

Appellate Court Decisions - Week of 5/11/20

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

First Appellate District of Ohio

State v. Whitfield, C-190591

Suppression

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

In state's appeal, trial court did not err in granting appellant's motion to suppress the search of his person; although initial traffic stop and detention for purposes of bringing in a K9 unit for sniff of vehicle was valid, frisk of appellant was not supported by any "articulate specific facts that would lead a reasonable person to conclude that the individual under investigation [was] armed and dangerous."

State v. Hollis, C-190195

Sex offender classification

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

Because the Florida statute under which appellant was convicted was not substantially equivalent to the Ohio statute, "the trial court erred in its substantial-equivalence determination;" therefore, the trial court's denial of appellant's motion to vacate his Tier III sex offender classification is reversed, and the case remanded with instructions to the trial court that appellant does not have a duty to register as a sex offender in Ohio.

State v. Rork, C-190236 & C-190237

Sentence

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

State concedes error where trial court, after sentencing appellant to community control and then finding that appellant had not committed a violation of his community control, proceeded to resentence him anyway; court lacked jurisdiction to reconsider its original sentence absent a community control violation or other statutory authority.

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. Moss, 2020-Ohio-2862

Hearsay

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2020/2020-Ohio-2862.pdf>

Trial court erred in admitting jail calls by co-defendant which indicated appellant was a drug dealer; calls were inadmissible hearsay within hearsay, and there was no exception to the hearsay rule. See Evid.R. 805.

State v. Hessler, 2020-Ohio-2859

Fine

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2020/2020-Ohio-2859.pdf>

Trial court erred in imposing \$150 fine, when maximum fine is \$100; fine reduced to \$100.

State v. Werder, 2020-Ohio-2865

Suppression

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2020/2020-Ohio-2865.pdf>

Trial court erred in denying appellant's motion to suppress where "in the absence of reasonable suspicion to believe there were unlawful drugs in the vehicle," police officer violated appellant's Fourth Amendment rights when he extended the stop beyond the amount of time reasonably required to complete the mission of the traffic stop to wait for a canine to arrive.

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

State v. Swortchek, 2020-Ohio-2831

Sentencing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2020/2020-Ohio-2831.pdf>

Trial court erred in imposing community control in addition to the agreed-upon six-month sentence for the fourth-degree felony OVI offense; and when it deviated from the plea agreement, court erred in not allowing appellant the opportunity to withdraw his plea. Case reversed and remanded for resentencing in accordance with plea agreement or to allow appellant to withdraw his plea.

Independence v. Corradetti, 2020-Ohio-2823

Jail-time credit

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2020/2020-Ohio-2823.pdf>

Trial court erred in not granting appellant's motion for jail-time credit for time spent on electronically monitored house arrest ("EMHA"), where court imposed the EMHA as a jail sanction, rather than a community control sanction and appellant was not permitted to leave house for any purpose.

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. Harper, 2020-Ohio-2913

Postrelease control; voidable, not void

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/o/2020/2020-Ohio-2913.pdf>

OSC holds that “Failure of a trial court to include that notice [that any violation of postrelease control will subject the defendant to the consequences of such violation provided in R.C. 2967.28] in the sentencing entry does not render the postrelease-control portion of a sentence void—If a sentencing court has jurisdiction to act, sentencing errors in the imposition of postrelease control render the sentence voidable, not void, and the sentence may be set aside if successfully challenged on direct appeal—To the extent that prior cases held that the failure to properly impose postrelease control in a sentence renders that portion of the defendant’s sentence void, those cases are overruled.”

Sixth Circuit Court of Appeals

Nothing to report.

Supreme Court of the United States

Nothing to report.