

Appellate Court Decisions –Week of 6/20/22

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

First Appellate District of Ohio

State v. Howard, C-210285

Motion for new trial

Full Decision: (No web cite as of yet).

Trial court erred in denying appellant’s motions for leave to file a motion for a new trial pursuant to Crim.R. 33(B) without determining “whether [appellant] was unavoidably prevented from discovering the evidence upon which he now relies to support his motions for a new trial. . . .” Case remanded for an evidentiary hearing.

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

State v. Hernandez, 2022-Ohio-2028

Community control

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2022/2022-Ohio-2028.pdf>

In conviction for identity fraud, trial court abused its discretion when it imposed a curfew as a condition of community control because the court found “no relationship between the crime committed by [a]ppellant and the curfew restriction imposed in this case.” And although the trial court did not err in imposing the condition requiring appellant to obtain and maintain employment, it did err in “requiring him to obtain permission from his supervising officer

before any change in his employment” because that condition was “overbroad, and does not serve the purposes of rehabilitation or preventing further crime.”

Sixth Appellate District of Ohio

State v. Fenderson, 2022-Ohio-1973

Merger

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2022/2022-Ohio-1973.pdf>

The trial court erred when it failed to merge appellant’s convictions for trafficking in and possession of the same drug from the same transaction. “[T]he harm from the offenses was not separate and identifiable.”

Swann v. State, 2022-Ohio-1977

Relief from firearms disability

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2022/2022-Ohio-1977.pdf>

Trial court erred in denying appellant’s petition for relief from firearm disability without holding an evidentiary hearing, as required by R.C. 2923.14(D).

Seventh Appellate District of Ohio

State v. Lanier, 2022-Ohio-2024

Plea

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/7/2022/2022-Ohio-2024.pdf>

Trial court erred in failing to strictly comply with Crim.R. 11(C)(2); court advised appellant of only four of the five constitutional rights he was waiving by pleading guilty, failing to advise him of his right to a jury trial. Advising appellant that he was waiving his right to a “speedy and public trial” was not adequate.

Eighth Appellate District of Ohio

State v. Blalock, 2022-Ohio-2042

Murder/voluntary manslaughter

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2022/2022-Ohio-2042.pdf>

In bench trial, trial court committed plain error in finding appellant guilty of both murder and voluntary manslaughter for the same killing; court's finding of "guilty of voluntary manslaughter is clearly incompatible with its finding him guilty of murder." Case remanded for a new trial.

State v. Hurt, 2022-Ohio-2039

Jury instructions; murder/voluntary manslaughter

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2022/2022-Ohio-2039.pdf>

In jury trial, trial court committed plain error by failing "to properly instruct the jury on murder and voluntary manslaughter." Its instruction that the jury could find appellant guilty of both offenses was erroneous; "the jury should be instructed that the defendant can be found guilty of *either* murder or voluntary manslaughter." Trial court also abused its discretion in failing to instruct the jury on the inferior-degree offense of aggravated assault with respect to the felonious assault counts; it also erred by not instructing the jury on the lesser-included offense of involuntary manslaughter with respect to the felony murder count.

State v. James, 2022-Ohio-2040

Jury instructions; felonious assault/aggravated assault

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2022/2022-Ohio-2040.pdf>

In jury trial, trial court committed plain error "when it instructed the jury that they should consider the charge of felonious assault and then consider the charge of aggravated assault regardless of whether they found defendant not guilty of felonious assault. Instead, the court should have instructed the jury to consider the inferior offense of aggravated assault only if it found that the state had proven all the elements of felonious assault. Because a not guilty finding of felonious assault precludes a guilty finding of aggravated assault as an inferior offense of felonious assault, [appellant] could not have been convicted of aggravated assault."

Ninth Appellate District of Ohio

State v. Good, 2022-Ohio-1981

Consecutive sentences

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2022/2022-Ohio-1981.pdf>

Trial court erred by imposing consecutive sentences without making the findings required by R.C. 2929.19(C)(4) and R.C. 2929.41(A); court failed to “engage[] in a complete analysis regarding whether the consecutive sentences are not disproportionate to the seriousness of the [appellant’s] conduct and to the danger [appellant] poses to the public. Furthermore, the trial court did not make findings as to the necessity of consecutive sentences in either of its sentencing entries.”

Tenth Appellate District of Ohio

Nothing to report.

Eleventh Appellate District of Ohio

State v. James, 2022-Ohio-1994

Restitution

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2022/2022-Ohio-1994.pdf>

Trial court erred in including a civil judgment for restitution in its sentencing entry, where the “entry is devoid of any other reference to restitution and neither states the amount of the purported civil judgment nor the victims to whom the civil judgment was to be paid.”

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

***Nance v. Ward*, 597 U.S. ____ (2022)**

Methods of execution; 42 U.S.C. §1983

Full Decision:

https://www.supremecourt.gov/opinions/21pdf/21-439_bp7c.pdf

In several recent decisions, this Court has set out rules for challenging a State’s proposed method of execution under the Eighth Amendment. To prevail on such a claim, a prisoner must identify a readily available alternative method of execution that would significantly reduce the risk of severe pain. In doing so, the prisoner is not confined to proposing a method authorized by the executing State’s law; he may instead ask for a method used in other States. *See Bucklew v. Precythe*, 587 U. S. ____, ____ (2019) (slip op., at 19).

This case concerns the procedural vehicle appropriate for a prisoner’s method-of-execution claim. We have held that such a claim can go forward under 42 U. S. C. §1983, rather than in habeas, when the alternative method proposed is already authorized under state law. *See Nelson v. Campbell*, 541 U. S. 637, 644–647 (2004). Here, the prisoner has identified an alternative method that is not so authorized. The question presented is whether §1983 is still a proper vehicle. We hold that it is.

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

***Dobbs v. Jackson Women’s Health Organization*, 597 U.S. ____ (2022)**

Abortion

Full Decision:

https://www.supremecourt.gov/opinions/21pdf/19-1392_6j37.pdf

SCOTUS overrules *Roe v. Wade*, 410 U. S. 113, and *Planned Parenthood of Southeastern Pa. v. Casey*, 505 U. S. 833.

***Held*: The Constitution does not confer a right to abortion; *Roe* and *Casey* are overruled; and the authority to regulate abortion is returned to the people**

and their elected representatives.

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

***New York State Rifle & Pistol Assn., Inc. v. Bruen*, 597 U.S. ____ (2022)**

Second Amendment

Full Decision:

https://www.supremecourt.gov/opinions/21pdf/20-843_7j80.pdf

***Held*: New York’s proper-cause requirement violates the Fourteenth Amendment by preventing law-abiding citizens with ordinary self-defense needs from exercising their Second Amendment right to keep and bear arms in public for self-defense. Pp. 8–63.**

In *District of Columbia v. Heller*, 554 U. S. 570 (2008), and *McDonald v. Chicago*, 561 U. S. 742 (2010), we recognized that the Second and Fourteenth Amendments protect the right of an ordinary, law-abiding citizen to possess a handgun in the home for self-defense. In this case, petitioners and respondents agree that ordinary, law-abiding citizens have a similar right to carry handguns publicly for their self-defense. We too agree, and now hold, consistent with *Heller* and *McDonald*, that the Second and Fourteenth Amendments protect an individual’s right to carry a handgun for self-defense outside the home.

Because the State of New York issues public-carry licenses only when an applicant demonstrates a special need for self-defense, we conclude that the State’s licensing regime violates the Constitution.

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