Appellate Court Decisions - Week of 7/6/21

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

***State v. Guzman*, 2021-Ohio-2168**

Violation of protection order; disqualification of defense counsel

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/3/2021/2021-Ohio-2168.pdf

Trial court erred when it granted the state's motion to disqualify appellant's trial counsel as a necessary witness on the basis that counsel had been served with the protection order. Pursuant to the 2017 amendment of R.C. 2919.27(D), there were alternative means to prove that appellant had been served with or shown or given constructive notice of the order. Case remanded for trial court to consider these alternative methods of proof.

Fourth Appellate District of Ohio

Nothing to report.

Fifth Appellate District of Ohio

***State v. Bost*, 2021-Ohio-2190**

Pre-indictment delay

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2021/2021-Ohio-2190.pdf

In state's appeal, trial court did not err when it granted appellant's motion to dismiss the murder charge for pre-indictment delay of seven years. Appellant demonstrated actual prejudice that resulted from: 1) the delay due to the proven unavailability of appellant's physical injuries from the alleged victim; and 2) the

unavailability of certain physical evidence. The delay by the state was also unjustifiable, as there was no new evidence presented that would justify reopening the murder case after the state ceased active investigation in 2012.

Sixth Appellate District of Ohio

***State v. Berry*, 2021-Ohio-2249**

Sentencing; court costs

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2021/2021-Ohio-2249.pdf

In resentencing that occurred 12 years after the appellate decision remanding the case, the trial court retained jurisdiction to resentence appellant, despite the long delay. However, it committed plain error when it failed to merge the murder and child endangering counts, ordering them to run concurrently; court also erred when it imposed court costs that had been reversed on appeal.

***State v. Mosby*, 2021-Ohio-2255**

Suppression

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2021/2021-Ohio-2255.pdf

Trial court erred in denying appellant's motion to suppress the traffic stop of the automobile in which he was a passenger and his continuing detention when such stop and detention were not supported by reasonable, articulable suspicion. "[T]he vehicle in which appellant was a passenger was targeted for detention almost immediately upon officers' arrival on the scene, without any observation of criminal or even suspicious conduct on appellant's part . . . [and] appellant's actions in response to the officers' commands [to exit the vehicle], whether suspicious or not, are irrelevant to the question of whether the investigative stop in this case was supported by reasonable suspicion."

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

Nothing to report.

Ninth Appellate District of Ohio

***State v. Long*, 2021-Ohio-2221**

Consecutive sentences

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2021/2021-Ohio-2221.pdf

Although the trial court included the correct R.C. 2929.14(C)(4) findings in its sentencing entries to justify consecutive sentences, it failed to address those findings at the sentencing hearing. *See State v. Bonnell*, 140 Ohio St.3d 209, 2014-Ohio-3317, 16 N.E.3d 659. Case remanded for new sentencing hearing.

Tenth Appellate District of Ohio

***State v. Long*, 2021-Ohio-2202**

Contempt

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/10/2021/2021-Ohio-2202.pdf

Although the trial court had the authority to conduct a hearing to determine whether appellant had violated its order to refrain from making threats against jurors, witnesses, and court personnel, the "court erred in finding beyond a reasonable doubt on the evidence before it that [appellant] had in fact contravened its no-threat order as properly construed . . . the manifest weight of the evidence does not establish beyond a reasonable doubt that Ms. Long threatened physical violence against protected individuals." Finding of indirect contempt reversed and remanded.

Eleventh Appellate District of Ohio

Nothing to report.

Twelfth Appellate District of Ohio

Nothing to report.

Supreme Court of Ohio

Nothing to report.

Sixth Circuit Court of Appeals

Nothing to report.

Supreme Court of the United States

Nothing to report.