Appellate Court Decisions - Week of 5/4/20

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

First Appellate District of Ohio

***State v. Eads*, C-190213, C-190214, & C-190215**

Suppression; good faith

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

Summary from First District - good legal holding, bad result for Mr. Eads: "We hold that the officer's warrantless acquisition of Eads's medical records was in violation of his Fourth Amendment rights. Eads retained a reasonable expectation of privacy in the alcohol- and drug-test results created during his emergency treatment, even though R.C. 2317.02(B)(2)(a) and 2317.022 ostensibly required the hospital to comply with the officer's request for the information and the information is exempt from Ohio's physician-patient privilege. We further determine the officer's reliance on the statutes to obtain the records was in good faith, as more fully discussed below. Consequently, we hold that the exclusionary rule does not require the suppression of those unlawfully obtained test results. For this reason, we conclude that the trial court did not err by denying the motion to suppress.

What is frustrating about this case is the other districts who had held the same way previously all involved cases where State Troopers were involved - and this case involved State Troopers. Does the agency really not keep up with legal holdings throughout the State of Ohio?

Second Appellate District of Ohio

***State v. Johnson*, 2020-Ohio-2742**

Suppression

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2020/2020-Ohio-2742.pdf

Trial court erred in denying appellant's motion to suppress search; initial encounter was a *Terry* stop, not a consensual encounter. Officer did not advise appellant of the purpose of the investigation until after he was forcibly seized; "there was no evidence that Johnson made furtive movements such as reaching into his pockets, there was no evidence that

the residence was in a high crime area, or that any bulges were visible on Johnson's person suggesting the presence of weapons, and Johnson's conduct presented no appreciable danger to O'Diam and Bowling. There was no evidence that the officers recognized Johnson from prior criminal interaction. Johnson had not even stepped away or backed up from O'Diam prior to his physical restraint . . . [therefore], [w]e conclude that excessive force was used in the context of this investigatory stop of a free citizen, invoking the protections of the Fourth Amendment, which guarantees citizens the right to be secure in their persons against unreasonable seizures of the person." Appellant committed no "overt act of obstruction or attempted flight preced[ing] O'Diam's use of unreasonable force."

Third Appellate District of Ohio

Nothing to report.

Fourth Appellate District of Ohio

***State v. McNichols*, 2020-Ohio-2705**

NGRI

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/4/2020/2020-Ohio-2705.pdf

As it was unclear to the COA "whether the trial court applied the correct legal standard before it found appellant to be a mentally ill person subject to court order," case is remanded "so the trial court may consider whether either of appellant's mental health diagnoses constitutes a mental illness as defined in R.C. 5122.01(A), and thus, whether appellant is a mentally ill person subject to court order under R.C. 5122.01(B)(4)."

Fifth Appellate District of Ohio

***State v. Grahovich*, 2020-Ohio-2730**

Sentencing

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2020/2020-Ohio-2730.pdf

Trial court erred in sentencing appellant to community control to be served consecutively to a prison term, *see State v. Hitch*cock, 157 Ohio St.3d 215, 2019-Ohio-3246, 134 N.E.3d 164.

***State v. Rinehart*, 2020-Ohio-2796**

Sentencing

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2020/2020-Ohio-2796.pdf

Trial court erred in sentencing appellant to five years of mandatory post-release control where appellant was convicted of felonious assault, a felony of the second degree, which only carried a mandatory three-year term of PRC.

Sixth Appellate District of Ohio

Nothing to report.

Seventh Appellate District of Ohiopaypal

Nothing to report.

Eighth Appellate District of Ohio

***Cleveland v. Goodman*, 2020-Ohio-2713**

Indirect contempt and restitution

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2020/2020-Ohio-2713.pdf

Trial court erred in ordering restitution without supporting evidence and without conducting a hearing; court also erred in finding appellant in indirect contempt without providing him with the due process guarantees afforded by R.C. 2705.02. (Odd part about this case is trial court had correctly found appellant in direct contempt for same conduct, resulting in same sentence.)

***State v. Watson* , 2020-Ohio-2721**

Crim.R. 29 and ineffective assistance of counsel

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2020/2020-Ohio-2721.pdf

Trial counsel was ineffective for failing to file a Crim.R. 29 motion for acquittal when there was insufficient evidence presented by city to support conviction for unlawful restraint; evidence sufficient for domestic violence conviction.

***State v. Lenhart*, 2020-Ohio-2727**

Sentencing

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2020/2020-Ohio-2727.pdf

Trial court erred in failing to advise appellant at original sentencing hearing of the specific prison term he would receive if he violated community control; three-year prison term vacated and case remanded for resentencing without prison being an option.

***Cleveland v. Dixon*, 2020-Ohio-2728**

No-contact order and contempt of court

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2020/2020-Ohio-2728.pdf

Trial court erred in finding appellant in contempt for violating no-contact order which was a condition of his bond; appellant never was released on bond so he was incapable of violating a condition of his bond.

***State v. Abrams*, 2020-Ohio-2729**

Reverse bindover

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2020/2020-Ohio-2729.pdf

After juvenile appellant was bound over to adult court for attempted murder, felonious assault, and discharge of a firearm, and appellant pled guilty to only felonious assault, trial court erred by not staying the adult sentence and remanding the case to juvenile court as a reverse bindover, *see* R.C. 2152.12(B)(3).

Ninth Appellate District of Ohio

***State v. Dennison*, 2020-Ohio-2699**

Allied offenses and jail-time credit

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2020/2020-Ohio-2699.pdf

Trial court erred in not merging the convictions for rape and abduction where the restraint of the victim was incidental to appellant's commission of rape and offenses occurred in same room; trial court also erred in not giving jail-time credit for time spent in hospital undergoing competency restoration.

***State v. R.L.*, 2020-Ohio-2811**

Suppression

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2020/2020-Ohio-2811.pdf

In state's appeal, trial court did not err in granting appellant's motion to suppress the search of his person where the officer lacked probable cause; although the traffic stop was legal, as was the canine sniff of the vehicle, the search of the vehicle only yielded a minor misdemeanor amount of marijuana, and "the officer failed to articulate any specific facts tending to show that [appellant] had engaged in criminal activity sufficient to warrant a search of his person."

Tenth Appellate District of Ohio

Nothing to report.

Eleventh Appellate District of Ohio

Nothing to report.

Twelfth Appellate District of Ohio

***State v. Keating*, 2020-Ohio-2770**

Suppression

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/12/2020/2020-Ohio-2770.pdf

In state's appeal, trial court did not err in granting appellant's motion to suppress search; although initial encounter between officer and appellant was consensual, it escalated into an investigatory detention where officer's statements and actions, coupled with the presence of two other officers on both sides of the van, communicated to appellant she was not free to leave.

Supreme Court of Ohio

***State v. Dangler*, 2020-Ohio-2765**

Plea colloquy

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/0/2020/2020-Ohio-2765.pdf

Summary from OSC: "When a trial court has told a defendant that he is subject to the sex-offender-registration scheme, that defendant is entitled to have his conviction vacated for lack of a more complete explanation only if he demonstrates prejudice—that is, that he would not have entered the plea but for the incomplete explanation. Because [appellant] has not demonstrated prejudice, he is not entitled to withdraw his plea."

Sixth Circuit Court of Appeals

Nothing to report.

Supreme Court of the United States

Nothing to report.