

Appellate Court Decisions - Week of 2/14/22

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

First Appellate District of Ohio

State v. Collins, C-210294

Ineffective assistance of counsel

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

“[T]rial counsel rendered ineffective assistance by allowing [appellant] to plead guilty without re-advising him that a guilty plea[, as opposed to a no contest plea,] would result in the waiver of his right to challenge the trial court’s denial of his motion to suppress on appeal.”

State v. Thomas, C-210312

Sentencing; misdemeanor

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

Appellant’s 12-month felony prison sentence for a misdemeanor conviction was contrary to law; trial court committed plain error by imposing such a sentence. Case remanded to correct sentence.

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

State v. Jenkins, 2022-Ohio-297 (companion case to last week's Dickerson case)

Pre-indictment

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2022/2022-Ohio-297.pdf>

Trial court erred when it denied appellant's motion to dismiss his rape case for the 20-year pre-indictment delay because he suffered actual prejudice. Appellant "was unable to seek verification of his story" from a key witness "who was with him on the night of the incident" because that witness had died during the lengthy delay.

State v. Bond, 2022-Ohio-373

Plea

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2022/2022-Ohio-373.pdf>

There was no error in the proceedings at the juvenile court, binding appellant over to adult court; however, trial court erred in accepting appellant's guilty plea without informing her of her right to a jury trial pursuant to Crim.R. 11(C)(2). Plea vacated and case remanded.

Ninth Appellate District of Ohio

State v. Hemphill, 2022-Ohio-326

Community control; extension not permitted

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2022/2022-Ohio-326.pdf>

Trial court erred when it extended appellant's community control for two years after the initial three-year term had expired. "A trial court loses authority to

initiate proceedings based on alleged community control violations after the term of community control has expired. See *[State v.] Rue*, 164 Ohio St.3d 270, 2020-Ohio-6706] at ¶ 20.”

State v. K.S., 2022-Ohio-365

Record sealing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2022/2022-Ohio-365.pdf>

Trial court erred when it denied appellant’s application to seal his conviction for obstructing justice, a felony of the fifth degree, due to “statutory ineligibility.” Appellant was an eligible offender; his conviction for obstructing justice was not precluded from record sealing under R.C. 2953.36(A). It was irrelevant that appellant was initially charged with unlawful sexual conduct with a minor, as that was not the offense for which he was convicted.

Tenth Appellate District of Ohio

State v. Browning, 2022-Ohio-386

Community control; unsuccessful termination not permitted

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/10/2022/2022-Ohio-386.pdf>

Trial court erred when it terminated appellant’s community control as unsuccessful after his three-year term had expired. “[O]nce the community control period has expired, the trial court lacks authority to ‘conduct proceedings’ on community control violations. *[State v.] Rue*, 164 Ohio St.3d 270, 2020-Ohio-6706] at ¶ 56.” Appellant had not been notified of any violations nor had revocation proceedings been commenced before his community control term had expired; and trial court lacked authority to conduct *any* proceedings, not just revocation, including unsuccessful termination.

Eleventh Appellate District of Ohio

State v. Gordon, 2022-Ohio-337

Sentencing; consecutive

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2022/2022-Ohio-337.pdf>

“The trial court failed to make any of the requisite findings to impose

consecutive sentences at the sentencing hearing and did not determine the presence of any R.C. 2929.14(C)(4)(a)-(c) factor in the sentencing entry. Thus, the trial court did not properly impose consecutive sentences.”

Twelfth Appellate District of Ohio

State v. Pope, 2022-Ohio-426

Sentencing; Reagan Tokes

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/12/2022/2022-Ohio-426.pdf>

The trial court erred in failing to provide appellant with all the required statutory notifications pursuant to R.C. 2929.19(B)(2)(c); case remanded for sole purpose of providing appellant with the notifications.

Supreme Court of Ohio

Nothing to report.

Sixth Circuit Court of Appeals

Nothing to report.

Supreme Court of the United States

Nothing to report.