Appellate Court Decisions - Week of 7/26/21

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

First Appellate District of Ohio

***State v. Martin*, C-200067**

Suppression

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

Trial court erred in denying appellant's motion to suppress the search of her residence. The trial court properly recognized that the affidavit for the search warrant, which relied on stale evidence that concerned a prior residence in another county and "that was, at best, 17 months old . . . fell below a showing of probable cause;" but it erred in finding that the good-faith exception applied. Aside from this stale evidence, the only other recent evidence supporting the search warrant was a single trash pull where "loose marijuana leaves, a marijuana cigar, 'multiple' empty vacuum-sealed plastic bags, and two cut straws—with one of those straws containing white powder residue" were discovered. Therefore, where the "warrant is issued based on an affidavit manifestly lacking in probable cause, a reasonably well-trained officer should know better than to execute it."

***State v. Spivey*, C-200125**

Sentencing; allied offenses

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

In conviction for obstructing official business and falsification, trial court erred by failing to merge the sentences for the two allied offenses.

***State v. Fikes*, C-200221**

Guilty plea; Reagan Tokes

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

Appellant did not knowingly, intelligently, or voluntarily plead guilty, as "the trial court failed to properly advise him of the maximum penalty involved under the Reagan Tokes Law." State concedes error.

Second Appellate District of Ohio

Nothing to report.

Third Appellate District of Ohio

Nothing to report.

Fourth Appellate District of Ohio

***State v. Nye*, 2021-Ohio-2557**

Restitution

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/4/2021/2021-Ohio-2557.pdf

Trial court erred when it imposed restitution without holding a hearing after appellant disputed amount of restitution and requested such a hearing. R.C. 2929.18(A)(1).

Fifth Appellate District of Ohio

***State v. Akers*, 2021-Ohio-2562**

Confrontation Clause

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2021/2021-Ohio-2562.pdf

Trial court erred when it allowed the admission of the alleged victim's statements to officers who were responding to a 911 call; such admission violated appellant's rights under the Confrontation Clause. At the time the statements were made, appellant was not present and posed no threat to the alleged victim. "[T]he statements obtained by the police in the instant case were obtained for the primary purpose of documenting past events for later prosecution, rather than to respond to an ongoing emergency, and the admission of the statements violated Appellant's rights under the Confrontation Clause."

Sixth Appellate District of Ohio

Nothing to report.

Seventh Appellate District of Ohio

***State v. Smith*, 2021-Ohio-2486**

Restitution

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/7/2021/2021-Ohio-2486.pdf

Trial court erred when it failed to credit monies deposited by appellant/former mayor back into the mayor's court account; case remanded for limited purpose of determining the exact amount of the repayments made by appellant.

***State v. Riechers*, 2021-Ohio-2527**

Suppression; traffic stop

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/7/2021/2021-Ohio-2527.pdf

Trial court erred when it denied appellant's motion to suppress the traffic stop since officer lacked a reasonable suspicion that appellant had committed a traffic violation; officer's " 'hunch' that a driver 'associated' with the [rental] vehicle might be unlicensed' " did not establish a reasonable, articulable suspicion of criminal activity.

***State v. Welch*, 2021-Ohio-2487**

Postrelease control

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/7/2021/2021-Ohio-2487.pdf

Trial court erred when it imposed a mandatory term of postrelease control; none of appellant's convictions (possession of drugs, a felony of the third degree; attempted failure to comply, a felony of the fourth degree; and assault, a felony of the fourth degree) qualified for such a mandatory sanction.

Eighth Appellate District of Ohio

***State v. Williams*, 2021-Ohio-2512**

Violent offender database

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2021/2021-Ohio-2512.pdf

Trial court erred when it failed to advise appellant of "the presumption of enrollment in the violent offender database ("VOD") under R.C. 2903.42(A)(1) and of his right to rebut that presumption."

***In re D.S. et al.*, 2021-Ohio-2516**

SYO

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2021/2021-Ohio-2516.pdf

In state's appeals of trial court's denial of state's request for serious youthful offender specifications after trial court denied discretionary bindover for several juveniles, all appeals were dismissed for lack of jurisdiction. The appeals did not involve an appeal of right, and state failed to follow the procedural and time requirements when requesting leave to appeal in accordance with App.R. 5(C).

Ninth Appellate District of Ohio

Nothing to report.

Tenth Appellate District of Ohio

Nothing to report.

Eleventh Appellate District of Ohio

***State v. Welz*, 2021-Ohio-2553**

Consecutive sentences (again! You would think by now that trial courts would know how to make the R.C. 2929.14(C)(4) findings.)

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2021/2021-Ohio-2553.pdf

Trial court erred in imposing consecutive sentences without making the appropriate R.C. 2929.14(C)(4) findings.

***State v. Willard*, 2021-Ohio-2552**

Restitution

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2021/2021-Ohio-2552.pdf

Trial court erred when it ordered appellant to pay restitution for police officer overtime "because the Liberty Township Police Department was not a 'victim' that suffered an 'economic loss' pursuant to R.C. 2929.18(A)(1)." Such overtime expenses "were part of the department's normal operating costs."

***State v. Dent*, 2021-Ohio-2551**

Restitution

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2021/2021-Ohio-2551.pdf

Trial court erred when it ordered appellant to repay his defaulted student loans, as the Department of Education is a governmental agency that was not the victim of the offense; the victim was appellant's mother, whom appellant had listed as a guarantor on such defaulted loans.

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.