

Appellate Court Decisions –Week of 5/16/22

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

First Appellate District of Ohio

State v. Celis, C-220078

Jail-time credit

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

Trial court erred in failing to credit appellant for time served in jail and in River City Correctional Center. State concedes error.

State v. Williams, 2022-Ohio-1572

Post-conviction relief

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/1/2022/2022-Ohio-1572.pdf>

Trial court erred in dismissing appellant petition for post-conviction relief without issuing findings of fact and conclusions of law as required by R.C. 2953.21(H).

State v. Henson, 2022-Ohio-1571

Suppression

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/1/2022/2022-Ohio-1571.pdf>

In state’s appeal, trial court did not err in suppressing the warrantless search of appellant’s person where there was no reasonable, articulable suspicion that appellant “was armed and dangerous and that the officers’ safety was in danger.” The only basis for the search was a report by Shot Spotter that indicated shots had been fired in the area which was not enough, without more, to justify the pat-down *Terry* search.

Second Appellate District of Ohio

Nothing to report.

Third Appellate District of Ohio

State v. York, 2022-Ohio-1626

Insufficient evidence - gross sexual imposition

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/3/2022/2022-Ohio-1626.pdf>

State did not present sufficient evidence to support two convictions for gross sexual imposition where victims' young age did not amount to impairment for purposes of ability to resist or give consent.

State v. Murphy, 2022-Ohio-1551

Consecutive sentences

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/3/2022/2022-Ohio-1551.pdf>

Trial court erred in ordering appellant's prison sentence to be served consecutively to a federal case where a prison sentence had not yet been imposed.

Fourth Appellate District of Ohio

Nothing to report.

Fifth Appellate District of Ohio

State v. Fenstermaker, 2022-Ohio-1540

Guilty plea

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2022/2022-Ohio-1540.pdf>

In convictions for two separate cases, although trial court advised appellant of his constitutional rights during the plea colloquy in one case, it failed to advise appellant of his constitutional rights during the plea colloquy of the other case.

Sixth Appellate District of Ohio

State v. Pelmear, 2022-Ohio-1534

Insufficient evidence - falsification, obstruction; hearsay - plain error

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2022/2022-Ohio-1534.pdf>

“[B]ecause the state failed to present any evidence demonstrating that appellant made a false statement. . . his conviction for falsification is based upon insufficient evidence.” Further, appellant did nothing to hamper or impede the police officer in the performance of his duties. Finally, it was plain error for the trial court to allow the police officer’s inadmissible hearsay testimony regarding the results of the LEADS inquiry where the LEADS report was never introduced into evidence.

State v. Marshall, 2022-Ohio-1533

Suppression; search of motel room

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2022/2022-Ohio-1533.pdf>

In state’s appeal, trial court did not err in suppressing the search of appellant’s motel room where his status as a guest had not been terminated so police officers were unlawfully present in the hotel room; there was not evidence presented that items were in plain view; and there was no indication that the housekeeper would have discovered nor turned over evidence to the police.

State v. Gifford, 2022-Ohio-1620

Consecutive sentences

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2022/2022-Ohio-1620.pdf>

In convictions for robbery, trial court erred in imposing consecutive sentences where the record does not support its finding that there was great or unusual harm; sentence modified to concurrent sentences.

State v. Jeremy, 2022-Ohio-1621

Consecutive sentences

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2022/2022-Ohio-1621.pdf>

In convictions for aggravated robbery, trial court erred in imposing consecutive sentences where the reason for consecutive sentences announced at the sentencing hearing was different than the reason articulated in the sentencing entry; remanded for corrected nunc pro tunc entry.

Seventh Appellate District of Ohio

State v. Goings, 2022-Ohio-1564

Guilty plea

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/7/2022/2022-Ohio-1564.pdf>

As trial court erred in providing inaccurate information regarding the grand jury process and in misleading appellant “regarding the standard of proof required for an indictment,” appellant “did not knowingly waive his constitutional right to indictment.” Guilty plea vacated.

Eighth Appellate District of Ohio

Nothing to report.

Ninth Appellate District of Ohio

Nothing to report.

Tenth Appellate District of Ohio

State v. Ferguson, 2022-Ohio-1648

PRC

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/10/2022/2022-Ohio-1648.pdf>

State concedes that trial court erred when it imposed PRC for appellant’s domestic violence conviction because that conviction had merged with appellant’s conviction for murder.

State v. Long, 2022-Ohio-1601

Reopening of appeal

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/10/2022/2022-Ohio-1601.pdf>

Application to reopen appeal pursuant to App.R. 26(B) based on ineffective assistance of counsel is granted; appellate counsel failed to raise as error vindictive sentencing by the trial court where sentence after first trial was 25 years to life, and sentence after second trial was 64 years to life.

Eleventh Appellate District of Ohio

State v. White, 2022-Ohio-1635

Jury trial waiver

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2022/2022-Ohio-1635.pdf>

In conviction for misdemeanor assault, trial court did not have authority to conduct a bench trial where appellant had demanded a jury trial and did not formally waive his right to such a jury trial.

Twelfth Appellate District of Ohio

State v. Smith, 2022-Ohio-1547

PRC

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/12/2022/2022-Ohio-1547.pdf>

State concedes that trial court erred when it failed “to advise him at sentencing that he would be subject to an optional three-year postrelease control term upon his release from prison.”

Supreme Court of Ohio

State v. West, 2022-Ohio-1556

Structural error; plain error

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/0/2022/2022-Ohio-1556.pdf>

Even if the trial judge questioning a defendant at trial rises to the level of structural error, but the defendant did not object, a plain-error analysis still applies, and appellant must demonstrate “that there was a plain or obvious error that affected the outcome of the trial and resulted in a manifest miscarriage of justice. . . .”

Sixth Circuit Court of Appeals

Nothing to report.

Supreme Court of the United States

Nothing to report.