

Appellate Court Decisions –Week of 2/5/24

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. Gronbeck, 2023-Ohio-26

Marsy's Law/subpoenas/jurisdiction

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2024/2024-Ohio-26.pdf>

After appellant-doctor was indicted for criminal charges involving sexual exploitation of several of his patients, he subpoenaed the records of former patients. Such patients moved to quash the subpoenas, citing Marsy's Law. Trial court refused to quash the subpoenas, ordering an in-camera inspection. Two patients appealed. COA holds that ruling was not a final appealable order so it had no jurisdiction to hear the appeal.

State v. Worthan, 2024-Ohio-21

Suppression; cell-phone data

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2024/2024-Ohio-21.pdf>

In state's appeal, trial court did not err in holding "that the municipal court's issuance of a warrant to be executed beyond its territorial jurisdiction constituted a fundamental violation of Crim.R. 41(A) and required suppression of the evidence obtained."

Third Appellate District of Ohio

State v. Vawter, 2024-Ohio-131

Sentencing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/3/2024/2024-Ohio-131.pdf>

Trial court erred in resentencing appellant and adding the reserved range of prison terms if appellant violated his community control that had been omitted from the original sentence. “[T]rial courts lack authority to reconsider their own valid final judgments in criminal cases.” And since the trial court had subject matter jurisdiction, the original sentence was voidable, not void. Therefore, as the original sentence was not “challenged on direct appeal * * *”, the sentence will be subject to res judicata.”

State v. Davis, 2024-Ohio-132

Sufficiency; trafficking in drugs

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/3/2024/2024-Ohio-132.pdf>

State did not present sufficient evidence to support appellant’s conviction for trafficking in drugs. “Although the State presented evidence that [appellant] had transported the drugs to the home, the State failed to present evidence that it was for the purpose of sale or resale. No evidence was presented that drug paraphernalia such as scales or packaging materials was found or even that trafficking was occurring at the location where the drugs were found. No large amounts of cash were found either * * * [Appellant’s] own statements on the tape were that the drugs were hers and no evidence was presented by the State to contradict it or to show that it was for the purpose of sale.”

Fourth Appellate District of Ohio

Nothing to report.

Fifth Appellate District of Ohio

State v. Reed, 2024-Ohio-43

Joinder/severance

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2024/2024-Ohio-43.pdf>

After COA determined that a no contest plea preserves appellant's right to appeal an adverse ruling on a severance motion, COA finds that the trial court erred in failing to grant appellant's motion to sever multiple counts including rape, kidnapping, GSI, and sexual imposition involving four victims. State would not have been able to introduce "evidence of the joined offenses as other acts under Evid.R. 404(B);" as appellant denied "perpetrating the offenses altogether," the other acts evidence "would not be necessary to negate any claim of identity, absence of mistake, or lack of accident." And "the probative value of the evidence at issue is substantially outweighed by the danger of unfair prejudice. The similarities between the offenses committed against each of the four separate victims, each of whom was a minor at the time the offenses were perpetrated and [a]ppellant was dating their mothers or grandmothers at the time, coupled with the inflammatory nature of the offenses elevate the risk of prejudice to the degree the trial court should have severed the offenses." Finally, the evidence of each offense was not simple and distinct. "Although the offenses involved four different female victims and each victim was a minor at the time the acts were perpetrated upon them, the offenses against each victim occurred years apart, and, as discussed infra, the danger of a jury improperly considering testimony on one offense as corroborative of another alleged offense is significant. In addition, the offenses against each victim varied in degree from gross sexual imposition to kidnapping to rape * * * the fact-finder would have had a difficult time looking at the evidence in support of each offense as simple and distinct because the temptation would be too great to respond to the evidence emotionally rather than rationally." Convictions reversed, and case remanded.

Sixth Appellate District of Ohio

Nothing to report.

Seventh Appellate District of Ohio

State v. Ruitter, 2024-Ohio-149

Application for reconsideration

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/7/2024/2024-Ohio-149.pdf>

In state's application for reconsideration pursuant to App.R. 26(A)(1), requesting COA reconsider its Opinion and Judgment Entry reversing appellant's rape, attempted rape and sexual battery convictions of two alleged victims, COA holds that "reconsideration is denied as no obvious error exists in our Opinion * * *."

Eighth Appellate District of Ohio

State v. Kancler, 2024-Ohio-16

Suppression; traffic stop

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2024/2024-Ohio-16.pdf>

Where appellant was stopped due to his headlight not being illuminated, trial court erred in denying appellant's motion to suppress where "the police's reasonable suspicion to conduct a traffic stop ended when Officer Davis observed [appellant's] functioning headlights." And trial court's statement regarding malfunctioning or flickering headlights was not supported by competent, credible evidence.

State v. Miniffee, 2024-Ohio-64

Motion for leave to file motion for new trial

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2024/2024-Ohio-64.pdf>

In 2007 conviction for, inter alia, felony murder, trial court erred in denying appellant's motion for leave to file a motion for a new trial. "Recently, the Ohio Supreme Court determined that Crim.R. 33(B) 'does not establish a time frame in which a defendant must seek leave to file a motion for a new trial based on the discovery of new evidence.' *State v. Bethel*, 167 Ohio St.3d 362, 2022-Ohio-783, 192 N.E.3d 470, ¶ 55. *Bethel* rejected the notion that 'it was within the trial court's discretion to deny Bethel's motion for leave based on Bethel's failure to file the motion within a reasonable time after 'discovering' the new evidence. *Id.* at ¶ 58.

Upon review, we find that the trial court erred when it denied [appellant's] motion for leave based, in part, on the 'wholly unreasonable' delay between 'discovering' the new evidence and filing the motion, as well as [appellant's] failure to provide 'date specific information as to when he actually learned about * * * Gunn's recantation * * *.' Under *Bethel* and Crim.R. 33(B), these are not proper reasons to deny a motion for leave to file a motion for new trial."

COA also held that for motions for leave to file a motion for a new trial, the trial court should not consider the merits of whether the new trial should

be granted, but rather address “the threshold issue of whether appellant was unavoidably prevented from discovering new evidence.”

Ninth Appellate District of Ohio

In re D.T., 2023-Ohio-4832

Suppression; *Miranda*

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2023/2023-Ohio-4832.pdf>

Juvenile court erred in denying appellant’s motion to suppress his statement to police because appellant, a 13-year-old child, was in custody and would not “have felt free to terminate the interrogation and leave.” And in considering the totality of the circumstances, appellant did not knowingly, voluntarily, nor intelligently waive his *Miranda* rights where he was never asked if he understood those rights, he did not have a parent or guardian present, and several months after the interview he was found incompetent.

Tenth Appellate District of Ohio

State v. T.W.C., 2024-Ohio-49

Record sealing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/10/2024/2024-Ohio-49.pdf>

In state’s appeal, trial court did not err in granting appellant’s applications to seal four felony convictions. The restitution that had been ordered by the trial court for one of the cases, although not having been paid, was originally entered as a civil judgment and not part of the criminal sentence. Therefore, appellant had received a “final discharge” on the case and was an eligible offender.

State v. Short, 2024-Ohio-92

Weight of the evidence; identity

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/10/2024/2024-Ohio-92.pdf>

In convictions for, inter alia, two counts of aggravated murder, one of those convictions was against the manifest weight of the evidence. The state failed to present any physical evidence connecting appellant to the April 23 murder; the shell casings from the April murder and the May murder (of which appellant was also convicted) were not from the same gun; there were no eyewitnesses to the April shooting; and the state presented no motive or reason that appellant had to harm the victim in the April shooting. The only evidence presented were two short, poor quality neighborhood video clips, and the testimony of another alleged victim from the May shooting who stated the shooter in the video walked like appellant and was clothed like him. COA finds that the video footage did not “contain sufficient detail to make a credible identification on these physical attributes alone.” Convictions for April shooting reversed and remanded for a new trial.

Eleventh Appellate District of Ohio

State v. Chambers, 2023-Ohio-4859

Jail-time credit

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2023/2023-Ohio-4859.pdf>

Trial court erred in failing to credit appellant with 123 days of jail-time credit for the period of time she “was held pretrial detention in Cuyahoga County on charges stemming from her offenses committed in both Lake County and Cuyahoga County. State concedes error.

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.