Appellate Court Decisions –Week of 12/2/24

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

First Appellate District of Ohio

***State v. Alanani*, C-240261**

Sufficiency; sexual imposition

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

Conviction for sexual imposition was not supported by sufficient evidence where "[t]he State presented no evidence to support an inference that [appellant] touched T.L.'s penis for the purpose of sexual arousal or gratification. Indeed, the State asserted below that sexual arousal or gratification was not an element of the offense. The State concedes the error and acknowledges that it presented no evidence of sexual arousal or gratification below" which is required for a sexual imposition conviction. Conviction reversed, and appellant discharged.

***State v. Davis*, C-240217**

PRC

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

Trial court erred when it imposed PRC in the sentencing entry "when it failed to pronounce that sanction in open court." Case remanded for court to provide such notifications to appellant.

Second Appellate District of Ohio

Nothing to report.

Third Appellate District of Ohio

***State v. Radabaugh*, 2024-Ohio-5640**

Court-appointed-counsel fees

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/3/2024/2024-Ohio-5640.pdf

In convictions for, inter alia, aggravated murder and aggravated robbery, trial court erred in ordering appellant to pay court-appointed-counsel fees without inquiring into his ability to pay. Imposition of those fees vacated. Trial court also erred when it failed to advise appellant of all the notifications required by R.C. 2929.19(B)(2)(c), Reagan Tokes Law. Case remanded for resentencing on Count 4.

Fourth Appellate District of Ohio

***State v. Back*, 2024-Ohio-5569**

State's appeal/jurisdiction/leave to appeal

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/4/2024/2024-Ohio-5569.pdf

In state's appeal where the state asserted that the trial court "violated the victims' constitutional rights under Marsy's Law and the prosecution's rights by failing to notify them of the sentencing hearing," COA finds that it is "unable to address the merits of the State's arguments because [it] lack[ed] jurisdiction. The State did not request leave to appeal and the issue presented is not one that the State may appeal as of right pursuant to R.C. 2945.67(A)." Appeal dismissed.

Fifth Appellate District of Ohio

***State v. Malone*, 2024-Ohio-5561**

State's appeal/modification of sentence; jurisdiction/leave to appeal

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2024/2024-Ohio-5561.pdf

In state's appeal where the state asserted that the trial court erred in modifying appellant's sentence from six months to credit for time served, appeal is dismissed. "[B]ecause [COA is] unable to find a basis for appeal as a matter of right by the state under R.C. 2945.67(A) and R.C. 2953.08(B), and because the state has not in the alternative sought leave to appeal in this case pursuant to R.C. 2945.67(A) and App.R. 5(C), [COA is] without jurisdiction to address the merits of the state's sole assignment of error." Appeal dismissed.

Sixth Appellate District of Ohio

Nothing to report.

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

Nothing to report.

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

Nothing to report.

Supreme Court of the United States

Nothing to report.