Appellate Court Decisions - Week of 6/8/20

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. Davis*, 2020-Ohio-3199**

Sufficiency; aggravated burglary

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2020/2020-Ohio-3199.pdf

Evidence was insufficient to support conviction for aggravated burglary and accompanying firearm specification where state failed to present any evidence that another person other than appellant's accomplice was present when he trespassed into the victims' home, either inside, immediately outside, or entering the home at the same time as appellant. However, conviction for burglary is upheld, as all that is required is another person is "present or likely to be present."

Third Appellate District of Ohio

***In re: J.D.*, 2020-Ohio-3225**

Unlawful adjudication

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/3/2020/2020-Ohio-3225.pdf

Juvenile court erred in adjudicating appellant delinquent for statutory rape in 2017 when he was 12 years of age and the victim was 9 years of age; under the OSC's decision 6 years earlier, *In re D.B.*, 129 Ohio St.3d 104, 2011-Ohio-2671, a child under the age of 13 could not lawfully be adjudicated delinquent for a violation of R.C. 2907.02(A)(1)(b); juvenile court then erred in finding it did not have jurisdiction to vacated this void adjudication. Finally, juvenile court erred in committing appellant to DYS based on the unconstitutional adjudication.

What is most disturbing about this case is how in the world did no one involved know about the *D.B* case decided 6 years before this boy was charged and adjudicated? It was a huge OSC decision. It is bad enough neither the prosecutor or the judge was keeping up with the law, but what in the world was the defense attorney doing? And yes, this is a plug for everyone to review my weekly summaries.

Fourth Appellate District of Ohio

Nothing to report.

Fifth Appellate District of Ohio

Nothing to report.

Sixth Appellate District of Ohio

***State v. Eaton*, 2020-Ohio-3208**

Consecutive sentences; court costs

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2020/2020-Ohio-3208.pdf

Trial court erred in sentencing appellant to consecutive sentences without making the required findings under R.C. 2929.14(C)(4) at the sentencing hearing; trial court also erred in imposing the costs of appointed counsel and confinement without considering appellant's ability to pay such costs. Case remanded for resentencing and to consider appellant's ability to pay.

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

***State v. Crenshaw*, 2020-Ohio-3183**

Sufficiency; child endangering

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2020/2020-Ohio-3183.pdf

There was insufficient evidence to support convictions for two counts of child endangering where the state failed to present sufficient evidence that victim suffered serious physical harm; state also failed to submit evidence that victim was a family member which had elevated domestic violence from a first-degree misdemeanor to a fourth-degree felony. Appellant's convictions for child endangering vacated and she is discharged; case remanded so that conviction for domestic violence is reduced to a first-degree misdemeanor.

Ninth Appellate District of Ohio

***State v. Taylor*, 2020-Ohio-3159**

Sufficiency; disorderly conduct

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2020/2020-Ohio-3159.pdf

As "there was no evidence presented at trial to suggest that [appellant] engaged in fighting or that he engaged in threatening harm to any person or property," evidence was insufficient to support conviction for disorderly conduct. Appellant's behavior toward police officer also was not "turbulent;" appellant's use of profane language was not accompanied by any conduct that was violent, aggressive, or threatening. Conviction vacated and appellant discharged.

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. Howard*, 2020-Ohio-3195**

Sentencing

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/0/2020/2020-Ohio-3195.pdf

Summary from OSC "*Sentencing court that notifies defendant at initial sentencing of specific prison term defendant could receive if community control is revoked need not repeat notification at intervening revocation hearings before prison term can be imposed upon revocation of community control—Sentencing court must make statutorily required consecutive-sentences findings when it imposes consecutive sentences following revocation of community control.*"

***Brook Park v. Rodojev*, 2020-Ohio-3253**

Speed-measuring device

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/0/2020/2020-Ohio-3253.pdf

Syllabus of the OSC "The results of a speed-measuring device using either radar or laser technology are admissible in court without expert testimony establishing, or the court taking judicial notice of, the reliability of the scientific principles of that technology. However, the factfinder is required to determine whether the evidence presented concerning the accuracy of the particular speed-measuring device and the qualifications of the person who used it is sufficient to support a conviction based on the device's results."

Sixth Circuit Court of Appeals

***United State v. Jones*, No. 19-5069**

Double jeopardy

Full Decision:
http://www.opn.ca6.uscourts.gov/opinions.pdf/20a0333n-06.pdf

Appellant's conviction vacated for identity theft, as his conviction for aggravated identity theft involved the same elements; "anyone who commits aggravated identity theft necessarily commits identity theft. *Blockburger v. United States*, 284 U.S. 299, 52 S.Ct. 180, 76 L.Ed. 306 (1932).

Supreme Court of the United States

Nothing to report.