

## Appellate Court Decisions - Week of 6/1/20

*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

#### **State v. Hair, 2020-Ohio-3128**

Record sealing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2020/2020-Ohio-3128.pdf>

“[R]es judicata does not bar a successive application to seal the record where there is a showing of changed or new circumstances;” since the trial court mistakenly applied R.C. 2953.36, which governs convictions which are ineligible for sealing, to deny appellant’s first application for sealing of a dismissal of an OVI charge, trial court’s failure to apply the correct statute, R.C. 2953.52, to appellant’s second application was error. Case remanded for appellant to establish a change of circumstances and for trial court to review the application through the lens of R.C. 2593.52.

### Third Appellate District of Ohio

*Nothing to report.*

### Fourth Appellate District of Ohio

*Nothing to report.*

### Fifth Appellate District of Ohio

#### **State v. Ngaka, 2020-Ohio-3106**

Waiver of counsel

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2020/2020-Ohio-3106.pdf>

Case remanded for new trial where appellant did not make a knowing, intelligent, and voluntary waiver of counsel; trial court's colloquy with appellant did not sufficiently demonstrate that the decision to waive counsel was made with "apprehension of the nature of the charges, the statutory offenses included within them, the range of allowable punishments thereunder, possible defenses to the charges and circumstances in mitigation thereof, and all other facts essential to a broad understanding of the whole matter."

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

*Nothing to report.*

### **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**

### **State v. Gloff, 2020-Ohio-3143**

Self-defense

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/12/2020/2020-Ohio-3143.pdf>

In conviction for assault on a peace officer, trial court erred in failing to

give proper jury instruction on the burden of proof after appellant presented evidence that he acted in self-defense. Amendment to R.C. 2901.05 altered burden of proof of preponderance of the evidence which was upon the accused to the state to “prove that the accused person did not use force in self-defense beyond a reasonable doubt if there is evidence that the accused used force in self-defense.” Amendment applied to appellant’s case, where amendment became effective in middle of appellant’s trial; amended statute referred to its application “at the trial of a person,” as opposed to when the offense was committed.

### **Supreme Court of Ohio**

*Nothing to report.*

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

*Nothing to report.*

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

*Nothing to report.*