

Appellate Court Decisions - Week of 4/22/19

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

First Appellate District of Ohio

State v. Reid, 2019-Ohio-1542

Ineffective Assistance: Jury Instructions: Murder

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2019/2019-Ohio-1542.pdf>

Summary from the First District: “Where defendant had been charged with murder after stabbing the victim in defendant’s own home, and where defendant had relied on the affirmative defense of self-defense at trial, defense counsel rendered ineffective assistance by failing to request that the jury be instructed that defendant had no duty to retreat pursuant to the castle doctrine: the evidence presented at trial supported such an instruction and defendant was prejudiced by its absence where the record contained evidence from which the jury could have determined that the remaining elements of self-defense had been established. [*But see* DISSENT: Defendant was not prejudiced by counsel’s failure to request an instruction on the castle doctrine where the evidence failed to support a finding that defendant had an honest and reasonable belief that she was in imminent danger of death or great bodily harm.]”

Second Appellate District of Ohio

State v. Belcher, 2019-Ohio-1468

Sentencing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2019/2019-Ohio-1468.pdf>

Summary from the Second District: “The 10-month prison sentence imposed by the trial court for appellant’s nonviolent, fifth-degree-felony offense of failure to stop after an accident is clearly and convincingly contrary to law. There is no evidence in the record to support the trial court’s finding that the physical injury exception under R.C. 2929.13(B)(1)(b)(ii) applied so as to permit the imposition of a prison term. Judgment vacated, and the matter is remanded for resentencing.”

State v. Namaky, 2019-Ohio-1474

Sealing Record of Conviction: Jurisdiction

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2019/2019-Ohio-1474.pdf>

Summary from the Second District: “Trial court erred in concluding that it lacked authority to consider an application to seal the record of conviction filed by deceased-offender’s father, who was administrator of offender’s estate. Judgment reversed and case remanded for further proceedings. (Hall, J., dissenting.)”

Third Appellate District of Ohio

Nothing to report.

Fourth Appellate District of Ohio

State v. Moore, 2019-Ohio-1467

Sentencing: Post-Release Control

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/4/2019/2019-Ohio-1467.pdf>

Appellant’s convictions for aggravated vehicular assault under R.C. 2903.08(A)(1)(a) were not offenses of violence, and therefore were not subject to mandatory post-release control.

Fifth Appellate District of Ohio

Nothing to report.

Sixth Appellate District of Ohio

State v. Graham, 2019-Ohio-1485

Sentencing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2019/2019-Ohio-1485.pdf>

The trial court erred in holding R.C. 2929.15(B)(1)(c)(ii) unconstitutional in order to sentence Appellant to more than 180 days in prison on a technical community control violation for a fourth-degree felony. However, because the trial court did not make a determination of whether the violation was actually a technical violation, the Sixth District remanded the case for that determination.

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

State v. Sanders, 2019-Ohio-1524

Speedy Trial: Sentencing: Felony Domestic Violence

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2019/2019-Ohio-1524.pdf>

Summary from the Eighth District: “Defendant’s statutory and constitutional speedy trial rights were not violated. Defendant’s failure to respond to state’s demand for discovery tolled speedy trial time under R.C. 2945.72. Speedy trial time was also tolled where trial court granted reasonable and necessary continuances of the trial date to secure the attendance of the state’s key witness by bench warrant. Where the verdict form did not include a finding that prior conviction for attempted abduction involved a family or household member, the prior conviction did not elevate domestic violence offense to a third-degree felony under R.C. 2919.25(D) and 2945.75(A)(2). Defendant’s conviction for domestic violence reduced from a third-degree felony to a fourth-degree felony to conform to the verdict form; sentence vacated and case remanded for resentencing on offense as a fourth-degree felony.”

State v. Busek, 2019-Ohio-1527

Speedy Trial

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2019/2019-Ohio-1527.pdf>

Summary from the Eighth District: “Trial court’s grant of defendant’s motion to dismiss on speedy trial grounds was proper. Here, defendant was cited and pled guilty to possession of drug paraphernalia in municipal

court. At the time of the traffic stop, the highway patrolman identified the pills as oxycodone (Schedule II) and the defendant admitted that the pills were Percocet. Defendant was subsequently charged in common pleas court with drug possession almost a year later. Because the subsequent drug possession charge arose from facts that related to the original charge, the speedy trial clock for the underlying charges herein arose when the defendant was indicted in municipal court and her statutory speedy trial rights were violated when she was later indicted with drug possession.”

Ninth Appellate District of Ohio

In re E.L., 2019-Ohio-1490

Juvenile: Competency

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2019/2019-Ohio-1490.pdf>

The trial court did not err in excluding out-of-court statements made by an alleged six-year-old victim.

Tenth Appellate District of Ohio

State v. Dent, 2019-Ohio-1510

Engaging in a Pattern of Corrupt Activity: Sufficiency

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/10/2019/2019-Ohio-1510.pdf>

Summary from the Tenth District: “Because the state failed to prove that the association between the co-defendant extended longer than a day, there was insufficient evidence to support a conviction for engaging in a pattern of corrupt activity and the accompanying firearm specification. However, the convictions for trafficking and possession of cocaine and illegal manufacture of drugs, along with the accompanying firearm specifications, were supported by sufficient evidence, and they were not against the manifest weight.”

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.