Appellate Court Decisions - Week of 12/9/19

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

First Appellate District of Ohio

***State v. Dye*, C-180624**

Megan's Law sex offender classification

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

"[T]rial court lacked authority to reclassify Mr. Dye as a sexual predator under Megan's Law, because the original order classifying him as a habitual sexual offender was a final appealable order from which neither party appealed, and therefore, the state was barred by res judicata from challenging it."

Second Appellate District of Ohio

Nothing to report.

Third Appellate District of Ohio

***State v. Hines*, 2019-Ohio-5039**

Preindictment delay

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/3/2019/2019-Ohio-5039.pdf

In state's appeal, trial court did not err in dismissing case for 6-year preindictment delay, as state did not present any reason – justifiable or unjustifiable – for the delay, and appellee suffered actual prejudice.

Fourth Appellate District of Ohio

***State v. Tackett*, 2019-Ohio-4960**

Consecutive sentences

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/4/2019/2019-Ohio-4960.pdf

Trial court erred in failing to make the necessary findings before imposing consecutive sentences and in finding that the offenses were committed as part of a course of conduct; the offenses were committed on different days, and there was nothing in the record to indicate offenses were related.

Fifth Appellate District of Ohio

***State v. Meadows*, 2019-Ohio-4943**

Sentence

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2019/2019-Ohio-4943.pdf

Trial court committed plain error in not merging the two OVI counts which were based upon the same conduct.

***State v. Wertman*, 2019-Ohio-4940**

Court costs

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2019/2019-Ohio-4940.pdf

Trial court committed plain error by imposing the same court fees twice in the same case, once at the original sentencing and again at the community control violation hearing; and trial counsel was ineffective for not objecting.

***State v. Brentlinger*, 2019-Ohio-4989**

Suppression

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2019/2019-Ohio-4989.pdf

Trial court erred in denying appellant's motion to suppress where police officer did not have a reasonable suspicion to continue to detain driver once he determined driver was male and not the registered owner of the car whose license was suspended, but who was female.

Sixth Appellate District of Ohio

***State v. Gaines*, 2019-Ohio-5003**

Record sealing

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2019/2019-Ohio-5003.pdf

Where appellant was an eligible offender under R.C. 2953.31, trial court erred in denying appellant's application to seal record without a hearing, as "non-oral hearing" was not sufficient; also, the court failed to make the proper findings required by R.C. 2953.32(C) and erroneously denied the application based solely on the nature of the offense.

Seventh Appellate District of Ohio

***State v. Williams*, 2019-Ohio-5064**

Suppression

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/7/2019/2019-Ohio-5064.pdf

Trial court erred in denying appellant's motion to suppress where motion was sufficient to put the state on notice of the nature of his challenge and shift the burden of proof to the state which elected not to present any evidence.

Eighth Appellate District of Ohio

***State v. G.F.A.*, 2019-Ohio-4978**

Record sealing

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2019/2019-Ohio-4978.pdf

Trial court erred in denying appellant's application to seal record of dismissed charges of felonious assault and domestic violence; appellant demonstrated legitimate reasons to have his record sealed and those interests were not outweighed by any legitimate government interest.

***State v. Skerkavich*, 2019-Ohio-4973**

Judicial bias and prejudice

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2019/2019-Ohio-4973.pdf

Trial court abused its discretion and "abandoned its duty of impartiality" by questioning appellant in a confrontational manner, thus demonstrating bias and prejudice by "essentially becoming an advocate for the prosecution." The appellate court found this error was structural.

Ninth Appellate District of Ohio

***State v. Green*, 2019-Ohio-4967**

Expert witness

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2019/2019-Ohio-4967.pdf

Trial court erred in considering and accepting testimony of police officer as an expert witness, as his opinion was not supported by any specialized knowledge and went well beyond inferences that were based upon his perceptions.

***State v. Wilson*, 2019-Ohio-5099**

Suppression of confession

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2019/2019-Ohio-5099.pdf

Trial court did not err in suppressing appellee's confession where statements were involuntary due to investigating officer's pattern of misconduct and repeated misrepresentations.

Tenth Appellate District of Ohio

Nothing to report.

Eleventh Appellate District of Ohio

***State v. Herrick*, 2019-Ohio-5047**

Record sealing

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2019/2019-Ohio-5047.pdf

Trial court erred by denying appellant's application for sealing of his conviction for vehicular manslaughter where accompanying conviction for failure to control was a minor misdemeanor and not a conviction for purposes of the sealing statutes. (Good decision for defense, but I don't believe court's analysis of issue under R.C. 2953.61 and *Pariag* case is correct, where offenses with the same disposition fall under the *Futrall* case analysis.)

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.