

Appellate Court Decisions - Week of 2/15/21

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

First Appellate District of Ohio

In re: N.S., C-190713

Probation violation

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

As appellant “was never actually placed on probation or ordered to comply with the conditions of probation,” he could not be adjudicated for a probation violation. Reversed and appellant discharged from further prosecution for the probation violation.

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

In re D.M., 2021-Ohio-354

Sufficiency; level of the offense of sexual imposition

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2021/2021-Ohio-354.pdf>

As appellant did not have a prior delinquency adjudication for R.C. 2907.02 - 2907.05 nor for former section 2907.12, there was insufficient evidence to elevate the degree of sexual imposition from a misdemeanor of the third degree to a misdemeanor of the first degree.

State v. Poff, 2021-Ohio-384

Restitution

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2021/2021-Ohio-384.pdf>

Trial court erred in ordering appellant to pay \$12,000 in restitution without holding an evidentiary hearing after appellant disputed the amount. R.C. 2929.28(A)(1).

Sixth Appellate District of Ohio

State v. Bui, 2021-Ohio-362

Suppression

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2021/2021-Ohio-362.pdf>

Trial court erred in finding state trooper had probable cause to believe “that appellant was following the truck more closely than was reasonable and prudent, having due regard for the speed of such vehicle, the traffic and the condition of the highway. Moreover, we conclude Trooper Archer lacked reasonable and articulable suspicion or probable cause to believe a violation of R.C. 4511.34 occurred, as to justify the traffic stop. Any evidence seized after the illegal stop is excluded as “fruits of the poisonous tree.” *Wong Sun v. United States*, 371 U.S. 471, 487-488, 83 S.Ct. 407, 9 L.Ed.2d 441 (1963).

State v. Clark, 2021-Ohio-366

Record sealing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2021/2021-Ohio-366.pdf>

Trial court abused its discretion in denying appellant’s application to seal his conviction for attempted impersonation of a police officer. Appellant “demonstrated that his employment opportunities have been hampered,” and “[t]he trial court improperly relied on information outside the record and the seriousness of the underlying offense as reasons for denying [appellant’s] motion to seal his record of conviction. The information properly before the court demonstrates that [appellant’s] interests in having the records sealed were not outweighed by any legitimate governmental need to maintain those records.”

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

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.