

Appellate Court Decisions - Week of 9/16/19

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

First Appellate District of Ohio

State v. McConnell, 2019-Ohio-3736

Record sealing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/1/2019/2019-Ohio-3736.pdf>

In state's appeal, trial court's judgment granting appellant's application to seal his conviction for illegal conveyance of a deadly weapon or dangerous ordnance in a school safety zone is affirmed; there was no evidence that the offense was committed during school hours, that children were in the school, or that children were jeopardized by appellant's conduct.

State v. Denike, C-180299

Sexual predator classification

Full Decision: (No web cite as of yet).

Summary from First District: "[T]rial court erred in holding the sexual-offender-classification hearing under former R.C. 2950.09(C)(2)(a), because it had no authority to do so." That section did not apply to appellant because he did not plead guilty to a sexually-oriented offense prior to January 1, 1997 so it could not provide the trial court with jurisdiction.

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. Hamilton, 2019-Ohio-3702

Traffic violation

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2019/2019-Ohio-3702.pdf>

Trial court erred in finding appellant guilty of exceeding gross vehicle weight limit pursuant to R.C. 5577.04, as there was not sufficient evidence that “appellant breached any of the conditions included in his special hauling permit”

State v. Moore, 2019-Ohio-3705

Insufficient evidence; aggravated vehicular homicide

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2019/2019-Ohio-3705.pdf>

As the state furnished no evidence of the effects that a prohibited concentration of cocaine in a person’s blood would have on that person’s ability to operate a motor vehicle, there was insufficient evidence appellant driving with such a concentration of cocaine proximately caused the death of her passenger. Conviction for aggravated vehicular homicide vacated. The state also failed to present sufficient evidence that passenger’s death was proximately caused by appellant driving while under a license suspension so one count of involuntary manslaughter vacated.

Seventh Appellate District of Ohio

In re J.G., 2019-Ohio-3734

Sentencing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/7/2019/2019-Ohio-3734.pdf>

After juvenile was adjudicated, determined to be a serious youthful offender, and given a suspended 36-month prison sentence, juvenile court erred in imposing a 60-month prison sentence following juvenile's violation. Case remanded to impose 36-month or shorter prison sentence.

Eighth Appellate District of Ohio

State v. Hollingsworth, 2019-Ohio-3764

Insufficient evidence; child endangering

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2019/2019-Ohio-3764.pdf>

Evidence was insufficient to show that appellant instigated a physical altercation between his two sons and then allowed the older son to beat the younger son; conviction for child endangering vacated.

State v. Smith, 2019-Ohio-3769

Plea

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2019/2019-Ohio-3769.pdf>

Trial court erred by failing to advise appellant that, by pleading guilty, he was waiving his constitutional rights pursuant to Crim.R. 11, rendering his guilty pleas not knowingly and intelligently made; convictions vacated and remanded.

State v. Norris, 2019-Ohio-3768

Plea withdrawal

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2019/2019-Ohio-3768.pdf>

Trial court erred by denying appellant's motion to withdraw his guilty plea without an evidentiary hearing where trial counsel's alleged promise that appellant would receive a flat 20-year sentence was not cured by trial court's misidentifying the sentencing ranges as "possible," rather than mandatory; and psychological report presented that identified appellant's intellectual limitations appears not to have been considered during the plea

process. Remanded for evidentiary hearing.

Ninth Appellate District of Ohio

Nothing to report.

Tenth Appellate District of Ohio

Nothing to report.

Eleventh Appellate District of Ohio

State v. Butcher, 2019-Ohio-3728

Sentencing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2019/2019-Ohio-3728.pdf>

On remand following reversal of failure to appear conviction but all other counts affirmed, trial court erred by changing the sentence to make one-year prison sentence consecutive to five-year term when it had originally been concurrent; it erred by increasing court costs; and it erred in re-imposing a no-contact order which cannot be ordered when a prison term is imposed.

Twelfth Appellate District of Ohio

Nothing to report.

Supreme Court of Ohio

Nothing to report.

Sixth Circuit Court of Appeals

United State v. Snyder, No. 18-4144

Breach of plea agreement

Full Decision:

<http://www.opn.ca6.uscourts.gov/opinions.pdf/19a0486n-06.pdf>

In prosecution for failure to pay FICA taxes that had been withheld from

employees' paychecks, the trial court abused its discretion by admitting testimony about owner/appellant's failure to file personal tax returns, as this was improper other acts evidence under Fed.R.Evid. 404(b).

Supreme Court of the United States

Nothing to report.