

## Appellate Court Decisions –Week of 6/6/22

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

### First Appellate District of Ohio

#### **State ex rel. Hare v. Russell, C-210344**

Writ of prohibition

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

Peremptory writ of prohibition issued; Judge’s nunc pro tunc entry is vacated “and she is hereby restrained from exercising further judicial authority in this case.” Judge did not have jurisdiction to issue any orders after she recused herself from criminal case.

### Second Appellate District of Ohio

#### **State v. Allen, 2022-Ohio-1872**

Plea; sentencing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2022/2022-Ohio-1872.pdf>

Trial court erred when it accepted appellant’s guilty plea, but failed to inform him that his plea was a complete admission of his guilt as required by Crim.R. 11(E). Trial court also erred when it incorrectly informed appellant that the maximum penalty he faced for three convictions was one year in jail, then proceeded to sentence him to 180 days for each conviction, consecutively, for a total jail sentence of 540 days or 18 months in jail. “Inaccurate information regarding the maximum penalty can invalidate a plea.” Plea vacated as not being knowingly, intelligently, or voluntarily made.

### Third Appellate District of Ohio

#### **State v. Espinoza, 2022-Ohio-1807**

Sentencing; TCAP

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/3/2022/2022-Ohio-1807.pdf>

Because appellant had previously been convicted of burglary and domestic violence, which are offenses of violence, he was not eligible pursuant to TCAP to

serve his prison sentence locally in a non-ODRC facility. Therefore, “the trial court erred by ordering that he serve his 12-month prison sentence in a non-ORDC facility.” Case remanded for resentencing.

**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**

*Nothing to report.*

**Eleventh Appellate District of Ohio**

**State v. Warfield, 2022-Ohio-1818**

Community control violation

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2022/2022-Ohio-1818.pdf>

Trial court committed plain error when it revoked appellant’s community control and imposed a 48-month prison term. “The failure to provide written notice to [appellant] that the criminal charges filed against him in a separate case formed the basis of his alleged community control violation in the

underlying case violated his procedural due process rights,” and “[t]he lack of written notice prejudiced [appellant] because he was precluded from preparing an appropriate defense to the proposed revocation of community control.”

## Twelfth Appellate District of Ohio

*Nothing to report.*

## Supreme Court of Ohio

***State v. Bryant, 2022-Ohio-1878***

Sentencing; contempt

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/o/2022/2022-Ohio-1878.pdf>

***“When a defendant’s outburst or other courtroom misbehavior causes a significant disruption that obstructs the administration of justice, that behavior may be punishable as contempt of court and not with an increased prison sentence.”*** And “[b]ecause a defendant’s display of disrespect toward a trial court is not a permissible sentencing factor that the court may consider under R.C. 2929.11 and 2929.12, we conclude that the six-year increase in [appellant’s] sentence is contrary to law.” It should be noted that the sentence had not yet been journalized, but the OSC still found error in the increase in the sentence.

## Sixth Circuit Court of Appeals

*Nothing to report.*

## Supreme Court of the United States

*Nothing to report.*