

Appellate Court Decisions - Week of 9/20/21

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

First Appellate District of Ohio

State v. Woodson, C-200362 & 363

Waiver of jury trial

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

Trial court erred by holding a bench trial where appellant had demanded a jury trial and never waived that right in strict compliance with R.C. 2945.05. Case remanded for a new trial.

Second Appellate District of Ohio

State v. O'Donnell, 2021-Ohio-3253

Sufficiency; grand theft

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2021/2021-Ohio-3253.pdf>

Appellant's conviction for grand theft for failure to complete a home construction project was not supported by sufficient evidence; "there was no evidence presented at trial to demonstrate that [appellant] intended to deprive the Kings of their \$41,000 when he took control over those funds and invested them in his business. Rather, the evidence of the surrounding facts and circumstances established that [appellant] intended to perform the agreed-upon work in Phase II, but could not do so as a result of financial difficulties with his business. Therefore, the intent-to-deprive element for grand theft under R.C. 2913.02(A)(2) was not satisfied."

Third Appellate District of Ohio

Nothing to report.

Fourth Appellate District of Ohio

Nothing to report.

Fifth Appellate District of Ohio

State v. Kirks, 2021-Ohio-3194

Jail time credit

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2021/2021-Ohio-3194.pdf>

Trial court erred when it awarded appellant only 105 days of jail time credit, when he was entitled to 110 days.

State v. Ramunas, 2021-Ohio-3191

Merger; burglary and theft

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2021/2021-Ohio-3191.pdf>

Trial court erred in failing to merge appellant’s burglary and theft offenses; “[she] was engaged in stealing items from the residents of the assisted living facility where she was employed. When she entered the room of a patient on December 31, 2019 and February 17, 2020, her sole intent was to steal items from the room. There was no breaking and entering, no separate victim, and the sole purpose in entering the rooms was to steal items. Thus, the conduct and the animus for entering the room and for stealing items therein are identical in this case. In other word, [appellant’s] actions were committed as one continuing course of conduct.”

Sixth Appellate District of Ohio

State v. Wadding, 2021-Ohio-3266

Consecutive sentences

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2021/2021-Ohio-3266.pdf>

Trial court erred when it failed to make the required findings at the sentencing hearing to support appellant’s consecutive sentences although the requisite findings were in the sentencing entry. Case remanded for trial court to make the proper findings at the sentencing hearing.

State v. Mattoni, 2021-Ohio-3265

Sentence; presumption of prison

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2021/2021-Ohio-3265.pdf>

Following convictions for fourth-degree felony domestic violence and fifth-degree felony breaking and entering, trial court erred when it “mistakenly believed that there was a presumption in favor of a prison sentence. The state concedes this argument and agrees that the matter should be remanded for resentencing.”

Seventh Appellate District of Ohio

State v. McKenzie, 2021-Ohio-3170

Merger - aggravated vehicular assault and vehicular assault; DL suspension

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/7/2021/2021-Ohio-3170.pdf>

Trial court erred in failing to merge appellant’s aggravated vehicular assault convictions with his vehicular assault convictions; appellant’s one act of crossing the center line and colliding head-on into the victims’ vehicle constituted a violation of both the OVI-based aggravated vehicular assault statute and the recklessness-based vehicular assault statute. Court also erred in imposing a lifetime driver’s license suspension where the maximum suspension pursuant to R.C. 2903.08(B)(2) is a class three suspension of two to ten years.

Eighth Appellate District of Ohio

State v. Harris, 2021-Ohio-3200

Suppression; automobile

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2021/2021-Ohio-3200.pdf>

Trial court erred when it denied appellant’s motion to suppress the search of his vehicle; the initial stop for a traffic violation was extended for the arrival of backup and a drug dog without reasonable suspicion. Appellant’s

windows were not tinted; appellant did not engage in evasive driving; and the officer's testimony regarding appellant's furtive movements was not credible. And even if the officer saw furtive movements, these movements alone were "not sufficient to support reasonable suspicion of criminal activity in high-crime areas."

Ninth Appellate District of Ohio

State v. Brown, 2021-Ohio-3275

No contest plea

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2021/2021-Ohio-3275.pdf>

Trial court erred when it failed to inform appellant of the effect of her no contest plea pursuant to Crim.R. 11(E), rendering the plea invalid as it was not entered knowingly, intelligently, nor voluntarily.

State v. Wells, 2021-Ohio-3278

Sentence

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2021/2021-Ohio-3278.pdf>

In violation of community control, trial court erred when it sentenced appellant to a 12-year prison term "after notifying her during sentencing that the sanction for a violation of community control could result in a sentence of eight years." State concedes error; case remanded for resentencing.

Tenth Appellate District of Ohio

Nothing to report.

Eleventh Appellate District of Ohio

State v. Studer, 2021-Ohio-3177

Right to counsel

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2021/2021-Ohio-3177.pdf>

Trial court erred when it ordered trial for violation of a protection order to go forward and appellant was unrepresented by counsel and did not sign a waiver of counsel nor give a valid oral waiver. Suspended sentence and probation vacated; however, conviction affirmed. Crim.R. 44(B); *State v. Brandon*, 45 Ohio St.3d 85, 543 N.E.2d 501 (1989).

Twelfth Appellate District of Ohio

Nothing to report.

Supreme Court of Ohio

State v. Jones, 2021-Ohio-3311

Sufficient evidence; aggravated murder

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/0/2021/2021-Ohio-3311.pdf>

“In reviewing whether evidence is sufficient to establish the prior-calculation-and-design element of aggravated murder, a court must consider whether the evidence, when viewed in the light most favorable to the prosecution, supports a finding that a defendant acted with advance reasoning and purpose to kill. The court of appeals failed to properly apply this standard and instead conducted its own weighing of the evidence. In this case, a reasonable juror could properly find that Jones acted with prior calculation and design. We reverse the court of appeals’ judgment to the contrary.”

Sixth Circuit Court of Appeals

Nothing to report.

Supreme Court of the United States

Nothing to report.