Appellate Court Decisions –week of 12/8/25

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

Nothing to report.

Fourth Appellate District of Ohio

Nothing to report.

Fifth Appellate District of Ohio

Nothing to report.

Sixth Appellate District of Ohio

***State v. Hodges*, 2025-Ohio-5448**

WUD/prior felony drug conviction; *Bruen*

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2025/2025-Ohio-5448.pdf

Trial court erred in denying appellant's motion to dismiss the WUD charge as unconstitutional under the Second Amendment. Although COA finds R.C. 2923.13(A)(3) "constitutional on its face as applied to non-violent drug traffickers generally," it further finds that it "lack[s] the necessary evidence to consider [appellant's] as-applied appeal. Accordingly, [COA] must reverse and remand the matter for factual findings on the record."

***State v. McKenzie*, 2025-Ohio-5487**

WUD/prior felony drug conviction; *Bruen*

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2025/2025-Ohio-5487.pdf

Trial court erred in denying appellant's motion to dismiss the WUD charge as unconstitutional under the Second Amendment. "In this case, the trial court did not apply the *Bruen* test but relied instead on *Heller* and its statement of 'law-abiding' and responsible citizens. After the trial court's decision, [COA] addressed the *Bruen* test and determined that a trial court must apply the *Bruen* test in addressing challenges to Ohio statutes. In *State v. Latham*, 2025-Ohio-495 (6th Dist.), [COA] noted and applied recent precedent that rejected a presumption that all 'felon-in-possession' laws are constitutional in favor of disarming only the individuals that pose a danger. *Latham*, at ¶ 34-35, citing *Williams* at 640-655. Therefore, while this precedent was not available at the time the trial court entered its ruling, the trial court nevertheless erred in applying the incorrect standard to [appellant's] as-applied challenge to R.C. 2923.13 . . . [and] the trial court, furthermore, entered its judgment without a proper record, as there was no evidence or stipulation as to the facts underlying [appellant's] prior conviction or whether [appellant] had ever applied for relief from disability under R.C. 2923.14(A)(1). As a consequence, [COA] has no record from which to resolve [appellant's] as-applied challenge, applying the *Bruen* test for the first time on appeal. Thus, remand is necessary for hearing or stipulation to the facts by the parties."

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

***State v. Nicholson*, 2025-Ohio-5411**

Sentencing errors; Reagan Tokes

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2025/2025-Ohio-5411.pdf

In conviction for amended charge of trafficking in cocaine, conviction affirmed. However, in sentencing appellate to an indefinite term of four to six years, trial court erred in stating that the minimum term was mandatory, "meaning that [appellant] could not avail himself of any statutory reduction while serving his prison term. The trial court also failed

to provide any of the advisements required under R.C. 2929.19(B)(2)(c) [(Reagan Tokes)] for the non-life indefinite sentence being imposed." State concedes error. Sentence vacated, and case remanded for resentencing.

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.