

Appellate Court Decisions - Week of 4/12/21

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

First Appellate District of Ohio

State v. Ward, C-190656

Sentencing

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

Trial court erred in imposing two consecutive 18-month prison terms for violations of appellant's community control for two F-4 aggravated trafficking in drugs convictions. The court failed to comply "with certain statutory-notification requirements" found in R.C. 2929.15 and 2929.19. "[T]o comply under the statutory scheme, the prison term imposed cannot exceed the specific prison term the court notified the defendant at the time of sentencing that it would impose for a violation or a subsequent violation of community-control conditions." See *State v. Brooks*, 103 Ohio St.3d 134, 2004-Ohio-4746, 814 N.E.2d 837. In the case at bar, at the original sentencing, the court only stated it would sentence appellant to "up to three years" if he violated his community control which did not comply with the statutory notification requirements nor the *Brooks* case.

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. Tingler, 2021-Ohio-1224

Record Sealing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2021/2021-Ohio-1224.pdf>

Trial court abused its discretion in denying appellant's application to seal his criminal record without holding a hearing and without explanation. Case remanded for a hearing to determine if appellant is eligible, and if so, if he is entitled to such expungement.

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

Nothing to report.

Ninth Appellate District of Ohio

Nothing to report.

Tenth Appellate District of Ohio

Nothing to report.

Eleventh Appellate District of Ohio

State v. Bair, 2021-Ohio-1257

Right to counsel

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2021/2021-Ohio-1257.pdf>

Trial court abused its discretion in denying appellant's request to have both his trial counsel sit at counsel table; COA found that appellant "was denied the ability to be represented by counsel of his choosing. Since denial of the right to choose one's counsel is structural error, reversal is warranted."

In re: Parks, 2021-Ohio-1258

Relief from weapons disability

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2021/2021-Ohio-1258.pdf>

Trial court abused its discretion in denying appellant's application for relief from his weapons disability without a hearing pursuant to R.C. 2923.14(D).

State v. Ferrell, 2021-Ohio-1259

Vindictive sentencing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2021/2021-Ohio-1259.pdf>

Trial court erred in sentencing appellant to a greater prison term that was 2 years longer than the original sentence "following reversal of his sentence in a successful appeal arising from the trial court's failure to make consecutive sentencing findings." As the same judge presided over the original sentencing and the resentencing, there was a presumption of vindictiveness under *North Carolina v. Pearce*, 395 U.S. 711, 89 S.Ct. 2072, 23 L.E.2d 656 (1969). And this presumption was not rebutted where "due process compelled the trial court to affirmatively explain the increase in its sentence in order to overcome the *Pearce* presumption of vindictiveness." Quoting *State v. Hitchcock*, 5th Dist. Fairfield No. 19-CA-56, 2020-Ohio-6751.

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.