

The Prosecutor's Report



May 2017

from Mat Heck, Jr., Prosecuting Attorney

The Prosecutor's Report is the monthly newsletter to the community from the Montgomery County Prosecutor's Office.

If you would like additional information on any of the topics discussed, or have questions or comments, please feel free to contact us at 937-225-5757 or via email to info@mcpo.com.

Sentencings

In April, 2017, we disposed of 248 cases. The Judges sentenced the defendants in those cases as follows:

- 47.2% received Community Control Sanctions (probation)
- 39.1% were sentenced to the penitentiary
- 8.9% were granted Intervention in Lieu of Conviction (ILC)
- 0.8% received local time or local time plus probation

Some notable sentences:

- 4/11/2017 Nina Davis was sentenced to 7 years in prison for fatally shooting Travis Smith on June 29, 2016. An argument erupted between the defendant and the victim. Dayton Police Officers responded to a 911 call stating that the victim needed an ambulance because he had been shot. Once police arrived, they located the victim, deceased. He had been shot one time with a .45 caliber handgun, which was later recovered hidden inside a dresser drawer. During a jury trial, the defendant withdrew her not guilty plea, and entered a plea of guilty of involuntary manslaughter.
- 4/11/2017 Andrew Nason was sentenced to 5 years in prison for causing injuries to his girlfriend's 2-year-old daughter. On September 11, 2012, the child was transported to Dayton Children's Hospital, suffering from significant head trauma. Nason had been babysitting the child at the time of the injuries, while the child's mother was at work. The defendant was convicted of felonious assault and two counts of child endangering.
- 4/26/2017 Keyandre Danley was sentenced to 25 years in prison for the shooting death of Darius Jones on Republic Drive in Harrison Township. First responders located the deceased body of the 19-year-old victim, who had been shot a number of times. Danley was convicted of involuntary manslaughter and two counts of improperly discharging a firearm at or into a habitation.

APRIL'S STAFF ADDITIONS

Daniel C. McConnell, Jr.

On April 3, 2017, Mr. Daniel "DJ" McConnell, Jr. joined the staff of the prosecutor's office as a Legal Secretary in the Delinquent Tax Assessment and Collections Section.

Daniel formerly was employed in the banking industry.

Born and raised in the Miami Valley, he is a 2012 graduate of Wayne High School in Huber Heights.



NOTEWORTHY NEWS

United States Supreme Court Rejects Defendant's Appeal Conviction Stands



Terry Lee Martin

On August 29, 2013, defendant Terry Lee Martin was indicted on Illegal Use of a Minor in Nudity-Oriented Material or Performance and Possession of Criminal Tools. Martin had created a video recording of a naked 11-year-old girl by hiding a video recorder in a stack of towels in a bathroom. The defendant filmed the child undressing to take a shower and then when she dried herself off afterwards. The victim's mother discovered the video on the defendant's iPod and notified authorities.

On November 26, 2013, we convicted the defendant as charged and he was sentenced to five years in prison.

On December 23, 2013, the defendant appealed his conviction to the Second District Court of Appeals. We filed briefs with the court and argued that his conviction should be affirmed. The Court of Appeals agreed with our office and affirmed the defendant's conviction.

The defendant then appealed his conviction to the Supreme Court of Ohio. Again, our office filed briefs and argued that the defendant's conviction should stand. On October 5, 2016, the Supreme Court of Ohio also affirmed the convictions.

On February 23, 2017, the Ohio Public Defender's Office filed a "Petition for Writ of Certiorari" in the United States Supreme Court. (A Petition for Writ of Certiorari is a document filed with the Supreme Court asking the Supreme Court to review the decision of a lower court.) We filed a Motion in Opposition to the writ and briefed the court.

On April 24, 2017, the United States Supreme Court declined to hear the case, meaning that the conviction of Martin stands.

Prosecutor Heck commented, "This defendant tried to have his convictions overturned on appeal. We disagreed. After being briefed on the matter, the Second District Court of Appeals and the Supreme Court of Ohio agreed with our office. Now, the United States Supreme Court has refused to hear his argument, so his conviction stands."

Prosecutor Heck added, "I am proud that Assistant Prosecuting Attorneys from my office successfully briefed and argued this case to the courts. This is a victory not only for my office, but also for our community and for prosecutors across the state in our efforts to convict and incarcerate those who foster child pornography."

Major Drug Offender's Conviction Affirmed



Rene Nevarez-Reyes

On Sunday, October 26, 2014, the defendant's vehicle was stopped by a Sheriff's Deputy on I-75 for expired/fictitious plates. A deputy's K-9 alerted to illegal drugs in the vehicle. A search warrant was obtained, and it was discovered that a compartment constructed in the vehicle's gas tank contained approximately 3,200 grams of crystal methamphetamine, worth approximately \$250,000.

The defendant was indicted on February 27, 2015 for Aggravated Possession of Drugs with a Major Drug Offender (MDO) specification.

On March 10, 2016, the defendant was found guilty as charged and was sentenced to 11 years in prison. The sentence is a mandatory sentence because the defendant was indicted with the MDO specification.

The defendant appealed his conviction because it was later determined that the reason for the traffic stop, expired/fictitious plates, was made erroneously - in fact, the plates were not expired or fictitious. Because the vehicle had Illinois license plates, the deputies were unaware of the differing system of nomenclature used in Illinois.

On April 28, 2017, the Court of Appeals affirmed the conviction, finding that the traffic stop of the defendant's vehicle for false/expired plates, while in factual error, was valid. The law enforcement officers were acting in good faith under a mistake of fact.

Prosecutor Heck commented, "Prosecuting and incarcerating a person who brings 7 lbs. of crystal meth into our area makes our community safer. We are pleased that this defendant's conviction will stand. We must do all we can to protect our community from the harmful effects of illegal drugs."

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