

Appellate Court Decisions –Week of 2/12/24

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

State v. Holbert, 2024-Ohio-175

Sentencing; Reagan Tokes/PRC

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2024/2024-Ohio-175.pdf>

Although the trial court included the proper information in the sentencing entry, it failed to properly notify appellant at his sentencing hearing of all the information contained in R.C. 2929.19(B)(2)(c). Court also failed to properly notify appellant of his PRC obligations. State concedes error. Case remanded for resentencing.

State v. Bennett, 2024-Ohio-274

Demand for jury trial

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2024/2024-Ohio-274.pdf>

Trial court erred in denying appellant's jury demand as untimely. Since the court granted a continuance of the trial from October 31, the same day the jury demand was filed, to November 3, it was timely. Crim.R. 23(A) provides that the jury "demand must be in writing and filed with the clerk of court not less than ten days prior to the date set for trial, or on or before the third day following receipt of notice of the date set for trial, whichever is later * * * The time limits of Crim.R. 23(A) regarding the filing of a jury demand are to be computed with respect to the last scheduled trial date. Where a jury demand is not timely filed with respect to the originally scheduled trial date, a continuance of the trial will renew the time within which to file a jury demand." *City of Tallmadge v. DeGraft-Biney*, 39 Ohio St.3d 300, 530, N.E.2d 1310 (1988).

Third Appellate District of Ohio

State v. Shockey, 2024-Ohio-296

Jury verdict form

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/3/2024/2024-Ohio-296.pdf>

In convictions for two counts of assault and one count of OOB, all felonies, with an aggregate prison sentence of 48 months, all three of the jury verdict forms “did not contain the degrees of the offenses or the additional enhancing elements of the offenses pursuant to R.C. 2945.75[;] thus [appellant] could only be convicted of the lowest forms of the offenses pursuant to *State v. Pelfrey*, 112 Ohio St.3d 422, 2007-Ohio-256, 860 N.E.2d 735.” Appellant’s felony convictions and sentences were reversed, and the trial court instructed to enter convictions for three misdemeanors of the first degree and sentence appellant accordingly.

Fourth Appellate District of Ohio

Nothing to report.

Fifth Appellate District of Ohio

State v. Fox, 2024-Ohio-349

No contest plea

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2024/2024-Ohio-349.pdf>

Appellant’s no contest plea “was not knowingly, voluntarily, and intelligently entered because the trial court did not inform him that a guilty plea is a complete admission of guilt pursuant to Crim.R. 11(B)(1).”

State v. Williamson, 2024-Ohio-327

Repeat violent offender specifications

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2024/2024-Ohio-327.pdf>

Trial court erred when it imposed repeat-violent-offender prison time without making “the requisite findings of fact regarding the repeat violent offender specifications.” Case remanded for court to make those findings.

Sixth Appellate District of Ohio

Nothing to report.

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

State v. Sims, 2024-Ohio-250

Sufficiency; GSI

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2024/2024-Ohio-250.pdf>

In convictions for three counts of GSI, although the state presented sufficient evidence for two counts, it did not present sufficient evidence to support the third conviction. “[T]he record is devoid of testimony demonstrating that [appellant] engaged in a third instance of gross sexual imposition * * * the Child Victim did not provide any additional testimony to suggest that [appellant] continued or otherwise reengaged in sexual contact with the Child Victim after she moved her body away from him on the couch. The record is simply silent on this issue.” Appellant discharged as to the third count of GSI.

State v. Hanshaw, 2024-Ohio-253

Consecutive sentences

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2024/2024-Ohio-253.pdf>

In convictions for multiple offenses, trial court erred by failing to make consecutive sentence findings pursuant to R.C. 2929.14(C)(4) for appellant’s convictions for drug possession and WUD. Case remanded for a resentencing hearing.

State v. W.A.R., 2024-Ohio-256

Record sealing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2024/2024-Ohio-256.pdf>

Trial court erred in denying appellant’s application to seal his conviction for misdemeanor assault without holding a hearing. Also, trial court’s prior order finding that appellant’s restitution had been paid in full was not appealed by the state; thus, that order stands.

Ninth Appellate District of Ohio

Nothing to report.

Tenth Appellate District of Ohio

Nothing to report.

Eleventh Appellate District of Ohio

Nothing to report.

Twelfth Appellate District of Ohio

State v. Gable, 2024-Ohio-293

Consecutive sentences

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/12/2024/2024-Ohio-293.pdf>

Although “the trial court included all the necessary findings under R.C. 2929.14(C)(4) to support the imposition of consecutive sentences in its July 6, 2023 sentencing entry,” it erred by failing “to make the required necessity and proportionality findings at the sentencing hearing. State concedes error. Case remanded for resentencing.

State v. Downing, 2024-Ohio-381

Consecutive sentences

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/12/2024/2024-Ohio-381.pdf>

Although the trial court made the necessary consecutive sentence findings at the sentencing hearing, it failed to incorporate those findings in its sentencing entry. Case remanded for limited purpose of issuing a nunc pro tunc sentencing entry to reflect the trial court's statutory findings under R.C. 2929.14(C)(4).

Supreme Court of Ohio

State v. Palmer, 2024-Ohio-539

Self-defense

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/o/2024/2024-Ohio-539.pdf>

“R.C. 2901.05—Self-defense jury instruction—Appellant entitled to self-defense jury instruction because he met his burden of production by presenting legally sufficient evidence for each element of defense.”

OSC finds that the “burden of production is de minimis and can be satisfied with the state’s own evidence.”

Sixth Circuit Court of Appeals

Nothing to report.

Supreme Court of the United States

Nothing to report.