

Appellate Court Decisions –Week of 7/3/23

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

First Appellate District of Ohio

State v. Robinson, C-220484

Sufficiency; criminal damaging

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

Appellant's conviction for criminal damaging of an automobile was not supported by sufficient evidence where the state failed to prove that the owner of the vehicle did not consent to appellant damaging it, an essential element pursuant to R.C. 2909.06(A)(1). Conviction vacated, and appellant discharged.

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

State v. Hermes, 2023-Ohio-2011

Guilty plea

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2023/2023-Ohio-2011.pdf>

Appellant's guilty pleas "were not made knowingly, voluntarily, and intelligently" where "the trial court did not strictly comply with Crim.R. 11(C)(2)(c) with respect to appellant's constitutional right to a jury trial * * * *. Pleas vacated and case remanded.

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

Nothing to report.

Ninth Appellate District of Ohio

State v. Grissom, 2023-Ohio-2038

Waiver of jury trial

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2023/2023-Ohio-2038.pdf>

In conviction for robbery, "trial court committed reversible and plain error because it conducted a bench trial without a valid jury trial waiver * * * In order to properly waive [appellant's] constitutional right to a jury trial, the procedure for a written waiver under R.C. 2945.05 must have been strictly followed, but in his case, it was not." The docket in the case failed to "contain a time-stamped written jury trial waiver signed by [appellant]." Conviction vacated, and case remanded.

Tenth Appellate District of Ohio

Nothing to report.

Eleventh Appellate District of Ohio

State v. Servantes, 2023-Ohio-2029

Guilty plea

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2023/2023-Ohio-2029.pdf>

Appellant's guilty pleas "were not knowingly, intelligently, and voluntarily made" where the trial court failed to inform appellant that his failure to comply conviction "carried a mandatory, consecutive sentence and of the maximum penalty for fifth-degree felonies." Pleas vacated and case remanded.

Twelfth Appellate District of Ohio

State v. Gilbert, 2023-Ohio-2274

Judicial release

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/12/2023/2023-Ohio-2274.pdf>

In state's appeal, trial court did not err in granting appellant's motion for judicial release. COA rejected state's argument "that if at sentencing, a trial court makes the R.C. 2929.14(C)(4)(b) finding when imposing a consecutive sentence, the offender must serve, as a matter of law, at least the first two prison terms of his consecutive sentence before he is eligible for judicial release * * * the General Assembly has chosen to make judicial release unavailable where certain offenses are involved, based upon the status of the offender or the nature of the prison term. Absent from these numerous restrictions on the availability of judicial release is one based upon a R.C. 2929.14(C)(4)(b) consecutive sentence finding. Because the General Assembly has enacted numerous explicit restrictions on judicial release, we decline the state's invitation to find one implicit in the language of R.C. 2929.14(C)(4)(b)."

Supreme Court of Ohio

Nothing to report.

Sixth Circuit Court of Appeals

Nothing to report

Supreme Court of the United States

Nothing to report