

Appellate Court Decisions - Week of 7/20/20

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. T.J.D., 2020-Ohio-3745

Insufficient evidence; WUD

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2020/2020-Ohio-3745.pdf>

The trial court erred in denying appellant's motion to dismiss indictment for WUD where appellant was not under a weapons disability; that disability was relieved in 1994 when appellant's conviction for felony drug abuse, the conviction for which the disability arose, was sealed.

Believe this is the first appellate district that has held that sealing relieves a weapons disability - pretty good reasoning and history of statute.

State v. Merrick., 2020-Ohio-3744

Court costs

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2020/2020-Ohio-3744.pdf>

Although plea and sentence for aggravated murder is affirmed, trial court erred when it issued a separate order imposing court costs where order was contrary to waiver of cost that court announced at sentencing and wrote in judgment of conviction.

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. Bell, 2020-Ohio-3750

Record sealing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2020/2020-Ohio-3750.pdf>

The trial court erred in denying appellant’s application to have his record sealed “[s]ince the trial court did not comply with the mandates of R.C. 2953.32, by not scheduling a hearing, by not determining whether or not appellant was an eligible offender, and by failing to make the required findings on the record for review, we find the trial court abused its discretion.

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

Carusone v. Warden, No. 18-4175

Habeas corpus; *Brady* violations

Full Decision:

<http://www.opn.ca6.uscourts.gov/opinions.pdf/20a0222p-06.pdf>

Trial court erred in denying appellant’s motion for a new trial, and First District Court of Appeals “itself plainly misapplied the governing Supreme Court precedent [*Kyles v. Whitley*, 514 U.S. 419 (1995)] when it denied relief on [appellant’s] due process claim.” The Hamilton County, Ohio Prosecutor’s Office failed to disclose five pages of hospital records to the defense where such records clearly discredit the deputy coroner’s testimony that a stab wound was the cause of death of the decedent. *Kyles* requires a defendant to demonstrate only that the suppressed evidence “undermine[s] confidence in the verdict.” *Kyles* specifically held “that the test for materiality under *Brady* [*v. Maryland*, 373 U.S. 83 (1963)] ‘is not a sufficiency of evidence test.’” The state court of appeals applied the standard that the *Kyles* Court said specifically not to apply. The state court’s “rejection of [appellant’s] *Brady* claim was an unreasonable application of clearly established Supreme Court precedent; because “[w]hat remains is a discredited verdict,” the case was remanded with instructions to grant a writ of habeas corpus.

Shout out to Bill Gallagher and Beth Conkin who have been fighting on behalf of Ralph Carusone for years.

Supreme Court of the United States

Nothing to report.