Appellate Court Decisions - Week of 1/11/21

Note: This is not a comprehensive list of every case released this week.

First Appellate District of Ohio

Nothing to report.

Second Appellate District of Ohio

Nothing to report.

Third Appellate District of Ohio

Nothing to report.

Fourth Appellate District of Ohio

***State v. Wood*, 2021-Ohio-2**

Statutory speedy trial

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/4/2021/2021-Ohio-2.pdf

Appellant's right to a speedy trial was violated where misdemeanor OVI charge arose from the same facts as the original felony charge of abusing harmful intoxicants, state knew of these facts at time of indictment on the felony charge, and over 270 days had elapsed from the filing of the felony charge to the time appellant was convicted. "'[S]ubsequent charges made against an accused would be subject to the same speedy-trial constraints as the original charges, if additional charges arose from the same facts as the first indictment.' *State v. Baker*, 78 Ohio St.3d 108, 110, 1997-Ohio-229, 676 N.E.2d 883 (1997), citing *State v. Adams*, 43 Ohio St.3d 67, 68, 538 N.E.2d 1025 (1989). 'When new and additional charges arise from the same facts as did the original charge and the state knew of such facts at the time of the initial indictment, the time within which the trial is to begin on the additional charge is subject to the same statutory limitations period that is applied to the original charge.' *Id.* at 111, citing *Adams* at 68."

Fifth Appellate District of Ohio

Nothing to report.

Sixth Appellate District of Ohio

***State v. Maxcy-Tipton*, 2020-Ohio-6983**

Ineffective assistance of counsel

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2020/2020-Ohio-6983.pdf

Trial counsel was ineffective for failing to assert a constitutional challenge to the arson registry "because an appellate court generally does not consider constitutional errors which were not asserted in the trial court."

***State v. Eischen*, 2021-Ohio-23**

Sentencing

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2021/2021-Ohio-23.pdf

Trial court erred when it terminated appellant's postrelease control and sentenced him to prison for 1146 days; "R.C. 2929.141 does not authorize a trial court to terminate a postrelease control sanction upon the violation of a community control sanction. *State v. Prince*, 8th Dist. Cuyahoga No. 103265, 2016-Ohio-2724, ¶ 12-13. The plain language of R.C. 2929.141(A) requires that the offender on postrelease control have committed another felony. The violation of the community control sanction in this case did not involve a felony offense."

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

***State v. Pritchett*, 2021-Ohio-9**
***State v. Dorroh*, 2021-Ohio-12**

Suppression

Full Decisions:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2021/2021-Ohio-9.pdf
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2021/2021-Ohio-12.pdf

Trial court erred in denying appellants' motions to suppress the search of

appellant Pritchett's backpack and the search of appellant Dorroh's person. The initial *Terry* stop was reasonable, but "the continued detention was impermissibly excessive and the search[es were] unreasonable," as they exceeded the scoop of the stop's "'underlying justification.'" Appellants were initially stopped as possible suspects of tampering with an ATM, but they were cleared of that prior to the searches.

***State v. Umstead*, 2021-Ohio-10**

Witnesses; right to fair trial

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2021/2021-Ohio-10.pdf

Trial court's blanket policy prohibiting all recross-examination "violate[d] Ohio's policy promoting broad cross-examination and [was] an abuse of discretion." Case remanded for a new trial.

Ninth Appellate District of Ohio

***State v. Shuck*, 2020-Ohio-6989**

Sufficiency; telecommunications harassment

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2020/2020-Ohio-6989.pdf

State failed to present sufficient evidence that appellant, despite sending a text message to the mother of his child with a racial epithet, did so "with the intent or purpose to abuse, threaten, or harass her."

Tenth Appellate District of Ohio

***State v. Fabich*, 2020-Ohio-7011**

Allocution

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/10/2020/2020-Ohio-7011.pdf

Convictions for ethnic intimidation and disorderly conduct affirmed; however, trial court erred by failing to permit appellant the opportunity to allocute.

Eleventh Appellate District of Ohio

***State v. Miles*, 2020-Ohio-6921**

Reagan Tokes

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2020/2020-Ohio-6921.pdf

Trial court erred by failing to advise appellant of the minimum terms for his first-degree felonies and also did not properly calculate and advise appellant of his maximum prison term under R.C. 2929.144(B), Reagan Tokes Act.

***State v. Jones*, 2020-Ohio-7002**

Reagan Tokes

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2020/2020-Ohio-7002.pdf

As trial counsel failed to raise constitutionality of Reagan Tokes Act in trial court, court of appeals will not address challenge, as it is waived for purposes of appeal.

Note to all trial attorneys with Reagan Tokes issues - PLEASE RAISE THEM!

Twelfth Appellate District of Ohio

Nothing to report.

Supreme Court of Ohio

Nothing to report.

Sixth Circuit Court of Appeals

Nothing to report.

Supreme Court of the United States

Nothing to report.