Appellate Court Decisions - Week of 9/13/21

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

First Appellate District of Ohio

***State v. Baston*, C-200204**

Record sealing

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

Trial court erred in finding appellant ineligible to have his record of an ignored domestic violence charge sealed because he was serving a prison sentence in an unrelated case. Once appellant was convicted and sentenced in that case, he no longer had "pending charges." *State v. Floyd*, 2018-Ohio-5107, 126 N.E.3d 361 (1st Dist.).

Second Appellate District of Ohio

Nothing to report.

Third Appellate District of Ohio

Nothing to report.

Fourth Appellate District of Ohio

***In re D.F.*, 2021-Ohio-3109**

Juvenile sex offender classification

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/4/2021/2021-Ohio-3109.pdf

Where appellant is adjudicated of rape, trial court erred in classifying him a tier III juvenile offender registrant at disposition when he should have been classified upon his release from DYS, a secured facility. R.C. 2152.83(A)(1). State concedes error.

Fifth Appellate District of Ohio

Nothing to report.

Sixth Appellate District of Ohio

Nothing to report.

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

***State v. Lowell*, 2021-Ohio-3098**

NGRI

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2021/2021-Ohio-3098.pdf

Because a "trial court's jurisdiction terminates at the end of the maximum prison term the insanity acquittee could have been sentenced to for the most serious crime they were found not guilty by reason of insanity" pursuant to R.C. 2945.401(J)(1)(b), the trial court erred in committing appellant to consecutive terms of commitment for two separate offenses. Consecutive commitments are not permitted by statute.

Ninth Appellate District of Ohio

Nothing to report.

Tenth Appellate District of Ohio

Nothing to report.

Eleventh Appellate District of Ohio

***State v. Blenman*, 2021-Ohio-3076**

Sufficiency; burglary

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2021/2021-Ohio-3076.pdf

Appellant's convictions for burglary, a felony of the second degree, was not supported by sufficient evidence. State failed to present evidence that the property that was the subject of the "burglary" was the permanent or temporary habitation of the alleged victims. However, the evidence was sufficient to

support a conviction for a third-degree felony burglary. The modification of the verdict to a lesser included offense is permitted by Crim.R. 33(A)(4).

Twelfth Appellate District of Ohio

***State v. Hawkins*, 2021-Ohio-3072**

Consecutive sentences

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/12/2021/2021-Ohio-3072.pdf

Trial court erred when it failed to make the required findings at the sentencing hearing to support appellant's consecutive sentences although the requisite findings were in the sentencing entry. Case remanded for trial court to make the proper findings at the sentencing hearing.

***State v. Deck*, 2021-Ohio-3145**

Sentencing; LWOP

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/12/2021/2021-Ohio-3145.pdf

In conviction for rape of a minor under the age of 10, trial court erred when it mistakenly believed its only sentencing option for appellant was life without parole; R.C. 2971.03(A) applies only to an offender who was convicted of a sexually violent predator specification included in the indictment. As there was no such specification in appellant's case, R.C. 2971.03(B)(1) provides three sentencing options for the trial court to consider. Case remanded for trial court to consider the other options besides LWOP.

Supreme Court of Ohio

***State v. Williams*, 2021-Ohio-3152**

Sixth Amendment right to counsel; conflict of interest

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/0/2021/2021-Ohio-3152.pdf

"When a trial court does not know, and should not reasonably have known, of a possible conflict of interest in an attorney's representation of two or more codefendants charged with a crime, the trial court has no affirmative duty to inquire whether a conflict of interest exists. . . . [a]lthough making this inquiry is

the better practice, we conclude that absent some factor which would alert the trial court of a possible conflict of interest created by such representation, the court has no affirmative duty to do so."

Sixth Circuit Court of Appeals

Nothing to report.

Supreme Court of the United States

Nothing to report.