

Appellate Court Decisions –Week of 11/14/22

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

First Appellate District of Ohio

State v. Bailey, C-210584

Suppression; *Miranda*

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

Trial court erred when it denied appellant’s motion to suppress his statements, as well as any evidence found based on those statements. After appellant’s vehicle was stopped due to a missing headlight, he “was handcuffed at the time of his statement, at least five police officers were on the scene, and he was asked about the presence of contraband multiple times before making his admission.” He was also “searched, and taken away from his vehicle to a police cruiser * * * appellant’s car was entirely blocked in * * * [and] [t]he environment was also threatening and intimidating.” Appellant’s statements should have been suppressed, as well as the firearm discovered in his vehicle during the subsequent search.

Second Appellate District of Ohio

State v. Stargell, 2022-Ohio-3847

Juror dismissal

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2022/2022-Ohio-3847.pdf>

Trial court erred when it discharged a juror after deliberations had commenced. The dismissed juror did not give any “indication that he was unable or unwilling to perform is duty * * * and there is no evidence that Juror No. 7 willfully withheld information that would have served to disqualify him from further deliberations.”

Third Appellate District of Ohio

State v. Bell, 2022-Ohio-3876

Jail-time credit

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/3/2022/2022-Ohio-3876.pdf>

Following judicial release and violation of such release, trial court erred in sentencing appellant to the original 36-month prison term instead of reimposing the remaining prison time appellant had left after the time he originally spent in prison before his judicial release. Court also erred when it failed to calculate the credit for “the period of time between his arrest and conveyance from Kentucky to on the Ohio warrant.” Case remanded.

Fourth Appellate District of Ohio

Nothing to report.

Fifth Appellate District of Ohio

State v. Stutler, 2022-Ohio-3838

NGRI

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2022/2022-Ohio-3838.pdf>

Trial court erred in denying a recommended change in appellant’s commitment conditions to a least restrictive level change, as court lacked discretion to deny such change where the state failed to present “clear and convincing evidence that the proposed change to a less restrictive status represents a threat to public safety or a threat to the safety of any person.” R.C. 2945.401(G)(2).

Sixth Appellate District of Ohio

Nothing to report.

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

Cleveland v. McGervey, 2022-Ohio-3911

Transcript for appeal

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2022/2022-Ohio-3911.pdf>

Because the proceedings and bench trial failed to be recorded, appellant “has demonstrated that meaningful appellate review cannot be achieved in this case given the magnitude of the missing record [including the entirety of the prosecution’s case-in-chief] and her inability to comply with App.R. 9.” Case remanded for new trial.

State v. Burgos, 2022-Ohio-3919

Sentencing; no contact order, postrelease control, and allied offenses

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2022/2022-Ohio-3919.pdf>

Trial court committed plain error when it sentenced appellant to a mandatory term of postrelease control for five years, as correct term is no less than two years and no more than five. Court also erred in imposing a no-contact order, as that is a condition of community control, but appellant was not sentenced to community control. Finally, court erred in not merging the aggravated burglary sentence with the sentence for burglary.

Ninth Appellate District of Ohio

State v. Sanders, 2022-Ohio-3906

Intervention in lieu of conviction

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2022/2022-Ohio-3906.pdf>

Trial court erred as a matter of law in finding appellant was not eligible for intervention in lieu of conviction because of her “extensive prior record” of 18 misdemeanors. However, an extensive record of misdemeanors does not disqualify an offender from being eligible under R.C. 2951.041(B). Case remanded for court to determine appellant’s eligibility; and, if eligible, whether she “is a good or appropriate candidate for intervention in lieu of conviction.”

Tenth Appellate District of Ohio

Nothing to report.

Eleventh Appellate District of Ohio

State v. Mills, 2022-Ohio-3866

Consecutive sentences

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2022/2022-Ohio-3866.pdf>

Trial court erred at both the sentencing hearing and in the sentencing entry by failing to make a third finding under R.C. 2929.14(C)(4) to support the imposition of consecutive sentences. COA remands with instructions to make appellant's sentence for tampering with evidence concurrent to sentences for felonious assault and gun specifications.

Twelfth Appellate District of Ohio

Nothing to report.

Supreme Court of Ohio

State v. Blanton, 2022-Ohio-3985

Postconviction petition; ineffective assistance of counsel

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/o/2022/2022-Ohio-3985.pdf>

“Postconviction claims alleging a denial of the constitutional right to effective assistance of counsel are not barred by res judicata if the claims cannot be meaningfully reviewed without resorting to evidence outside the trial record.”

Appellant's request that “res judicata never applies to postconviction ineffective-assistance-of-counsel claims * * * [where] one could always raise a postconviction claim ineffective assistance of counsel even when the claim could have been raised and addressed on direct appeal” is rejected by the OSC.

Sixth Circuit Court of Appeals

United State v. Jones, No. 21-3636

Plea

Full Decision:

<http://www.opn.ca6.uscourts.gov/opinions.pdf/22a0242p-06.pdf>

Appellant's guilty plea was not knowingly and voluntarily made where the district court failed to warn appellant that it could impose a sentence greater than what the parties had calculated utilizing the sentencing guidelines.

Supreme Court of the United States

Nothing to report.