

Appellate Court Decisions - Week of 9/7/20

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

Nothing to report.

Fourth Appellate District of Ohio

State v. Conant, 2020-Ohio-4319

Sentencing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/4/2020/2020-Ohio-4319.pdf>

Trial court erred when it imposed both a prison sentence and a no-contact order; such order is a community control sanction and the court lacked authority under *State v. Anderson*, 143 Ohio St.3d 173, 2015-Ohio-2089, 35 N.E.3d 512 to issue both a prison sentence and a community control sentence for the same felony offense.

State v. Rings, 2020-Ohio-4342

Insufficient evidence; coercion

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/4/2020/2020-Ohio-4342.pdf>

Conviction of misdemeanor coercion was not supported by sufficient evidence where appellant/prosecutor's text messages to alleged victim and her testimony do not demonstrate that appellant "attempted to purposely coerce [victim] into taking or refraining from taking action concerning which she had a legal freedom of choice. Nor does the evidence demonstrate that [appellant] threatened [sic] by innuendo that [victim] do

whatever he wanted in order for her to avoid the use of his power.”

Fifth Appellate District of Ohio

Nothing to report.

Sixth Appellate District of Ohio

Nothing to report.

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

State v. Connor, 2020-Ohio-4310

Application for reconsideration

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2020/2020-Ohio-4310.pdf>

Application for reconsideration of dismissed appeal under App.R. 26(B) granted where appellate court initially dismissed appeal for lack of a final, appealable order due to overruled precedent; before *State ex rel. Penland v. Dinkelacker*, Slip Opinion No. 2020-Ohio-3774 was decided, prior precedent had held that “because the trial court’s entry did not include any explanation for the denial of [appellant’s] application for DNA testing, this court’s precedent dictated that we dismiss [appellant’s] appeal for lack of a final appealable order.” However, *Dinkelacker* overruled this precedent and “held that a trial court’s failure to issue findings of fact and conclusions of law when ruling on a postconviction petition does not deprive an appellate court of jurisdiction, but rather, the failure to issue findings of fact and conclusions of law is an error that may be raised on appeal.” Case remanded for trial court to issue reasons as to why it denied appellant’s application for testing.

Cleveland v. Bermudez, 2020-Ohio-4296

Statute of Limitations

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2020/2020-Ohio-4296.pdf>

Trial court erred when it denied appellant's motion to dismiss for failure to comply with the statute of limitations without conducting an evidentiary hearing; conviction vacated.

State v. Harris, 2020-Ohio-4303

Jail-time credit

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2020/2020-Ohio-4303.pdf>

In juvenile bindover case, trial court erred when it denied appellant's motion for recalculation of jail-time credit; appellant was entitled to jail-time credit for both juvenile cases in which he was charged, as "[appellant's] confinement in [juvenile case no.] DL-18-104720 involved the same incident, the same allegedly delinquent acts, and was in connection with the subsequent and identical complaint in [juvenile case no.] DL-18-112443 upon which [appellant's] order of commitment is based." Case remanded to determine if time appellant spent at a youth academy was confinement for purposes of jail-time credit.

Ninth Appellate District of Ohio

State v. Fitzgerald, 2020-Ohio-4346

Suppression

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2020/2020-Ohio-4346.pdf>

After application to reopen appeal for ineffective assistance of appellant counsel was granted, COA held that trial court erred when it denied appellant's motion to suppress where the police officer lacked reasonable, articulable suspicion to detain appellant in order to conduct field sobriety tests. Absent any indicia of impairment, "the smell of unburnt marijuana and [appellant's] 'vague admissions of consuming some marijuana earlier in the day' was not sufficient to constitute reasonable suspicion in this case."

State v. T.G-B, 2020-Ohio-4343

Bond surety

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2020/2020-Ohio-4343.pdf>

In appeal by bond surety, trial court erred when it failed to comply with the required procedures found in R.C. 2937.36(C) for entering judgment against a surety on a forfeited bond; the trial court never issued a judgment entry ordering the surety to pay the bond. A letter from the clerk of courts to the surety was not a proper substitute for such judgment entry. Therefore, the court erred when it penalized the surety for failing to pay the amount of the bond, where “a court cannot penalize a party for failing to comply with a judgment that the court never issued.”

Tenth Appellate District of Ohio

Nothing to report.

Eleventh Appellate District of Ohio

Nothing to report.

Twelfth Appellate District of Ohio

State v. Reynolds, 2020-Ohio-4354

Jurisdiction and waiver of counsel

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/12/2020/2020-Ohio-4354.pdf>

Appellant’s conviction for child endangering in municipal court was void, as trial court was without jurisdiction to convict appellant; R.C. 2151.23 confers exclusive original jurisdiction upon juvenile court for all child endangering cases charged under R.C. 2919.22(B)(1) provided the charge is not contained in a felony indictment. Trial court also erred in conducting a bench trial for domestic violence charge where appellant never waived her right to a jury trial in open court.

Supreme Court of Ohio

State v. Reed, 2020-Ohio-4255

Jail-time credit

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/0/2020/2020-Ohio-4255.pdf>

OSC holds that defendant is not entitled to jail-time credit for time spent on postconviction house arrest and electronic monitoring. “Based on the plain and unambiguous language of R.C. 2967.191(A), we conclude that a defendant is not entitled to jail-time credit for those days. . . ,” as jail-time credit is only given for those days served in a public or private facility, not a residence. Donnelly, J., dissented in an opinion joined by Stewart, J.

Sixth Circuit Court of Appeals

Nothing to report.

Supreme Court of the United States

Nothing to report.