Franklin County Criminal Law Casebook
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CIRCUMSTANTIAL EVIDENCE (ME082)

State v. Jenks (1991), 61 Ohio St. 3d 259 -- Paragraph one of the syllabus: "Circumstantial evidence and direct evidence inherently possess the same probative value and therefore should be subjected to the same standard of proof. When the state relies on circumstantial evidence to prove an essential element of the offense charged, there is no need for such evidence to be irreconcilable with any reasonable theory of innocence in order to support a conviction. Therefore, where the jury is properly and adequately instructed as to the standards for reasonable doubt a special instruction as to circumstantial evidence is not required. (Holland v. United States [1954], 348 U.S. 121...followed; State v. Kulig [1974], 37 Ohio St. 2d 157...overruled.)" For an attempt to apply Jenks where the court concluded circumstantial evidence was not sufficient to support a CCW conviction, see State v. Duganitz (1991), 76 Ohio App. 3d 363.

State v. Ebright (1983), 11 Ohio App. 3d 97 -- Headnote 2: "The test to be applied to inferred ultimate facts in civil cases is whether or not the inferences drawn and relied upon were more probable than other inferences which might also have been drawn from the underlying facts. In a criminal case, the test for reliability is more stringent: when a conviction is to be based upon inferences drawn from underlying facts, the inferences which support guilt must be so strong that they exclude the drawing from the same underlying facts of reasonable inferences which support innocence."

State v. Sheppard (1956), 165 Ohio St. 293 -- Paragraph six of the syllabus: "Where circumstantial evidence alone is relied upon in the proof of any element of a crime, and a jury finds there is a reasonable hypothesis of

innocence, after considering all the evidence, it is its duty to acquit; however, where the jury finds, after full deliberation, that there is no reasonable hypothesis of innocence based on the facts as it finds them to be, and the facts which it finds are irreconcilable with any reasonable hypothesis other than guilt, it is its duty to convict." Compare State v. Griffin (1979), 13 Ohio App. 3d 376.

State v. Graven (1978), 54 Ohio St. 2d 114, 118 -- The reasonableness of a hypothesis of innocence drawn from circumstantial evidence is for the jury to determine.

State v. Jacobozzi (1983), 6 Ohio St. 3d 59, 62 -- When multiple inferences may be drawn from circumstantial evidence, any doubt must be resolved in favor of the accused.

Hurt v. Charles H. Rogers Transportation Co. (1955), 164 Ohio St. 329 -- Paragraph one of the syllabus: "An inference based solely and entirely upon another inference, unsupported by any additional fact or another inference from other facts, is an inference on an inference and may not be indulged in by a jury." Also see McDougall v. Glenn Cartage Co. (1959), 169 Ohio St. 522; State v. Ebright (1983), 11 Ohio App. 3d 97.

State v. Johnson (1994), 71 Ohio St. 3d 332, 341 -- "While circumstantial evidence inherently possesses the same probative value as direct evidence, State v. Jenks (1991), 61 Ohio St. 3d 259...the circumstantial evidence of defendant's guilt in this case is far from overwhelming. Without overwhelming evidence of guilt, we cannot know what the verdict might have been had the jury not been influenced by errors that in our judgment denied defendant his due process right to a fair trial."

State v. Davis (1996), 76 Ohio St. 3d 107, 114 -- "While removing the victim's clothing can amount to a 'substantial step' toward the commission of rape...a defendant cannot be convicted of attempted rape solely on evidence that he removed the victim's clothing. There must be evidence indicating purpose to commit rape as opposed to some other sex offense, such as gross sexual imposition..."

State v. Lowe (1993), 86 Ohio App. 3d 749 -- Mere presence of metabolites of cocaine in the defendant's urine was insufficient circumstantial evidence as to the mental element of the offense of drug abuse, namely that the defendant knowingly used or possessed cocaine.