

## Appellate Court Decisions –Week of 8/21/23

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

### First Appellate District of Ohio

#### **State v. Wilcox, C-220472**

Confrontation clause

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

In convictions for murder and felonious assault, trial court erred when it “allowed a prejudicial video interview of a nontestifying witness to be played at trial \* \* \* [h]aving determined that the statements contained in Officer Price’s body-worn camera footage were testimonial in nature, they could only be admissible if Ms. Monroe were present and available for cross-examination or if Mr. Wilcox had a prior opportunity to cross-examine her. *See Crawford*, 541 U.S. at 68, 124 S.Ct. 1354, 158 L.E.2d 177. As neither of these circumstances occurred, the admission of her police interview violated the requirements of the Confrontation Clause.” And the error was not harmless, as there were no other witnesses to the shooting besides Ms. Monroe; there was a reasonable possibility that her statement contributed to the convictions; and the case was “much weaker” without the statement. Case remanded for a new trial.

#### **State v. Frye, C-220537**

Sufficiency; failure to disclose personal information

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

In conviction for failure to disclose personal information, the state did not present sufficient evidence to support the conviction where there was no evidence that the police officer ever asked appellant to provide that information.

### Second Appellate District of Ohio

#### **State v. Arrington, 2023-Ohio-2606**

Bond forfeiture

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2023/2023-Ohio-2606.pdf>

Trial court erred in ordering a forfeiture of an OR bond “because the defendant, Wayne L. Arrington III, was produced within 60 days after he failed to appear in court” pursuant to R.C. 2937.36(C).

**State v. Reed, 2023-Ohio-2612**

Jail-time credit

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2023/2023-Ohio-2612.pdf>

As “trial court failed to address the jail-time credit to which [appellant] was entitled at the time of sentencing \* \* \* he is granted a limited remand solely for purposes of imposing jail-time credit.”

**Third Appellate District of Ohio**

*Nothing to report.*

**Fourth Appellate District of Ohio**

**State v. Conn, 2023-Ohio-2669**

Consecutive sentences

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/4/2023/2023-Ohio-2669.pdf>

Trial court erred in imposing consecutive sentences without making the requisite findings at the sentencing hearing pursuant to R.C. 2929.14(C)(4). Case remanded for resentencing.

**Fifth Appellate District of Ohio**

*Nothing to report.*

**Sixth Appellate District of Ohio**

**State v. Alliman, 2023-Ohio-2617**

Application for reconsideration

**Full Decision:**

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2023/2023-Ohio-2617.pdf>

Application for reconsideration pursuant to App.R. 26(A)(1) is granted. Prior “decision in appellant’s direct appeal, affirming the judgment of the Ottawa County Court of Common Pleas, and holding inter alia, that a licensed independent social worker, Diane Ottney, did not offer expert testimony requiring her to be qualified as an expert” was erroneous. Ms. Ottney did not offer testimony just as a lay person “regarding observations of human behavior; instead, she testified “as to the specifics of delayed disclosure” which requires “specialized training or expertise.” Because Ms. Ottney was an expert, the state was required by Crim.R. 16(K) to provide an expert report, but it did not. And the error was not harmless, as “Ottney’s expert testimony bolstered the credibility of the victims in this case.” Case remanded for a new trial.

***State v. Kleinhans, 2023-Ohio-2621***

**Jail-time credit**

**Full Decision:**

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2023/2023-Ohio-2621.pdf>

Trial court erred in failing to include appellant’s jail-time credit in her sentencing entries. Case remanded for court to amend the sentencing entry to include the earned jail-time credit.

***State v. Townsend, 2023-Ohio-2625***

**Cost of confinement and supervision**

**Full Decision:**

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2023/2023-Ohio-2625.pdf>

Trial court erred in imposing the costs of confinement and supervision in its sentencing entry when it did not impose those costs at the sentencing hearing. Judgment ordering such costs is vacated.

**Seventh Appellate District of Ohio**

*Nothing to report.*

## Eighth Appellate District of Ohio

*Nothing to report.*

## Ninth Appellate District of Ohio

*Nothing to report.*

## Tenth Appellate District of Ohio

***State ex rel. Braddy v. Hoying, 2023-Ohio-2597***

Writ of mandamus/PRC violation

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/10/2023/2023-Ohio-2597.pdf>

After petitioner was sentenced to 270 days for a violation of his PRC, he filed for a writ of mandamus, seeking to have the Ohio Parole Authority hold a new PRC revocation hearing and find him not guilty of Rule 4 which stated he would “not purchase, possess, own, use or have under my control, any firearms, ammunition, dangerous ordnance, devices used to immobilize or deadly weapons, or any device that fires or launches a projectile of any kind. I will obtain written permission from the Adult Parole Authority prior to residing in a residence where these items are securely located.” Writ granted, as the fact that petitioner was shot and was in the vicinity where a second person was shot “did not establish, by a preponderance of the evidence” that petitioner was in actual possession of a firearm. Nor did the Parole Authority establish, by a preponderance of the evidence, that petitioner constructively possessed a firearm. The Parole Authority was ordered to vacate the PRC violation finding, find petitioner not guilty of violating Rule 4, “and issue a new sanction on the remaining violations.”

## Eleventh Appellate District of Ohio

***State v. Miller, 2023-Ohio-2651***

Record sealing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2023/2023-Ohio-2651.pdf>

**Trial court erred in denying appellant’s application to seal the record of a**

dismissed indictment without holding a hearing. The “existing record demonstrates factual issues regarding [appellant’s] eligibility to seal the records in the underlying case.” Therefore, a hearing was required. Case remanded for the trial court to hold a hearing to determine appellant’s eligibility.

**Twelfth Appellate District of Ohio**

*Nothing to report.*

**Supreme Court of Ohio**

*Nothing to report.*

**Sixth Circuit Court of Appeals**

*Nothing to report.*

**Supreme Court of the United States**

*Nothing to report.*