on several occasions, including once just a couple weeks earlier in *State v. Spaulding*, Slip Opinion No. 2016-Ohio-8126 (Dec. 15, 2016). In a trial for possession of weapons under a disability, the trial court abuses its discretion in refusing the defendant’s offer to stipulate to the fact of a prior conviction or indictment and allows evidence of the full record of the judgment or indictment, when the sole purpose of the evidence is to prove the element of the prior conviction or indictment.

State ex rel. Cordell v. Pallet Cos., Inc., Slip Opinion No. 2016-Ohio-8446 (Dec. 29, 2016)

Cordell was injured during the course of his employment. At the hospital, his urine was collected for a routine toxicology screening. After Cordell applied for workers’ compensation benefits, his toxicology report came back, showing that he has used marijuana at some point during his employment. The employer conceded that the drug use did not proximately cause the injury. Consistent with policy, his employer terminated him for illegal drug use. Cordell’s claim for temporary-total-disability (“TDD”) benefits ultimately denied by the commission on the grounds that he had “voluntarily abandoned his employment by the drug use prior to his termination. The Tenth District granted Cordell’s request for a writ compelling the commission to vacate its order. The Court held that as Cordell was medically incapable of returning to work at the time of his termination, he could not be deemed to have voluntarily abandoned his employment and thus was entitled to TDD.