

Appellate Court Decisions –Week of 6/19/23

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

First Appellate District of Ohio

In re: L.J., C-220553

Juvenile expungement

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

Trial court abused its discretion when it sealed and expunged 45 of appellant's 46 juvenile cases but refused to seal the last case. There was no "compelling rationale for reaching a different outcome in the remaining case * * * [as appellant's] age, adult record, and education and employment history are consistent factors across all 46 cases * * *. And an adult applicant's failure to pay restitution in a juvenile case is probative only of that person at 21 years old, not whether he or she is rehabilitated at the time of applying for sealing and expungement. Here, the juvenile court issued its decision when [appellant] was 29 years old—over 8 years after the juvenile court lost jurisdiction over him and the order of restitution terminated."

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

State v. Sears, 2023-Ohio-1925

Sentencing; allocution

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2023/2023-Ohio-1925.pdf>

In conviction for aggravated possession of drugs, a third-degree felony, trial court erred in sentencing appellant to 36 months in prison. The “sentence was contrary to law for two reasons: (1) the trial judge considered information outside what he was permitted to consider under R.C. 2929.19(B)(1)(a); and (2) [the judge] violated [appellant’s] right of allocution under Crim.R. 32(A)(1) by failing to allow him to address new information before imposing his sentence.” Case remanded for resentencing.

Seventh Appellate District of Ohio

State v. Barnhart, 2023-Ohio-1916

Waiver of jury trial

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/7/2023/2023-Ohio-1916.pdf>

In appeal by two defendants of their convictions for breaking and entering, the trial court was without jurisdiction to hold a bench trial. “[T]here was no signed waiver from [a]ppellants and no acknowledgement in open court by [a]ppellants regarding the waiver of their constitutional right to a jury trial.” Convictions vacated, and case remanded.

Eighth Appellate District of Ohio

State v. Browning, 2023-Ohio-1887

Petition for postconviction relief

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2023/2023-Ohio-1887.pdf>

In state’s appeal, trial court did not err in granting appellants’ postconviction petition where original trial judge had conversations regarding the case with his wife who was a social worker with the facility that had treated the alleged victim. That original trial judge was also the fact-finder, as the cases involved a bench trial for all four appellants.

Cleveland v. Browning, 2023-Ohio-1888

Statutory speedy trial

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2023/2023-Ohio-1888.pdf>

Trial court erred in failing to grant appellant’s motion to dismiss for violation of his statutory speedy trial rights. As more than 90 days passed between appellant’s arrest and trial, the burden shifted to the city to show that tolling events had occurred. The first “tolling” event the city argued occurred when the trial court continued the case for seven days; however, “[t]he court gave no reason for its sua sponte continuance, and therefore, * * * the municipal court did not show that this seven-day sua sponte continuance was ‘reasonable’ as contemplated by R.C. 2945.72(H).” The second continuance argued by the city as a tolling event occurred when the city requested another pretrial as opposed to the case being set for a jury trial as appellant desired. “[T]his continuance was at the city’s request, and, under the ambit of R.C. 2945.72(H), it was not reasonable and did not toll [appellant’s] speedy-trial time. The Ohio Supreme Court has held that when the prosecution fails to use due diligence ‘to secure and insure the attendance of [a] witness,’ this ‘cannot be classified as a * * * reasonable continuance granted other than upon the accused’s own motion.’ *State v. Reeser*, 63 Ohio St.2d 189, 191, 407 N.E.2d 25 (1980) * * *.” Convictions vacated, and appellant discharged.

Strongsville v. Henry, 2023-Ohio-1891

Magistrate’s decision

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2023/2023-Ohio-1891.pdf>

In conviction of theft by deception where matter was heard by a magistrate, “[t]he magistrate’s journal entry in this case did not comply with Crim.R. 19(D)(3)(a)(iii); it was not designated as a ‘magistrate’s decision’ and did not notify the parties of the effect of failing to timely file objections.” And although the issue was not raised by either party in the trial court or on appeal, the COA “elect[ed] to vacate [appellant’s] conviction and remand the matter to the trial court so that (1) the magistrate can prepare and file a decision that complies with Crim.R. 19(D)(3)(a)(iii) and (2) the parties may then have the opportunity to file objections to the magistrate’s decision.”

Ninth Appellate District of Ohio

Nothing to report.

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

Nothing to report.

Sixth Circuit Court of Appeals

Nothing to report.

Supreme Court of the United States

Nothing to report.