Appellate Court Decisions - Week of 5/28/18

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

First Appellate District of Ohio

Nothing to report.

Second Appellate District of Ohio

Nothing to report.

Third Appellate District of Ohio

Nothing to report.

Fourth Appellate District of Ohio

***State v. Simmons*, 2018-Ohio-2018**

Drug Possession: Immunity

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/4/2018/2018-Ohio-2018.pdf

Summary from the Fourth District: "R.C. 1.58 and R.C. 2925.11(B)(2)(b)– trial court incorrectly interpreted statutory amendment that granted immunity to certain individuals as repeal of criminal conduct rather than reduction in penalty; instead, R.C. 2925.11(B)(2)(b) operates to reduce the penalty for a minor drug possession offense, and thus, R.C. 1.58(B) entitles defendant to seek the benefit of reduced penalty."

Fifth Appellate District of Ohio

Nothing to report.

Sixth Appellate District of Ohio

***State v. Clark*, 2018-Ohio-2029**

Motion to Suppress: Search

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2018/2018-Ohio-2029.pdf

Summary from the Sixth District: "Ohio Adm.Code 5537-2-09 conflicts with R.C. 4511.25(B) where both cover the same subject matter and Ohio Adm.Code 5537-2-09 improperly adds to the rule provided in R.C. 4511.25(B)(1). Ohio Adm.Code 5537-2-09 is unconstitutional as applied."

Regarding the facts, police had no reason to pull Appellant's vehicle over where he was going slower than the speed limit by a few miles per hour slower than the speed limit and not violating any other law.

Also, check out paragraphs 69-72, because the Sixth District doesn't believe marijuana flakes are enough to justify a search of a vehicle.

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

***State v. Amey*, 2018-Ohio-2061**

Voluntary Manslaughter

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2018/2018-Ohio-2061.pdf

Summary from the Eighth District: "The evidence was not sufficient to convict the appellant of voluntary manslaughter because the appellant did not knowingly cause the death of the victim. The appellant's conviction was against the manifest weight of the evidence, and there was enough evidence to demonstrate that the appellant acted in self-defense."

Paragraph 14 more or less sums this case up:

"An individual is guilty of felonious assault when they 'knowingly cause serious physical harm to another * * * or cause or attempt to cause physical harm to another * * * by means of a deadly weapon.' R.C. 2903.11(A)(1) and 2903.11(A)(2). Therefore, by finding Amey guilty of voluntary manslaughter, but not guilty of felonious assault, the trial court reasoned that Amey knowingly caused death to the victim, but did not knowingly cause serious physical harm. Moreover, the trial court stated that there was no testimony as to whether the defendant's acts were committed knowingly. This reasoning is not logical especially since knowingly is an element of voluntary manslaughter. In order to knowingly cause the death of someone, an individual would also have to knowingly cause physical harm. (Emphasis

added.)"

***State v. S.E.J.*, 2018-Ohio-2060**

Expungement

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2018/2018-Ohio-2060.pdf

Summary from the Eighth District: "In denying appellant's application under R.C. 2953.32 to seal her record of conviction, the trial court abused its discretion by failing to consider the fact that appellant had established that she was rehabilitated. The trial court also abused its discretion when it failed to weigh the interests of the appellant in having the records pertaining to her conviction sealed against the legitimate needs, if any, of the government to maintain those records."

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

***Collins v. Virginia*, No. 16-1027**

Warrantless Search: Automobile Exception

Full Decision:
https://www.supremecourt.gov/opinions/17pdf/16-1027_7lio.pdf

Syllabus:

"During the investigation of two traffic incidents involving an orange and black motorcycle with an extended frame, Officer David Rhodes learned that the motorcycle likely was stolen and in the possession of petitioner Ryan Collins. Officer Rhodes discovered photographs on Collins' Facebook profile of an orange and black motorcycle parked in the driveway of a house, drove to the house, and parked on the street. From there, he could see what appeared to be the motorcycle under a white tarp parked in the same location as the motorcycle in the photograph. Without a search warrant, Office Rhodes walked to the top of the driveway, removed the tarp, confirmed that the motorcycle was stolen by running the license plate and vehicle identification numbers, took a photograph of the uncovered motorcycle, replaced the tarp, and returned to his car to wait for Collins. When Collins returned, Officer Rhodes arrested him. The trial court denied Collins' motion to suppress the evidence on the ground that Officer Rhodes violated the Fourth Amendment when he trespassed on the house's curtilage to conduct a search, and Collins was convicted of receiving stolen property. The Virginia Court of Appeals affirmed. The State Supreme Court also affirmed, holding that the warrantless search was justified under the Fourth Amendment's automobile exception.

"*Held*: The automobile exception does not permit the warrantless entry of a home or its curtilage in order to search a vehicle therein. Pp. 3– 14.

"(a) This case arises at the intersection of two components of the Court's Fourth Amendment jurisprudence: the automobile exception to the warrant requirement and the protection extended to the curtilage of a home. In announcing each of the automobile exception's justifications—i.e., the 'ready mobility of the automobile' and 'the pervasive regulation of vehicles capable of traveling on the public highways,' *California v. Carney*, 471 U. S. 386, 390, 392—the Court emphasized that the rationales applied only to automobiles and not to houses, and therefore supported their different treatment as a constitutional matter. When these justifications are present, officers may search an automobile without a warrant so long as they have probable cause. Curtilage—'the area 'immediately surrounding and associated with the home' '—is considered ' 'part of the home itself for Fourth Amendment purposes.' ' *Florida v. Jardines*, 569 U. S. 1, 6. Thus, when an officer physically intrudes on the curtilage to gather evidence, a Fourth Amendment search has occurred and is presumptively unreasonable absent a warrant. Pp. 3–6.

"(b) As an initial matter, the part of the driveway where Collins' motorcycle was parked and subsequently searched is curtilage. When Officer Rhodes searched the motorcycle, it was parked inside a partially enclosed top portion of the driveway that abuts the house. Just like the front porch, side garden, or area 'outside the front window,' that enclosure constitutes 'an area adjacent to the home and 'to which the activity of home life extends.' ' Jardines, 569 U. S., at 6, 7. Because the scope of the automobile exception extends no further than the automobile itself, it did not justify Officer Rhodes' invasion of the curtilage. Nothing in this Court's case law suggests that the automobile exception gives an officer the right to enter a home or its curtilage to access a vehicle without a warrant. Such an expansion would both undervalue the core Fourth Amendment protection afforded to the home and its curtilage and ' 'untether' " the exception ' 'from the justifications underlying' ' it. *Riley v. California*, 573 U. S. ____, ____. This Court has similarly declined to expand the scope of other exceptions to the warrant requirement. Thus, just as an officer must have a lawful right of access to any contraband he discovers in plain view in order to seize it without a warrant—see *Horton v. California*, 496 U. S. 128, 136–137—and just as an officer must have a lawful right of access in order to arrest a person in his home—see *Payton v. New York*, 445 U. S. 573, 587–590—so, too, an officer must have a lawful right of access to a vehicle in order to search it pursuant to the automobile exception. To allow otherwise would unmoor the exception from its justifications, render hollow the core Fourth Amendment protection the Constitution extends to the house and its curtilage, and transform what was meant to be an exception into a tool with far broader application. Pp. 6–11.

"(c) Contrary to Virginia's claim, the automobile exception is not a categorical one that permits the warrantless search of a vehicle anytime, anywhere, including in a home or curtilage. *Scher v. United States*, 305 U. S. 251; *Pennsylvania v. Labron*, 518 U. S. 938, distinguished. Also unpersuasive is Virginia's proposed bright line rule for an automobile exception that would not permit warrantless entry only of the house itself or another fixed structure, e.g., a garage, inside the curtilage. This Court has long been clear that curtilage is afforded constitutional protection, and creating a carveout for certain types of curtilage seems more likely to create confusion than does uniform application of the Court's doctrine. Virginia's rule also rests on a mistaken premise, for the ability to observe inside curtilage from a lawful vantage point is not the same as the right to enter curtilage without a warrant to search for information not otherwise accessible. Finally, Virginia's rule automatically would grant constitutional rights to those persons with the financial means to afford residences with garages but deprive those persons without such resources of any individualized consideration as to whether the areas in which they store their vehicles qualify as curtilage. Pp. 11–14.

"292 Va. 486, 790 S. E. 2d 611, reversed and remanded.

"SOTOMAYOR, J., delivered the opinion of the Court, in which ROBERTS, C. J., and KENNEDY, THOMAS, GINSBURG, BREYER, KAGAN, and GORSUCH, JJ., joined. THOMAS, J., filed a concurring opinion. ALITO, J., filed a dissenting opinion."