Appellate Court Decisions - Week of 5/10/21

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

First Appellate District of Ohio

***State v. Christen*, C-200158**

Record sealing

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

"[T]he trial court erred in concluding that R.C. 2953.61(B)(1) did not explicitly allow her reckless-operation conviction to be sealed and in determining her dismissed OVI charge could not be sealed." Pursuant to R.C. 2953.61(B)(1), "if the sole conviction is under any section of R.C. Chapter 4507., 4510., 4511., or 4549 or a substantially similar municipal ordinance, the trial court has the discretion to 'order that the records pertaining to all the charges be sealed' provided that the records pertaining to the dismissed charges would be eligible for sealing under R.C. 2953.52."

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. Bursley*, 2021-Ohio-1613**

Sentencing

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2021/2021-Ohio-1613.pdf

In conviction for engaging in a pattern of corrupt activity, the trial court erred in sentencing appellant to a mandatory prison term where "none of the provisions of R.C. 2929.13(F) apply to appellant to cause the ten year prison sentence to be a mandatory term."

***State v. Porter*, 2021-Ohio-1617**

Agreed plea and sentence

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2021/2021-Ohio-1617.pdf

The trial court erred in sentencing appellant to a five-year prison term where the "plea agreement reached between the parties contained an agreed-upon term of incarceration ranging from two years to three years. During the change of plea proceedings, the trial court did not forewarn appellant of the potentiality of the imposition of a term of incarceration greater than the three-year maximum term agreed upon by the parties in the plea agreement and recited by the trial court during the change of plea proceedings." Plea vacated and case remanded.

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

***Cleveland v. Serrano*, 2021-Ohio-1586**

Criminal contempt; community control sanctions violation

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2021/2021-Ohio-1586.pdf

Trial court erred in convicting appellant of criminal contempt for violating his community control sanctions since trial courts cannot charge such offenders. R.C. 2925.25(D)(2). And court also erred in convicting appellant of indirect contempt in a separate action where there was no evidence taken by the court; appellant's actions occurred outside the presence of the trial court, so court erred by holding the actions were direct contempt.

***State v. Ketchum*, 2021-Ohio-1583**

Sufficiency; menacing by stalking

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2021/2021-Ohio-1583.pdf

Where indictment and bill of particulars stated date of offense was on or about October 26, 2018, and only incidents that were presented to the jury at the trial were dated December 24, 2018 and 2015, the state failed to present sufficient evidence to sustain the menacing by stalking convictions. Convictions vacated, and appellant discharged.

Ninth Appellate District of Ohio

***State v. Sanford*, 2021-Ohio-1619**

Speedy trial

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2021/2021-Ohio-1619.pdf

Trial court erred in failing to grant appellant's motion to dismiss two of the four counts of aggravated vehicular homicide and OVI. One set of the charges was dependent on the toxicology report; however, the other set was not dependent on the report, as the recklessness of the appellant's alleged actions were known by the state at the time of the original indictment. "[N]o new or additional information became known later, or [] the charges resulted from different conduct."

Tenth Appellate District of Ohio

Nothing to report.

Eleventh Appellate District of Ohio

Nothing to report.

Twelfth Appellate District of Ohio

***State v. Paul*, 2021-Ohio-1628**

Sentencing

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/12/2021/2021-Ohio-1628.pdf

"[W]hen sentencing an offender to a non-life felony indefinite prison term under the Reagan Tokes Law, a trial court must advise the offender of the five

notifications set forth in R.C. 2929.19(B)(2)(c) to fulfill its statutory sentencing duty related to the notification." Trial court erred by failing to give three of the five notifications to appellant; case remanded for resentencing.

Supreme Court of Ohio

Nothing to report.

Sixth Circuit Court of Appeals

Nothing to report.

Supreme Court of the United States

Nothing to report.