

## **Appellate Court Decisions - Week of 12/28/20**

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

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

#### **State v. Klein, C-190619**

**Violent-offender-database**

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

**Trial “court erred in declining to entertain [appellant’s] R.C. 2903.42(A)(2)(b) motion to rebut the R.C. 2903.42(A)(1) violent-offender-database (“VOD”) enrollment presumption; appellant’s appeal was ripe the moment “he was, by operation of law, classified . . . as a violent offender.”**

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

#### **State v. Sibrian, 2020-Ohio-6769**

**Court costs**

**Full Decision:**

**<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2020/2020-Ohio-6769.pdf>**

**Although the trial court was not required to consider appellant’s ability to pay court costs, *see State v. Taylor*, Slip Opinion No. 2020-Ohio-3514, \_\_\_ N.E.3d \_\_\_, it was required to provide some explanations as why it rejected appellant’s motion to waive court costs.**

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

*Nothing to report.*

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

*Nothing to report.*

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

#### **State v. Williams, 2020-Ohio-6755**

**Suppression**

**Full Decision:**

<https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2020/2020-Ohio-6755.pdf>

**Trial court erred when it overruled appellant’s motion to suppress. Police officer did not have reasonable suspicion to stop appellant’s vehicle for a marked-lanes violation; officer’s mistake of law that appellant had committed a marked-lane violation was not objectively reasonable. Court “find[s] the officer’s mistaken interpretation of the ordinance—an absolute prohibition against crossing a solid white line (from a left-turn lane to adjacent straight lane)—was unreasonable.”**

***State v. Hitchcock, 2020-Ohio-6751***

**Vindictive sentencing**

**Full Decision:**

<https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2020/2020-Ohio-6751.pdf>

**On remand from OSC where the Supreme Court held that a “trial court had no authority to order, as part of a community-control sentence, that appellant be placed in a CBCF after completing a separate prison term,” trial court erred in increasing appellant’s original prison sentence from 10 years to 13 years where there was no specific reason given that supported the longer sentence. The presumption of vindictiveness was no overcome. Appellant’s sentence modified to the original 10-year sentence.**

***State v. Chattoo, 2020-Ohio-6800***

**Suppression**

**Full Decision:**

<https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2020/2020-Ohio-6800.pdf>

**Trial court erred when it overruled appellant’s motion to suppress. Police officer did not have reasonable suspicion to stop appellant’s vehicle; state presented no evidence as to what the officer relied on when making the traffic stop of appellant nor that officer heard the dispatch regarding a traffic violation.**

**Sixth Appellate District of Ohio**

***State v. Moore, 2020-Ohio-6781***

Venue; sufficient evidence - retaliation

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2020/2020-Ohio-6781.pdf>

In conviction for attempted aggravated murder and retaliation, state failed to establish venue where appellant's actions in planning his ex-wife's murder occurred in Marion County where he was incarcerated, not in Erie County where his ex-wife was located and where he was tried. Also, evidence was insufficient to support conviction for retaliation where there was no evidence that appellant was aware or could have reasonably expected his threats communicated to another inmate would be communicated to his ex-wife. Convictions vacated and appellant discharged.

***State v. Moore, 2020-Ohio-6782***

Sentencing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2020/2020-Ohio-6782.pdf>

Trial court erred in sentencing appellant to prison in one case, consecutively to community control in another case. *State v. Hitchcock*, 157 Ohio St.3d 215, 2019-Ohio-3246, 134 N.E.3d 164.

***State v. Wright, 2020-Ohio-6783***

Right to counsel

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2020/2020-Ohio-6783.pdf>

Trial court erred in forcing appellant to go to trial pro se; "particularly given the city's failure to file a brief on appeal, we cannot conclude that [appellant] was adequately informed of the magnitude of the undertaking and the hazards inherent in self-representation such that a waiver of her right to counsel may be inferred."

***State v. Jones, 2020-Ohio-6777***

Right to counsel

**Full Decision:**

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2020/2020-Ohio-6777.pdf>

Appellant did not knowingly, intelligently, and voluntarily waive his right to trial counsel; “[a]t no point did the court advise [appellant] of the nature of the charges, the statutory offenses included within them, the range of allowable punishments thereunder—which was indeed considerable—possible defenses to the charges and circumstances in mitigation thereof, or any other facts essential to a broad understanding of the whole matter. And beyond telling [appellant] that ‘a person who represents himself has a fool for a client,’ the court did not advise [appellant] of the dangers and disadvantages of self-representation.” The written waiver was also deficient and contained none of the required advisements.

**Seventh Appellate District of Ohio**

***State v. Moschell, 2020-Ohio-6818***

**Plea**

**Full Decision:**

<https://www.supremecourt.ohio.gov/rod/docs/pdf/7/2020/2020-Ohio-6818.pdf>

Appellant did not knowingly, intelligently, and voluntarily enter his guilty plea, where the magistrate failed to properly advise him that a guilty plea is a complete admission of guilt.

***State v. Desarro, 2020-Ohio-6815***

**Suppression**

**Full Decision:**

<https://www.supremecourt.ohio.gov/rod/docs/pdf/7/2020/2020-Ohio-6815.pdf>

Trial court erred by denying appellant’s motion to suppress; appellant had a reasonable expectation of privacy in the curtilage area adjacent to his house where he had taken steps “to protect the area from observation by passerby.” And as there were no exigent circumstances to justify the actions of the police officers, the motion to suppress should have been granted.

**Eighth Appellate District of Ohio**

***In re V.M., 2020-Ohio-6746***

## Confinement credit

### Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2020/2020-Ohio-6746.pdf>

**Trial court erred by failing to grant appellant 139 days spent at Carrington Youth Academy, as appellant was confined during his time at the academy.**

## Ninth Appellate District of Ohio

*Nothing to report.*

## Tenth Appellate District of Ohio

*Nothing to report.*

## Eleventh Appellate District of Ohio

*Nothing to report.*

## Twelfth Appellate District of Ohio

*Nothing to report.*

## Supreme Court of Ohio

**State v. Gideon, 2020-Ohio-6961**

### Reconsideration

### Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/0/2020/2020-Ohio-6961.pdf>

**OSC grants appellant’s motion to reconsider and reissues opinion, clarifying that the Court “conducted an independent review when we reached the conclusion that [appellant] did not satisfy the *Graham* test. In addition, the opinion clarifies our previous remand language to instruct the court of appeals to consider [appellant’s] other assignments of error that were deemed moot.”**

**Summary from OSC regarding original opinion: “Medical license is a property right and threatened loss of the license is a form of coercion—R.C. 4731.22(B)—Coercion is not sufficient to warrant the suppression of**

***statements made during a medical-board investigative interview unless defendant's belief that he would lose his license if he failed to participate in the medical-board interview and answer questions truthfully is both subjectively believed and objectively reasonable—Court of appeals erred by finding that assignment of error relating to the sufficiency-of-the-evidence claim was moot under App.R. 12(A)(1)(c)—Court of appeals' judgment reversed and cause remanded."***

### **Sixth Circuit Court of Appeals**

*Nothing to report.*

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

*Nothing to report.*