

Appellate Court Decisions - Week of 1/4/21

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

First Appellate District of Ohio

Wolf v. State, C-180702

Megan's Law sex offender classification

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

Appellant, who moved from Illinois to Ohio, was required to begin registering under the move-in default classification of sexual predator under former R.C. Chapter 2950, Megan's Law, due to his life-time requirements from a sex offense he committed in Illinois. Appellant had petitioned the trial court for reclassification. In accordance with the First District's decision in *State v. Pasqua*, 157 Ohio App.3d 427, 2004-Ohio-2992, 811 N.E.2d 601, the trial court held a recidivism hearing, and denied appellant's petition. In the meantime, the OSC overruled *Pasqua* in *Lingle v. State*, Slip Opinion 2020-Ohio-6788, and

"held that former R.C. 2950.09(F)(2) is unambiguous, and that the trial court must 'ascertain what caused the requirement that an out-of-state offender register until death and whether that is substantially similar or is not substantially similar to classification as a sexual predator under former R.C. Chapter 2950.' See *Lingle* at ¶ 18-28. The 'reason the out-of-state offender must register as a sex offender for life—rather than the specifics of the other state's reporting obligations—is the focus of the trial court's inquiry under former R.C. 2950.09(F)(2).' *Id.* at ¶ 23. 'In short, the offender must prove first, the reason for the imposition of the lifetime registration requirement in the other state and second, that the reason for the lifetime registration requirement is not substantially similar to a classification as a sexual predator under former R.C. Chapter 2950.' *Id.* at ¶ 28. 'Therefore, in making its determination under R.C. 2950.09(F)(2), the trial court is to examine why the out-of-state offender was required to register for life and whether that reason is substantially similar to a classification as a sexual predator in Ohio under former R.C. Chapter 2950.' *Id.* at ¶ 31."

Case remanded for new hearing.

Second Appellate District of Ohio

State v. Taylor, 2020-Ohio-6854

Self-defense

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2020/2020-Ohio-6854.pdf>

The trial court erred in failing to instruct the jury that it could consider appellant's self-defense claim as a defense to the charge of improperly handling firearms in a motor vehicle under R.C.2923.16(A).

Third Appellate District of Ohio

State v. Fensler, 2020-Ohio-6892

Sufficiency; OVI

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/3/2020/2020-Ohio-6892.pdf>

State presented insufficient evidence that appellant operated a motor vehicle under the influence of a drug of abuse; state failed to present sufficient evidence "that Benadryl, when taken in a quantity exceeding the recommended dosage, can result in impairment of judgment or reflexes." Officer's testimony that taking four Benadryl exceeded the recommended dose and his "research" indicating that taking too many Benadryl would impair a person's ability to drive was not sufficient for a conviction for OVI. Conviction vacated and appellant discharged.

Fourth Appellate District of Ohio

Nothing to report.

Fifth Appellate District of Ohio

State v. Haputa, 2020-Ohio-6925

Suppression

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2020/2020-Ohio-6925.pdf>

Trial court erred in denying appellant's motion to suppress where there was no probable cause nor exigent circumstances to justify entry into a cell phone tower where appellant was working.

Sixth Appellate District of Ohio

State v. Mejia, 2020-Ohio-6870

Sentencing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2020/2020-Ohio-6870.pdf>

Appellant's sentence of 25 years to life was contrary to law; R.C. 2971.03(A)(3)(d)(i) applied only to those defendants who were convicted as sexually violent offenders. Under R.C.2971.03(B)(1)(a)-(c), the maximum term appellant should have received was 10 years to life; the victim was not less than 10 years of age, the record did not reveal any mention of force, and the indictment was silent as to the issue of force.

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

State v. Nelson, 2020-Ohio-6993

Sentencing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2020/2020-Ohio-6993.pdf>

Trial court erred by sentencing appellant to both a prison term and imposing a no-contact order, as such order is a condition of community control and such split sentences are prohibited. *See State v. Paige*, 153 Ohio St.3d 214, 2018-Ohio-813, 103 N.E.3d 800. Trial court also erred in finding appellant guilty of prior conviction and repeat violent offender specifications where appellant did not plead guilty to such specifications which were nolleed by the state.

Ninth Appellate District of Ohio

State v. McClafferty, 2020-Ohio-6857

Sentencing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2020/2020-Ohio-6857.pdf>

Trial court improperly modified appellant's sentence from 255 days credit to zero days credit, as that amendment "was a substantive change and did not reflect what had previously occurred in court."

State v. Coffman, 2020-Ohio-6855

Competency/NGRI

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2020/2020-Ohio-6855.pdf>

After appellant was deemed incompetent/unrestorable, trial court violated appellant's due process rights when it retained jurisdiction over appellant; "[t]here was no evidence presented at the December 30, 2019 hearing that would have allowed the trial court to form a basis for its conclusion that there was clear and convincing evidence that [appellant] committed the charged offense [of aggravated robbery]."

Tenth Appellate District of Ohio

State v. Harwell, 2020-Ohio-6880

Community control violation

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/10/2020/2020-Ohio-6880.pdf>

Trial court committed plain error by finding probable cause for the community control violation; a stipulation to probable cause "is simply not equivalent to finding that the state had proven those violations."

Eleventh Appellate District of Ohio

Nothing to report.

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.