Appellate Court Decisions - Week of 5/18/20

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

***State v. Wilson*, 2020-Ohio-2962**

Allied offenses

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2020/2020-Ohio-2962.pdf

Trial court committed plain error in failing to merge felonious assault and domestic violence convictions as allied, as offenses were committed with the same conduct, the same animus, and at the same time.

***State v. Chappell*, 2020-Ohio-2956**

Suppression

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2020/2020-Ohio-2956.pdf

In state's appeal, trial court did not err in granting motion to suppress where evidence presented did not establish the plain view exception to the warrant requirement; officer who allegedly "saw" the firearm did not testify, and officer that did testify to other officer's hearsay statements was found by the trial court to be "uncertain."

***State v. Hill*, 2020-Ohio-2958**

Speedy trial

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2020/2020-Ohio-2958.pdf

Trial court erred by failing to grant motion to dismiss for speedy trial violation in conviction of driving with expired plates; court overruled

motion "with the comment (made without evidentiary support) that the . . . pretrial notice was sent to 'the last address we had for you'" which inappropriately "acted to relieve the State from its burden to establish that the speedy trial time had been extended under R.C. 2945.72." Case remanded for evidentiary hearing to establish whether appellant was at fault for his failure to appear at a prior hearing.

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 Ohiopaypal

Nothing to report.

Eighth Appellate District of Ohio

***State v. Johnson*, 2020-Ohio-2947**

Sentence

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2020/2020-Ohio-2947.pdf

Following 2014 conviction for rape of a victim under 10 years of age, trial court erred in sentencing appellant to 25 years to life. Since appellant was acquitted of the sexually violent predator specification and because trial court declined to impose a sentence of life without parole under R.C. 2907.02, then R.C. 2907.03 governed the sentence. The only available sentence for rape of a victim under 10 years of age was 15 years to life, absent findings of force or threat of force, that appellant had been previously convicted of rape, or that appellant had caused serious physical

harm to the victim.

Ninth Appellate District of Ohio

Nothing to report.

Tenth Appellate District of Ohio

***State v. Mack*, 2020-Ohio-2951**

Sentence

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/10/2020/2020-Ohio-2951.pdf

Following 1994 conviction for aggravated murder, trial court erred in denying appellant's pro se motion for resentencing; original sentence of 20 years to life was not authorized by statutory law and was void. Correct sentence was life imprisonment with parole eligibility after serving 20 years of imprisonment.

Eleventh Appellate District of Ohio

***Astabula v. Holman*, 2020-Ohio-2892**

Seized funds

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2020/2020-Ohio-2892.pdf

In city's appeal, trial court did not err in dismissing city's claims and entering judgment in favor of defendants, returning seized funds to them. Such funds were obtained during execution of a search warrant that did not result in any criminal action. There was no inherent illegality in the seized funds; there were not competing claims ; and service was made on all interested parties.

Twelfth Appellate District of Ohio

Nothing to report.

Supreme Court of Ohio

***State v. Buttery*, 2020-Ohio-2998**

Juvenile sex offender; adult failure-to-report offense

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/0/2020/2020-Ohio-2998.pdf

Requiring an adult to register as an adult sex offender for acts he committed while a juvenile does not violate appellant's due-process and jury-trial rights. Court holds the juvenile delinquency adjudication itself is not at issue, but rather appellant's "violation of a court order instructing him to register as a sex offender." Court, in summary, holds that "*[s]tatute does not use an adjudication of delinquency to enhance a sentence—Juvenile adjudication is not an element of the offense—Failure-to-report offense is a violation of a court order—Conviction does not violate right to a jury or to due process.*"

Sixth Circuit Court of Appeals

Nothing to report.

Supreme Court of the United States

Nothing to report.