Appellate Court Decisions - Week of 5/3/21

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. O'Halloran*, 2021-Ohio-1521**

Sentencing

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2021/2021-Ohio-1521.pdf

Trial court erred in imposing life prison terms on three convictions for rape, where the court was statutorily obligated under R.C. 2971.03(B)(1)(a) to sentence appellant to 10 years to life on each count. And state's contention that trial court, on remand, may sentence appellant consecutively for the 3 counts is erroneous, as original sentences for those 3 counts were to be served concurrently. State did not appeal or cross-appeal those concurrent sentences so cannot now challenge sentences. *See State v. Henderson*, 161 Ohio St.3d 285, 2020-Ohio-4784, 162 N.E.3d 776, and *State v. Harper*, 160 Ohio St.3d 480, 2020-Ohio-2913, 159 N.E.3d 248.

***State v. Faircloth*, 2021-Ohio-1514**

Sentencing

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2021/2021-Ohio-1514.pdf

Convictions are affirmed, but case remanded for resentencing where the trial court failed to provide appellant with his right of allocution.

***State v. Lammers*, 2021-Ohio-1518**

Ineffective assistance of counsel; speedy trial

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2021/2021-Ohio-1518.pdf

Trial counsel was ineffective for failing to move for dismissal of the charges on speedy trial grounds; trial court sua sponte continued the case without a valid

reason. Convictions were vacated where the violation of appellant's speedy trial rights entitled her to dismissal of the charges.

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

***State v. Kendall*, 2021-Ohio-1551**

Appointed counsel costs and supervision costs

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2021/2021-Ohio-1551.pdf

Trial court erred in imposing costs of appointed counsel without making a finding that appellant had the present or future ability to pay; and as appellant was sentenced to prison, the imposition of supervision fees was also erroneous.

***State v. Palafox*, 2021-Ohio-1550**

Withdrawal of plea

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2021/2021-Ohio-1550.pdf

Trial court erred in denying appellant's motion to withdraw his guilty plea where trial court failed to give appellant, who is not a U.S. citizen, the immigration warnings set forth in R.C. 2943.031. COA also finds appeal is not moot despite appellant having completed his sentence "since appellant's immigration status is a collateral legal consequence of his criminal case. . . ."

***State v. Farrell*, 2021-Ohio-1554**

Suppression; breathalyzer test

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2021/2021-Ohio-1554.pdf

Trial court erred in denying appellant's motion to suppress the results of his breathalyzer test where the state did not substantially comply with Ohio Adm. Code 3701-53-04 regarding the traceability of the dry gas used.

***State v. Merer*, 2021-Ohio-1553**

Sentencing

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2021/2021-Ohio-1553.pdf

Trial court erred in sentencing appellant to a prison term for a felony of the third degree where it presumed such a prison term was necessary pursuant to R.C. 2929.13(B). Case remanded for resentencing.

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

***State v. Davidson-Dixon*, 2021-Ohio-1485**

Jury instruction; self-defense

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2021/2021-Ohio-1485.pdf

Trial court erred in refusing to instruct the jury on self-defense; in viewing the evidence in favor of appellant, he "introduced sufficient evidence tending to support that: (1) he was not at fault in creating the situation giving rise to the altercation in which the use of force occurred, (2) he had reasonable grounds to believe and an honest belief, even if mistaken, that he was in imminent danger of bodily harm, and (3) the only means to protect himself from such danger was the use of force not likely to cause death or great bodily harm, i.e., that he did not use more force than was reasonably necessary to defend against the imminent danger of bodily harm."

***State v. Jaber*, 2021-Ohio-1486**

Fine

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2021/2021-Ohio-1486.pdf

Trial court erred in imposing a $13,000 fine for failing to comply with a notice of housing code violations, a misdemeanor of the first degree, where the maximum fine for such an offense is $1,000. Fine vacated and remanded for imposition of a fine of no more than $1,000.

Ninth Appellate District of Ohio

Nothing to report.

Tenth Appellate District of Ohio

Nothing to report.

Eleventh Appellate District of Ohio

Nothing to report.

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.