Appellate Court Decisions - Week of 8/3/20

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

First Appellate District of Ohio

***In re: S.N.*, C-190151 & C-190152**

Probation violation

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

Juvenile court erred in accepting appellant's admission to his probation violation where his due process rights were violated. The court did not ensure that appellant understood the consequences of his admission; the court failed to explain any of the constitutional rights appellant would be waiving; and appellant was not represented by counsel at the hearing.

Second Appellate District of Ohio

Nothing to report.

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. Baldwin*, 2020-Ohio-3895**

Ineffective assistance of appellate counsel

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2020/2020-Ohio-3895.pdf

Application to reopen appeal pursuant to App.R. 26(B)(4) is granted where

appellate counsel was ineffective in not raising as error the admission, without any curative instruction after a request for mistrial, of testimony concerning the intimidating behavior of appellant's brother toward a prosecuting witness which had no probative value. Appellate counsel also failed to assign as error appellant's first-degree felony conviction for engaging in a pattern of corrupt activity since "he was not charged with any corresponding criminal count that was a first, second, or third-degree felony;" although appellant was charged in the indictment with a third-degree tampering with evidence, the jury verdict form did not indicate the degree of the offense or that an aggravating element was found.

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. Miller*, 2020-Ohio-3854**

Confrontation; other acts

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2020/2020-Ohio-3854.pdf

Trial court erred by allowing the state to play a recorded interview of the alleged victim during the testimony of the investigating detective when the victim did not testify, in violation of appellant's right to confront witnesses as guaranteed by the Sixth and Fourteenth Amendments. *Crawford v. Washington*, 541 U.S. 36 (2004). Trial court also erred in admitting evidence of appellant's prior convictions to which he had stipulated for the charge of WUD. *State v. Creech*, 150 Ohio St.3d 540, 2016-Ohio-8440. Taken together, these two errors warranted reversal; "[t]he evidence properly before the jury

could not overcome the cumulative effect of admitting the improper evidence."

Twelfth Appellate District of Ohio

***State v. Schrader*, 2020-Ohio-3925**

Sentencing

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/12/2020/2020-Ohio-3925.pdf

Trial court erred by imposing consecutive sentences in its sentencing entry "because at the sentencing hearing, the parties agreed to an aggregate six-month prison sentence, the trial court imposed concurrent prison terms, and the trial court never informed [appellant] that it was not required to follow the joint sentencing recommendation." The trial court also erred by attempting to correct the sentencing entry after the notice of appeal on the same issue had been filed; at that point, the trial court had lost jurisdiction.

***State v. Fabian*, 2020-Ohio-3926**

Plea colloquy

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/12/2020/2020-Ohio-3926.pdf

Appellant's plea was not knowingly, intelligently, and voluntarily entered where the trial court completely failed to comply with Crim.R. 11(C)(2)(a) when it neglected to advise appellant of postrelease control. *State v.* Dangler, Slip Opinion No. 2020-Ohio-3765; *State v. Sarkozy*, 117 Ohio St.3d 86, 2008-Ohio-509.

Supreme Court of Ohio

Nothing to report.

Sixth Circuit Court of Appeals

Nothing to report.

Supreme Court of the United States

Nothing to report.