

Appellate Court Decisions –Week of 1/3/23

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

First Appellate District of Ohio

State v. Hendrix, C-210679

Allied offenses

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

Trial court erred when it failed to merge appellant’s aggravated robbery count with a kidnapping count; “the aggravated robbery and kidnapping of Smith were allied offenses of similar import, committed together, and with no separate animus. . . .”

Second Appellate District of Ohio

Nothing to report.

Third Appellate District of Ohio

Nothing to report.

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. Ellison, 2022-Ohio-4518

Consecutive sentences; breach of plea agreement

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2022/2022-Ohio-4518.pdf>

Trial court erred in imposing consecutive sentences when it “told [appellant] that, if he pled guilty, it would not impose consecutive sentences. This promise was an inducement to enter a plea pursuant to *Blackburn*, [8th Dist. Cuyahoga Nos. 97811 and 97812, 2012-Ohio-4590]. Nevertheless, the court imposed consecutive sentences.”

***State v. Green*, 2022-Ohio-4524**

Restitution

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2022/2022-Ohio-4524.pdf>

Trial court erred by failing to hold a restitution hearing after appellant objected to the imposition of restitution. Case remanded for hearing.

Ninth Appellate District of Ohio

Nothing to report.

Tenth Appellate District of Ohio

Nothing to report.

Eleventh Appellate District of Ohio

***State v. Kurdi*, 2022-Ohio-4459**

Withdrawal of guilty plea

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2022/2022-Ohio-4459.pdf>

Trial court erred in denying appellant’s post-sentence motion to withdraw his plea without a hearing “where the record demonstrates he has a colorable claim for ineffective assistance of counsel.” Trial counsel failed to advise appellant of the immigration consequences of his plea, namely that “by entering his plea, he would be mandatorily deported.”

Twelfth Appellate District of Ohio

Nothing to report.

Supreme Court of Ohio

Nothing to report.

Sixth Circuit Court of Appeals

Villa v. United States, No. 22-5437

Motion to set aside sentence

Full Decision:

<http://www.opn.ca6.uscourts.gov/opinions.pdf/23a0001p-06.pdf>

District court erred in denying appellant's request for an evidentiary hearing on his motion to set aside his sentence and motion to amend his motion to set aside. COA rules that the motions were not untimely because there was conflicting affidavits as to whether appellant's trial attorney had ever informed him of the government's offer to run his sentence concurrent with other district court's sentences if he cooperated. Case remanded for a hearing.

Supreme Court of the United States

Nothing to report.