Appellate Court Decisions - Week of 12/23/19

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

Nothing to report.

Fifth Appellate District of Ohio

Nothing to report.

Sixth Appellate District of Ohio

Nothing to report.

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

***State v. Jones*, 2019-Ohio-5237**

Sufficiency; firearm specification

Full Decision:
http://www.supremecourt.ohio.gov/rod/docs/pdf/8/2019/2019-Ohio-5237.pdf

Convictions for felonious assault and tampering with evidence were supported by sufficient evidence, but three-year firearm specification attached to tampering charge was not; there was no evidence presented that

in the course of dismantling the gun that appellant displayed it, brandished it, indicated to another that he possessed it nor used it to facilitate the offense.

***State v. Hernandez*, 2019-Ohio-5242**

Other acts evidence

Full Decision:
http://www.supremecourt.ohio.gov/rod/docs/pdf/8/2019/2019-Ohio-5242.pdf

In convictions for gross sexual imposition, trial court erred in admitting other acts evidence where it "occurred more than 25 years ago, [and] was of very little relevance in this case other than to demonstrate that Hernandez acted in conformity with his alleged pattern of having committed prior acts of sexual abuse;" and the curative instruction by the trial court was insufficient when the other acts evidence was so prejudicial and "of a particularly inflammatory nature. . . ."

***Cleveland v. Brown*, 2019-Ohio-5254**

Sentence

Full Decision:
http://www.supremecourt.ohio.gov/rod/docs/pdf/8/2019/2019-Ohio-5254.pdf

On reconsideration, trial court erred in sentencing appellant to the maximum jail sentence and to community control because court has no authority to require appellant to serve a period of community control after serving the maximum jail sentence for a misdemeanor.
R.C. 2929.25(A)(1)(b).

Ninth Appellate District of Ohio

***State v. Ross*, 2019-Ohio-5293**

Sentencing; post-release control

Full Decision:
http://www.supremecourt.ohio.gov/rod/docs/pdf/9/2019/2019-Ohio-5293.pdf

After multiple appeals of appellant's sentence, the trial court erred when it attempted to correct and impose the void post-release control that had

initially been imposed incorrectly; as appellant had been released from prison, it was too late for the court to correct the errors.

Tenth Appellate District of Ohio

***State v. Braden*, 2019-Ohio-5256**

Court costs

Full Decision:
http://www.supremecourt.ohio.gov/rod/docs/pdf/10/2019/2019-Ohio-5256.pdf

On remand from the Ohio Supreme Court, appellate court remands the case to the trial court to determine whether to waive appellant's court costs; R.C. 2947.23(C) provides jurisdiction to courts to waive costs even if those costs were ordered as part of a sentence that was finalized before the effective date of that statute.

Eleventh Appellate District of Ohio

***State v. Hernandez-Torres*, 2019-Ohio-5310**

Sentencing

Full Decision:
http://www.supremecourt.ohio.gov/rod/docs/pdf/11/2019/2019-Ohio-5310.pdf

The trial court erred when it "imposed one blanket term of community control for both of appellant's convictions and advised appellant that if he violated the terms of community control, it would send him to prison for 18 months. It did not delineate separate community control terms or individual sentences for each of appellant's two convictions if he violated. Thus, the sentence is contrary to law and is void."

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.