

## Appellate Court Decisions –Week of 9/26/22

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

### First Appellate District of Ohio

#### **State v. Rasool, C-210615 & C-210616**

Suppression

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

In state's appeal, trial court did not err in granting appellant's motion to suppress his warrantless arrest for OVI where there was not probable cause for such an arrest. Trial court's decision was proper and "based on the officer's failure to administer the field sobriety test properly and her inability to recall critical details from the night in question."

#### **State v. Murray, C-220243**

Denial of bond

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

Trial court erred in detaining appellant pretrial without bond. "[C]ourt failed to comply with the dictates of R.C. 2937.222 when it denied the motion to reset conditions for [appellant's] pretrial release." And COA finds that denial was "a final appealable order as contemplated by R.C. 2937.222."

#### **State v. Jackson, C-200332**

Sentencing; violent offender classification

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

In conviction for felonious assault, trial court erred in classifying appellant a violent offender under Sierah's Law, as he was not convicted of a predicate offense listed in R.C. 2903.41(A); state concedes error, as felonious assault is not a predicate offense. Trial court also "failed to properly inform [appellant] of the notifications set forth in R.C. 2929.19(B)(2)(c) when sentencing him under the Reagan Tokes Law." Case remanded to provide the notifications and remove the violent-offender classification from the sentencing entry.

### Second Appellate District of Ohio

#### **State v. Jones, 2022-Ohio-3162**

## Self-defense jury instruction

### Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2022/2022-Ohio-3162.pdf>

In conviction for murder, trial court erred in failing to instruct the jury on self-defense, “R.C. 2901.05(B), which has been recognized as part of the castle doctrine and which in certain circumstances creates a rebuttable presumption that a person using defensive deadly force has acted in self-defense.” As appellant had been lawfully seated in an acquaintance’s vehicle when the alleged victim unlawfully reached in to assault appellant and steal his firearm, he was entitled to the jury instruction on self-defense.

## Third Appellate District of Ohio

*State v. Pfeifer*, 2022-Ohio-3184

*State v. King*, 2022-Ohio-3185

*State v. Foust*, 2022-Ohio-3187

### Jail-time credit

### Full Decisions:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/3/2022/2022-Ohio-3184.pdf>

<https://www.supremecourt.ohio.gov/rod/docs/pdf/3/2022/2022-Ohio-3185.pdf>

<https://www.supremecourt.ohio.gov/rod/docs/pdf/3/2022/2022-Ohio-3187.pdf>

After appellants were granted judicial release and subsequently violated their community control, trial court did not err in revoking judicial release and reimposing the prison sentence. However, court did err in imposing the original three-year prison sentence, as opposed to reimposing the remaining portion of appellant’s prison sentence. Court also erred in failing to announce the number of days of jail-time credit appellant should receive. Case remanded “for the trial court to properly reimpose the balance remaining on [appellant’s] original prison term consistent with its own judgment entry granting judicial release subject only to the amount of ‘jail-time’ credit in accordance with R.C. 2929.19(B)(2)(g)(i).”

## 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

### ***State v. Dirocco, 2022-Ohio-3221***

Sentencing/earned reduction of sentence

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/7/2022/2022-Ohio-3221.pdf>

**Trial court erred in advising appellant that he was not eligible for earned reduction in his sentence pursuant to R.C. 2967.27(F)(1); case remanded for court to remove that advisement from the sentencing entry.**

## Eighth Appellate District of Ohio

### ***State v. W.C., 2022-Ohio-3235***

Record sealing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2022/2022-Ohio-3235.pdf>

**Trial court erred when it denied appellant's application to seal his criminal record without "mak[ing] a record for meaningful appellate review." State concedes error; case remanded for trial court to "state reasons for its judgment to demonstrate compliance with R.C. 2953.32(C)(1) factors."**

### ***State v. Brown, 2022-Ohio-3233***

Sentencing; community control

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2022/2022-Ohio-3233.pdf>

**In conviction for two counts of non-support, trial court erred when it advised appellant he would receive a prison sentence of 36 months if he violated his community control, when the maximum he can receive is two 12-month sentences or a total of 24 months. Court also erred when it imposed a condition that for five years, appellant could not be near a location where alcohol was used or served. Such condition "was not related to rehabilitation, administering justice or ensuring good behavior." Finally, court committed plain error when it**

**imposed a fine of \$7,500, when the maximum fine appellant could have received was \$5,000.**

**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. Gates, 2022-Ohio-3386**

**Jail-time credit**

**Full Decision:**

<https://www.supremecourt.ohio.gov/rod/docs/pdf/12/2022/2022-Ohio-3386.pdf>

**Trial court erred in failing to grant appellant 15 days of jail-time credit for the period of time he was locked up that was related exclusively to a new felony 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.*