

Appellate Court Decisions - Week of 8/17/20

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

State v. Beall, 2020-Ohio-4099

Consecutive sentences

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/3/2020/2020-Ohio-4099.pdf>

Trial court erred when it sentenced appellant to consecutive sentences where it made no findings “relative to the protection of the public, the punishment of the offender, or the proportionality of the seriousness of the offender’s conduct as required under R.C. 2929.14(C)(4) at the [] sentencing hearing.”

Fourth Appellate District of Ohio

Nothing to report.

Fifth Appellate District of Ohio

Nothing to report.

Sixth Appellate District of Ohio

State v. Ter Doest, 2020-Ohio-4091

Consecutive sentences

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2020/2020-Ohio-4091.pdf>

Trial court erred when it sentenced appellant to consecutive sentences without finding that the consecutive sentences were not disproportionate to the seriousness of appellant's conduct and to the danger the appellant posed to the public. R.C. 2929.14(C)(4).

Oregon v. Gaughan, 2020-Ohio-4092

Withdrawal of plea

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2020/2020-Ohio-4092.pdf>

Trial court abused its discretion when it denied appellant's motion to withdraw his no contest plea when the state would not be prejudiced; appellant filed the motion prior to his sentencing, immediately after discovering that the contents of the victim impact statement directly contradicted the alleged victim's allegations; the motion provided a clear basis that appellant was not guilty or had a completed defense; and the trial court did not give full and fair consideration of the motion.

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

State v. Coleman, 2020-Ohio-4071

Plea

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2020/2020-Ohio-4071.pdf>

Trial court erred when it failed to properly advise appellant at the plea hearing of his constitutional right to confront and cross-examine his accusers and his right to compulsory process; court also failed to determine that appellant understood he was waiving those rights by pleading guilty. State conceded the trial court did not comply with Crim.R. 11; conviction vacated and case remanded.

State v. Ahmed, 2020-Ohio-4057

Withdrawal of plea

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2020/2020-Ohio-4057.pdf>

On application for reconsideration pursuant to App.R. 26, prior opinion is vacated and substituted. Trial court abused its discretion when it denied appellant's motion to withdraw his 2012 guilty plea without a hearing to determine if trial counsel was ineffective for not counselling appellant "about the effects of [his] guilty plea regarding his immigration status as it relates to deportation."

Cleveland v. Wilson, 2020-Ohio-4066

Insufficient evidence; fare evasion

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2020/2020-Ohio-4066.pdf>

In state's appeal, trial court did not err in dismissing fare evasion charges against appellant, as the charging instrument was deficient on its face "due to failure of sufficient facts for [probable cause] of evasion. Mere absence of fare card [proof of payment] is not evasion."

In re A.L., 2020-Ohio-4061

Juvenile; suppression

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2020/2020-Ohio-4061.pdf>

Juvenile court erred when it denied appellant's motion to suppress where court's findings were not supported by competent, credible evidence. "Appellant's will was overborne by the police interrogation he was subjected to without adult consultation at the age of ten. [Appellate court] further find[s] that the police induced A.L. into confessing after repeatedly telling him to stop lying and asking him if God would approve what he is saying. The police also deceived A.L. by telling him that no matter what happened, he would be going home that day. It is undisputed that A.L. did not go home after the interrogation and has been in custody since that day. Furthermore, the detectives told A.L. that his father consented to him being interrogated." A.L. did not have an opportunity to consult with an adult who was interested in his welfare; further, A.L.'s confession violated his *Miranda* rights, as he was coerced by the police and did not have the "requisite level of comprehension" to properly waive those rights.

Adjudication reversed and case remanded.

In re J.W., 2020-Ohio-4065

Juvenile; sufficiency; GSI

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2020/2020-Ohio-4065.pdf>

Juvenile court erred when it denied appellant's Crim.R. 29 motion for acquittal for two of the three counts of gross sexual imposition. The evidence as to those counts was insufficient to demonstrate that appellant used force; however, there was sufficient evidence to demonstrate the lesser-included offense of sexual imposition as to those two counts. And victim's testimony was corroborated by the fact that, after the incident occurred, she told a friend what had occurred and the next day, she told a teacher.

Frankly, the corroboration proof seems a bit thin here; how is the victim's testimony somehow supported by the victim herself telling others? It seems the courts continue to eviscerate the corroboration requirement.

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

State v. Rogers, 2020-Ohio-4102

Plea

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/12/2020/2020-Ohio-4102.pdf>

Trial court erred when it failed to advise appellant at the plea hearing of the mandatory fine which was an element of his sentence; and “the failure of a trial court to provide any advice concerning a distinct component of the maximum penalty during a plea colloquy is a complete failure to comply with Crim.R. 11(C)(2)(a).” Under *State v. Dangler*, Slip Opinion 2020-Ohio-2765, prejudice need not be shown under these circumstances. Plea vacated, as it was not knowingly, intelligently, and voluntarily made.

Supreme Court of Ohio

Nothing to report.

Sixth Circuit Court of Appeals

Nothing to report.

Supreme Court of the United States

Nothing to report.