

## **Appellate Court Decisions - Week of 11/2/20**

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

### **First Appellate District of Ohio**

#### **State v. Richards, C-190094**

**Sentencing**

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

**“Because the trial court erred by imposing a community-control sanction after imposing a prison term for the single offense of trespass in a habitation, we vacate the community-control sanction from [appellant’s] sentence.”**

### **Second Appellate District of Ohio**

#### **State v. Holley, 2020-Ohio-5104**

**Guilty plea**

**Full Decision:**

**<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2020/2020-Ohio-5104.pdf>**

**Trial court did not comply with Crim.R. 11 and R.C. 2937.07 when it accepted his guilty plea; trial court failed to inform appellant of the effect of his plea so conviction must be reversed. And appeal was not moot, as appellant still owed court costs.**

#### **State v. Reeder, 2020-Ohio-5107**

**Sentencing**

**Full Decision:**

**<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2020/2020-Ohio-5107.pdf>**

**The trial court erred in imposing prison sentences for a felony of the fifth degree and a felony of the fourth degree; “trial court was required to impose community control, because it failed to memorialize the orally-stated bond requirement that was the basis for the imposition of a prison sentence.” And as appellant has completed the erroneous prison sentences, his “community control sanctions will be deemed completed and terminated immediately. In addition, because [appellant] should not have been sentenced to prison, his**

**post-release control will be vacated.”**

### **Third Appellate District of Ohio**

**State v. Flory, 2020-Ohio-5136**

**Jury instructions**

**Full Decision:**

**<https://www.supremecourt.ohio.gov/rod/docs/pdf/3/2020/2020-Ohio-5136.pdf>**

**The trial court erred by providing improper, conflicting, and outdated jury instructions. The first part of the jury instruction on self-defense supplied the correct standard for evaluating self-defense under the amended version of R.C. 2901.05(B)(1) where the burden was on the state to disprove beyond a reasonable doubt that the appellant acted in self-defense; however, the instruction continued in an inconsistent manner, asserting a contradictory burden of proof under the former version of R.C. 2901.05 with the appellant having the burden to establish self-defense by a preponderance of the evidence. Conviction vacated and case remanded for a new trial.**

### **Fourth Appellate District of Ohio**

*Nothing to report.*

### **Fifth Appellate District of Ohio**

*Nothing to report.*

### **Sixth Appellate District of Ohio**

*Nothing to report.*

### **Seventh Appellate District of Ohio**

**State v. Boatwright, 2020-Ohio-5068**

**Right to counsel; sentencing**

**Full Decision:**

**<https://www.supremecourt.ohio.gov/rod/docs/pdf/7/2020/2020-Ohio-5068.pdf>**

**Although appellant did not knowingly, voluntarily, and intelligently waive his**

right to counsel at bench trial, his conviction to the petty offense of misdemeanor theft is still valid; however, the incarceration portion of his sentence is not. Case remanded for resentencing with instructions to vacate the confinement part of appellant's sentence. See Crim.R. 44(B); *State v. Price*, 7<sup>th</sup> Dist. Mahoning No. 14 MA 28, 2015-Ohio-1199.

## **Eighth Appellate District of Ohio**

***State v. G.K.*, 2020-Ohio-5083**

**Record sealing**

**Full Decision:**

**<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2020/2020-Ohio-5083.pdf>**

**Trial court erred in denying appellant's application to seal the records of his dismissed charges; COA concludes that R.C. 2953.52 is ambiguous which permits the sealing of dismissed charges even when one of the charges in the indictment resulted in a conviction.**

**I anticipate an appeal to the OSC, as the 8<sup>th</sup> District acknowledges that its decision is in conflict with the 4<sup>th</sup> and 10<sup>th</sup> Districts.**

## **Ninth Appellate District of Ohio**

***Nothing to report.***

## **Tenth Appellate District of Ohio**

***State v. Walton*, 2020-Ohio-5078**

**Suppression**

**Full Decision:**

**<https://www.supremecourt.ohio.gov/rod/docs/pdf/10/2020/2020-Ohio-5078.pdf>**

**Trial court erred in denying appellant's motion to suppress; "although the police arguably had reasonable suspicion to detain and frisk an individual who matched the description given by the tipster [man in maroon jogging suit, appellant] did not match that description." Nor did the other man and woman who were also detained along with appellant. Conviction reversed.**

## **Eleventh Appellate District of Ohio**

*Nothing to report.*

## **Twelfth Appellate District of Ohio**

*Nothing to report.*

## **Supreme Court of Ohio**

***In re A.M., 2020-Ohio-5102***

**Permanent custody of dependent child**

**Full Decision:**

**<https://www.supremecourt.ohio.gov/rod/docs/pdf/0/2020/2020-Ohio-4926.pdf>**

***In dependency case where trial court granted motion for permanent custody of child filed by Hamilton County Department of Job and Family Services, “R.C. 2151.414(D)(1) does not require a juvenile court to make specific findings regarding each best-interest factor listed in R.C. 2151.414(D)(1) or to include in its decision or judgment entry a written discussion of each of those factors.”***

## **Sixth Circuit Court of Appeals**

*Nothing to report.*

## **Supreme Court of the United States**

*Nothing to report.*