Appellate Court Decisions - Week of 12/7/20

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

First Appellate District of Ohio

***State v. Combs*, C-190530**

Jail-time credit

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

Trial court erred in failing to sufficiently credit appellant for all his confinement, including the time he spent in a community-based correctional facility.

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

***State v. Wolfe*, 2020-Ohio-5501**

Sentencing

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2020/2020-Ohio-5501.pdf

Trial court erred in failing to advise appellant of any of the Reagan Tokes requirements contained in R.C. 2929.19(B); sentence vacated and remanded for resentencing.

What is interesting here is the dissent; this district has repeatedly held that challenges to Reagan Tokes are not ripe for review. The dissent explains why it is ripe, but unfortunately also finds it constitutional.

Sixth Appellate District of Ohio

***State v. Jones*, 2020-Ohio-5477**

Allied offenses

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2020/2020-Ohio-5477.pdf

Trial court erred in not merging convictions for aggravated menacing and domestic violence, where "both charges arose out of a single event where appellant made threats to the victim, which she testified made her afraid for her safety. Therefore, there was a single harm caused to a single victim and each offense was committed simultaneously with the same motivation.

***State v. Smallwood*, 2020-Ohio-5556**

Right to counsel

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2020/2020-Ohio-5556.pdf

"In eliciting [appellant's] waiver of the right to counsel, the trial court failed to advise him of the nature of the charge against him, the statutory offenses included within it, the range of allowable punishments thereunder, possible defenses to the charge and circumstances in mitigation thereof, and other facts essential to appellant's broad understanding of the matter, as was required to ensure that such waiver was knowing, intelligent and voluntary. To the extent that the trial court purported to delegate to standby counsel the responsibility of making these advisements, we find that the responsibility for making the necessary advisements lies solely with the trial court."

Seventh Appellate District of Ohio

***State v. Sargent*, 2020-Ohio-5464**

Suppression

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/7/2020/2020-Ohio-5464.pdf

In state's appeal, trial court did not err in granting appellee's motion to

suppress; "there was no credible evidence or testimony establishing a traffic violation. The record fails to show that [appellee's] rear license plate was not illuminated and legible from a distance of 50 feet as required by R.C. 4513.05(A). There was no reasonable, articulable suspicion that any criminal activity had occurred to justify the stop."

***State v. Holladay*, 2020-Ohio-5459**

Sufficiency; felonious assault and resisting arrest

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/7/2020/2020-Ohio-5459.pdf

Convictions for felonious assault and resisting arrest were not supported by sufficient evidence. State presented no evidence that appellant knowingly attempted to strike a police officer with his vehicle nor that officer suffered any injury; and there was no evidence that appellant was under arrest, that officer intended to arrest appellant, that appellant acted recklessly, or that officer was injured.

Eighth Appellate District of Ohio

Nothing to report.

Ninth Appellate District of Ohio

***State v. Mora*, 2020-Ohio-5455**

Sufficiency; engaging in a pattern of corrupt activity

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2020/2020-Ohio-5455.pdf

Conviction for engaging in a pattern of corrupt activity was not supported by sufficient evidence where state failed to show that appellant was engaged in "both a relationship and continuous activity," but only demonstrated that appellant and his "cohorts" engaged in isolated incidents.

Tenth Appellate District of Ohio

***State v. Conner*, 2020-Ohio-5519**

Sentencing

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/10/2020/2020-Ohio-5519.pdf

In state's appeal, trial court did not err in sentencing appellant to three years of community control for burglary and failure to appear where court considered the seriousness of the offense and the likelihood of appellant recidivating.

Eleventh Appellate District of Ohio

Nothing to report.

Twelfth Appellate District of Ohio

***State v. Baughn*, 2020-Ohio-5566**

Sentencing

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/12/2020/2020-Ohio-5566.pdf

Convictions for rape are affirmed; however, trial court erred in sentencing appellant to life without the possibility of parole where the statute in effect at the time of the offenses contemplated parole eligibility after ten years of imprisonment. Case remanded for resentencing.

Supreme Court of Ohio

***State v. Townsend*, 2020-Ohio-5586**

Sexually-violent-predator specification

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/0/2020/2020-Ohio-5586.pdf

Summary from OSC: *"Sexually-violent-predator specifications—Retroactive application—Application of the current version of R.C. 2971.01(H)(1) to unindicted crimes committed before April 29, 2005, violates Ex Post Facto Clause."*

Sixth Circuit Court of Appeals

Nothing to report.

Supreme Court of the United States

Nothing to report.