Appellate Court Decisions - Week of 10/28/19

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

First Appellate District of Ohio

***State v. Rucker*, C-180606**

AWA sex offender classification

Full Decision: (No web cite as of yet).

Trial court had no authority to classify appellant as a Tier II sex offender after he had been released from his prison sentence for his sex offense, "and, therefore, Rucker has no duty to register under the AWA."

***In re: I.B.*, C-180558**

Juvenile sex offender classification

Full Decision: (No web cite as of yet).

Juvenile court had no jurisdiction to hear juvenile's motion for declassification under R.C. 2152.85, as court had failed to hold a mandatory completion-of-disposition hearing under R.C. 2152.84.

Second Appellate District of Ohio

***State v. Weatherly*, 2019-Ohio-4372**

Weight of the evidence; failure to comply

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2019/2019-Ohio-4372.pdf

Conviction for failing to comply with an order of a police officer, R.C. 2921.331(B) was against the manifest weight of the evidence where state failed to present any evidence that appellant was driving the automobile during the attempt to elude police after a robbery; officers testified they never saw who was driving and could not testify as to the location of the three occupants in the vehicle before they exited and fled.

Third Appellate District of Ohio

Nothing to report.

Fourth Appellate District of Ohio

***State v. Bennington*, 2019-Ohio-4386**

Insufficient evidence; burglary

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/4/2019/2019-Ohio-4386.pdf

Conviction for burglary was not supported by sufficient evidence that any person was present or likely to be present at the time of the break in; homeowner did not live at the property and was only there a few minutes each day, and other family members only sporadically checked the property.

***In re K.M.B.*, 2019-Ohio-4436**

Juvenile sex offender classification

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/4/2019/2019-Ohio-4436.pdf

Juvenile court erred by classifying appellant a juvenile offender registrant at the time of disposition when R.C. 2152.83(A)(1) requires the court to make that determination upon appellant's release from a secure facility.

Fifth Appellate District of Ohio

Nothing to report.

Sixth Appellate District of Ohio

***State v. Rink*, 2019-Ohio-4379**

Postrelease control

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2019/2019-Ohio-4379.pdf

As postrelease control was not properly imposed by the trial court in a 1999 case, postrelease control portion of appellant's sentence is void; therefore, five-year prison sentence on the violation of the void postrelease control is also void, and that five years is credited to 20-year sentence for underlying 2002 case.

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

***State v. Taylor*, 2019-Ohio-4352**

Sentencing

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2019/2019-Ohio-4352.pdf

The trial court erred in imposing an invalid blanket sentence of 24 months on two separate offenses without imposing separate sentences on each count individually at the sentencing hearing; the inclusion of separate sentences running consecutively in the sentencing journal entry does not cure this "deficient sentencing hearing." Case remanded for resentencing.

***State v. Szafranski*, 2019-Ohio-4349**

Sentencing

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2019/2019-Ohio-4349.pdf

The trial court erred in failing to notify appellant at the sentencing hearing the length of time he would be subject to either community control or GPS monitoring; therefore, the sentence set forth in the sentencing entry was imposed outside the appellant's presence.

Ninth Appellate District of Ohio

***State v. Castaneda*, 2019-Ohio-4389**

Insufficient evidence; sexual offenses

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2019/2019-Ohio-4389.pdf

Convictions for sexual battery and unlawful sexual conduct with a minor were not supported by sufficient evidence; the state failed to present sufficient evidence that appellant knew the victim was less than 16 years old or was reckless in that regard or that appellant knew the alleged victim was substantially impaired.

***State v. Cherry*, 2019-Ohio-4445**

Sentencing

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2019/2019-Ohio-4445.pdf

As concurrent sentences and merged sentences are not the same, trial court erred in imposing concurrent sentences for offenses of child endangering and murder which were allied offenses instead of merging the sentences; remanded for resentencing.

***State v. Malson*, 2019-Ohio-4447**

Suppression; OVI

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2019/2019-Ohio-4447.pdf

Trial court erred in denying appellant's motion to suppress where court failed to make either findings of fact or conclusions of law as to whether the police officer conducted field sobriety tests in substantial compliance with NHTSA regulations.

Tenth Appellate District of Ohio

Nothing to report.

Eleventh Appellate District of Ohio

Nothing to report.

Twelfth Appellate District of Ohio

***State v. Helton*, 2019-Ohio-4399**

Sentencing

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/12/2019/2019-Ohio-4399.pdf

The trial court erred in sentencing appellant to five years in prison and imposing a no-contact order with the victim, as a no-contact order is a form of community control and the Ohio Supreme Court has held that a trial court cannot impose both a prison term and community control for the same offense. *State v Anderson*, 143 Ohio St.3d 173 and *State v. Paige*, 153 Ohio St.3d 214.

Supreme Court of Ohio

***State v. Soto*, 2019-Ohio-4430**

Double jeopardy

Full Decision:
http://www.supremecourt.ohio.gov/rod/docs/pdf/0/2019/2019-Ohio-4430.pdf

Summary from Ohio Supreme Court: "Double Jeopardy Clauses do not bar murder prosecution of defendant whose prior involuntary-manslaughter charge was dismissed under plea agreement." Appellant was never placed in jeopardy for the involuntary-manslaughter charge, as it was dismissed before a jury was seated or a judge took evidence.

O'CONNOR, C.J., and KENNEDY, FRENCH, and FISCHER, JJ., concur.
STEWART, J., concurs in judgment only.
DONNELLY, J., dissents, with an opinion.

Sixth Circuit Court of Appeals

Nothing to report.

Supreme Court of the United States

Nothing to report.