

Appellate Court Decisions –Week of 9/5/23

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

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

State v. Baker, 2023-Ohio-2747

Reagan Tokes notifications

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/7/2023/2023-Ohio-2747.pdf>

In conviction for felonious assault, “trial court failed to inform [appellant] at the sentencing hearing as to any of the five R.C. 2929.19(B)(2)(c) notifications required under the Reagan Tokes Law when sentencing an offender to an indefinite sentence.” Case remanded for resentencing.

Eighth Appellate District of Ohio

State v. Griffin, 2023-Ohio-2776

Reagan Tokes notifications

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2023/2023-Ohio-2776.pdf>

In convictions for burglary, forgery, and theft, “trial court did not provide the statutory advisements regarding the indefinite sentence” to appellant. Case remanded “for the sole purpose of providing [appellant]” these advisements “as required by R.C. 2929.19(B)(2)(c).

State v. Bukovec, 2023-Ohio-2774

Sentencing; community control

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2023/2023-Ohio-2774.pdf>

In convictions for assault and aggravated menacing where trial court initially sentenced appellant to community control with suspended six-month jail sentences on both counts and appellant violated that community control, trial court erred in imposing a six-month jail sentence on one count with continued community control on the other count. Since the trial court did not impose the initial suspended sentences for the two counts consecutively, the sentences were concurrent terms. Therefore, once appellant had served his jail term, his community control “terminated by operation of law.

Ninth Appellate District of Ohio

In re T.M., 2023-Ohio-2804

Delinquency; SYO

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2023/2023-Ohio-2804.pdf>

In adjudication for complicity to commit robbery with one-year gun specification and an SYO specification, juvenile court erred in sua sponte imposing the SYO sentence without meeting the requirements of R.C.

2152.14(E). COA found there was not clear and convincing evidence presented that appellant “has engaged in further bad conduct * * * and is ‘unlikely to be rehabilitated during the remaining period of juvenile jurisdiction.’” The evidence presented was through an unsworn witness, which such “unsworn statements do not constitute evidence of the facts contained in those statements;” hearsay, which does not “qualif[y] as clear and convincing evidence under the controlling statute, R.C. 2152.14(E), and has [no] probative value concerning whether [appellant’s] SYO sentence should be invoked;” and indictments on pending charges which “were issued on the existence of probable cause, a lesser quantum of evidence than clear and convincing evidence.” SYO sentence vacated and case remanded.

Tenth Appellate District of Ohio

State v. Solt, 2023-Ohio-2779

Jury waiver

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/10/2023/2023-Ohio-2779.pdf>

“[T]rial court erred by conducting a bench trial without a signed written waiver of [appellant’s] right to a jury trial.” Conviction reversed and case remanded for a new trial.

Eleventh Appellate District of Ohio

Nothing to report.

Twelfth Appellate District of Ohio

Nothing to report.

Supreme Court of Ohio

Nothing to report.

Sixth Circuit Court of Appeals

United State v. Lewis, No. 22-5593/5800

Suppression; good-faith exception

Full Decision:

<http://www.opn.ca6.uscourts.gov/opinions.pdf/23a0206p-06.pdf>

In convictions for child pornography, district court erred in finding that the good-faith exception to the exclusionary rule applied to the search of [appellant's] laptop, cell phone, and thumb drive. The search warrant was not supported by probable cause, as the affidavit of the detective failed to establish such probable cause. And the good-faith exception did not apply because the affidavit was a “bare bones” affidavit, “so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable.” COA also rejects government’s arguments that appellant consented or that the items were in plain view. Denial of motion to suppress and conviction reversed.

Supreme Court of the United States

Nothing to report.