Appellate Court Decisions –Week of 6/24/24

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

Well - SCOTUS is at it again. In one of the most ridiculous decisions I think I have read, the majority decides that bribes - money accepted before an official acts - are criminal; but gratuities - money accepted after an official acts as "a reward or token of appreciation" - are not criminal. This decision would have only been more ludicrous if Thomas had written it. See below.

First Appellate District of Ohio

Nothing to report.

Second Appellate District of Ohio

***State v. Olson-Graf*, 2024-Ohio-2291**

Merger

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2024/2024-Ohio-2291.pdf

In convictions for two counts of violating a protection order and one count of telephone harassment, trial court plainly erred in failing to merge the three offenses, as they were allied offenses. All "were committed with the commission of one phone call which resulted in a charge of harassment and two charges of violation of a protection order." State concedes error. Case remanded for resentencing.

Third Appellate District of Ohio

Nothing to report.

Fourth Appellate District of Ohio

***State v. Martin*, 2024-Ohio-2334**

Restitution

Full Decision:

https://www.supremecourt.ohio.gov/rod/docs/pdf/4/2024/2024-Ohio-2334.pdf

In convictions for theft of a motor vehicle and breaking and entering, trial court plainly erred in ordering appellant to pay restitution for storage fees without considering appellant's "present and future ability to pay." R.C. 2929.19(B)(5). Also, "this record contains no evidence as to any amount of storage fees to be paid, and whether the fees are to be paid to [the victim] or to the police department." Restitution order vacated, and case remanded.

Fifth Appellate District of Ohio

Nothing to report.

Sixth Appellate District of Ohio

Nothing to report.

Seventh Appellate District of Ohio

***State v. Reese*, 2024-Ohio-2331**

Post-conviction petition

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/7/2024/2024-Ohio-2331.pdf

"[T]rial court erred in dismissing [appellant's] timely pro se petition for post-conviction relief without making findings of fact and conclusions of law as required by R.C. 2953.21."

Eighth Appellate District of Ohio

***State v. Belton*, 2024-Ohio-2357**

Merger

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2024/2024-Ohio-2357.pdf

In convictions for drug trafficking and drug possession of the same controlled substance, methamphetamines, trial court plainly erred in

failing to merge the two offenses, as they were allied offenses. State concedes error. Case remanded for resentencing.

***State v. Jordan*, 2024-Ohio-2361**

Plea/agreed sentence

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2024/2024-Ohio-2361.pdf

In convictions for multiple counts of, inter alia, burglary and sentence of 32-36 years, appellant's guilty plea was "invalid because the trial court deviated from the agreed, recommended sentence of 15-18 years." Although the court "advised [appellant] that it had not promised him any particular sentence . . . [it] impose[d] a sentence nearly double than what was agreed and recommended by the state and the defense" without giving appellant the option to withdraw his plea. "When a trial court decides not to impose the agreed, recommended sentence, it should clearly advise a defendant of its intentions, and allow the defendant to reconsider his plea." Plea vacated, and case remanded.

***State v. Black*, 2024-Ohio-2365**

No-contact order

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2024/2024-Ohio-2365.pdf

In convictions for strangulation and attempted domestic violence, trial court erred by sentencing appellant to a prison term and imposing a no-contact order. A no-contact order is a condition of community control, and a court may not impose both a prison term and community control for the same felony offense. *State v. Anderson*, 2015-Ohio-2089. State concedes error. Sentence modified, and no-contact order deleted.

Ninth Appellate District of Ohio

Nothing to report.

Tenth Appellate District of Ohio

***State v. Johnston*, 2024-Ohio-2337**

Reagan Tokes/judicial release

Full Decision:
https://www.supremecourt.ohio.gov/rod/docs/pdf/10/2024/2024-Ohio-2337.pdf

In state's appeal, trial court erred in imposing a prison sentence on appellant without applying the Reagan Tokes Law; however, trial court's grant of judicial release while the appeal was pending remained valid unless appellant should violate that release. Case remanded for the limited purpose of resentencing to comply with Reagan Tokes; "should [appellant] violate the terms of his judicial release, [the court] could reimpose a Regan-Tokes [sic] compliant sentence . . . ."

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

***Snyder v. United States*, 603 U.S. ____ (2024)**

Bribes/gratuities

Full Decision:
https://www.supremecourt.gov/opinions/23pdf/23-108_8n5a.pdf

***Held*: Section 666 proscribes bribes to state and local officials but does not make it a crime for those officials to accept gratuities for their past acts. Pp. 7–16.**

71 F. 4th 555, reversed and remanded.

K AVANAUGH, J., delivered the opinion of the Court, in which ROBERTS , C. J., and THOMAS , ALITO, GORSUCH, and BARRETT , JJ., joined. GORSUCH, J., filed a concurring opinion. JACKSON, J., filed a dissenting opinion, in which SOTOMAYOR and K AGAN, JJ., joined.

But see dissenting opinion:

Officials who use their public positions for private gain threaten the integrity of our most important institutions. Greed makes governments—at every level—less responsive, less efficient, and less trustworthy from the perspective of the communities they serve. Perhaps realizing this, Congress used "expansive, unqualified language" in 18 U. S. C. §666 to criminalize graft involving state, local, and tribal entities, as well as other organizations receiving federal funds. *Salinas v. United States*, 522 U. S. 52, 56 (1997). Section 666 imposes federal criminal penalties on agents of those entities who "corruptly" solicit, accept, or agree to accept payments "intending to be influenced or rewarded." §666(a)(1)(B).

Today's case involves one such person. James Snyder, a former Indiana mayor, was convicted by a jury of violating §666 after he steered more than $1 million in city contracts to a local truck dealership, which turned around and cut him a $13,000 check. He asks us to decide whether the language of §666 criminalizes both bribes and gratuities, or just bribes. And he says the answer matters because bribes require an upfront agreement to take official actions for payment, and he never agreed beforehand to be paid the $13,000 from the dealership.

Snyder's absurd and atextual reading of the statute is one only today's Court could love. Ignoring the plain text of §666—which, again, expressly targets officials who "corruptly" solicit, accept, or agree to accept payments "intending to be influenced or *rewarded*"—the Court concludes that the statute does not criminalize gratuities at all. This is so, apparently, because "[s]tate and local governments often regulate the gifts that state and local officials may accept," ante, at 1, which, according to the majority, means that §666 cannot.

The Court's reasoning elevates nonexistent federalism concerns over the plain text of this statute and is a quintessential example of the tail wagging the dog.