Appellate Court Decisions –Week of 7/25/22

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

First Appellate District of Ohio

***State v. Ridley*, C-210458**

Community control; improper condition

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

In conviction for patient abuse, conviction affirmed; but trial court committed plain error "in imposing a lifetime ban on working in nursing homes as part of [appellant's community control] sentence."

Second Appellate District of Ohio

***State v. Harvey*, 2022-Ohio-2424**

Insufficient evidence; child endangering

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2022/2022-Ohio-2424.pdf

The state presented insufficient evidence to support appellant's convictions for child endangering. Although the house was cluttered, "it could not be said that the living conditions created a substantial risk to the health or safety of the children as required by R.C. 2919.22(A)." And although there was a marijuana bong present, it was out of the reach of appellant's 11-month old twins, appellant testified she never smoked in front of the twins; and there was no evidence that appellant acted upon her threats of self-harm "or otherwise engaged in conduct that threatened her children."

Third Appellate District of Ohio

Nothing to report.

Fourth Appellate District of Ohio

Nothing to report.

Fifth Appellate District of Ohio

***State v. Battle*, 2022-Ohio-2444**

Plea

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2022/2022-Ohio-2444.pdf

Appellant did not knowingly, intelligently, and voluntarily enter his guilty plea where "[i]n reviewing the Crim.R. 11 plea colloquy during the * * * plea hearing, the trial court clearly did not advise appellant of the possibility of terminating postrelease control and imposing a consecutive sentence for the violation; therefore, the plea must be vacated."

***State v. Biggs*, 2022-Ohio-2481**

Insufficient evidence; GSI

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2022/2022-Ohio-2481.pdf

Conviction for GSI is not supported by sufficient evidence where "the [s]tate failed to prove the element of force necessary for a conviction of gross sexual imposition * * * beyond the force of the act itself, which is legally insufficient to meet the "force" element of the crime of gross sexual imposition." But as the jury was instructed on the lesser included offense of sexual imposition, there was sufficient evidence to convict on that offense; case remanded to modify appellant's conviction to sexual imposition.

Sixth Appellate District of Ohio

***State v. Gonzalez*, 2022-Ohio-2433**

Manifest weight; disrupting school activity

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2022/2022-Ohio-2433.pdf

COA concludes that "this is the exceptional case in which the evidence weighs heavily against a conviction for disrupting school activity." Contrary to the testimony of two witnesses, "[t]he objective video evidence in this case, however, demonstrates that the appellant's conduct was not disruptive."

***State v. Thompson*, 2022-Ohio-2438**

New trial

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2022/2022-Ohio-2438.pdf

In 2008 conviction for complicity to aggravated murder, trial court erred in denying appellant's motion for a new trial. A 2016 change in Ohio case law, pursuant to *State ex rel. Caster v. City of Columbus*, 151 Ohio St.3d 425, 2016-Ohio-8394, 89 N.E.3d 598, "permitted [appellant] to gain access, via a public records request, to investigative work product that had not previously been made available to him ("the *Caster* records"). As these records indicated *Brady* violations involving the state's suppression of favorable evidence, the violations "undermine confidence in the verdict. There was a reasonable probability of a different outcome had this evidence been disclosed to the defense."

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

***State v. Guzman*, 2022-Ohio-2414**

Sentencing

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2022/2022-Ohio-2414.pdf

Trial court erred in sentencing appellant to 24 years to 28.5 years in prison without notifying him of the mandatory advisements under Reagan Tokes, R.C. 2929.19(B)(2)(c); case remanded for resentencing for court to provide advisements.

Ninth Appellate District of Ohio

Nothing to report.

Tenth Appellate District of Ohio

Nothing to report.

Eleventh Appellate District of Ohio

Nothing to report.

Twelfth Appellate District of Ohio

***State v. Humphrey*, 2022-Ohio-2456**

Forfeiture

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/12/2022/2022-Ohio-2456.pdf

Pursuant to plea negotiations, appellant agreed to plead guilty to CCW and "agreed to the forfeiture of the black-powder pistol" which was the subject of the charge; however, trial court erred in ordering forfeiture of several other weapons, including knives, swords and machetes as well as five firearms. Appellant's indictment did not contain any forfeiture specifications, the state did not pursue civil forfeiture under R.C. 2981.05, and the forfeiture of all the other weapons was not part of the plea agreement.

Supreme Court of Ohio

***State v. Brinkman*, 2022-Ohio-2550**

Fourth Amendment

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/0/2021/2022-Ohio-2550.pdf

"*Findings of guilt and death sentences affirmed—Trial court's judgment imposing postrelease control on counts that were merged with other counts reversed, and cause remanded to the trial court for it to vacate improperly imposed postrelease control.*"

Sixth Circuit Court of Appeals

Nothing to report.

Supreme Court of the United States

Nothing to report.