Appellate Court Decisions - Week of 4/11/22

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

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. Daniel*, 2022-Ohio-1165**

Sentencing

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2022/2022-Ohio-1165.pdf

Trial court erred by imposing a prison sentence and also imposing a no-contact order. "In *State v. Anderson*, 143 Ohio St.3d 173, 2015-Ohio-2089, 35 N.E.3d 512, ¶ 32, the Ohio Supreme Court held that courts 'cannot impose a prison term and a community-control sanction for the same offense.' A no-contact order is a

community-control sanction. *Id.* at ¶ 17."

***State v. Vitumukiza*, 2022-Ohio-1170**

Sentencing; consecutive

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2022/2022-Ohio-1170.pdf

Although trial court's consecutive sentence findings were clearly and convincingly supported by sufficient evidence, court erred by failing to incorporate the R.C. 2929.14(C)(4) findings into the sentencing entry. Case remanded for trial court to issue a nunc pro tunc sentencing entry incorporating its findings.

Ninth Appellate District of Ohio

Nothing to report.

Tenth Appellate District of Ohio

Nothing to report.

Eleventh Appellate District of Ohio

***State v. Neyhard*, 2022-Ohio-1098**

Search; prolonged traffic stop

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2022/2022-Ohio-1098.pdf

Trial court erred in denying appellant's motion to suppress. Although initial traffic stop was justified, "the officer unreasonably prolonged the stop to await backup before conducting a free air sniff and did so without the reasonable suspicion necessary to do so. Therefore, the evidence obtained as a result of the search should have been suppressed."

***State v. Bentley*, 2022-Ohio-1099**

Right to Jury Trial; Waiver

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2022/2022-Ohio-1099.pdf

Trial court erred in conducting a bench trial; appellant had filed a valid, written jury demand, and appellant never waived his right to jury demand prior to the bench trial. "R.C. 2945.05 provides that a waiver of a jury trial 'shall be in writing, signed by the defendant, and filed in said cause and made a part of the record thereof.' R.C. 2945.05. 'The requirements of R.C. 2945.05 are clear and unambiguous' and '[i]n the absence of strict compliance with R.C. 2945.05, a trial court lacks jurisdiction to try the defendant without a jury.' [*State v.*] *Pless*[, 74 Ohio St.3d 333] at 337, 339[, 658 N.E.2d 766 (1996)]; *State v. Reese*, 106 Ohio St.3d 65, 2005-Ohio-3806, 831 N.E.2d 983, ¶ 9."

***State v. Graham*, 2022-Ohio-1140**

Sentencing

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2022/2022-Ohio-1140.pdf

After the OSC vacated appellant's death sentence for aggravated murder, and the trial court then sentenced him to life without the possibility of parole, COA finds that trial court abused its discretion when it denied appellant's request for a continuance of "the resentencing hearing to permit mitigation testimony from one of his expert witnesses." This refusal to grant a short continuance "constituted prejudicial error" and "mandates a new sentencing hearing. . . ."

Twelfth Appellate District of Ohio

Nothing to report.

Supreme Court of Ohio

***State v. Eatmon*, 2022-Ohio-1197**

Material-witness warrants

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/0/2022/2022-Ohio-1197.pdf

In state's appeal, the OSC held: "*When requesting that a court issue a material-witness warrant, state must establish, by oath or affidavit, probable cause to believe that the witness is material and that the warrant is necessary to procure the witness's attendance at trial.*" The state had argued that the Ohio statutes governing material-witnesses did not require personal service of the warrants nor an affidavit. The Court answered that "[w]hile this is true, individuals who may have information regarding a crime still have constitutional rights. . . Based on the language in the United States [Fourteenth

Amendment] and Ohio [Article I, Section 14] Constitutions, we now hold that material witnesses are entitled to these basic, fundamental rights and therefore agree with the Eighth District that the state's request for a warrant to detain a material witness must be by oath or affirmation and be supported by probable cause to believe that the witness is material and that the warrant is necessary to procure the witness's attendance at trial."

Sixth Circuit Court of Appeals

Nothing to report.

Supreme Court of the United States

Nothing to report.