Appellate Court Decisions - Week of 6/15/20

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

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. Crosby*, 2020-Ohio-3306**

Sentencing

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2020/2020-Ohio-3306.pdf

In multiple cases, trial court erred in finding in one case that appellant violated a "no-contact provision" of his probation, as that provision was never originally imposed in his sentence.

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

***Cleveland v. Watson*, 2020-Ohio-3284**

Sufficiency; unlawful restraint

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2020/2020-Ohio-3284.pdf

City presented sufficient evidence to support conviction for domestic violence where evidence, if believed, demonstrated that appellant grabbed victim's hair weave and swung her back and forth by her hair; however, evidence was insufficient to support conviction for unlawful restraint where victim testified she went into the bathroom willingly, but never testified that she was trying to get out of the bathroom.

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

***State v. Boaston*, 2020-Ohio-3301**

First Amendment; civil-stalking protection order

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/0/2020/2020-Ohio-3301.pdf

Summary from OSC "*Civil-stalking protection order enjoining future Internet postings about a person imposes an unconstitutional prior*

restraint on protected speech in violation of the First Amendment to the United States Constitution."

Civil-stalking protection order (R.C. 2903.214) which enjoins future postings about a petitioner imposes an unconstitutional prior restraint on protected speech.

***State v. Pendergrass*, 2020-Ohio-3335**

Sentencing enhancement

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/0/2020/2020-Ohio-3335.pdf

Summary from OSC "*Sentencing enhancement in R.C. 2907.04(B)(4) for previous qualifying conviction requires that the defendant had the qualifying conviction when he committed the charged offense.*"

An offender is subject to this enhancement if he has "previously has been convicted of" certain sex crimes; OSC holds that "the enhancement only applies if *at the time of the offense* the offender has previously been convicted of a qualifying sex crime," not "*at the time of the indictment*" as the state maintained.

Sixth Circuit Court of Appeals

Nothing to report.

Supreme Court of the United States

***Andrus v. Texas*, 590 U.S. ___ (2020)**

Ineffective assistance of counsel

Full Decision:
http://www.supremecourt.gov/opinions/19pdf/18-9674_2dp3.pdf

Summary from the SCOTUS "We conclude that [appellant] has shown deficient performance under the first prong of *Strickland*, and that there is a significant question whether the Court of Criminal Appeals properly considered prejudice under the second prong of *Strickland*. We thus grant [appellant's] petition for a writ of certiorari and his motion for leave to proceed *in forma pauperis*, vacate the judgment of the Texas Court of Criminal Appeals, and remand the case for the court to address the prejudice prong of *Strickland* in a manner not inconsistent with this

opinion."

Worth the read, if for nothing else but to see about the worst representation by defense counsel I have seen to date.

***Bostock v. Clayton County*, 590 U.S. ___ (2020)**

Civil rights

Full Decision:
http://www.supremecourt.gov/opinions/19pdf/17-1618_hfci.pdf

***Held*: An employer who fires an individual merely for being gay or transgender violates Title VII. Pp. 4–33.**

"In our time, few pieces of federal legislation rank in significance with the Civil Rights Act of 1964. There, in Title VII, Congress outlawed discrimination in the workplace on the basis of race, color, religion, sex, or national origin. Today, we must decide whether an employer can fire someone simply for being homosexual or transgender. The answer is clear. An employer who fires an individual for being homosexual or transgender fires that person for traits or actions it would not have questioned in members of a different sex. Sex plays a necessary and undisguisable role in the decision, exactly what Title VII forbids."

GORSUCH, J., delivered the opinion of the Court, in which ROBERTS, C. J., and GINSBURG, BREYER, SOTOMAYOR, and KAGAN, JJ., joined. ALITO, J., filed a dissenting opinion, in which THOMAS, J., joined. KAVANAUGH, J., filed a dissenting opinion.

Not criminal, but pretty big decision, worth the read.