

Appellate Court Decisions –Week of 6/5/23

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

State v. Garner, 2023-Ohio-1685

Ineffective assistance of counsel

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2023/2023-Ohio-1685.pdf>

Trial counsel was ineffective for failing to file a motion to dismiss on statutory speedy trial grounds, as appellant was brought to trial one day after his speedy trial time had expired. Case remanded for dismissal of the charges and appellant's release from prison.

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

State v. Adams, 2023-Ohio-1693

Consecutive sentences

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/7/2023/2023-Ohio-1693.pdf>

Although total sentence of six to nine years was accurate, the trial court's sentencing entry running some sentences consecutive to one another did "not comport with the sentence pronounced by the trial court at the sentencing hearing" that the sentences for all counts would be run concurrently to one another. Case remanded for trial court to issue a nunc pro tunc entry.

Eighth Appellate District of Ohio

State ex rel. Taylor v. Calabrese, 2023-Ohio-1678

Writ of procedendo

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2023/2023-Ohio-1678.pdf>

In writ for procedendo filed by relator/inmate demanding that judge rule on inmate's "motion for jail time credit" and "motion for an order for the clerk to return defendant's property," as judge had ruled on the jail-time credit motion, judge's summary judgment motion is granted in part as to that issue. However, as judge has not yet ruled on motion regarding the return of property, writ is granted as to that issue.

State v. Wells, 2023-Ohio-1753

Jail-time credit

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2023/2023-Ohio-1753.pdf>

Trial court erred in failing to grant appellant 23 days of jail-time credit for the time he spent in jail after his arrest and prior to posting bond. Case remanded for court to award such credit.

Ninth Appellate District of Ohio

State v. Bentley, 2023-Ohio-1708

Community control violation; due process

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2023/2023-Ohio-1708.pdf>

Trial court committed plain error when it “failed to provide the required constitutional safeguards and adhere to the requirements for CCV proceedings.” Court failed to inform appellant “of the evidence against her; that she had the right to be heard and present witnesses and evidence; and, that she had the right to confront and cross-examine adverse witnesses.” Case remanded for new CCV hearing.

Tenth Appellate District of Ohio

State v. Gainer, 2023-Ohio-1760

Community control violation; right to counsel

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/10/2023/2023-Ohio-1760.pdf>

At community control violation hearing, trial court erred in failing to inquire if appellant wanted an attorney present at such hearing. “[T]he trial court could not infer a valid waiver from [appellant’s] silence, and the trial court did not engage in the appropriate colloquy with [appellant] regarding his constitutional right to counsel and whether he intended to waive that right * * * [t]he record here does not demonstrate that [appellant] knowingly, intelligently, and voluntarily waived his right to counsel before the trial court revoked his community control and imposed the previously suspended jail sentence. Thus, the trial court denied [appellant] his constitutional right to counsel.”

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.