Appellate Court Decisions –Week of 9/6/22

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

***State v. Sponsler*, 2022-Ohio-2916**

Right to counsel

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/3/2022/2022-Ohio-2916.pdf

In conviction for felony drug offenses, appellant's waiver of counsel was not knowingly and intelligently given. No written waiver of counsel as required by Crim.R. 44(C) appeared in the record of the proceedings, and "the record does not show that a colloquy occurred where the trial court explained the charges, the possible sentences, or the possible defenses and mitigation before proceeding to allow the defendant to represent himself."

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. Bradley*, 2022-Ohio-2954**

Application for reopening

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2022/2022-Ohio-2954.pdf

Application for reopening appeal in accordance with App.R. 26(B) for ineffective assistance of appellate counsel is granted; appellate counsel failed to assign as error the trial court's failure to properly notify appellant of the Reagan Tokes advisements under R.C. 2929.19(B)(2(c). Case remanded for trial court to provide those notifications.

Ninth Appellate District of Ohio

Nothing to report.

Tenth Appellate District of Ohio

Nothing to report.

Eleventh Appellate District of Ohio

***State v. Stoutamire*, 2022-Ohio-2926**

Motion for reconsideration

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2022/2022-Ohio-2926.pdf

Pursuant to the recent OSC holding in *State v. Bethel*, Slip Opinion 2022-Ohio-783, appellant "has demonstrated extraordinary circumstances justifying the filing of a delayed application for reconsideration, [however, COA] find[s] that application fails to demonstrate that reconsideration is warranted. Although this court's statement that [appellant's] failure to move for a new trial within a reasonable time of the discovery of the new evidence was erroneous in light of *Bethel*, that part of the holding was not determinative of the appeal." COA holds its prior decision on the alternate ground that appellant "has failed to establish that he was unavoidably prevented from obtaining the evidence for which his motion is based upon" is sufficient to deny reconsideration.

Twelfth Appellate District of Ohio

Nothing to report.

Supreme Court of Ohio

***State v. Sanford*, 2022-Ohio-3107**

Statutory speedy trial

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/0/2022/2022-Ohio-3107.pdf

" *R.C. 2945.71—Speedy trial—New charges against a defendant added after the defendant's arrest get a new speedy-trial period if at the time the initial charges were filed, the state did not have all the information necessary to bring the additional related charges."* In this case, on October 6, 2016, appellant was charged with failure to stop after an accident when he fled from his car after hitting and killing a motorcycle driver. Subsequently, after weeks of investigation, DNA taken from the driver's side confirmed appellant was the driver; and the state received the results from a blood draw taken from appellant the night of the crash. The results indicated that appellant was driving with a prohibited level of marijuana metabolites in his system. On December 29, 2016, he was indicted for two counts of aggravated vehicular homicide, two counts of OVI, failure to stop after accident, driving under suspension, and driving without a license. Because "the state had all the information necessary to bring" the latter three charges at the time of the initial arrest, those were properly dismissed by the trial court because the statutory speedy time period had expired. And the COA concluded that one count of aggravated vehicular homicide based on recklessness and one count of OVI based on impaired driving should also have been dismissed. However, the speedy trial time for the per se aggravated vehicular homicide count and OVI count had not expired because "toxicology results trigger a new speedy-trial period for charges premised on the commission of a per se OVI offense," following *State v. Baker*, 78 Ohio St.3d 108, 676 N.E.2d 883 (1997); and *State v. Adams*, 43 Ohio St.3d 67, 538 N.E.2d 1025 (1989).

Sixth Circuit Court of Appeals

Nothing to report.

Supreme Court of the United States

Nothing to report.