

Appellate Court Decisions –Week of 7/11/22

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

State v. Hollycross, 2022-Ohio-2312

Sentence; PRC

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2022/2022-Ohio-2312.pdf>

Trial court erred when it “neglected to tell [appellant] that a post-release control violation may subject him to additional prison time of up to one-half of his original sentence.” State concedes error; case remanded for resentencing.

Third Appellate District of Ohio

Nothing to report.

Fourth Appellate District of Ohio

Nothing to report.

Fifth Appellate District of Ohio

State v. Hartfield, 2022-Ohio-2243

Merger

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2022/2022-Ohio-2243.pdf>

Trial court committed plain error when it failed to merge the rape and sexual battery convictions. “[T]here is no way to determine if the separate convictions relate to distinct acts of sexual conduct. Under the facts of this case, the elements of rape in Count 1 and sexual battery in Count 3 as set out in ¶ 14 above are the same * * * We find no difference between these two charged offenses and

because distinct acts of sexual conduct are not assigned to each count, appellant cannot be punished separately.”

Sixth Appellate District of Ohio

State v. Gumm, 2022-Ohio-2287

Plea

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2022/2022-Ohio-2287.pdf>

Appellant’s plea was not knowingly, intelligently, nor voluntarily made where “the trial court completely failed to comply with Crim.R. (C)(2)(a) * * * *” There were significant mistakes and misstatements made by the prosecutor at the plea hearing both as to the counts to which appellant was pleading and as to the counts that the state would be dismissing. . . Finally, the nunc pro tunc judgment that was issued ‘to correct the mistakes at the plea and sentencing hearings’ sets forth a completely different sentence from the one described at the sentencing hearing, with different terms of imprisonment applied to different counts. There is nothing in the record to suggest that appellant agreed to, or was even aware of, these changes. Even the state concede[d] that ‘[d]ue to the significant confusion that resulted from the mistakes in the initial plea sheet, the State agrees that Appellant’s plea should be vacated.’ ”

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

Nothing to report.

Ninth Appellate District of Ohio

State v. Pajestka, 2022-Ohio-2257

Prosecutorial misconduct

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2022/2022-Ohio-2257.pdf>

Trial court erred when it failed to hold an evidentiary hearing on appellant’s motion to dismiss based upon prosecutorial misconduct where the prosecutor threatened to immediately charge and have appellant arrested for falsification should he choose to testify at his OVI trial.

Tenth Appellate District of Ohio

Nothing to report.

Eleventh Appellate District of Ohio

State v. Swift, 2022-Ohio-2283

Jurisdiction

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2022/2022-Ohio-2283.pdf>

Trial court did not have jurisdiction to try appellant on the endangering children charge; “[p]ursuant to R.C. 2151.23(A)(6), ‘[t]he juvenile court has exclusive original jurisdiction * * * [t]o hear and determine all criminal cases in which an adult is charged with’ endangering children in violation of R.C. 2919.22(B)(1), ‘provided the charge is not included in an indictment that also charges the alleged adult offender with the commission of a felony arising out of the same actions that are the basis of the alleged violation.’” Appellant was charged with misdemeanor endangering children, with no felony indictment. Therefore, her conviction for endangering children was void and vacated.

Twelfth Appellate District of Ohio

State v. Rojas, 2022-Ohio-2333

Reverse bindover

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/12/2022/2022-Ohio-2333.pdf>

Following mandatory bindover to adult court for attempted murder and felonious assault, with guilty plea only to felonious assault and dismissal of attempted murder charge, trial court committed plain error in failing to stay six-year sentence and failing to apply the reverse-bindover procedures set forth in R.C. 2152.121(B)(3).

State v. Ellis, 2022-Ohio-2330

Community control conditions

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/12/2022/2022-Ohio-2330.pdf>

Trial court erred when it imposed “alcohol and drug related conditions of community control [which were] not reasonably related to rehabilitating appellant, ha[d] no relationship to the crimes of menacing and aggravated trespass of which appellant was convicted, and d[id] not relate to conduct which [was] reasonably related to future criminality.” The incident in the case did not involve drugs or alcohol; thus, the conditions “bear absolutely no relation to any of the circumstances surrounding the case.”

Supreme Court of Ohio

Nothing to report.

Sixth Circuit Court of Appeals

Nothing to report.

Supreme Court of the United States

Nothing to report.