

Appellate Court Decisions - Week of 11/15/21

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

First Appellate District of Ohio

State v. White, 2021-Ohio-4076

Jury demand

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/1/2021/2021-Ohio-4076.pdf>

Trial court lacked jurisdiction to conduct a bench trial after appellant had filed a jury demand; conviction reversed and remanded for a new trial.

Second Appellate District of Ohio

State v. Thompson, 2021-Ohio-4027

Reagan Tokes sentencing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2021/2021-Ohio-4027.pdf>

Trial court erred in failing to properly advise appellant “at sentencing of the notifications set forth in R.C. 2929.144(B)(2).” Remanded for resentencing.

Third Appellate District of Ohio

Nothing to report.

Fourth Appellate District of Ohio

State v. Smith, 2021-Ohio-4028

Reagan Tokes sentencing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/4/2021/2021-Ohio-4028.pdf>

Trial court erred in imposing an indefinite sentence under the Reagan

Tokes Act, as appellant's drug possession offense was committed prior to the effective date of the statute.

Fifth Appellate District of Ohio

State v. Thompson, 2021-Ohio-4006

Reagan Tokes sentencing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2021/2021-Ohio-4006.pdf>

Although the trial “court did advise [a]ppellant that the minimum term set by the court and that the maximum term was set by statute, that being 50% of the minimum term imposed . . . the trial court failed to advise [a]ppellant as to the remainder of the requirements set forth in R.C. [§]2929.19(B)(2)(c).

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

State v. Freetage, 2021-Ohio-4050

Insufficient evidence; felonious assault

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2021/2021-Ohio-4050.pdf>

“[S]tate failed to present sufficient evidence to convict [appellant] of felonious assault for point a shotgun at the detective under count one because pointing a gun alone does not show he knowingly attempted to cause physical harm.”

Twelfth Appellate District of Ohio

Nothing to report.

Supreme Court of Ohio

State v. LaRosa, 2021-Ohio-4060

Suppression

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/0/2021/2021-Ohio-4060.pdf>

Although “the trial court did err in denying the motion to suppress as to [appellant’s] socks and underwear [which were seized by the police from his hospital room], we conclude that the error was harmless.” The evidence collected was duplicative of other evidence legally seized and would not have affected the outcome of the case.

State ex rel. Suwalski v. Peeler, 2021-Ohio-4061

Marsy’s Law

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/0/2021/2021-Ohio-4061.pdf>

Marsy’s Law allowed a former spouse to challenge an order from a trial court, restoring appellant’s gun rights through a writ of prohibition. OSC also found that appellant was ineligible to have his federal firearms rights restored; “[a]s a matter of federal law, [appellant] was ineligible to have his firearm rights restored because he never lost those rights under Ohio law.” Therefore, appellant remained under a federal firearms restriction, and the trial court’s grant of his application to remove that restriction was unauthorized.

Sixth Circuit Court of Appeals

Nothing to report.

Supreme Court of the United States

Nothing to report.