Appellate Court Decisions - Week of 9/3/19

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

First Appellate District of Ohio

***State v. Chambers*, C-180333 and C-180334**

Contempt

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

Trial court erred in denying Appellant her due-process protections for indirect contempt proceedings, as set forth in R.C. 2705.03.

***State v. Adams*, C-180337**

Restitution

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

Restitution order is reversed, as trial court erred in ordering restitution to a third-party bank which does not qualify as a victim under R.C. 2929.18(A)(1).

Second Appellate District of Ohio

Nothing to report.

Third Appellate District of Ohio

***State v. Disabato*, 2019-Ohio-3542**

Jury

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/3/2019/2019-Ohio-3542.pdf

Trial court erred when it failed to exclude the alternate jurors from jury deliberations; and since record contained sufficient evidence that the alternates participated in deliberations, prejudice was presumed. Case reversed and remanded for a new trial.

Fourth Appellate District of Ohio

***State v. Lincoln*, 2019-Ohio-3483**

Sentencing

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/4/2019/2019-Ohio-3483.pdf

Imposition of sentence for felonious assault conviction, to be run consecutively for sentence for drug offenses which were reversed on appeal, since appellant cannot serve his assault sentence consecutive to a the original sentence in the drug case which no longer exists.

Fifth Appellate District of Ohio

Nothing to report.

Sixth Appellate District of Ohio

***State v. Temple*, 2019-Ohio-3503**

Costs of appointed counsel, confinement and supervision

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2019/2019-Ohio-3503.pdf

Trial court erred when it imposed costs of appointed counsel, confinement, and supervision, where trial court failed to make any determination of appellant's ability to pay.

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

***State v. Storey*, 2019-Ohio-3515**

Plea

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2019/2019-Ohio-3515.pdf

Plea was not entered knowingly, intelligently, and voluntarily where the trial court failed to identify the maximum penalties for two of appellant's offenses pursuant to Crim.R. 11.

***State v. Brown*, 2019-Ohio-3516**

Plea

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2019/2019-Ohio-3516.pdf

Plea was not entered knowingly, intelligently, and voluntarily under Crim.R. 11 where the trial court failed to tell appellant that the firearm specification attached to the receiving stolen property offense carried a mandatory prison term; entire negotiated, "packaged deal" vacated in its entirety.

Ninth Appellate District of Ohio

***State v. E.G.*, 2019-Ohio-3531**

Continuance

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2019/2019-Ohio-3531.pdf

Trial court erred when it refused to grant defendant's motion for continuance, where the motion stated defense counsel was not prepared for trial and there was a possible conflict of interest in the representation. Case remanded for new trial.

Tenth Appellate District of Ohio

Nothing to report.

Eleventh Appellate District of Ohio

***State v. Lusane*, 2019-Ohio-3549**

Sentencing entry

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

3549.pdf

Trial court erred when it denied defendant's motion to revise sentencing entry; trial court's entry was not a final, appealable order pursuant to Crim.R. 32(C), as it failed to set forth both the fact of conviction and sentence.

Twelfth Appellate District of Ohio

Nothing to report.

Supreme Court of Ohio

Nothing to report.

Sixth Circuit Court of Appeals

***United State v. Catching*, No. 18-5527**

Supervised release violation

Full Decision:
http://www.opn.ca6.uscourts.gov/opinions.pdf/19a0463n-06.pdf

Revocation of appellant's supervised release is vacated and his supervised release is reinstated; government failed to prove be a preponderance of the evidence that appellant actually or constructively possessed marijuana.

Supreme Court of the United States

Nothing to report.