

Supreme Court Update

by Evy M. Jarrett and Tammy G. Lavalette

State ex rel. Prade v. Ninth Dist. Court of Appeals, Slip Opinion No. 2017-Ohio-7651 (Sept. 20, 2017).

Ohio statutes allow the state an absolute right to appeal a judgment granting postconviction relief, so that an appellate court's exercise of jurisdiction after the trial court's judgment was not unauthorized by law.

State v. Dye, Slip Opinion No. 2017-Ohio-7823 (Sept. 27, 2017).

When the prosecution dismisses criminal charges without prejudice before the statute of limitations has expired, the trial court may seal the records pursuant to R.C. 2953.52 without waiting for the expiration of the applicable statute of limitations. When the prosecution dismisses charges without prejudice, the statute requires the trial court determine whether the statute of limitations has expired, but "there is nothing in the text of the statute requiring that a court deny an application to seal records if the applicable statute of limitations has not expired." The opinion does not speculate as to why the trial court must determine whether the statute of limitations has expired.

Ferguson v. State, Slip Opinion No. 2017-Ohio-7844 (September 28, 2017).

Pursuant to the "consent provision," R.C. 4123.512(D), an employee may not dismiss an employer-initiated appeal with regard to the employee's right to participate in the workers' compensation fund without the consent of the employer. Ferguson, an injured worker, filed a declaratory judgment action arguing the statute was unconstitutional on several grounds - that the consent provision violated the doctrine of separation of powers inasmuch as it contradicted Civ.R. 41(A)(2), and that the stat-

ute violated Equal Protection clauses and Due Process guarantees. The trial court and Eighth District agreed. On appeal, however, the Ohio Supreme Court noted the statute did not violate the doctrine of separation of powers because Civ.R. 1(C) provides the civil rules do not apply where they are "clearly inapplicable" to "special statutory procedures." The Court held that Civ.R. 1(C) applied to permit R.C. 4123.512(D) to trump Civ.R. 41(A)(2) and thus found no violation of the doctrine of separation of powers. The Court further found no other constitutional violations, and reversed the judgment of the court of appeals.

State v. Thomas, Slip Opinion No. 2017-Ohio-8011 (Oct. 4, 2017).

A capital case was reversed for a new trial as a result of the admission of evidence that the defendant owned five knives, which were admittedly not the knife used to kill the victim. The opinion reasoned that the "other weapons" evidence was a species of "other acts" evidence governed by Evid.R. 404(B) and R.C. 2945.59, and that admission of the evidence was prejudicial error when the case did not involve overwhelming independent evidence of guilt. The opinion also noted the prosecution's description of the defendant as the owner of "full Rambo combat knives" that suggested "intent to have the jury infer that Thomas is a dangerous person of violent character."

State v. Bembry, Slip Opinion No. 2017-Ohio-8114 (Oct. 10, 2017).

When police executing a valid search warrant violate Ohio's knock-and-announce statute (R.C. 2935.12), exclusion of the evidence obtained in the residence is not required under the Ohio Constitution.

The decision discussed the U.S. Supreme Court's holding that suppression is the "wrong remedy" under the Fourth Amendment when police violate the knock-and-announce principle. The opinion also distinguished prior Ohio precedents finding that the protections of the Ohio Constitution extend beyond the protections of the Fourth Amendment.

State ex rel. Consortium for Economic & Community Dev. For Hough Ward 7 v. Russo, Slip Opinion No. 2017-Ohio-8133 (October 11, 2017).

The jurisdictional-priority rule is not applicable to cases pending in the same court.

 **fastcase**
Smarter legal research.

→ **Fastcase
Hot Tips**

Fastcase allows you to download, save, and print an unlimited amount of primary law documents.

Did you know that Fastcase allows you to download, save, and print an unlimited amount of primary law documents? The print feature options allow you to choose the number of columns in the document, keep your search term highlighted, and choose between a Word or PDF file.