Appellate Court Decisions - Week of 6/22/20

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

First Appellate District of Ohio

***State v. McCants*, 2020-Ohio-3441**

Fines, court costs, and attorney fees

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/1/2020/2020-Ohio-3441.pdf

Trial court erred in ordering the payment of attorney fees without conducting a hearing to determine appellant's present and future ability to pay; however, imposition of fines and court costs affirmed.

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

Nothing to report.

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

***State v. Hughes*, 2020-Ohio-3382**

Driver's license suspension

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/10/2020/2020-Ohio-3382.pdf

Following 2016 conviction for OVI with sentence that included a 10-year driver's license suspension, trial court erred in denying appellant's request for limited driving privileges; trial court was mistaken in believing it lacked statutory authority to grant such privileges where R.C. 4510.021 "clearly and unequivocally provides that a court has authority to exercise its discretion in granting driving privileges for any of the purposes set forth in R.C. 4510.021(A), including for '[o]ccupational, educational, vocational, or medical purposes' as requested by [appellant]."

***State v. Wilkins*, 2020-Ohio-3428**

Sufficiency; failure to obtain permits

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/10/2020/2020-Ohio-3428.pdf

R.C. 935.08(A)(2) requires that a permit be obtained for restricted snake possession for a restricted snake that is acquired in Ohio on or after January 1, 2014; as appellant had moved his snakes from Ohio to Kentucky in late 2013, he did not acquire or possess snakes in Ohio on January 1, 2014. And when appellant moved back to Ohio with his snakes in November 2016, he obtained the necessary permit within the 120-day limitation period provided in the statute. Therefore, conviction for failure to obtain the necessary permits for appellant's snakes was not based on sufficient evidence; however, convictions for cruelty to animals and failure to display proper signage affirmed.

Eleventh Appellate District of Ohio

***State v. Montalvo*, 2020-Ohio-3418**

Sufficiency; aggravated disorderly conduct

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2020/2020-Ohio-3418.pdf

Conviction for aggravated disorderly conduct was plain error where there was no evidence presented of an aggravating factor to elevate offense to a misdemeanor of the fourth degree; "[t]he complaint did not completely state the aggravating factor, the prosecution did not acknowledge the complete set of facts it must prove when it amended the complaint prior to trial, and the jury was not properly instructed."

Twelfth Appellate District of Ohio

***State v. Macko*, 2020-Ohio-3410**

Concurrent sentences; jail-time credit

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/10/2020/2020-Ohio-3410.pdf

Where record was silent, appellant's misdemeanor sentence and felony sentence should be served concurrently; therefore, the remaining 19 days left to serve on the misdemeanor sentence was concurrent with the 72-month felony sentence. Because these sentences were concurrent, appellant was entitled to jail-time credit for the 11 days he was held in jail on both the misdemeanor and felony charges prior to sentencing. *State v. Fugate*, 117 Ohio St.3d 261, 2008-Ohio-856. However, appellant was not entitled to jail-time credit on his felony charge during the period he was serving his misdemeanor sentence prior to being sentenced on the felony. *State v. Cupp*, 156 Ohio St.3d 207, 2018-Ohio-5211.

Supreme Court of Ohio

***State ex rel. Magsic v. Toledo*, 2020-Ohio-3416**

Writ of prohibition

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

3416.pdf

Summary from OSC: *"R.C. 1901.20(A)(1) expressly vests exclusive jurisdiction over noncriminal traffic-law adjudications in the municipal courts—A city does not have jurisdiction to conduct its own quasi-judicial proceedings to adjudicate a person's liability for violating a municipal traffic ordinance."*

OSC grants writ of prohibition, preventing city of Toledo "from conducting an administrative hearing to adjudicate [appellant's] liability for violating a municipal traffic ordinance." Stated simply, Toledo cannot use administrative procedures instead of proceedings through municipal court to determine appeals of traffic tickets that have been issued through red-light and speed-detection cameras.

Sixth Circuit Court of Appeals

***United State v. Coop*, No. 19-1003**

Sufficient evidence for abduction enhancement

Full Decision:
http://www.opn.ca6.uscourts.gov/opinions.pdf/20a0190p-06.pdf

Four level enhancement for abduction during a robbery was not supported by the evidence where appellant only moved victims from store's sales floor to the back room; in this case, a "different location" as contemplated in the meaning of abducted "generally should refer to a place other than the store being robbed, not to a separate area or spot within that store."

Supreme Court of the United States

Nothing to report.