

## Appellate Court Decisions - Week of 11/29/21

*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

*Nothing to report.*

### Fifth Appellate District of Ohio

#### **State v. Griffith, 2021-Ohio-4165**

Withdrawal of guilty plea

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2021/2021-Ohio-4165.pdf>

**Trial court erred when it denied appellant's motion to withdraw her guilty plea and sentenced her; the plea agreement stated that if appellant refused to testify, the agreement was void. This meant the agreed sentence and the guilty plea. "The voiding of the agreement was self-executing. In other words it is not merely voidable at the election of the state of Ohio."**

#### **State v. Quin, 2021-Ohio-4205**

Suppression

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2021/2021-Ohio-4205.pdf>

**Trial court did not err in granting appellant's motion to suppress the search of his vehicle. The affidavit supporting the search warrant was "insufficient to**

provide probable cause evidence of a crime would be found in the vehicle [appellant] was driving.” And the good faith exception did not apply where the warrant “was issued solely on a bare bones affidavit” that was “so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable.”

### Sixth Appellate District of Ohio

*Nothing to report.*

### Seventh Appellate District of Ohio

*Nothing to report.*

### Eighth Appellate District of Ohio

#### ***State v. Bishop, 2021-Ohio-4168***

Sentencing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2021/2021-Ohio-4168.pdf>

Trial court was without jurisdiction to issue a nunc pro tunc sentencing entry correcting appellant’s sentence from 8 months to 18 months and erred in denying his motion to vacate such entry. Appellant had already served the erroneous 8 months prior to the court correcting the sentencing entry. “[E]ven unlawful sentences can become final if not imposed in accordance with law. See *State v. Henderson*, 161 Ohio St.3d 285, 2020-Ohio-4784, 162 N.E.3d 776.”

### Ninth Appellate District of Ohio

#### ***State v. Oliver, 2021-Ohio-4153***

Jury verdict form

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2021/2021-Ohio-4153.pdf>

In conviction for carrying a concealed weapon, since jury verdict for that offense did not specify the degree of the offense or include any aggravating elements, “the guilty verdict constitutes a finding of guilty of the least degree of the offense charged.’ R.C. 2945.75(A)(2).” In this case, that was a misdemeanor of the first degree. See also *State v. Pelfrey*, 112 Ohio St.3d 422, 2007-Ohio-256, 860 N.E.2d 735.

## Tenth Appellate District of Ohio

*Nothing to report.*

## Eleventh Appellate District of Ohio

*Nothing to report.*

## Twelfth Appellate District of Ohio

### **State v. Jones, 2021-Ohio-4117**

Sentencing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/12/2021/2021-Ohio-4117.pdf>

In conviction for sexual battery, trial court erred in sentencing appellant; the court mistakenly believed that it was required to sentence appellant to a mandatory prison term pursuant to R.C. 2929.13(F)(3)(c)(ii). However, the mandatory sentence only applied if the victim was less than thirteen years of age, and the victim in this case was an adult. Case remanded for limited purpose of resentencing.

### **State v. Norris, 2021-Ohio-4177**

Sentencing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/12/2021/2021-Ohio-4177.pdf>

Appellant was entitled to benefit from the ambiguity in his sentencing entry so that the prison term imposed should have been concurrent to his other prison terms; regardless, the court lacked jurisdiction to attempt to reimpose any prison term after appellant had served his sentences and been released from prison.

## Supreme Court of Ohio

*Nothing to report.*

## Sixth Circuit Court of Appeals

*Nothing to report.*

**Supreme Court of the United States**

*Nothing to report.*