Appellate Court Decisions - Week of 7/22/19

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

First Appellate District of Ohio

***State v. Hall*, 2019-Ohio-2985**

Discovery violation and prosecutorial misconduct

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/1/2019/2019-Ohio-2985.pdf

Summary from the First District: "The trial also hinged on a credibility battle between the defendant and his accusers. In light of that backdrop, we find that two interrelated errors deprived the defendant of a fair trial. First, the state belatedly sprung an expert witness on the defense at trial without providing an expert report as mandated by Crim.R. 16(K). And second, the prosecutor engaged in pervasive misconduct during closing argument, demonizing the defendant as a "wolf" and "predator," and repeatedly vouching for the credibility of the accusers. Based on these errors, we reverse the convictions and remand for a new trial on the remaining four counts."

Second Appellate District of Ohio

***State v. Stocks*, 2019-Ohio-2944**

Suppression

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2019/2019-Ohio-2944.pdf

Trial court erred when it denied appellant's motion to suppress search of his person where police officer did not have a reasonable articulable suspicion of criminal activity necessary to justify the investigatory stop and *Terry* search; the "officer was not responding to any particular complaint of criminal activity, nor did he observe any by Stocks. The only behavior by Stocks that raised the officer's suspicion was Stocks's change of the direction and speed in which he was walking."

Third Appellate District of Ohio

Nothing to report.

Fourth Appellate District of Ohio

***State v. Wilson*, 2019-Ohio-2965**

Jury trial

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/4/2019/2019-Ohio-2965.pdf

Trial court erred by failing to inform appellant of his right to a jury trial during appellant's initial court appearance; this is mandatory pursuant to Crim.R. 5(A)(5). Conviction vacated.

Fifth Appellate District of Ohio

***State v. Cooper*, 2019-Ohio-2925**

Jury

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2019/2019-Ohio-2925.pdf

Trial court abused its discretion when it failed to remove a juror for cause; during voir dire, juror expressed a predisposition to find defendant guilty.

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. Brewer*, 2019-Ohio-2969**

Ineffective assistance of counsel

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2019/2019-Ohio-2969.pdf

Appellant received ineffective assistance of counsel, where trial counsel failed to object to just about anything: "Brewer argues that he received constitutionally ineffective assistance of counsel in violation of the Sixth Amendment. He asserts "the State (1) repeatedly asked leading questions and (2) presented inadmissible hearsay testimony, (3) presented inadmissible opinion testimony, (4) presented inadmissible testimony regarding prior bad acts, and (5) presented inadmissible expert witness testimony, over and over, without [a single] objection by Defense Counsel." We agree." Reversed and remanded for new trial.

***State v. Miller*, 2019-Ohio-2974**

Postconviction

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2019/2019-Ohio-2974.pdf

Trial court erred in denying his postconviction petition because it mistakenly believed it lacked jurisdiction and the arguments were barred by res judicata due to Appellant having raised the issue in the direct appeal; "[t]he fact that an appellant raised ineffective assistance of counsel claims in a direct appeal does not bar such a claim in a petition for postconviction relief, provided the claim in the postconviction exercise is predicated upon evidence outside the record. We must look to the substance of the argument itself to determine whether it is barred by res judicata." Also, trial court erred in holding it did not have jurisdiction to consider a petition for postconviction relief while the direct appeal was pending; pursuant to R.C. 2953.21(D) and (F), the court must consider a petition and proceed to a prompt hearing even if the direct appeal is pending.

Twelfth Appellate District of Ohio

***State v. Noonan*, 2019-Ohio-2960**

Community control sanction violation

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/12/2019/2019-Ohio-2960.pdf

Trial court abused its discretion in finding that appellant violated her community control because she failed to successfully complete a drug treatment program; her discharge was due to her medical problem and "was therefore not one over which appellant had control . . . ."

Supreme Court of Ohio

Nothing to report.

Sixth Circuit Court of Appeals

Nothing to report.

Supreme Court of the United States

Nothing to report.