Appellate Court Decisions - Week of 7/13/20

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

First Appellate District of Ohio

***State v. Griffin*, C-190369**

Forfeiture

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

Trial court erred in ordering forfeiture of one firearm where state did not comply with R.C. 2981.04(A); there was no forfeiture specification in the complaint nor was a forfeiture specification provided in a Crim.R. 7(E) bill of particulars. However, appellant had no standing to contest forfeiture of second handgun where he denied ownership of it.

Second Appellate District of Ohio

***State v. Wallace-Lee*, 2020-Ohio-3681**

Sentencing

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2020/2020-Ohio-3681.pdf

Trial court erred by imposing post-release control for felonious assault conviction which was merged with murder conviction; parole applies to such unclassified offense.

Third Appellate District of Ohio

Nothing to report.

Fourth Appellate District of Ohio

Nothing to report.

Fifth Appellate District of Ohio

***State v. French*, 2020-Ohio-3653**

Suppression

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2020/2020-Ohio-3653.pdf

In state's appeal, trial court did not err in granting appellee's motion to suppress search of the house; appellee's father did not have authority to consent to search of the residence. Although father was titled owner of the house, he "did not have common authority in the residence in order to permit a search of appellee's home by consent. Appellee's father had no key to the house, had no property or possessions there and testified that he gave the house to his son after he moved out after living there for ten years. Appellee's father testified that he had had nothing to do with the house and had not resided there for 16 years. He testified that he allowed appellee control over the house and the premises. He testified that while he tried to exert ownership or control interest over the property as to who went in and lived there, he was not successful. There was no mutual use of the property by appellee and his father . . . the only information that the police had was that appellee's father owned the residence and that such information alone does not give the police a reasonable belief of common authority to justify the search of the home. The officers never confirmed who resided in the house before entering the same."

Sixth Appellate District of Ohio

Nothing to report.

Seventh Appellate District of Ohio

***State v. Jones*, 2020-Ohio-3578**

Withdrawal of guilty plea

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/7/2020/2020-Ohio-3578.pdf

Trial court erred in denying appellant's pre-sentence motion to withdraw her guilty plea where there was no showing that state would be prejudice; motion was timely; plea was due to family considerations; and appellant maintained her innocence throughout the proceedings.

Eighth Appellate District of Ohio

***State v. Carson*, 2020-Ohio-3669**

Suppression

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2020/2020-Ohio-3669.pdf

Trial court erred in denying appellant's motion to suppress where police officer had not reasonable suspicion that appellant was engaged in any illegal activity; body cam showed appellant smoking a cigarette and looking at his cell phone, and officer's justification that he was checking on appellant's well-being was not demonstrated in video.

***Cleveland v. Jones-McFarlane*, 2020-Ohio-3662**

Plea

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2020/2020-Ohio-3662.pdf

Trial court erred in when it failed to inform appellant that the effect of her guilty plea was a complete admission of her guilt, see Crim.R. 11.

***S. Euclid v. Schutt*, 2020-Ohio-3661**

Ineffective assistance of counsel; speedy trial

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2020/2020-Ohio-3661.pdf

Trial counsel was ineffective where he failed to file a motion to dismiss for violation of statutory speedy trial rights; motion would have been successful where appellant was brought to trial well passed the 90-day speedy trial period, and the trial court provided no reasons justifying a 192-day continuance.

***State v. Batiste*, 2020-Ohio-3673**

Consecutive sentences

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2020/2020-Ohio-3673.pdf

Trial court erred in sentencing appellant to consecutive sentences where, "by clear and convincing evidence, [] the record does not support the trial

court's finding that [appellant's] 'history of criminal conduct demonstrates that consecutive sentences are necessary to protect the public from future crime by the offender.'" Appellant only had one prior juvenile adjudication; the trial court's use of the crimes in this case to find a history of criminal conduct was impermissible.

***State v. Stansell*, 2020-Ohio-3674**

Sexually-violent offender specification

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2020/2020-Ohio-3674.pdf

Trial court erred in denying appellant's motion to vacate sexually violent predator specification where he did not qualify as such; at the time of his conviction in 1997, appellant did not have a prior conviction for a sexually oriented offense as required by the version of R.C. 2971.01(H)(1) in existence. Therefore, the "life tail" sentence was unlawful, and appellant's sentence reduced to a flat 20-year sentence (which he apparently has already served).

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

***State v. Nelson*, 2020-Ohio-3690**

Technical v. nontechnical violations of community control

Full Decision:

https://www.supremecourt.ohio.gov/rod/docs/pdf/0/2020/2020-Ohio-3690.pdf

Summary from OSC: "We therefore hold that the determination whether a [community control] violation is a 'technical violation' under R.C 2929.15(B)(1)(c) does not turn on whether the conduct at issue is criminal. As *Davis* indicated, a violation is "nontechnical" if, considering the totality of the circumstances, the violation concerns a condition of community control that was 'specifically tailored to address' matters related to the defendant's misconduct or if it can be deemed a 'substantive rehabilitative requirement which addressed a significant factor contributing to' the defendant's misconduct. *Davis*, 2018-Ohio-2672, at ¶ 17, 18 . . . On the other hand, a violation is 'technical' when the condition violated is akin to 'an administrative requirement facilitating community control supervision.'"

Sixth Circuit Court of Appeals

Nothing to report.

Supreme Court of the United States

Nothing to report.