



Supreme Court Update

by Evy M. Jarrett and Tammy G. Lavalette

State v. Polk, Slip Opinion No. 2017-Ohio-2735 (May 11, 2017).

A school's protocol of searching unattended book bags (to determine ownership and the danger of the contents) furthers a compelling governmental interest in protecting students from physical harm. A search limited to that purpose was reasonable under the Fourth Amendment.

State v. Grimes, Slip Opinion No. 2017-Ohio-2927 (May 24, 2017).

A trial court's imposition of postrelease control is valid when the court states at hearing and incorporates into the judgment entry (1) the length of the term of supervision, (2) the mandatory nature of the term, and (3) supervision of the term pursuant to R.C. 2967.28.

State v. Aalim, Slip Opinion No. 2017-Ohio-2956 (May 25, 2017).

The Supreme Court's earlier decision declaring the mandatory bindover of juveniles unconstitutional "usurped the General Assembly's exclusive constitutional authority to define the jurisdiction of the courts of common pleas." After reconsidering its earlier decision on Matthew Aalim's case, the Court held that the mandatory bindover of certain juveniles to adult court does not violate the Ohio or United States Constitutions.

State v. Roberts, Slip Opinion No. 2017-Ohio-2998 (May 30, 2017).

The death of the judge who originally imposed a death sentence did not preclude the imposition of a death sentence by another judge after the matter was remanded for a third resentencing during the appellate process.

State v. Anderson, Slip Opinion No. 2017-Ohio-5656 (July 5, 2017).

When a defendant is sentenced after trial to a longer term than a co-defendant who entered a plea, and the trial court states the longer sentence is not a penalty for going to trial, no inference of impropriety arises if the sentence is within the range of penalties permitted by law. Also, a mandatory sentence imposed on a juvenile offender tried as an adult is not an Eighth Amendment violation.

In re Adoption of P.L.H., Slip Opinion No. 2017-Ohio-5824 (July 18, 2017).

Appellant C.W., the putative father of a newborn given up for adoption by the mother, appealed the Twelfth District's judgment affirming the probate court's grant of adoption without his consent pursuant to R.C. 3107.07 (B)(2)(c). Under that statute, a probate court may enter a decree of adoption without the consent of the father where the court finds by clear and convincing evidence the father "willfully abandoned" the mother. The probate court found the statute satisfied as C.W.'s contact with the mother was "sporadic" and he did not provide her with financial support. Noting that statutes affecting parental rights are to be strictly construed, the Supreme Court observed that R.C. 3107(B)(2)(c) does not contain a requirement that the father provide financial support for the mother. In this instance, the Court notes C.W. and mother communicated fairly regularly via text, where C.W. expressed affection for the mother, interest in the pregnancy and ambivalence about the prospective adoption. The Court concluded the finding that C.W. willfully abandoned the mother was contrary to language of the statute and against the manifest weight

of the evidence. Accordingly, the Court reversed the Twelfth District's decision and remanded the matter to probate court to vacate the adoption.

Gyugo v. Franklin Cty. Bd. Of Dev. Disabilities, Slip Opinion No. 2107-Ohio-6953 (July 27, 2017).

Appellant Gyugo was convicted of an unidentified offense, and in 1992 obtained an order pursuant to R.C. 2953.32(C)(2) sealing the record of that conviction. In 1995, Gyugo applied for and obtained employment as a training specialist with Appellee, and he did not disclose the conviction (though the application did not specifically inquire about sealed or expunged convictions). Thereafter, in 1996, 2000, 2004 and 2008, he was required to renew his registration as an adult care worker, and that application did require disclosure of sealed convictions. Gyugo responded denied any convictions. Ultimately, a criminal record-check in 2013 revealed the sealed conviction, and Gyugo was terminated for dishonesty. The termination was upheld by the State Personnel Board of Review, which found Gyugo could not have reasonably believed he was not obligated to disclose the sealed conviction in connection with the registration applications. Thereafter, both the Franklin County Court of Common Pleas and the Tenth District affirmed. The Supreme Court agreed, noting that Gyugo stipulated that the offense was one that would have disqualified him from employment with the Board had it not been sealed. Thus, the prior-conviction questions were directly and substantially related to the position, and Gyugo was not excused from disclosing the sealed conviction.