

## Appellate Court Decisions - Week of 6/30/14

### First Appellate District of Ohio

***In re: M.P., 2014-Ohio-2846***

Juvenile: Search: Suppression

Full Decision: [http://www.hamilton-co.org/appealscourt/docs/decisions/C-130663\\_06302014.pdf](http://www.hamilton-co.org/appealscourt/docs/decisions/C-130663_06302014.pdf)

Appellant's adjudications are vacated where juvenile court should have suppressed the evidence discovered as a result of a stop where detective made stop based on a hunch that Appellant had been involved in an incident involving a gun days earlier, Appellant was wearing baggy shorts, and Appellant showed an "unusual interest" in a passing police car.

### Second Appellate District of Ohio

***State v. Taylor, 2014-Ohio-2821***

Sentencing: Intervention in Lieu of Conviction

Full Decision: <http://www.sconet.state.oh.us/rod/docs/pdf/2/2014/2014-ohio-2821.pdf>

The trial court erred in finding Appellant, who pleaded guilty to one count of carrying a concealed weapon, a fourth degree felony, ineligible for intervention in lieu of conviction under the S.B. 160 version of the intervention of lieu of conviction statute, R.C. 2951.041(B)(1).

"[T]he only reasonable interpretation of R.C. 2929.13(B)(2) is that the legislature intended (B)(2) to apply whenever R.C. 2929.13(B)(1)(a) [mandatory community control] did not. Because R.C. 2929.13(B)(1)(a) did not apply to Taylor, the trial court had discretion to sentence him to prison or community control pursuant to R.C. 2929.13(B)(1)(b). In exercising that discretion, the trial court had to proceed under R.C. 2929.13(B)(2), which provided for consideration of the purposes and principles of sentencing along with the statutory seriousness and recidivism factors. Therefore, in sentencing Taylor to community control, the trial court necessarily did impose that sanction under R.C. 2929.13(B)(2). Accordingly, pursuant to R.C. 2951.041(B)(1), he was ILC eligible."

### Third Appellate District of Ohio

*Nothing new.*

### Fourth Appellate District of Ohio

*Nothing new.*

### Fifth Appellate District of Ohio

*Nothing new.*

### Sixth Appellate District of Ohio

#### **State v. DeLong, 2014-Ohio-2829**

Search: Misdemeanor: Exigent Circumstances

Full Decision: <http://www.sconet.state.oh.us/rod/docs/pdf/6/2014/2014-ohio-2829.pdf>

The trial court erred in denying Appellant's motion to suppress where police entered the closed door of a party with approximately 100 guests and those guests were actually in the process of dispersing in compliance with police requests.

### Seventh Appellate District of Ohio

*Nothing new.*

### Eighth Appellate District of Ohio

*Nothing new.*

### Ninth Appellate District of Ohio

#### **State v. Purvis, 2014-Ohio-2865**

Search: OVI: Suppression

Full Decision: <http://www.sconet.state.oh.us/rod/docs/pdf/9/2014/2014-ohio-2865.pdf>

The trial court did not err in granting Appellant's motion to suppress in his OVI case where his encounter with police was not consensual. Police

followed Appellant to his girlfriend's home after he left a party, then shined a light on him, ordered him to stop and told him to come over.

***State v. Jordan, 2014-Ohio-2857***

Child Endangering: Manifest Weight

Full Decision: <http://www.sconet.state.oh.us/rod/docs/pdf/9/2014/2014-ohio-2857.pdf>

Appellant's conviction for child endangering was against the manifest weight of the evidence where it was based on her being complicit in a theft and doing so having the potential to result in her child being placed in Children's Services.

**Tenth Appellate District of Ohio**

*Nothing new.*

**Eleventh Appellate District of Ohio**

***State v. Baker, 2014-Ohio-2873***

Search: OVI: Blood

Full Decision: <http://www.sconet.state.oh.us/rod/docs/pdf/11/2014/2014-ohio-2873.pdf>

The trial court did not err in granting Appellant's motion to suppress the results of his blood alcohol test where the blood vials were not refrigerated for the approximately 4 hours between when they were drawn from Appellant and when they were mailed. Notably, there was no expert testimony in case regarding an anticoagulant powder in the vial and its ability to render the lack of refrigeration irrelevant.

**Twelfth Appellate District of Ohio**

*Nothing new.*

**Supreme Court of Ohio**

*Nothing new.*

**Sixth Circuit Court of Appeals**

*Nothing new.*

**Supreme Court of the United States**

*Nothing new.*