Appellate Court Decisions –Week of 2/3/25

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

First Appellate District of Ohio

***State v. Watson*, C-240316**

Child endangering/CMC 915-3/Second Amendment

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

In state's appeal, trial court did not err in dismissing the child endangering charge against appellee, "brought under Cincinnati Municipal Code ("CMC") 915-3, which prohibits 'creat[ing] a substantial risk to the health or safety of [a] child by violating a duty of care, protection, or support.'" Appellee filed a motion to dismiss alleging "(1) that CMC 915-3 conflicts with R.C. 9.68, Ohio's firearms-uniformity law; (2) that the charge is unconstitutional under the Second Amendment and the analogous provision of the Ohio Constitution; and (3) that the charge unconstitutionally infringes on [appellee's] Fourteenth Amendment due process rights because CMC 915-3 is overbroad." The trial court granted the motion "based on the 'arguments presented by the parties,' without otherwise specifying the basis for its ruling." As "[i]ts use of the plural word 'arguments' conveys that the trial court granted the motion for more than one reason," and the state only addressed one argument presented by appellee in her motion to dismiss, the state's appeal was overruled.

"'When a trial court grants judgment on multiple, alternative bases and an appellant does not challenge one of those bases on appeal, this Court will uphold the judgment on the unchallenged basis.' *Covel v. PNC Bank, NA*, 2022-Ohio-1477, ¶ 7 (9th Dist.). Thus, even if [COA] agreed with the State that its prosecution survives challenge under R.C. 9.68, the State did not appeal the trial court's judgment dismissing [appellee's] charge on the basis of the Second Amendment, the Ohio Constitution, and the Fourteenth Amendment. There is accordingly no argument before [COA] that the trial court erred in granting [appellee's] motion to dismiss on these grounds, and [COA is] not permitted to create one on the State's behalf. *See id.*, citing App.R. 16(A)(7) ('The *appellant* shall include in its brief . . . [a]n argument containing the contentions of the appellant with respect to each assignment of error presented for review. . . .' (Emphasis added.))."

***Cowherd v. McGuffey*, C-240642**

Excessive bail/writ of habeas corpus

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

Petitioner's "writ of habeas corpus alleging that he is being held on an excessive pretrial bail in the amount of $1,000,000" is granted. "[W]here the record contains no evidence that [petitioner] posed any additional risk to public safety, where [petitioner] was employed at the same company since 2021 and has ties to the community, and where the trial court ignored [petitioner's] financial resources and ability to pay, the bail imposed by the trial court was excessive. [Petitioner's] petition for a writ of habeas corpus is hereby granted and his bail in the case numbered B-2403670 is reduced to $100,000, secured by a ten-percent deposit."

Second Appellate District of Ohio

Nothing to report.

Third Appellate District of Ohio

***State v. Dixon*, 2025-Ohio-326**

Dismissal/plea agreement

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/3/2025/2025-Ohio-326.pdf

In state's appeal of trial court's dismissal of two counts of PBC, court did not err. State and appellant entered into an agreement whereby the state would agree to dismiss the charges if appellant paid restitution. Pursuant to state's request, appellant's attorney mailed a certified check to the state which was illegally intercepted by a third party, and the bank refused reimbursement. Utilizing contract law, the trial court found that the parties had entered into a contract, and appellant fulfilled his part of the bargain by mailing the check. "Pursuant to the mailbox rule, the trial court found that [appellant] accepted the State's offer by mailing the cashier's check as instructed to prosecutor's office. After finding that [appellant] had performed under the contract, the trial court concluded that the State was bound by its agreement with [him]."

Fourth Appellate District of Ohio

Nothing to report.

Fifth Appellate District of Ohio

Nothing to report.

Sixth Appellate District of Ohio

***State v. Cox*, 2025-Ohio-307**

Sentencing; nunc pro tunc entry

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2025/2025-Ohio-307.pdf

In convictions for attempted failure to comply with the order of a police officer and a postrelease control violation, convictions affirmed but case remanded for trial court to enter a nunc pro tunc sentencing entry. Trial court erred when it imposed consecutive sentences in the original sentencing entry when the sentences announced at the sentencing hearing were to run concurrently.

***State v. Smith*, 2025-Ohio-311**

Ineffective assistance of counsel

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2025/2025-Ohio-311.pdf

In consolidated appeal of convictions for assault of two appellants, trial counsel provided ineffective assistance of counsel by failing to file a timely notice of self-defense pursuant to Crim.R. 12.2. State concedes error where "the record reflects self-defense was a possible defense to the charge against each appellant . . . ." Convictions vacated, and cases remanded.

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

***State v. Howard*, 2025-Ohio-340**

Guilty plea
Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2025/2025-Ohio-340.pdf

In convictions for drug offenses, trial court erred when it failed to inform appellant of the effect of his guilty plea at the time of his plea hearing. "This constitutes a complete failure to comply with the nonconstitutional requirements set forth in Crim.R. 11(C)(2)(b) and requires reversal even absent a showing of prejudice." Plea and convictions vacated.

Twelfth Appellate District of Ohio

Nothing to report.

Supreme Court of Ohio

Nothing to report.

Sixth Circuit Court of Appeals

***United State v. Grogan*, No. 22-3651**

Admissibility of statements made during plea negotiations

Full Decision:
http://www.opn.ca6.uscourts.gov/opinions.pdf/25a0023p-06.pdf

District court erred in allowing the admission of statements made by appellant during a proffer session about "his ownership of drugs, a firearm, and a wallet, and his involvement in a shooting and a kidnapping . . . [u]nder the proffer agreement, the government could introduce a particular statement from the proffer session if [appellant] testified or presented arguments inconsistent with that statement. [Appellant] contends admission of the evidence was an error because neither of these conditions were met. [COA] agree[s] with him that at least some of these statements should not have been admitted. And because the error was not

harmless," case is reversed.

Supreme Court of the United States

Nothing to report.