Appellate Court Decisions - Week of 7/6/20

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

Nothing to report.

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

***State v. Eatmon*, 2020-Ohio-3592**

Dismissal

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2020/2020-Ohio-3592.pdf

Trial court did not err when it dismissed attempted murder case without prejudice under Crim.R. 48(B) after state sought second continuance

because it lacked its witnesses; trial court did not abuse its discretion in refusing to issue material witness warrants for 2 witnesses "where the state failed to provide sworn affidavits or testimony in support of the warrants demonstrating probable cause that warrants were necessary to procure the witnesses' attendance at trial." Basically, state failed to seek material witness warrants at first continuance and should have made better efforts to contact witnesses, including subpoenaing them.

***In re E.S.*, 2020-Ohio-3598**

Dismissal; discovery violation

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2020/2020-Ohio-3598.pdf

Trial court did not err when it dismissed case with prejudice after state failed to produce a recording of a 911 call that contained material, exculpatory evidence; dismissal occurred despite the fact that the state did produce the tape at trial.

Ninth Appellate District of Ohio

***State v. A.V.*, 2020-Ohio-3519**

Record sealing

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2020/2020-Ohio-3519.pdf

Trial court erred when it denied appellant's application to seal his criminal records without holding a hearing. R.C. 2953.32(B).

***State v. Thomas*, 2020-Ohio-3539**

Suppression

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2020/2020-Ohio-3539.pdf

Trial court did not err when it granted appellee's motion to suppress statements and search of vehicle; arresting officer impermissibly extended the traffic stop for reasons unrelated to the original marked lanes violation which afforded the additional time to allow the K-9 unit to arrive.

Tenth Appellate District of Ohio

***State v. Armengau*, 2020-Ohio-3552**

Sentencing

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/10/2020/2020-Ohio-3552.pdf

Trial court erred when it should have credited appellant "for time already served in connection with the conduct underlying the offense;" court also erred in using the "sentencing package doctrine" to resentence appellant.

Eleventh Appellate District of Ohio

***State v. Bradley-Lewis*, 2020-Ohio-3563**

Right to counsel

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2020/2020-Ohio-3563.pdf

Trial court erred when it failed to secure a waiver of counsel before ordering a jury trial go forward when appellant was unrepresented by counsel; a valid waiver "cannot be inferred" when the court fails to "engage[] in any meaningful dialogue as to the inherent risks of proceeding pro se." Since convictions were for misdemeanors, convictions stand, but sentences of confinement are vacated.

Twelfth Appellate District of Ohio

Nothing to report.

Supreme Court of Ohio

Nothing to report.

Sixth Circuit Court of Appeals

***United State v. McReynolds*, No. 18-1672**

Sentencing

Full Decision:
http://www.opn.ca6.uscourts.gov/opinions.pdf/20a0206p-06.pdf

District court erred when it calculated appellant's base offense level at a higher level than was found by the jury's verdict; without explanation, the court attributed the entire conspiracy-wide drug amount to appellant as opposed to the lesser amount found by the jury. Case remanded where "district court should adequately explain its reasoning if it attributes any drug amounts to [appellant] beyond the jury's verdict when calculating his base level."

***United State v. Robertson*, No. 19-2368**

Sentencing

Full Decision:
http://www.opn.ca6.uscourts.gov/opinions.pdf/20a0392n-06.pdf

Summary from Sixth Circuit: "[D]istrict court erred when it relied on unsubstantiated facts in dismissing [appellant's] argument for a lower sentence based on his health issues because the record does not show that the 'district court's [other] considerations' independently explain [appellant's] sentence in this case, *Wilson*, 614 F.3d at 225. Without any record evidence for those unsubstantiated facts, we find that the error was obvious or clear. *See Vonner*, 516 F.3d at 386; *Wilson*, 614 F.3d at 223. Here, because the district court failed to fully explain [appellant's] sentence and relied on unsubstantiated facts, 'there is a reasonable probability that, but for the error, [appellant] would have received a more favorable sentence.'"

Supreme Court of the United States

Nothing to report.