

## **Appellate Court Decisions - Week of 8/19/19**

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

### **First Appellate District of Ohio**

#### **State v. Brown, 2019-Ohio-3349**

**Insufficient evidence**

**Full Decision:**

<https://www.supremecourt.ohio.gov/rod/docs/pdf/1/2019/2019-Ohio-3349.pdf>

**Aggravated robbery and accompanying gun specification reversed for insufficient evidence that appellant possessed a deadly weapon; case remanded for trial court to enter a judgment of conviction only for robbery under R.C. 2911.02(A)(2) and resentencing.**

#### **State v. Carberry, 2019-Ohio-3303**

**Jail-time credit**

**Full Decision:**

<https://www.supremecourt.ohio.gov/rod/docs/pdf/1/2019/2019-Ohio-3303.pdf>

**Trial court erred in failing to award appellant jail-time credit for time he spent in juvenile detention before he was bound over for the offense for which he was ultimately convicted; however, he was not entitled to credit for time he was being held solely on the sex offense charge that originated in another county and arose from facts separate and apart from the Hamilton County offense.**

### **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**

*Nothing to report.*

## **Seventh Appellate District of Ohio**

### **State v. Chapman, 2019-Ohio-3339**

**Suppression**

**Full Decision:**

<https://www.supremecourt.ohio.gov/rod/docs/pdf/7/2019/2019-Ohio-3339.pdf>

**Trial court erred in denying motion to suppress the full search of Appellant, including his shoes; although canine sniff did not extend traffic stop and pat down for weapons was reasonable, canine alert on vehicle alone did not establish probable cause for the full search of the occupants of the vehicle.**

## **Eighth Appellate District of Ohio**

### **State v. Cunningham, 2019-Ohio-3269**

**Ineffective assistance of appellate counsel**

**Full Decision:**

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2019/2019-Ohio-3269.pdf>

**Appellant's application to reopen appeal pursuant to App.R. 26(B) is granted; appellate counsel was ineffective for failing to argue on appeal that the jury verdict form did not state the degree of the offense of which he was convicted or failed to state the additional element or elements of the charged offense.**

### **Cleveland v. Collins, 2019-Ohio-3280**

**Plea**

**Full Decision:**

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2019/2019-Ohio-3280.pdf>

**“[T]rial court erred by accepting [appellant’s] ‘no contest’ plea because he was not served with the violation notice for the subject property and the city’s explanation of circumstances did not demonstrate that he received proper notice;” city concedes error.**

**State v. Jackson, 2019-Ohio-3357**

**Insufficient evidence**

**Full Decision:**

**<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2019/2019-Ohio-3357.pdf>**

**Appellant’s conviction for felonious assault under a complicity theory was vacated where there was insufficient evidence to show that appellant “via [co-defendant’s] conduct, knowing attempted to cause physical harm by means of a deadly weapon to [two victims];” there was no evidence in the record that the co-defendant swung a golf club at either victim or committed any overt act that could have physically injured victim (interesting part here is co-defendant only had time to smash glass with the club; victim shot her before she could attempt to assault them).**

### **Ninth Appellate District of Ohio**

*Nothing to report.*

### **Tenth Appellate District of Ohio**

*Nothing to report.*

### **Eleventh Appellate District of Ohio**

**State v. Riley, 2019-Ohio-3327**

**Court costs and attorney fees**

**Full Decision:**

**<https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2019/2019-Ohio-3327.pdf>**

**Case remanded for clarification by trial judge as to what “recoupment assessment fee” was; if that fee was to recover indigent attorney fees as costs under R.C. 2941.51(D), the trial court committed plain error, as those attorney fees cannot be assessed as part of the state’s costs of prosecuting**

**the case but can only be collected via a civil collection process.**

**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.*