Appellate Court Decisions - Week of 7/19/21

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

First Appellate District of Ohio

***State v. Mimes*, C-200122**

Court costs and fines

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

Trial court erred by including court costs and fines in the sentencing entry, when court had announced at the sentencing hearing that there would be no such costs and fines; state concedes error. Case remanded to correct sentencing entry .

***State v. Cheatham*, C-200142**

Speedy trial

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

In state's appeal, trial court did not err in dismissing all charges against appellant because the state did not bring him to trial before the statutory speedy-trial time had expired. Although the trial court's reasoning for dismissal, that appellant had not explicitly waived time, was incorrect, the COA still found the correct decision was made. In *State v. Martin*, 156 Ohio St.3d 503, 2019-Ohio-2010, 129 N.E.3d 437, ¶ 25, the Supreme Court "clarified to whom time should be charged where defendants do not explicitly waive time. 'Reviewing courts must focus on the underlying source of the delay.' " Therefore, the delay caused by appellant's motion for a continuance which was precipitated by the state's untimely disclosure of a report by its expert was charged to the state; "the delay was the state's failure to abide by the discovery rules prescribed by the Ohio Rules of Criminal Procedure."

Second Appellate District of Ohio

Nothing to report.

Third Appellate District of Ohio

***State v. Agostinelli*, 2021-Ohio-2458**

Speedy trial

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/3/2021/2021-Ohio-2458.pdf

Trial court erred when it failed to grant appellant's motion to dismiss on statutory speedy-trial grounds; court failed to tack the speedy-trial time from the previously filed complaint against him to the speedy-trial time on the subsequently-filed new complaint. Appellant's new vehicular manslaughter charge arose from the same set of facts as his first vehicular homicide charge.

Fourth Appellate District of Ohio

Nothing to report.

Fifth Appellate District of Ohio

***State v. Llewellyn*, 2021-Ohio-2396**

Sufficiency; failure to provide change of address

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2021/2021-Ohio-2396.pdf

In bench trial, trial court erred when it found appellant guilty of failure to provide a change of address. Appellant was homeless and did advise the sheriff he intended to stay in Mt. Vernon; there was not a requirement in the statute that he had to report to the sheriff on a daily basis. There was also no evidence presented that appellant ever obtained a fixed address. Evidence was sufficient for conviction for failure to register his Facebook accounts.

***State v. Rolf*, 2021-Ohio-2475**

Consecutive sentencing

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2021/2021-Ohio-2475.pdf

Trial court erred in imposing consecutive sentences without making the requisite findings pursuant to R.C. 2929.14(C)(4); court also erred in imposing a lifetime driver's license suspension when it failed to specify the length of the suspension at the sentencing hearing.

Sixth Appellate District of Ohio

Nothing to report.

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

Nothing to report.

Ninth Appellate District of Ohio

Nothing to report.

Tenth Appellate District of Ohio

Nothing to report.

Eleventh Appellate District of Ohio

***State v. Mihalik*, 2021-Ohio-2465**

Restitution

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2021/2021-Ohio-2465.pdf

Trial court erred when it failed to credit $2,000 that appellant had paid to the victims in a civil suit to the $41,291.92 in restitution it had ordered in the criminal case.

Twelfth Appellate District of Ohio

Nothing to report.

Supreme Court of Ohio

***State v. Brinkman*, 2021-Ohio-2473**

Guilty plea

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/0/2021/2021-Ohio-2473.pdf

As trial court failed to advise appellant at the time he pleaded guilty that he was waiving his rights to confront witnesses against him and to have his guilt proved

beyond a reasonable doubt, appellant's conviction and death sentence are vacated.

Sixth Circuit Court of Appeals

Nothing to report.

Supreme Court of the United States

Nothing to report.