

Appellate Court Decisions - Week of 1/17/22

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

First Appellate District of Ohio

State v. Rosemond, 2022-Ohio-111

Sentencing; PRC

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/1/2022/2022-Ohio-111.pdf>

Trial court erred in imposing postrelease control as part of appellant's sentence for murder, as well as failing to notify appellant at his sentencing hearing about postrelease control for his remaining felony convictions. Sentence vacated and case remanded.

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

Nothing to report.

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

Woodmere v. Workman, 2022-Ohio-71

Disorderly conduct and noise violation; First Amendment

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2022/2022-Ohio-71.pdf>

Trial court erred in finding appellant guilty of minor misdemeanor disorderly conduct and playing of a sound device. The arrest for disorderly conduct was based entirely on speech “implicating the First Amendment of the U.S. Constitution, and that the conviction can only stand if [appellant’s] speech constituted ‘fighting words.’” The disorderly conduct violation “was entirely based on [appellant’s] verbal criticism and, at times, expletive-filled challenge to the police officers’ authority over his speech. That conviction cannot be sustained.” And the conviction for playing a sound device was also vacated by the COA. The conviction “was impermissibly based on selective prosecution, an attempt to secure a conviction for any crime based solely on [appellant’s] exercising his First Amendment rights. With no other crime that could have been charged, all that was left was a minor misdemeanor crime that rarely, if ever, sees the light of a courtroom. We cannot condone the village’s wielding of perfunctory violations based on an attempt to curtail speech deemed unpalatable to the government actors. In light of the particular facts of this case, that slippery slope is far too steep.”

State v. Lucas, 2022-Ohio-84

Sentencing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2022/2022-Ohio-84.pdf>

In ordering appellant, as a judicial sanction, to serve a three-month consecutive sentence for violating postrelease control, the trial court had the “authority to impose a prison term or sanction for a postrelease control violation in an earlier felony case upon a new felony conviction consistent with the requirements of R.C. 2929.141.” However, the court erred when it refused to reduce that prison term by the 11-month sentence the appellant had already served as a result of a parole board’s sanction. R.C. 2929.141(A)(1).

State v. Cisco, 2022-Ohio-74

Sentencing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2022/2022-Ohio-74.pdf>

Trial court erred when it attempted to amend appellant’s community control sentence by adding language of the potential prison term he would face if he violated such community control sanction, as the court was without jurisdiction for such an amendment to the previously imposed sentence.

Ninth Appellate District of Ohio

State v. Condos, 2022-Ohio-112

Waiver of counsel

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2022/2022-Ohio-112.pdf>

Appellant did not voluntarily, knowingly, and intelligently waive his right to counsel where the trial court failed to explain to him “the nature of the charges, the statutory offenses included within them, the range of allowable punishments, possible defenses, mitigation, or other facts essential to a broad understanding of the whole matter[.]” *State v. Martin*, 103 Ohio St.3d 385, 2004-Ohio-5471, ¶ 43; *Gibson* at 377, quoting *Von Moltke v. Gillies*, 332 U.S. 708, 723 (1948).” Sixth Amendment of the U.S. Constitution; Ohio Constitution, Art. I, Section 10; Crim.R. 44(B).

Tenth Appellate District of Ohio

Nothing to report.

Eleventh Appellate District of Ohio

Nothing to report.

Twelfth Appellate District of Ohio

State v. Green, 2022-Ohio-101

Suppression; *Miranda*

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/12/2022/2022-Ohio-101.pdf>

Trial court erred when it denied appellant’s motion to suppress statements he made to police “because the trial court only determined [appellant’s] waiver of his *Miranda* rights was made voluntarily without also determining whether [appellant’s] waiver was knowingly and intelligently entered.”

State v. Massey, 2022-Ohio-100

Suppression; search

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/12/2022/2022-Ohio-100.pdf>

In state's appeal, trial court did not err in granting appellant's motion to suppress the stop of her vehicle. No traffic violation occurred; the officer lacked reasonable, articulable suspicion of criminal activity to justify the prolonged detention of appellant; and appellant did not voluntarily consent to the search of her vehicle or purse, as "the circumstances surrounding the request to search made the questioning impliedly coercive."

Supreme Court of Ohio

Nothing to report.

Sixth Circuit Court of Appeals

Nothing to report.

Supreme Court of the United States

Nothing to report.