

Appellate Court Decisions - Week of 1/31/22

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

First Appellate District of Ohio

Nothing to report.

Second Appellate District of Ohio

State v. Estridge, 2022-Ohio-208

Sixth Amendment right to counsel

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2022/2022-Ohio-208.pdf>

Trial court erred in accepting appellant's guilty plea without obtaining a valid waiver of counsel; conviction and non-jail portion of sentence affirmed, but jail sentence vacated.

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

State v. Tolbert, 2022-Ohio-197

Consecutive sentences

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2022/2022-Ohio-197.pdf>

Trial court committed plain error in failing to make the appropriate findings on the record to support its imposition of consecutive prison sentences for appellant.

State v. Jackson, 2022-Ohio-187

Suppression; traffic stop

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2022/2022-Ohio-187.pdf>

In state’s appeal, trial court did not err in granting appellant’s motion to suppress the stop of his vehicle; police officer did not have a reasonable, articulable suspicion to justify the investigatory *Terry* stop of appellant’s vehicle. The stop was not consensual or friendly; the BWC contradicted the officer’s contention that he smelled marijuana emanating from the automobile; and the documentary evidence contradicted the testimony of the officer that appellant and his vehicle matched the description of a shooting suspect from a police dispatch.

Cleveland v. Davis, 2022-Ohio-195

Sixth Amendment right to counsel

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2022/2022-Ohio-195.pdf>

Trial court erred in allowing appellant to represent himself “without ensuring he had properly waived his Sixth Amendment right to counsel.” Court failed to discuss “the consequences of waiving counsel, the charges against [appellant], or possible defenses.”

Ninth Appellate District of Ohio

State v. Zappa, 2022-Ohio-243

Sentencing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2022/2022-Ohio-243.pdf>

Trial court erred in sentencing appellant to the maximum 60-day jail sentence and placing him on community control without suspending any of the maximum sentence.

Tenth Appellate District of Ohio

Nothing to report.

Eleventh Appellate District of Ohio

Nothing to report.

Twelfth Appellate District of Ohio

State v. Hudkins, 2022-Ohio-249

Competency restoration

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/12/2022/2022-Ohio-249.pdf>

Trial court erred in ordering appellant to be committed for a second six-month period of competency restoration. “R.C. 2945.38(C) limited the duration of treatment that the court could order to restore [appellant] to competency to a total of six months and [] the time period for treatment did not begin anew merely because [appellant] had a regained competency for a period of time before once again becoming incompetent.” Case remanded for dismissal or civil commitment.

State v. Lee, 2022-Ohio-248

Sentencing; Reagan Tokes

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/12/2022/2022-Ohio-248.pdf>

Trial court erred in sentencing appellant to an indefinite prison term under Reagan Tokes without providing him all the required statutory notifications at the sentencing hearing pursuant to R.C. 2929.19(B)(2)(c). Remanded for the sole purpose of providing appellant with the mandatory notifications.

Supreme Court of Ohio

State v. Smith, 2022-Ohio-269

Sufficiency; rape

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/o/2022/2022-Ohio-269.pdf>

In case where appellant directed her child to insert an object into appellant's vagina, OSC held that "to be guilty of rape by insertion under R.C. 2907.01(A), a defendant must have inserted a body part or object into another—as opposed to someone else having inserted a body part or object into the defendant. In other words . . . there was insufficient evidence to support [appellant's] conviction because there is a legally significant distinction between engaging in sexual conduct with another and causing another to engage in sexual conduct." Convictions for rape required that insertion be into another person; however, appellant could be guilty of gross sexual imposition that only required "an offender to cause another person to 'have sexual contact with the offender.'"

State v. Smith, 2022-Ohio-274

Juvenile; probable cause; jurisdiction of adult court

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/o/2022/2022-Ohio-274.pdf>

"A finding of probable cause is a jurisdictional prerequisite under R.C. 2152.12 to transferring a child to adult court for prosecution of an act charged—A juvenile court may transfer a case or a matter to adult court, but the adult court's jurisdiction is limited to the acts charged for which probable cause was found." In other words, if a child is charged with five crimes in juvenile court, but the court only finds probable cause as to one crime and binds the child over to juvenile court on that one crime, the state cannot attempt to indict the child on the original five crimes; the adult court only has jurisdiction over the one crime for which probable cause was found.

Sixth Circuit Court of Appeals

United State v. Johnson, No. 19-2418

Sixth Amendment right to counsel

Full Decision:

<http://www.opn.ca6.uscourts.gov/opinions.pdf/22a0017p-06.pdf>

District court erred in allowing appellant to represent himself where the court failed to hold a formal colloquy with appellant to notify him of "of the dangers and disadvantages of self-representation, so that the record will establish that

‘he knows what he is doing and his choice is made with eyes open.’ ” [Faretta v. California,] 422 U.S. [806] at 835 (citation omitted). The “district court’s failure to ask [appellant] a series of questions, such as those listed in the *Bench Book*, violated his Sixth Amendment right to counsel.”

***United State v. Cooper*, No. 21-5209**

Suppression; inevitable discovery

Full Decision:

<http://www.opn.ca6.uscourts.gov/opinions.pdf/22a0023p-06.pdf>

District court erred in applying an “attenuation” analysis as opposed to an “inevitable discovery” analysis in denying appellant’s motion to suppress the illegal protective sweep. On remand, the district court was instructed to consider: “If the illegal protective sweep had never happened, would officers have sought [appellant’s] consent to search? Would [appellant] have given [his] consent in such a hypothetical world? And would the ensuing consent search have led to the gun? The inevitable discovery exception applies only if the answer to all three questions is ‘yes.’ ”

Supreme Court of the United States

Nothing to report.