

Appellate Court Decisions –Week of 1/8/24

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

State v. Bush, 2023-Ohio-4473

Sentencing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/3/2023/2023-Ohio-4473.pdf>

After bindover and conviction for, inter alia, complicity to murder, trial court failed to consider appellant’s “youth and its characteristics as mitigating factors” prior to sentencing and pursuant to R.C. 2929.19(B)(1). Case remanded for resentencing, as sentence was “clearly and convincingly contrary to law.”

State v. Warnick, 2023-Ohio-4480

Sentencing; prison and community control

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/3/2023/2023-Ohio-4480.pdf>

Trial court erred in imposing a prison term and a no-contact order. A no-contact order is a community control sanction, and appellant cannot be sentenced to both a prison term and community control for the same offense. *State v. Anderson*, 143 Ohio St.3d 173, 2015-Ohio-2089.

Fourth Appellate District of Ohio

Nothing to report.

Fifth Appellate District of Ohio

State v. Lynn, 2023-Ohio-4429

Community control sanctions; medical marijuana

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2023/2023-Ohio-4429.pdf>

After conviction for attempted felonious assault, appellant was placed on three years of community control with a condition being that he “abstain from consuming alcohol and from using illegal/non-prescribed drugs * * *.” Appellant then obtained a medical marijuana card and filed a motion requesting that he be permitted to lawfully use marijuana while on community control. Trial court erred when it denied appellant’s motion. “[J]udge abused his discretion when he denied [appellant’s] request to be allowed to use medical marijuana while under community control sanctions because the restriction is overly broad on non-constitutional grounds in violation of *State v. Talty*, 103 Ohio St.3d 177, 2004-Ohio-4888, 814 N.E.2d 1201.

Sixth Appellate District of Ohio

State v. Manning, 2023-Ohio-4455

Plea

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2023/2023-Ohio-4455.pdf>

Defense counsel entered a plea of no contest on behalf of appellant. However, appellant was never asked if he wanted to enter such a plea, and the trial “court did not advise [appellant] of the effect of his plea, as the court did not inform [him] of the Crim.R. 11(B)(2) language: that a no contest plea is an admission of the truth of the facts alleged in the complaint, not an admission of guilt, or that the plea or admission shall not be used against him in any future civil or criminal proceeding.” As the court completely failed to comply with Crim.R. 11, case remanded.

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

State v. McMahon, 2023-Ohio-4532

Magistrate's decision/objections/notice

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2023/2023-Ohio-4532.pdf>

In conviction for building code violations, convictions vacated and case remanded. Although appellant failed to object to the magistrate's decision, that "decision did not comport with Crim.R. 19(D)(3)(a)(iii). The magistrate was required to conspicuously note in the decision that 'a party shall not assign as error on appeal the court's adoption of any factual finding or legal conclusion; * * *, unless the party timely and specifically objects to that factual finding or legal conclusion.'" Appellant was prejudiced by this lack of notice where his failure to object led to his conviction.

Ninth Appellate District of Ohio

Nothing to report.

Tenth Appellate District of Ohio

State v. Brown, 2023-Ohio-4436

Community control violation; right to counsel

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/10/2023/2023-Ohio-4436.pdf>

Although trial court had the authority to conduct the community control revocation hearing, it erred when it allowed appellant to proceed without an attorney and without a valid waiver of his constitutional right to counsel under the Sixth Amendment. Case remanded for new revocation proceedings.

Eleventh Appellate District of Ohio

State v. Hill, 2023-Ohio-4486

Death penalty; postconviction

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2023/2023-Ohio-4486.pdf>

“When an individual sentenced to death previously filed a petition for postconviction relief under *Atkins v. Virginia*, 536 U.S. 304, 122 S.Ct. 2242, 153 L.Ed.2d 335 and it was denied, * * * he [may] file a Civ.R. 60(B) motion for relief from judgment * * * [and] it is the appropriate motion to file to seek relief from the civil judgment that was entered on his petition for postconviction relief.”

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.