



SUPREME COURT OF OHIO
CRIMINAL JUSTICE
OPINION SUMMARY



2017 - 2020

INTRODUCTION

This document is a summary¹ of criminal justice jurisprudence from the Ohio Supreme Court from 2017 through 2020. We have collated the cases in date order under three categories:

1. **Case Law Addressed by the Uniform Sentencing Entry Package.** These summaries illustrate the utility of the Uniform Sentencing Entries (USE), emphasizing their nature as “living” documents, able to be quickly updated in response to case law and legislative changes. These updates serve to ensure the entries contain the most up-to-date language under the law and as a resource to educate practitioners on statutory changes and Court holdings. Further, adoption of the uniform entries will help practitioners avoid many of the “unforced” errors that give rise to a substantial amount of appellate cases, as many of the decisions in this category illustrate.
2. **Cases the Commission May Want to Refer for Legislative Action or to Explore for Further Work by the Commission.** As the court of last resort, the Supreme Court is called upon to interpret statutes enacted by the legislature and to resolve conflicts in those interpretations amongst the appellate districts of the state. As statutes make their way through the legislative process, there often are unforeseen issues with how those statutes — and the legislative intent behind them — are interpreted in practice. This section highlights holdings that illustrate a potential need for additional legislative clarification or definition, as well as larger policy discussions that may be needed to address the statutory structure more broadly. The recommendations also note where we can look to the proposals of the Criminal Justice Recodification Committee² and the Justice Reinvestment 2.0³ Ad Hoc Committee for statutory clarity and simplification.

1 All criminal decisions since 2017 are included; however, cases involving extraordinary writs and public record requests by inmates that were dismissed or had dismissal affirmed by the Court only are included for 2019 and 2020, unless a novel issue of law was addressed.

2 The Ohio Criminal Justice Recodification Committee (CJR.C.) was created by the 130th Ohio General Assembly in 2014, to study the state’s existing criminal statutes. The CJR.C.’s charge was to recommend a plan for a simplified criminal code, making efficient use of resources through flexible, yet consistent, statewide policies. Their recommended redrafting of Title 29 of the Revised Code was made available in 2017.

3 The Ohio Justice Reinvestment 2.0 Ad Hoc Committee was an effort in conjunction with the Center for State Governments and the U.S. Department of Justice’s Bureau of Justice Assistance to provide technical assistance to the state on potential criminal-justice policy initiatives. More information is available [on the Sentencing Commission’s website](#).

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- 3. An Informational Section Summarizing the Remainder of the Court's Jurisprudence for Reference.** For reference and review, the third section of the document collates those decisions not seen as falling into either of the previous categories. The summaries are included as quick resources detailing the Court's recent criminal jurisprudence, beginning with those cases addressed through subsequent legislation and then continuing in date order.

TABLE OF CONTENTS

UNIFORM SENTENCING ENTRY	1
<i>State v. Grimes</i> , 151 Ohio St.3d 19, 2017-Ohio-2927	1
<i>State v. Gordon</i> , 153 Ohio St.3d 601, 2018-Ohio-1975.....	1
<i>State v. Bishop</i> , 156 Ohio St.3d 156, 2018-Ohio-5132	2
<i>State v. White</i> , 156 Ohio St.3d 536, 2019-Ohio-1215	2
<i>State v. Romero</i> , 156 Ohio St.3d 468, 2019-Ohio-1839	2
<i>State ex rel. Martin v. Russo</i> , 160 Ohio St.3d 21, 2020-Ohio-829	3
<i>State v. Taylor</i> , 161 Ohio St.3d 319, 2020-Ohio-3514	3
<i>State v. Miller</i> , 159 Ohio St.3d 447, 2020-Ohio-1420	3
<i>State v. Dangler</i> , 162 Ohio St.3d 1, 2020-Ohio-2765	4
<i>State v. Harper</i> , 160 Ohio St.3d 480, 2020-Ohio-2913	4
<i>State v. Howard</i> , Slip Opinion No. 2020-Ohio-3195	4
<i>State v. Bozso</i> , 162 Ohio St.3d 68, 2020-Ohio-3779	5
<i>State v. Hudson</i> , 161 Ohio St.3d 166, 2020-Ohio-3849	5
<i>State v. Reed</i> , Slip Opinion No. 2020-Ohio-4255	5
<i>State ex rel. Fraley v. Ohio Dept. of Rehab. & Corr.</i> , 161 Ohio St.3d 209, 2020-Ohio-4410.....	5
<i>State v. Henderson</i> , 161 Ohio St.3d 285, 2020-Ohio-4784	6
<i>State v. Hackett</i> , Slip Opinion No. 2020-Ohio-6699	6
<i>State v. Graham</i> , Slip Opinion No. 2020-Ohio-6700	7
<i>State v. Jones</i> , Slip Opinion No. 2020-Ohio-6729	7
<i>State v. Taylor</i> , Slip Opinion No. 2020-Ohio-6786	8
<i>State v. Patrick</i> , Slip Opinion No. 2020-Ohio-6803	8
<i>State ex rel. Romine v. McIntosh</i> , Slip Opinion No. 2020-Ohio-6826	9
 LEGISLATIVE ACTION	 10
<i>State v. Aalim</i> , 150 Ohio St.3d 489, 2017-Ohio-2956 (<i>Aalim II</i>)	10
<i>State v. D.B.</i> , 150 Ohio St.3d 452, 2017-Ohio-6952	10
<i>City of Dayton v. State</i> , 151 Ohio St.3d 168, 2017-Ohio-6909	10
<i>State v. Dye</i> , 152 Ohio St.3d 11, 2017-Ohio-7823	10

LEGISLATIVE ACTION - *cont.*

State v. Paige, 153 Ohio St.3d 214, 2018-Ohio-81311

State v. Hitchcock, 157 Ohio St.3d 215, 2019-Ohio-324611

State v. Nelson, Slip Opinion No. 2020-Ohio-369011

State v. Castner, Slip Opinion No. 2020-Ohio-495012

State v. Parker, 157 Ohio St.3d 460, 2019-Ohio-384812

State v. Allen, 159 Ohio St.3d 75, 2019-Ohio-475713

Centerville v. Knab, Slip Opinion No. 2020-Ohio-521913

State ex rel Thomas v. McGinty, Slip Opinion No. 2020-Ohio-545213

State v. Gwynne, 158 Ohio St.3d 279, 2019-Ohio-476114

State v. McFarland, Slip Opinion No. 2020-Ohio-334314

State v. Jones, Slip Opinion No. 2020-Ohio-672914

State v. Pribble, 158 Ohio St.3d 490, 2019-Ohio-480815

State v. Jones, 159 Ohio St.3d 228, 2019-Ohio-515915

State v. Faggs, 159 Ohio St.3d 420, 2020-Ohio-52315

State v. Horn, 159 Ohio St.3d 539, 2020-Ohio-96016

State v. Buttery, Slip Opinion No. 2020-Ohio-299816

State v. Townsend, Slip Opinion No. 2020-Ohio-558616

Lingle et al. v. State, Slip Opinion No. 2020-Ohio-678816

State v. Pendergrass, Slip Opinion No. 2020-Ohio-333517

Mohamed v. Eckelberry, Slip Opinion No. 2020-Ohio-458517

State v. Rue, Slip Opinion No. 2020-Ohio-670617

State v. Pendleton, Slip Opinion No. 2020-Ohio-683318

Additional Cases Where Legislative Action May Be Considered18

INFORMATIONAL19

State v. Moore, 149 Ohio St.3d 557, 2016-Ohio-828819

State v. Anderson, 151 Ohio St.3d 212, 2017-Ohio-565619

State v. Pountney, 152 Ohio St.3d 474, 2018-Ohio-2219

State v. Martin, 154 Ohio St.3d 513, 2018-Ohio-322620

State v. Ford, 158 Ohio St.3d 139, 2019-Ohio-453920

INFORMATIONAL - *cont.*

<i>State v. Gonzales</i> , 150 Ohio St.3d 276, 2017-Ohio-777 (<i>Gonzales II</i>)	20
<i>State v. Rahab</i> , 150 Ohio St.3d 152, 2017-Ohio-1401	21
<i>State v. Polk</i> , 150 Ohio St.3d 29, 2017-Ohio-2735	21
<i>State v. Mutter</i> , 150 Ohio St.3d 429, 2017-Ohio-2928	21
<i>State v. Roberts</i> , 150 Ohio St.3d 47, 2017-Ohio-2998	21
<i>Cleveland v. Oles</i> , 152 Ohio St.3d 1, 2017-Ohio-5834	21
<i>State v. Wogenstahl</i> , 150 Ohio St.3d 571, 2017-Ohio-6873	22
<i>State v. Jackson</i> , 151 Ohio St.3d 239, 2017-Ohio-7469	22
<i>State v. Martin</i> , 151 Ohio St.3d 470, 2017-Ohio-7556	22
<i>State v. Morgan</i> , 153 Ohio St.3d 196, 2017-Ohio-7565	22
<i>State v. Thomas</i> , 152 Ohio St.3d 15, 2017-Ohio-8011	23
<i>State v. Bembry</i> , 151 Ohio St.3d 502, 2017-Ohio-8114	23
<i>In re D.S.</i> , 152 Ohio St.3d 109, 2017-Ohio-8289	23
<i>State v. Batista</i> , 151 Ohio St.3d 584, 2017-Ohio-8304	23
<i>State v. Clinton</i> , 153 Ohio St.3d 422, 2017-Ohio-9423	24
<i>State v. Beasley</i> , 152 Ohio St.3d 470, 2018-Ohio-16	24
<i>In re D.H.</i> , 152 Ohio St.3d 310, 2018-Ohio-17	24
<i>State v. Banks-Harvey</i> , 152 Ohio St.3d 368, 2018-Ohio-201	24
<i>State v. Gordon</i> , 152 Ohio St.3d 528, 2018-Ohio-259	24
<i>State v. Beasley</i> , 153 Ohio St.3d 497, 2018-Ohio-493	25
<i>State v. Noling</i> , 153 Ohio St.3d 108, 2018-Ohio-795	25
<i>State v. Mason</i> , 153 Ohio St.3d 476, 2018-Ohio-1462	25
<i>State v. Myers</i> , 154 Ohio St.3d 405, 2018-Ohio-1903	25
<i>State ex rel. Oliver v. Turner; Eppinger</i> , 153 Ohio St.3d 605, 2018-Ohio-2102	26
<i>State v. Jackson</i> , 154 Ohio St.3d 542, 2018-Ohio-2169	26
<i>State ex rel. O'Malley v. Collier-Williams</i> , 153 Ohio St.3d 553, 2018-Ohio-3154	26
<i>State v. Moore</i> , 154 Ohio St.3d 94, 2018-Ohio-3237	26
<i>State v. Carnes</i> , 154 Ohio St.3d 527, 2018-Ohio-3256	26
<i>State v. Vega</i> , 154 Ohio St.3d 569, 2018-Ohio-4002	27
<i>State v. Bonnell</i> , 155 Ohio St.3d 176, 2018-Ohio-4069	27

INFORMATIONAL - *cont.*

<i>State v. Ireland</i> , 155 Ohio St.3d 287, 2018-Ohio-4494	27
<i>State v. Apanovitch</i> , 155 Ohio St.3d 358, 2018-Ohio-4744	27
<i>Girard v. Giordano</i> , 155 Ohio St.3d 470, 2018-Ohio-5024	28
<i>State v. Braden</i> , 158 Ohio St.3d 452, 2018-Ohio-5079	28
<i>State v. Braden</i> , 158 Ohio St.3d 462, 2019-Ohio-4204	28
<i>State v. Tench</i> , 156 Ohio St.3d 85, 2018-Ohio-5205	28
<i>State v. Cupp</i> , 156 Ohio St.3d 207, 2018-Ohio-5211	29
<i>State ex rel. Dixon v. Bowerman</i> , 156 Ohio St.3d 317, 2019-Ohio-716	29
<i>Handcock v. Shoop</i> , 156 Ohio St.3d 282, 2019-Ohio-718	29
<i>State ex rel. Howard v. Turner, et al.</i> , 156 Ohio St.3d 285, 2019-Ohio-759	29
<i>State ex rel. White v. Tepe</i> , 156 Ohio St.3d 286, 2019-Ohio-760	29
<i>State ex rel. Allen v. Goulding</i> , 156 Ohio St.3d 337, 2019-Ohio-858	30
<i>Dean v. Marquis</i> , 156 Ohio St.3d 341, 2019-Ohio-900	30
<i>Bear v. Buchanan</i> , 156 Ohio St.3d 348, 2019-Ohio-931	30
<i>State ex rel. Hunley v. Ohio Department of Rehabilitation & Correction</i> , 156 Ohio St.3d 354, 2019-Ohio-933	30
<i>Curtis v. Wainwright</i> , 156 Ohio St.3d 357, 2019-Ohio-942	30
<i>State ex rel. Powe v. Lanzinger</i> , 156 Ohio St.3d 358, 2019-Ohio-954	31
<i>State ex rel. Swanson v. Ohio Department of Rehabilitation & Correction</i> , 156 Ohio St.3d 408, 2019-Ohio-1271	31
<i>Grinnell v. Bowen, et al.</i> , 156 Ohio St.3d 409, 2019-Ohio-1311	31
<i>Ridenour v. Shoop</i> , 156 Ohio St.3d 412, 2019-Ohio-1313	31
<i>State ex rel. Evans v. Chambers-Smith</i> , 156 Ohio St.3d 430, 2019-Ohio-1335	31
<i>State ex rel. Roberts v. Marsh</i> , 156 Ohio St.3d 440, 2019-Ohio-1569	32
<i>State v. Hairston</i> , 156 Ohio St.3d 363, 2019-Ohio-1622	32
<i>State ex rel. Miller v. Bower</i> , 156 Ohio St.3d 455, 2019-Ohio-1623	32
<i>Smith v. Sheldon</i> , 157 Ohio St.3d 1, 2019-Ohio-1677	32
<i>State ex rel. O'Malley v. Russo</i> , 156 Ohio St.3d 548, 2019-Ohio-1698	33
<i>State ex rel. Zander v. Judge of Summit County Common Pleas Court</i> , 156 Ohio St.3d 466, 2019-Ohio-1704	33
<i>State ex rel. Martin v. Greene</i> , 156 Ohio St.3d 482, 2019-Ohio-1827	33

INFORMATIONAL - *cont.*

<i>State ex rel. Shaffer v. Wainwright</i> , 156 Ohio St.3d 559, 2019-Ohio-1828	33
<i>Rock v. Harris</i> , 157 Ohio St.3d 6, 2019-Ohio-1849	34
<i>State ex rel. Husband v. Shanahan</i> , 157 Ohio St.3d 148, 2019-Ohio-1853	34
<i>State ex rel. White v. Woods</i> , 156 Ohio St.3d 562, 2019-Ohio-1893	34
<i>State ex rel. Richard et al.; Calo v. Chambers-Smith, et al.</i> , 157 Ohio St.3d 16, 2019-Ohio-1962 ..	34
<i>State v. Martin</i> , 156 Ohio St.3d 503, 2019-Ohio-2010	34
<i>Dailey v. Wainwright</i> , 156 Ohio St.3d 510, 2019-Ohio-2064	35
<i>State ex rel. Evans v. Tieman, et al.</i> , 157 Ohio St.3d 99, 2019-Ohio-2411	35
<i>State ex rel. Cowell v. Croce</i> , 157 Ohio St.3d 103, 2019-Ohio-2844	35
<i>State ex rel. Ellis v. Wainwright</i> , 157 Ohio St.3d 279, 2019-Ohio-2853	35
<i>State ex rel. McDougald v. Greene</i> , 157 Ohio St.3d 315 2019-Ohio-3309	35
<i>State ex rel. Sands v. Cullota</i> , 158 Ohio St.3d 1, 2019-Ohio-3784	36
<i>State ex rel. Alford v. Toledo Correctional Institution</i> , 157 Ohio St.3d 525, 2019-Ohio-3847	36
<i>State ex rel. Cincinnati Enquirer v. The City of Cincinnati</i> , 157 Ohio St.3d 290, 2019-Ohio-3876	36
<i>State ex rel. Robinson v. Chambers-Smith</i> , 157 Ohio St.3d 379, 2019-Ohio-4111	36
<i>State ex rel. Whitt v. Harris</i> , 157 Ohio St.3d 384, 2019-Ohio-4113	37
<i>State ex rel. Sands v. Cullota</i> , 157 Ohio St.3d 387, 2019-Ohio-4129	37
<i>State ex rel. Penland v. Ohio Dept. of Rehab. & Corr.</i> , 158 Ohio St.3d 15, 2019-Ohio-4130	37
<i>State ex rel. Ellis v. Maple Hts. Police Dept.</i> , 158 Ohio St.3d 25, 2019-Ohio-4137	37
<i>State ex rel. Norris v. Wainwright</i> , 158 Ohio St.3d 20, 2019-Ohio-4138	37
<i>State ex rel. Rodriguez v. Barker</i> , 158 Ohio St.3d 39, 2019-Ohio-4155	38
<i>State ex rel. Ellis v. Cleveland Police Forensic Laboratory</i> , 157 Ohio St.3d 483, 2019-Ohio-4201	38
<i>State v. Hawkins</i> , 158 Ohio St.3d 94, 2019-Ohio-4210	38
<i>State ex rel. Green v. Wetzel</i> , 158 Ohio St.3d 104, 2019-Ohio-4228	38
<i>State ex rel. Parker v. Russo</i> , 158 Ohio St.3d 123, 2019-Ohio-4420	39
<i>State v. Soto</i> , 158 Ohio St.3d 44, 2019-Ohio-4430	39
<i>State ex rel. Sands v. Culotta</i> , 158 Ohio St.3d 238, 2019-Ohio-4741	39
<i>State ex rel. Kerr v. Turner</i> , 2019-Ohio-4760	40
<i>State v. Wintermeyer</i> , 158 Ohio St.3d 513, 2019-Ohio-5156	40

INFORMATIONAL - *cont.*

<i>State v. Straley</i> , 159 Ohio St.3d 82, 2019-Ohio-5206	40
<i>Smith v. May</i> , 159 Ohio St.3d 106, 2020-Ohio-61	40
<i>State ex rel. McDougald v. Greene</i> , 158 Ohio St.3d 533, 2020-Ohio-287	41
<i>State v. Davis</i> , 159 Ohio St.3d 31, 2020-Ohio-309	41
<i>State ex rel Newsome v. Hack</i> , 159 Ohio St.3d 44, 2020-Ohio-336	41
<i>State ex rel. Jefferson v. Russo</i> , 159 Ohio St.3d 280, 2020-Ohio-338	41
<i>State ex rel Roden v. Ohio Dept. of Rehab. & Corr.</i> , 159 Ohio St.3d 314, 2020-Ohio-408	41
<i>State ex rel Kerr v. Pollex</i> , 159 Ohio St.3d 317, 2020-Ohio-411	42
<i>Davis v. Sheldon</i> , 159 Ohio St.3d 147, 2020-Ohio-436	42
<i>State v. Craig</i> , 159 Ohio St.3d 398, 2020-Ohio-455	42
<i>Robinson v. Fender</i> , 159 Ohio St.3d 99, 2020-Ohio-458	42
<i>State ex rel Kerr v. Turner</i> , 159 Ohio St.3d 97, 2020-Ohio-459	43
<i>State v. Dibble</i> , 159 Ohio St.3d 322, 2020-Ohio-546	43
<i>State v. Ramirez</i> , 159 Ohio St.3d 426, 2020-Ohio-602	43
<i>State v. Bates</i> , 159 Ohio St.3d 156, 2020-Ohio-634	43
<i>State ex rel Franks v. Ohio Adult Parole Authority</i> , 159 Ohio St.3d 435, 2020-Ohio-711	44
<i>State v. Nettles</i> , 159 Ohio St.3d 180, 2020-Ohio-768	44
<i>State ex rel Ware v. Walsh</i> , 159 Ohio St.3d 120, 2020-Ohio-769	44
<i>State v. Christian</i> , 159 Ohio St.3d 510, 2020-Ohio-828	44
<i>State ex rel Martin v. Russo</i> , 160 Ohio St.3d 21, 2020-Ohio-829	45
<i>State ex rel Phelps v. McClelland</i> , 159 Ohio St.3d 184, 2020-Ohio-831	45
<i>Moore v. Wainwright</i> , 160 Ohio St.3d 103, 2020-Ohio-846	45
<i>State ex rel Green v. Shoop</i> , 159 Ohio St.3d 439, 2020-Ohio-873	45
<i>State ex rel Holman v. Collins</i> , 159 Ohio St.3d 537, 2020-Ohio-874	46
<i>State ex rel Russell v. Klatt</i> , 159 Ohio St.3d 357, 2020-Ohio-875	46
<i>State ex rel Newell v. Ohio Adult Parole Authority</i> , 160 Ohio St.3d 25, 2020-Ohio-967	46
<i>State ex rel Johnson v. Bureau of Sentence Computation</i> , 159 Ohio St.3d 552, 2020-Ohio-999	46
<i>State v. Bryant</i> , 160 Ohio St.3d 113, 2020-Ohio-1041	46
<i>State ex rel Davies v. Schroeder</i> , 160 Ohio St.3d 29, 2020-Ohio-1045	47
<i>Taylor v. Harris</i> , 159 Ohio St.3d 564, 2020-Ohio-1046	47
<i>State v. Boaston</i> , 160 Ohio St.3d 46, 2020-Ohio-1061	47

INFORMATIONAL - *cont.*

<i>State ex rel Dobson v. Handwork</i> , 159 Ohio St.3d 442, 2020-Ohio-1069	48
<i>State ex rel Hibbler v. O’Neill</i> , 159 Ohio St.3d 566, 2020-Ohio-1070	48
<i>State ex rel Peoples v. Schneider</i> , 159 Ohio St.3d 360, 2020-Ohio-1071	48
<i>State v. Fips</i> , 160 Ohio St.3d 348, 2020-Ohio-1449	48
<i>In re A.W.</i> , 160 Ohio St.3d 183, 2020-Ohio-1457	48
<i>State ex rel. Bonner v. Serrott</i> , 160 Ohio St.3d 298, 2020-Ohio-1450	49
<i>Steuer v. Wainwright</i> , 160 Ohio St.3d 139, 2020-Ohio-1452	49
<i>State ex rel. Davis v. Janus</i> , 160 Ohio St.3d 187, 2020-Ohio-1462	49
<i>State ex rel. Parker Bey v. Loomis</i> , 160 Ohio St.3d 192, 2020-Ohio-1462	49
<i>State v. Jeffries</i> , 160 Ohio St.3d 300, 2020-Ohio-1539	50
<i>State ex rel. Kendrick v. Parker</i> , 160 Ohio St.3d 448, 2020-Ohio-1509	50
<i>State ex rel. Steiner v. Rinfret</i> , 159 Ohio St.3d 455, 2020-Ohio-1510	50
<i>State ex rel. Roberts v. Marsh</i> , 159 Ohio St.3d 457, 2020-Ohio-1540	50
<i>State ex rel. Nelson v. Russo</i> , 160 Ohio St.3d 74, 2020-Ohio-1541	50
<i>State ex rel. Parker Bey v. Byrd</i> , 160 Ohio St.3d 141, 2020-Ohio-2766	51
<i>State ex rel. McDougald v. Greene</i> , 160 Ohio St.3d 82, 2020-Ohio-2782	51
<i>State ex rel. Harris v. Turner</i> , 160 Ohio St.3d 506, 2020-Ohio-2901	51
<i>State ex rel. Haynie v. Rudduck</i> , 160 Ohio St.3d 99, 2020-Ohio-2912	51
<i>Dixon v. Bowerman</i> , 160 Ohio St.3d 323, 2020-Ohio-3049	52
<i>State v. Jones</i> , 160 Ohio St.3d 314, 2020-Ohio-3051	52
<i>Brook Park v. Rodojev</i> , 161 Ohio St.3d 58, 2020-Ohio-3253	52
<i>State ex rel. Miller v. May</i> , 161 Ohio St.3d 8, 2020-Ohio-3248	52
<i>State ex rel. Simmons v. Breaux</i> , 160 Ohio St.3d 223, 2020-Ohio-3251	53
<i>State ex rel. Thomas v. Gaul</i> , 160 Ohio St.3d 227, 2020-Ohio-3257	53
<i>Bey et al. v. Rasawehr</i> , 161 Ohio St.3d 79, 2020-Ohio-3529	53
<i>State ex rel. King v. Fleegle</i> , 160 Ohio St.3d 380, 2020-Ohio-3302	53
<i>McIntyre v. Hooks</i> , Slip Opinion No. 2020-Ohio-3529	54
<i>State ex rel. Neguse v. McIntosh</i> , 161 Ohio St.3d 125, 2020-Ohio-3533	54
<i>State ex rel. Stuart v. Greene</i> , 161 Ohio St.3d 11, 2020-Ohio-3685	54
<i>State ex rel. McDougald v. Greene</i> , 161 Ohio St.3d 130, 2020-Ohio-3686	54

INFORMATIONAL - *cont.*

<i>State ex rel. Ware v. Giavasis</i> , 160 Ohio St.3d 383, 2020-Ohio-3700	54
<i>State v. Madison</i> , 160 Ohio St.3d 232, 2020-Ohio-3735	54
<i>State ex rel. Penland v. Dinkelacker</i> , 162 Ohio St.3d 59, 2020-Ohio-3774	55
<i>State v. Hundley</i> , Slip Opinion No. 2020-Ohio-3775	55
<i>State ex rel. Lemaster v. Meigs Cty. Court of Common Pleas</i> , 161 Ohio St.3d 14, 2020-Ohio-3776	55
<i>State ex rel. Hedenberg v. North Central Correctional Complex et al.</i> , 162 Ohio St.3d 85, 2020-Ohio-3815	55
<i>State ex rel. McDougald v. Sehmeyer</i> , 162 Ohio St.3d 94, 2020-Ohio-3927	56
<i>McDougald v. Bowerman</i> , 161 Ohio St.3d 268, 2020-Ohio-3942	56
<i>State ex rel. Ware v. Pureval</i> , 160 Ohio St.3d 387, 2020-Ohio-4024	56
<i>State v. Jones</i> , Slip Opinion No. 2020-Ohio-4031	56
<i>State v. Kirkland</i> , 160 Ohio St.3d 389, 2020-Ohio-4079	56
<i>McDougald v. Green</i> , Slip Opinion No. 2020-Ohio-4268	57
<i>State ex rel. Hill v. Navarre</i> , 161 Ohio St.3d 188, 2020-Ohio-4274	57
<i>State ex rel. McDougald v. Sehmeyer</i> , Slip Opinion No. 2020-Ohio-4428	57
<i>State v. Hartman</i> , 161 Ohio St.3d 214, 2020-Ohio-4440	57
<i>State v. Smith</i> , Slip Opinion No. 2020-Ohio-4441	58
<i>Dailey v. Wainwright</i> , 161 Ohio St.3d 233, 2020-Ohio-4519	58
<i>State ex rel. Herring v. Wainwright</i> , Slip Opinion No. 2020-Ohio-4521	58
<i>Carter v. May</i> , 161 Ohio St.3d 236, 2020-Ohio-4522	58
<i>State v. Froman</i> , Slip Opinion No. 2020-Ohio-4523	58
<i>State v. Owens</i> , Slip Opinion No. 2020-Ohio-4616	59
<i>State v. Brown</i> , 161 Ohio St.3d 276, 2020-Ohio-4623	59
<i>State ex rel. McDougald v. Sehmeyer</i> , Slip Opinion No. 2020-Ohio-4637	59
<i>McKinney v. Haviland</i> , 162 Ohio St.3d 150, 2020-Ohio-4785	59
<i>State ex rel. Martre v. Reed</i> , 161 Ohio St.3d 281, 2020-Ohio-4777	59
<i>State ex rel. Russell v. Ohio Dept. of Rehab. & Corr.</i> , 161 Ohio St.3d 312, 2020-Ohio-4788	60
<i>State ex rel. Newsome v. Hack</i> , Slip Opinion No. 2020-Ohio-4812	60
<i>State v. Pettus</i> , Slip Opinion No. 2020-Ohio-4836	60
<i>State ex rel. Neal v. Mandros</i> , 162 Ohio St.3d 154, 2020-Ohio-4866	60

INFORMATIONAL - *cont.*

<i>Jones v. Wainwright</i> , Slip Opinion No. 2020-Ohio-4870	61
<i>State ex rel. Crangle v. Summit Cty. Common Pleas Court</i> , Slip Opinion No. 2020-Ohio-4871	61
<i>McDougald v. Kuhn</i> , Slip Opinion No. 2020-Ohio-4924	61
<i>State v. Price</i> , Slip Opinion No. 2020-Ohio-4926	61
<i>State ex rel. Olmstead v. Forsthoefel</i> , Slip Opinion No. 2020-Ohio-4951	62
<i>State ex rel. McDougald v. Greene</i> , Slip Opinion No. 2020-Ohio-5100	62
<i>State ex rel. Burfitt v. Sehlmeier</i> , 161 Ohio St.3d 403, 2020-Ohio-5147	62
<i>State ex rel. Ware v. DeWine</i> , Slip Opinion No. 2020-Ohio-5148	62
<i>State v. Bowers</i> , Slip Opinion No. 2020-Ohio-5167	62
<i>State ex rel. Ware v. Giavasis</i> , Slip Opinion No. 2020-Ohio-5453	63
<i>State v. Long</i> , Slip Opinion No. 2020-Ohio-5363	63
<i>In re R.B.</i> , Slip Opinion No. 2020-Ohio-5476	63
<i>Steele v. Harris</i> , 161 Ohio St.3d 407, 2020-Ohio-5480	64
<i>In Re M.H.</i> , Slip Opinion No. 2020-Ohio-5485	64
<i>State v. Grate</i> , Slip Opinion No. 2020-Ohio-5584	64
<i>State ex rel. Summers v. Fox</i> , Slip Opinion No. 2020-Ohio-5585	65
<i>State v. Gideon</i> , Slip Opinion No. 2020-Ohio-5635	65
<i>State v. Groce</i> , Slip Opinion No. 2020-Ohio-6671; <i>State v. Dent</i> , Slip Opinion No. 2020-Ohio-6670	65
<i>State v. Simpson</i> , Slip Opinion No. 2020-Ohio-6719	65
<i>State v. Chapman</i> , Slip Opinion No. 2020-Ohio-6730	66
<i>State v. Fazenbaker</i> , Slip Opinion No. 2020-Ohio-6731	66
<i>State v. Turner</i> , Slip Opinion No. 2020-Ohio-6773	66
<i>State v. Weber</i> , Slip Opinion No. 2020-Ohio-6832	67

UNIFORM SENTENCING ENTRY

State v. Grimes, 151 Ohio St.3d 19, 2017-Ohio-2927

SUMMARY: A court must advise the defendant at the sentencing hearing of their post-release control obligations, and the sentencing entry must reflect those advisements and detail (1) whether post-release control is discretionary or mandatory, (2) the duration of the post-release control period, and (3) a statement to the effect that the Adult Parole Authority (“APA”) will administer the post-release control pursuant to R.C. 2967.28 and that any violation by the offender of the conditions of post-release control will subject the offender to the consequences set forth in that statute.”

REVISED CODE SECTION: R.C. 2967.28

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: The Uniform Sentencing Entry has standard language for courts to include in their entries regarding these advisements to reflect that they were made on the record.

State v. Gordon, 153 Ohio St.3d 601, 2018-Ohio-1975

SUMMARY: The Court held that trial judges are not required to specifically inform the defendant at sentencing of the provisions of R.C. 2929.141(A)(1) and (2). When an offender on post-release control commits a new felony, those provisions allow the sentencing court to terminate post-release control and impose an additional, consecutive prison term for the violation.

REVISED CODE SECTIONS: R.C. 2929.19; R.C. 2929.141

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: Contrast with requirements imposed at plea hearing in *State v. Bishop*, 156 Ohio St.3d 156, 2018-Ohio-5132 below. Necessary advisement language is included in the Uniform Sentencing Entry and Method of Conviction⁴ forms, as well as in the “Good Civics”⁵ post-release-control impositions form.

4 The Uniform Sentencing Entry “Method of Conviction” forms are template entries detailing how a defendant was convicted of a crime (e.g., through a plea of guilty or after a trial verdict). They complement the USE form in both structure and content.

5 Part of the Uniform Sentencing Entry package is what has been termed “Good Civics” forms – documents that either are necessary to include in writing, such as waiver of the right to counsel, or that represent best practices in memorializing various issues in a felony criminal case.

***State v. Bishop*, 156 Ohio St.3d 156, 2018-Ohio-5132**

SUMMARY: The Court held that when a defendant on post-release control enters a guilty plea on a new felony, the trial court must inform the defendant during the Criminal Rule 11 colloquy that it is permitted by statute to terminate their existing post-release control and to sentence the defendant to a consecutive term of imprisonment for violating post-release control by committing a new felony.

REVISED CODE & LEGAL REFERENCES: Crim.R. 11; R.C. 2929.141

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: Necessary advisements are included in the Uniform Sentencing Entry package, including the “Good Civics” forms on post-release control.

***State v. White*, 156 Ohio St.3d 536, 2019-Ohio-1215**

SUMMARY: In a traffic violation case, the Court held that the failure to include a sentence or reference to the imposition of a fine or community service in a judgement entry meant that the entry was not a final, appealable order subject to appellate review. Judgement entries must meet the requirements of *State v. Lester*, 2011-Ohio-5204.

REVISED CODE & LEGAL REFERENCES: R.C. 2505.02; Crim.R. 32

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: The Uniform Sentencing Entries, while currently developed for felony cases, include required language about the imposition or waiver of a fine in each case.

***State v. Romero*, 156 Ohio St.3d 468, 2019-Ohio-1839**

SUMMARY: The Court held that the trial court applied the wrong standard in denying the defendant’s request to withdraw their guilty plea due to ineffective assistance of counsel. Defendant alleged their attorney did not advise them of the immigration consequences of their plea. The Court reiterated the two-prong test requiring the court to consider the totality of the circumstances to determine if representation was deficient, and if that deficient representation prejudiced the defendant.

REVISED CODE & LEGAL REFERENCES: Crim.R. 11; Crim.R. 32; R.C. 2943.031

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: Citizenship instructions in the Method of Conviction - Plea forms and the Uniform Sentencing Entry direct practitioners to the appropriate advisements and inquiries to be made when accepting pleas and sentencing noncitizen defendants.

***State ex rel. Martin v. Russo*, 160 Ohio St.3d 21, 2020-Ohio-829**

SUMMARY: The Court denied a writ of mandamus by the defendant asking for court costs to be waived or a hearing ordered on their ability to pay. The Court held that the issue could have been addressed on direct appeal and, as such, mandamus was not an appropriate remedy. The Court further held that R.C. 2947.23 does not require an ability-to-pay hearing for trial court to waive, modify, or suspend cost; rather, the hearing only is required when the trial court wishes to convert non-payment of costs to community service, and requires that the defendant be given the choice to pay costs instead.

REVISED CODE SECTIONS: R.C. 2947.23

***State v. Taylor*, 161 Ohio St.3d 319, 2020-Ohio-3514**

SUMMARY: Here, the Court held there is no legislative requirement that the trial court consider the defendant’s ability to pay in imposing the costs of the prosecution and jury fees specifically under R.C. 2947.231. This decision is limited to those specific costs, as other types of financial sanctions imposed do statutorily require ability-to-pay considerations. The trial court is permitted to waive, suspend, or modify the R.C. 2947.231 costs and other financial sanctions, pursuant to R.C. 2947.23(C).

REVISED CODE SECTIONS: R.C. 2947.231; R.C. 2947.23

SUBSEQUENT ACTION AND RECOMMENDATIONS [Russo, Taylor]: Instructions to the Uniform Sentencing Entries provide guidance to courts on the types of financial sanctions that require ability-to-pay findings and are updated regularly to reflect new case law and statutes on the topic.

The Criminal Justice Recodification Committee made a number of revisions to the statutory provisions surrounding the impositions of fines, fees, and court costs. These changes simplified and clarified when an ability-to-pay consideration is required.

See *State v. Taylor*, Slip Opinion No. 2020-Ohio-6786, decided in December 2020. That case involves a different defendant and is contrasted in that the costs in this case are explicitly part of the criminal sentence, rather than a civil judgement.

***State v. Miller*, 159 Ohio St.3d 447, 2020-Ohio-1420**

SUMMARY: The Court held that while strict compliance is required of a court making the Crim.R. 11(C)(2)(c) advisements as to the constitutional rights being given up during a plea colloquy, the trial court is deemed to have strictly complied when the advisements were made “in a manner reasonably intelligible to the defendant” and need not be a literal recitation of the language of the rule or include specific verbiage.

LEGAL REFERENCES: Crim.R. 11

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: Language in Uniform Method of Conviction – Plea forms and instructions assists practitioners in ensuring all necessary

advisements are made during the plea colloquy. Future iterations will include prompts for necessary language based on code sections entered into the forms.

***State v. Dangler*, 162 Ohio St.3d 1, 2020-Ohio-2765**

SUMMARY: Defendant alleged that the sentencing court did not adequately explain the sex-offender registration duties they would be subject to, and asked to have their conviction vacated. The Court found that the sentencing court adequately explained the nature of the maximum penalty involved and, absent a showing of prejudice, the defendant was not entitled to relief.

REVISED CODE & LEGAL REFERENCES: R.C. Chapter 2950; Crim.R. 11

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: Adoption of the USE package will provide courts with model language sufficient to meet the requirements of Crim.R. 11 and ensure a knowing, intelligent, and voluntary plea.

***State v. Harper*, 160 Ohio St.3d 480, 2020-Ohio-2913**

SUMMARY: The Court revisited its void-versus-voidable jurisprudence and held that improper imposition of post-release control does not render the sentence void and subject to collateral attack at any time, but rather voidable and, therefore, such issues must be addressed on direct appeal.

REVISED CODE SECTIONS: R.C. 2929.19; R.C. 2967.28

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: Adoption of the Uniform Sentencing Entry and attendant templates will assist practitioners in avoiding these types of errors at the trial level.

***State v. Howard*, Slip Opinion No. 2020-Ohio-3195**

SUMMARY: The defendant challenged the imposition of consecutive sentences after repeated violations of their community-control sanctions, arguing that the trial court needed to repeatedly notify the defendant of the reserved prison term at each revocation hearing that occurred. The Court held that it is sufficient for a trial court to inform the defendant of the reserved, consecutive term at the initial sentencing hearing and to incorporate that sentence by reference at subsequent revocation hearings. The Court further held that the required R.C. 2929.14(C)(4) consecutive sentence findings must be made at the revocation hearing when a reserved consecutive sentence is imposed, and remanded the case for resentencing on that issue.

REVISED CODE SECTIONS: R.C. 2929.14 R.C. 2929.15; R.C. 2929.19

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: Advisements were added to the Uniform Sentencing Entry instructions informing practitioners of the decision in this case.

***State v. Bozso*, 162 Ohio St.3d 68, 2020-Ohio-3779**

SUMMARY: Defendant wished to withdraw a guilty plea, claiming ineffective assistance of counsel as they were not advised of the potential consequences the plea may have had on their immigration status. The Court held that the defendant must establish there was deficient performance on the part of defense counsel and that the deficient performance resulted in prejudice to the defendant – namely that they would not have entered into the plea but for the error by defense counsel. The defendant failed to prove this second element.

REVISED CODE & LEGAL REFERENCES: R.C. 2943.031; Crim.R. 11

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: Uniform Sentencing and Method of Conviction entries include language and instruction on necessary advisements of the potential immigration consequences of convictions and memorialization of those advisements.

***State v. Hudson*, 161 Ohio St.3d 166, 2020-Ohio-3849**

SUMMARY: Defendant was sentenced to prison and the initial sentencing entry failed to properly impose post-release control obligations. After having served their sentence, they appealed their sentence and placement on post-release control. Following the holding in *State v. Harper*, 160 Ohio St.3d 480, 2020-Ohio-2913, the Court held that the sentence was not void and, therefore, was barred by res judicata as it was not addressed on direct appeal.

REVISED CODE SECTIONS: R.C. 2931.03; R.C. 2967.28

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: Instructions in the Uniform Sentencing Entries, attendant Method of Conviction entries, and “Good Civics” post-release control imposition forms will assist practitioners in avoiding these types of errors.

***State v. Reed*, Slip Opinion No. 2020-Ohio-4255**

SUMMARY: The Court held that a defendant only is entitled to jail-time credit for those days they are confined in a public or private facility and does not include time the defendant is subject to house arrest or electronic-home monitoring in residence following their conviction.

REVISED CODE SECTIONS: R.C. 2967.191

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: The Uniform Sentencing Entry instructions were updated to inform courts of this decision.

***State ex rel. Fraley v. Ohio Dept. of Rehab. & Corr.*, 161 Ohio St.3d 209, 2020-Ohio-4410**

SUMMARY: The defendant pled guilty to one count of aggravated robbery with a firearm specification and one count of aggravated robbery without a firearm specification. These

sentences were imposed concurrently, despite language in R.C. 2929.14(B)(1)(a)(ii) necessitating that the firearm specification charge “must be served consecutively to and prior to the sentence that is imposed for the underlying felony.” The Ohio Department of Rehabilitation and Correction (DR.C.) calculated the defendant’s sentence according to the consecutive requirement in the statutory provision, instead of based on the lower court’s erroneous journal entry specifying concurrent sentences. The Court held that when a sentencing entry contains a legal error favoring the defendant, the state must file an appeal in order for the error to be corrected. Since no such appeal was filed in the defendant’s case, the defendant’s writ of mandamus was granted, compelling DR.C. to correct its records.

REVISED CODE SECTIONS: R.C. 2929.14

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: Continued adoption and implementation of the Uniform Sentencing Entry will assist courts in avoiding these types of errors. As the entries and instructions are integrated into local case management systems, we will continue to explore ways to provide internal frameworks that alert practitioners to potential errors in sentencing.

***State v. Henderson*, 161 Ohio St.3d 285, 2020-Ohio-4784**

SUMMARY: The Court addresses void-versus-voidable sentencing error, extending the holding in *Harper* previously and stating that erroneous sentences imposed by a court with subject-matter jurisdiction over a case are merely voidable and must be challenged on direct appeal. Here, the defendant was sentenced in 1999 to a definite term of 15 years for murder and an additional, consecutive 3-year firearm specification. The sentencing court did not, on the record or in the entry, impose the statutorily mandated life-tail for the murder charge. Neither the state nor the defendant filed a direct appeal. The trial court held a resentencing hearing in 2017 and resentenced the defendant, imposing the life-tail, a decision upheld by the Eighth District Court of Appeals. The Supreme Court reiterated its holding in *Harper* and held that the original sentence was voidable, not void, and was, therefore, unable to be challenged by the state or defendant, except on direct appeal.

REVISED CODE SECTIONS: R.C. 5145.01

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: Implementation of the Uniform Sentencing Entries will aid in avoiding these types of errors and ensure they are caught/corrected at sentencing or on direct appeal.

***State v. Hackett*, Slip Opinion No. 2020-Ohio-6699**

SUMMARY: Defendant chose to waive their right to counsel and represent themselves at trial for murder, rape, and kidnapping. The trial court appointed standby counsel to assist the defendant. Prior to trial, the defendant made a number of requests for standby counsel to be able to act on the record, which were denied by the trial court as

requests for improper hybrid representation. The Court held that the limits placed on standby counsel did not violate the Sixth Amendment, finding that there is no right to have standby counsel appointed and citing a number of potential issues raised by hybrid representation.

LEGAL REFERENCES: Sixth Amendment to the U.S. Constitution

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: The USE Update Protocol⁶ workgroup has included instructions regarding the bar on hybrid representation as part of a “Good Civics” template waiver of counsel.

State v. Graham, Slip Opinion No. 2020-Ohio-6700

SUMMARY: Defendant was convicted of capital murder for his role in a home invasion robbery where he shot and killed an individual in the home. The Court found that improper victim-impact evidence was admitted during the guilt phase of the trial when the homicide victim’s father testified about both the victim and the impact the loss had on his life. The Court held that there was no prejudice to the defendant as the testimony was not “overly emotional” and also because of the overwhelming evidence of the defendant’s guilt. However, the Court conducted its independent evaluation of the capital sentence and found that the mitigating factors, such as the defendant’s youth, troubled upbringing, and history of mental-health issues weighed against the imposition of a death sentence in the case and remanded the case for resentencing.

REVISED CODE SECTIONS: R.C. 2929.05; R.C. 2929.04

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: This case is referenced in an instruction for the USE Capital Cases package.

State v. Jones, Slip Opinion No. 2020-Ohio-6729⁷

SUMMARY: Defendants appealed a 10-year sentence imposed for their involuntary manslaughter conviction following the death of a child in their care. The Eighth District found, pursuant to R.C. 2953.08(G)(2), that the length of the sentence was “contrary to law” in light of the purposes and principles of felony sentencing set forth in R.C. 2929.11. The Court held that R.C. 2953.08 does not allow this this type of independent review or modification of felony sentences for compliance with R.C. 2929.11 or R.C.

6 The Uniform Sentencing Entry Update Protocol workgroup consists of judges who review new criminal case law and statutes for necessary updates to the Uniform Sentencing Entry packages. The group meets on an as-needed basis, currently twice a month, to review and approve changes and additions to the USE package. Those updates then are published by Sentencing Commission staff.

7 The decision in *Jones* also is referenced in the Legislative Action Section in conjunction with related decisions on R.C. 2953.08 Appellate Review of Felony Sentences.

2929.12. Appellate courts may review the record to ensure the trial court considered these provisions, but not whether they were supported by the record. The Court also held that the language relied upon by the Eighth District in *State v. Marcum*, 146 Ohio St.3d 516, 2016-Ohio-1002 was dicta.

REVISED CODE SECTIONS: R.C. 2929.11; R.C. 2929.12; R.C. 2953.08

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: The decision in *Jones* led the USE Update Protocol workgroup to include the R.C. 2929.11 purposes and principles of sentencing, along with the R.C. 2929.12 seriousness and recidivism factors in the Uniform Sentencing Entry, as well as an instruction on the case and the review on appeal.

***State v. Taylor*, Slip Opinion No. 2020-Ohio-6786**

SUMMARY: The Court resolved a conflict among appellate districts as to whether explicit ability-to-pay findings are needed to impose appointed counsel fees and whether such fees are appropriate as part of a defendant’s sentence. The Court held that while it is best practice for the court to state its ability-to-pay findings on the record, they need not be explicitly made pursuant to statute when imposing appointed-counsel fees. The Court further held that appointed-counsel fees are not costs and should not be included as part of the defendant’s sentence. Best practice would be to impose appointed-counsel fees by separate entry, but the Court also opined that if they are assessed in the sentencing entry, then it should be noted they are a civil assessment.

REVISED CODE SECTIONS: R.C. 2941.51

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: As the Court holds in this case that appointed counsel fees are **not** a part of a criminal sentence, the Uniform Sentencing Entry and relevant instructions reflect what the Court terms as a best practice. A template entry will also be created as a “Good Civics” form for courts to use when imposing these fees.

***State v. Patrick*, Slip Opinion No. 2020-Ohio-6803**

SUMMARY: The Court held that the prohibition on appeal of felony sentences for aggravated murder and murder set forth in R.C. 2953.08(D)(3) does not prohibit a defendant from appealing based on claimed violations of their constitutional rights. Defendant appealed a sentence of 33 years to life for an aggravated murder committed when they were age 17, and alleged the punishment was cruel and unusual in violation of the Eighth Amendment. The Court held that an extended sentence, such as this, is subject to the same scrutiny as a life-without-parole sentence and that trial courts must consider the youth of juvenile offenders when they are sentenced as adults. The case was remanded for resentencing for the trial court to make such considerations.

REVISED CODE & LEGAL REFERENCES: R.C. 2953.08; R.C. 2929.03; Eighth Amendment to the U.S. Constitution; Ohio Constitution, Article I, Section 9

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: Days before this decision was issued, the 133rd General Assembly passed 2021 Sub.S.B. No. 256, a bill barring the imposition of life-without-parole sentences for juvenile offenders. The bill also provides parole-eligibility timelines for juveniles currently serving extended adult sentences and mandates that courts consider age-relevant factors in imposing sentences on such offenders. The bill was signed into law by Governor Mike DeWine on Jan. 9, 2021 and takes effect April 12, 2021.

The Commission has supported efforts to refine R.C. 2953.08 – See recommendations in *Gwynne, McFarland, and Jones*.

The USE Update Protocol workgroup refined existing instructions in the USE package regarding juvenile offenders being sentenced as adults based on the decision in *Patrick* and S.B. 256.

State ex rel. Romine v. McIntosh, Slip Opinion No. 2020-Ohio-6826

SUMMARY: Defendant was convicted for a homicide offense involving the same victim in two separate indictments and case numbers. At sentencing the trial court imposed a life sentence for both offenses, but found they were allied offenses of similar import and merged the sentences in the two different cases. The defendant did not challenge the sentences in their direct appeal. Instead they sought writs of mandamus and prohibition, arguing their sentences were void and still subject to collateral attack. The Court cited its decisions in *State v. Harper* and *State v. Henderson* and held that the sentencing error was one made in the trial court’s exercise of its jurisdiction and the error was, therefore, voidable, and only subject to review on direct appeal.

REVISED CODE SECTIONS: R.C. 2941.25

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: Adoption of the Uniform Sentencing Entries with attendant instructions will assist practitioners with merger issues. As implementation continues, integration with case management systems will help to avoid the type of error that occurred in this case.

The Ohio Criminal Justice Recodification Committee proposed a revised merger statute, which aims to simplify a process that has grown unnecessarily complex and to bring the merger statute into compliance with the Ohio Supreme Court decision in *State v. Ruff*, 143 Ohio St.3d 114, 2015-Ohio-995.

LEGISLATIVE ACTION

***State v. Aalim*, 150 Ohio St.3d 489, 2017-Ohio-2956 (*Aalim II*)**

SUMMARY: On reconsideration of *State v. Aalim*, 150 Ohio St. 3d 463, 2016-Ohio-8278, the Court reversed its earlier decision and upheld Ohio’s statute allowing for mandatory transfer of juveniles into adult court as not violative of due process or equal protection.

REVISED CODE SECTIONS: R.C. 2152.12

***State v. D.B.*, 150 Ohio St.3d 452, 2017-Ohio-6952**

SUMMARY: A juvenile subject to mandatory transfer, who is convicted in adult court of at least one mandatory offense, should be sentenced by the adult court on all convictions in the case, rather than having a reverse-bindover on some counts and not all.

REVISED CODE SECTIONS: R.C. 2505.01; R.C. 2505.02; R.C. 2152.12

SUBSEQUENT ACTIONS AND RECOMMENDATIONS [Aalim, D.B.]: In September 2016, the Sentencing Commission approved a proposal eliminating mandatory transfers from Ohio’s juvenile bindover statute, making all such transfers discretionary after consideration of enumerated factors in favor and against transfer, as well as a determination of amenability to rehabilitation by the juvenile system. This proposal led to legislation introduced during the 132nd and 133rd General Assemblies proposing elimination of mandatory transfers.

***City of Dayton v. State*, 151 Ohio St.3d 168, 2017-Ohio-6909**

SUMMARY: The Court found three provisions of law related to traffic cameras unconstitutional as violative of the Home Rule Amendment, for limiting municipalities’ legislative power and home-rule power without serving an overriding state interest.

REVISED CODE SECTIONS: R.C. 4511.093(B)(1); R.C. 4511.0912; R.C. 4511.095

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: Provisions of law deemed unconstitutional by the Supreme Court should be considered for legislative action.

***State v. Dye*, 152 Ohio St.3d 11, 2017-Ohio-7823**

SUMMARY: The Court resolved a conflict between appellate districts and held that a trial court may seal the record of a case that was dismissed without prejudice prior to the expiration of the statute of limitations. Unlike R.C. 2953.52(B)(3), the relevant code section — R.C. 2953.52(B)(4) — does not include a requirement that the statute of limitations must expire prior to sealing the record.

REVISED CODE SECTIONS: R.C. 2953.52(B)

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: See the Sentencing Commission’s Ad Hoc Committee on Rights Restoration and Record Sealing Report & Recommendations. The complexity of the record-sealing provisions will be included in the Commission’s study and reporting of the impact of 2021 Am.Sub.H.B. No. 1, pursuant to R.C. 181.27. H.B. 1 made a number of changes to the sealing process, expanding eligibility and reducing the statutory waiting period to apply.

***State v. Paige*, 153 Ohio St.3d 214, 2018-Ohio-813**

SUMMARY: Defendant was sentenced to a 42-month prison term on one count and a 5-year term of community control on a second count, to run concurrently, with a Community-Based Correctional Facility (CBCF) sanction to be imposed as part of the community control upon the defendant’s release from prison. The Court struck down the CBCF sanction as prohibited by law, but held that the longer concurrent term of community control was not an impermissible “split sentence,” citing *State v. Saxon*, 109 Ohio St. 3d 176, 2006-Ohio-1245.

REVISED CODE SECTIONS: R.C. 2929.15; R.C. 2929.16; R.C. 2929.41

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: See *State v. Hitchcock*, 157 Ohio St.3d 215, 2019-Ohio-3246. *State v. Saxon* and the rejection of the “sentencing package” doctrine may require reconsideration in light of 2019 Am.Sub.S.B. No. 201’s non-life felony indefinite-sentencing scheme, which allows for an error in one count to affect the sentence of another. Statutory provisions allow for review of sentences as a “package” should be considered and referred for legislative action.

***State v. Hitchcock*, 157 Ohio St.3d 215, 2019-Ohio-3246**

SUMMARY: The Court declared that a trial court may not impose a community-control sanction or a term in a Community Based Correctional Facility (CBCF) to be served consecutively to a prison term on a separate count. The defendant in this case was convicted of three counts and the sentencing court imposed consecutive prison terms on counts 1 and 2, and a consecutive term of a community-control sanction, including placement in a CBCF, on count 3. The Court held that statutory authority does not exist for this type of sentence, and absent statutory authority, a community-control sanction may not be imposed on one count consecutive to a prison term on another felony count.

REVISED CODE SECTIONS: R.C. 2929.14; R.C. 2929.15

***State v. Nelson*, Slip Opinion No. 2020-Ohio-3690**

SUMMARY: The Court addressed the meaning of “technical violation” of community control under the R.C. 2929.15(B) probation violator caps. Defendant argued that any violation that is not a new felony is a “technical violation.” The Court disagreed,

holding that the lack of a definition of the term gives courts discretion to determine what conduct constitutes a “technical violation” of community control and that defendant’s violation of a no-contact order and subsequent misdemeanor conviction did not constitute a “technical violation.”

REVISED CODE SECTIONS: R.C. 2929.15

***State v. Castner*, Slip Opinion No. 2020-Ohio-4950**

SUMMARY: Defendant appealed a 12-month sentence after being removed from two court-ordered drug treatment programs as condition of community control, arguing that the violations were technical in nature and, therefore, limited his prison sentence to 90 days under R.C. 2929.15(B). The Court applied the analysis it set forth in *State v. Nelson*, 2020-Ohio-3690 and held that the court-ordered treatment was a “substantive rehabilitative requirement specifically tailored to address” the defendant’s drug problems. Further, the Court held that the nature of the defendant’s violations (being kicked out of treatment for contacting underage girls using the treatment facility’s phone and computer), considered in light of his prior criminal history (sex offenses involving underage girls), rose above the level of a technical violation of community control.

REVISED CODE SECTIONS: R.C. 2929.15

SUBSEQUENT ACTIONS AND RECOMMENDATIONS [Hitchcock, Nelson, Castner]: Changes to R.C. 2929.15 made in 2021 Am.Sub.H.B. No. 1 impact these provisions and this line of cases. Both the case law and statutory changes in H.B. 1 are addressed in updates to the Uniform Sentencing Entries and the changes will be included in the study and reporting of the impact of H.B. 1 by the Commission per R.C. 181.27.

***State v. Parker*, 157 Ohio St.3d 460, 2019-Ohio-3848**

SUMMARY: Defendant sought postconviction relief pursuant to R.C. 2953.23 for their conviction for having a weapon while under disability based upon a prior delinquency adjudication following the Court’s decision in *State v. Hand*, 149 Ohio St.3d 94, 2016-Ohio-5504, which found that R.C. 2901.08(A) allowing for uses of a previous juvenile adjudication as a prior conviction unconstitutionally violates due process. The Court held that R.C. 2953.23 barred the petition as untimely or successive, and that the defendant could have addressed the constitutionality on direct appeal. The majority opinion declined to create such an exception, stating: “It is the role of the legislature to weigh these competing policy concerns and make the public policy of this state; ‘[o]ur role, in the exercise of the judicial power granted to us by the Constitution, is to interpret the law that the General Assembly enacts,’” (Citing *State v. Taylor*, 138 Ohio St.3d 194, 2014-Ohio-460).

REVISED CODE SECTIONS: R.C. 2953.23

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: The legislature should consider whether revisions to the appellate review process, as discussed in *Gwynne, McFarland*, and *Jones* in the following, should include an ability for a defendant to seek relief for constitutional violations not addressed or erroneously decided on direct appeal when those same type of issues are later addressed directly by the Supreme Court.

***State v. Allen*, 159 Ohio St.3d 75, 2019-Ohio-4757**

SUMMARY: A trial court may order restitution to the bank that cashed a forged check as the banks were considered “victims” of the offenses under the common definition of the term.

REVISED CODE SECTIONS: R.C. 2929.01; R.C. 2929.18

***Centerville v. Knab*, Slip Opinion No. 2020-Ohio-5219**

SUMMARY: The City of Centerville, Ohio requested restitution for hours their police spent responding to a false police report, pursuant to defendant’s conviction for the same. The Court held that a municipality was not a “victim” as contemplated by the 2017 victim’s rights amendment to the Ohio Constitution known as “Marsy’s Law” and, as such, the city was not entitled to restitution in the case.

LEGAL REFERENCES: Ohio Constitution, Article I, Section 10(a)

***State ex rel Thomas v. McGinty*, Slip Opinion No. 2020-Ohio-5452**

SUMMARY: The trial court ordered the defendant in a criminal case be allowed to inspect the crime scene — in this case the victim’s home — along with counsel and their investigator. The victims filed for a writ of prohibition in the appellate court, asserting their constitutional rights under “Marsy’s Law” to refuse a discovery request made by the accused. The Court held that a writ of prohibition was not the proper means to address the issues in this case and that the discovery order of the trial court was a final appealable order subject to immediate appeal by the victims under R.C. 2505.02(B)(4).

REVISED CODE & LEGAL REFERENCES: Ohio Constitution, Article I, Section 10(a); R.C. 2505.02

SUBSEQUENT ACTIONS AND RECOMMENDATIONS [Allen, Knab, McGinty]: “Marsy’s Law” victims’ rights amendments to the Ohio Constitution Art. I §10a were passed in 2017.

***State v. Gwynne*, 158 Ohio St.3d 279, 2019-Ohio-4761**

SUMMARY: Plurality decision when the Court narrowly held that the Fifth District Court of Appeals erred in considering the purposes and principles of sentencing in R.C. 2929.11 and 2929.12 when reviewing a large number of consecutive sentences – a 65 year stated prison term for a 55-year-old non-violent offender.

REVISED CODE SECTIONS: R.C. 2953.08

***State v. McFarland*, 162 Ohio St.3d 36, 2020-Ohio-3343**

SUMMARY: Defendant challenged their convictions based on a sufficiency of the evidence argument when they were sentenced to life without parole for a conspiracy to commit aggravated murder and sentenced to life without parole. The Court affirmed the Eighth District holding that there was sufficient evidence to support the convictions.

REVISED CODE & LEGAL REFERENCES: Eighth Amendment to the U.S. Constitution; R.C. 2953.08; R.C. 2903.01

***State v. Jones*, Slip Opinion No. 2020-Ohio-6729⁸**

SUMMARY: Defendants appealed a 10-year sentence imposed for their involuntary-manslaughter conviction following the death of a child in their care. The Eighth District found, pursuant to R.C. 2953.08(G)(2), that the length of the sentence was “contrary to law” in light of the purposes and principles of felony sentencing set forth in R.C. 2929.11. The Court held that R.C. 2953.08 does not allow this type of independent review or modification of felony sentences for compliance with R.C. 2929.11 or R.C. 2929.12. Appellate courts may review the record to ensure the trial court considered these provisions, but not whether they were supported by the record. The Court also held that the language relied upon by the Eighth District in *State v. Marcum*, 146 Ohio St.3d 516, 2016-Ohio-1002 was dicta.

REVISED CODE SECTIONS: R.C. 2929.11; R.C. 2929.12; R.C. 2953.08

SUBSEQUENT ACTIONS AND RECOMMENDATIONS [Gwynne, McFarland, Jones]: The Commission has long supported efforts to refine R.C. 2953.08. Appellate review of felony sentences was a lynchpin of the sentencing scheme enacted by the Commission in 1996 Am.Sub.S.B. No. 2 nearly 25 years ago. Judges were guided toward the minimum term from felony ranges and findings were required to impose sentences beyond the minimum term. That requirement was buttressed by robust appellate review of those sentences as provided in R.C. 2953.08. With the decision in *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856 striking the need for findings, the central premise of appellate review in S.B. 2 was upended. These cases illustrate a

8 As noted above, *Jones* also is included in the Uniform Sentencing Entry section of cases.

need for clarity for appellate courts in the review of sentences, including answering such questions as: What in the record should be reviewed for sentences imposed by the trial court? At what point do consecutive definite (or now non-life indefinite) sentences become a de facto life term? Should the discretionary imposition of a life-without-parole sentence be reviewable on direct appeal, or only subject to Eighth Amendment challenge? Are sentences throughout the state consistent and proportional?

***State v. Pribble*, 158 Ohio St.3d 490, 2019-Ohio-4808**

SUMMARY: Defendant was convicted of an F3 violation of R.C. 2925.041, which mandates that a defendant with two prior convictions be sentenced to an F3 punishment of not less than 5 years. The sentencing range for F3 offenses is 9-36 months generally and 9-60 months for specified offenses as laid out in R.C. 2929.14(A) (3). The Court held that the specific penalty in R.C. 2925.041 applies, subjecting the defendant to a 5-year term.

REVISED CODE SECTIONS: R.C. 2929.14; R.C. 2925.041

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: Unnecessary ambiguities and inconsistencies between R.C. 2929.14(A) (3) and R.C. 2925.041 should be addressed through legislative action.

***State v. Jones*, 159 Ohio St.3d 228, 2019-Ohio-5159**

SUMMARY: The defendant was charged under R.C. 955.22(D) for failure to confine a dangerous dog. The Court resolved a conflict amongst appellate districts and held that a prior finding that the dog in question is “dangerous” is not necessary before prosecutions for these violations and that the State may present evidence of the dangerousness at trial, but that the State failed to do so in this case.

REVISED CODE SECTIONS: R.C. 955.22

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: Seek further statutory clarification on the definition of dangerous dog.

***State v. Faggs*, 159 Ohio St.3d 420, 2020-Ohio-523**

SUMMARY: The Court held that “reasonable parental discipline” is an affirmative defense to a charge of domestic violence or assault. The burden of proof falls upon the accused, who must prove by a preponderance of the evidence that they were acting reasonably as a parent to discipline their child.

REVISED CODE SECTIONS: R.C. 2919.25

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: The legislature may consider statutory implementation of the defense and a model instruction for the offense should be included in the Ohio Jury Instructions.

***State v. Horn*, 159 Ohio St.3d 539, 2020-Ohio-960**

SUMMARY: The Court held that a familial relationship between the defendant and the victim was a “mental or physical condition” sufficient to prove the elements of rape under R.C. 2904.01(A)(1)(c). The General Assembly has not defined “mental or physical condition” and the Court stopped short of providing its own definition. The Court found that the requirement in R.C. 2904.01(A)(1)(c) that a “mental or physical condition” was the cause of substantial impairment meant that a familial relationship would not be one of those conditions.

REVISED CODE SECTIONS: R.C. 2907.01; R.C. 2907.02

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: The need for definition of “mental or physical condition” should be considered for legislative action.

***State v. Buttery*, 162 Ohio St.3d 10, 2020-Ohio-2998**

SUMMARY: Defendant was convicted for failing to register as a sex offender, the duties for which stemmed from a juvenile adjudication for gross sexual imposition. They argued that it was unconstitutional to use a juvenile adjudication to enhance the penalty for a crime committed when the individual is an adult, pursuant to *State v. Hand*, 149 Ohio St.3d 94, 2016-Ohio-5504. The Court held that the conviction was proper as the juvenile adjudication is not an element of the offense and their right to a jury trial or due process on the matter was not violated.

REVISED CODE SECTIONS: R.C. 2950.04; R.C. 2950.99

***State v. Townsend*, Slip Opinion No. 2020-Ohio-5586**

SUMMARY: Defendant was convicted on numerous counts of rape with sexually violent predator specifications. Several of those convictions were for conduct that took place prior to the enactment of 2005 Am.Sub.H.B. No. 473 that changed the definition of sexually violent predator. The Court held that those changes subjected the defendant to a higher potential sentence and, therefore, constituted an Ex Post Facto violation. The case was remanded for resentencing on the counts taking place before the statutory change.

REVISED CODE SECTIONS: R.C. 2971.01

***Lingle et al. v. State*, Slip Opinion No. 2020-Ohio-6788**

The defendants were convicted of sexually oriented offenses in another state and subject to an automatic designation as sexual predators upon registering in Ohio in 2008. They sought to challenge their classification. The Court held that under the applicable former version of R.C. 2950.09(F)(2) they needed to first prove the why they were subject to lifetime registration in the out-of-state conviction, and then

distinguish that requirement from Ohio's sexual-predator classification, all by a standard of clear and convincing evidence.

REVISED CODE SECTIONS: Former R.C. 2950.09

SUBSEQUENT ACTIONS AND RECOMMENDATIONS [Buttery, Townsend, Lingle et al]: The Criminal Sentencing Commission's Ad Hoc Committee on Sex Offender Registration issued a report in 2016 urging simplification and revision to Ohio's SORN laws. The Criminal Justice Recodification Committee also submitted proposals regarding SORN law simplification as part of their legislative package.

State v. Pendergrass, 162 Ohio St.3d 25, 2020-Ohio-3335

SUMMARY: Defendant was convicted of unlawful sexual conduct with a minor in 2016 and later indicted for another incident that took place before the 2016 conviction. The second indictment sought a higher-level felony due to the 2016 conviction. The Court held that the statutory language dictated that the sentence enhancement required that the defendant had a prior conviction at the time the offense was committed, rather than at the time of the indictment.

REVISED CODE SECTIONS: R.C. 2907.04

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: The Court resolves the case through applying the rule of lenity to a statute they term ambiguous on its face. Legislative action should be considered to resolve the ambiguity and determine whether the prior conviction necessary for the enhanced penalty must occur prior to the date of the offense or the date of the indictment.

Mohamed v. Eckelberry, Slip Opinion No. 2020-Ohio-4585

SUMMARY: The defendant was awaiting trial and was detained on pretrial bond. After granting the defendant's writ of habeas corpus, the Court reduced the pretrial bond amount, per the recommendation of the master commissioner. Upon a challenge of the bond reduction, the Court held that an appellate court may permit a habeas corpus petitioner in an original action to introduce evidence to prove an excessive-bail claim. The appellate court then may exercise its own discretion to determine the proper bail amount imposed.

LEGAL REFERENCES: Crim.R. 46

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: The Commission will continue to advocate for changes recommended by the Ad Hoc Committee on Bail and Pretrial Services and the Supreme Court's Task Force to Examine the Ohio Bail System.

State v. Rue, Slip Opinion No. 2020-Ohio-6706

SUMMARY: The defendant was placed on a 5-year term of community control. They absconded twice and had warrants issued for their arrest, the second of which occurred after the 5-year term was set to expire. The defendant was arrested, revoked, and

sentenced to prison after the date their probation was set to expire. The Court held that the absconding did not toll the period of community control absent a declaration of the defendant as an absconder by the court. As the trial court did not make that determination at a violation hearing prior to the termination of the 5-year period, the court lacked jurisdiction to impose a prison term on the defendant.

REVISED CODE SECTIONS: R.C. 2929.15

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: The Ohio Criminal Justice Recodification Committee and Justice Reinvestment 2.0 both recommended revised maximum terms of community control based on felony level of an offense. Clarification of tolling provisions due to absconding or other violations also should be considered for legislative action.

State v. Pendleton, Slip Opinion No. 2020-Ohio-6833

SUMMARY: Defendant was found to be in possession of more than 100 grams of powder that contained a mixture of both heroin and fentanyl. He was charged, convicted, and sentenced consecutively for two offenses – trafficking in heroin and trafficking in fentanyl – related to this same amount of drugs, as the trial court found they did not merge for sentencing purposes. The Court held that this violated double jeopardy, as the defendant was being subjected to more than one punishment for a singular, weight-based drug offense.

REVISED CODE SECTIONS: R.C. 2925.03; R.C. 2941.25

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: Legislative action may be necessary to clarify the definition of “compound, mixture, or substance containing” a controlled substance.

Additional Cases Where Legislative Action May Be Considered:

(See summaries in Uniform Sentencing Entry Section)

State v. White, 156 Ohio St.3d 536, 2019-Ohio-1215 – page 2;

State v. Reed, Slip Opinion No. 2020-Ohio-4255 – page 5;

State v. Patrick, Slip Opinion No. 2020-Ohio-6803 – page 8;

State ex rel. Romine v. McIntosh, Slip Opinion No. 2020-Ohio-6826 – page 9.

INFORMATIONAL

***State v. Moore*, 149 Ohio St.3d 557, 2016-Ohio-8288**

SUMMARY: The Court extended the prohibition against life-without-parole sentences for juveniles set forth in *Graham v. Florida* 560 U.S. 48, 130 S. Ct. 2011. The 112-year sentence imposed on a juvenile offender for a non-homicide offense constitutes cruel and unusual punishment in violation of the Eighth Amendment as it exceeded the defendant’s life expectancy.

LEGAL REFERENCES: Eighth Amendment to the U.S. Constitution

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: The Sentencing Commission proposed language to allow for review of extended sentences for juveniles in November of 2015. This proposal formed the basis of legislation introduced but not passed by the 132nd General Assembly, and reintroduced in the 133rd GA as SB 256. The bill passed the House and Senate and was signed by Governor Mike DeWine on Jan. 9, 2021, effective April 12, 2021.

***State v. Anderson*, 151 Ohio St.3d 212, 2017-Ohio-5656**

SUMMARY: The Court upheld the imposition of a 19-year sentence for four felonies against a juvenile as not a penalty for going to trial, and further held that imposition of mandatory sentences against juvenile offenders does not constitute cruel and unusual punishment as prohibited by the Eighth Amendment.

LEGAL REFERENCES: Eighth Amendment to the U.S. Constitution

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: See the decision in *State v. Patrick*, Slip Opinion No. 2020-Ohio-6803 for further discussion of the Court’s holdings on review of extended sentences for juveniles sentenced as adults.

Recently enacted 2021 Sub. S.B. No. 256 provides parole eligibility dates for juveniles sentenced as adults and mandates that specific age-related considerations be made at both sentencing and during parole hearings. The bill was signed by Governor DeWine on January 9, 2021, effective April 12, 2021.

***State v. Pountney*, 152 Ohio St.3d 474, 2018-Ohio-22**

SUMMARY: The Supreme Court decided that because the State failed to prove the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual for transdermal fentanyl, it failed to establish the “bulk amount” of that drug for purposes of increasing the felony level.

REVISED CODE SECTIONS: R.C. 2925.01; R.C. 2925.11

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: 2018 Am. Sub. S.B. 1, effective Oct. 31, 2018, amended R.C. 2925.01(D) to provide alternative means for determining the

“bulk amount” of fentanyl-related compounds and other Schedule I, II, and III drugs. The bill also increased penalties for many drug offenses involving fentanyl-related compounds.

***State v. Martin*, 154 Ohio St.3d 513, 2018-Ohio-3226**

SUMMARY: Defendant alleged they were the victim of human trafficking and that the juvenile court failed to appoint a guardian ad litem as required under the “safe harbor” provisions of R.C. 2152.021. While the Court held that those provisions apply to both violent and non-violent offenses, it found that the defendant failed to allege the crimes charged were related to her status as a victim of human trafficking and, as such, did not meet the plain-error standard required for relief.

REVISED CODE SECTIONS: R.C. 2152.021

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: Defendant’s sentence was commuted by Governor Mike DeWine on April 17, 2020. Changes to the handling of juvenile victims of human trafficking were proposed by legislature in 133 GA SB 13. Those provisions later were amended into 2020 Am.H.B. No. 431, which was passed and signed by the governor on Jan. 9, 2021, effective April 12, 2021.

***State v. Ford*, 158 Ohio St.3d 139, 2019-Ohio-4539**

SUMMARY: Defendant claimed intellectual disability as part of his capital murder case. The Court held that the trial court failed to apply the proper standard in finding the defendant was not intellectually disabled and vacated the death sentence, remanding the case for a determination under the proper standards.

LEGAL REFERENCES: Eighth Amendment to the U.S. Constitution

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: The 133rd General Assembly passed 2021 Am.Sub.H.B. No. 136, which prohibits imposition of the death penalty for individuals suffering from four specific types of mental illness at the time of the offense. The bill was signed by Governor Mike DeWine on Jan. 9, 2021, effective April 12, 2021.

***State v. Gonzales*, 150 Ohio St.3d 276, 2017-Ohio-777 (*Gonzales II*)**

SUMMARY: On reconsideration of *State v. Gonzales*, 150 Ohio St.3d 261, 2016-Ohio-8319, the Court reversed its prior decision and held that any “fillers” present as part of the usable drug in a “compound, mixture, preparation, or substance containing cocaine” should be included in the weight to determine the appropriate felony level of the offense.

REVISED CODE SECTIONS: R.C. 2925.11

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: The provisions of *Gonzales II* were argued as part of the argument *State v. Pendleton*, Slip Opinion No. 2020-Ohio-6833.

***State v. Rahab*, 150 Ohio St.3d 152, 2017-Ohio-1401**

SUMMARY: The Court held no presumption of vindictiveness applies to a trial court imposing a longer sentence after a trial than was offered as part of a proposed plea agreement. The standard for appellate review in such cases requires a finding of clear and convincing evidence that the sentence was based on “actual vindictiveness.”

LEGAL REFERENCES: Sixth Amendment to the U.S. Constitution

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Polk*, 150 Ohio St.3d 29, 2017-Ohio-2735**

SUMMARY: The Court held that a high school has a compelling government interest in protecting students sufficient to allow for warrantless searches of unattended book bags, as long as such searches were reasonable in light of the circumstances.

LEGAL REFERENCES: Fourth Amendment to the U.S. Constitution

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Mutter*, 150 Ohio St.3d 429, 2017-Ohio-2928**

SUMMARY: Double jeopardy applied to prohibit prosecution for felony ethnic intimidation after convictions for aggravated menacing arising from the same incident. Under *Blockburger v. United States*, 284 U.S. 299 (1932), when the lesser offense had no additional element necessary for conviction, it is considered a lesser included offense and a conviction bars further prosecution.

REVISED CODE SECTIONS: R.C. 2927.12; R.C. 2903.21

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Roberts*, 150 Ohio St.3d 47, 2017-Ohio-2998**

SUMMARY: On third consideration of a direct appeal of a death sentence, following a first remand based on ex parte communications and a second based on a failure to include defendant’s allocution in the sentencing opinion, the Court upheld both the convictions and the sentence of death.

REVISED CODE SECTIONS: R.C. 2929.05

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***Cleveland v. Oles*, 152 Ohio St.3d 1, 2017-Ohio-5834**

SUMMARY: In a fact pattern when an individual was placed in the front seat of a police cruiser for questioning following a traffic stop, the Court held that a totality of the circumstances analysis must be applied to Fifth Amendment claims that *Miranda* warnings

were required, asking whether a reasonable person would believe themselves to be in law enforcement custody.

LEGAL REFERENCES: Fifth Amendment to the U.S. Constitution; Ohio Constitution, Article I, Section 10

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Wogenstahl*, 150 Ohio St.3d 571, 2017-Ohio-6873**

SUMMARY: On direct appeal of a capital sentence, the defendant argued that the inability to prove the state in which a murder took place deprived the Ohio common pleas court of jurisdiction. The Court found that the common pleas court had jurisdiction pursuant to statute as the location of the homicide could not be proven.

REVISED CODE SECTIONS: R.C. 2901.11; R.C. 2929.05

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Jackson*, 151 Ohio St.3d 239, 2017-Ohio-7469**

SUMMARY: Defendant alleged issues with the sentencing entry on appeal, claiming that the failure to account for dismissed counts in the sentencing entry meant there was no final, appealable order under Crim.R. 32. The Court overruled the appellate district and found that dismissal of counts by the state terminated their prosecution and rendered the judgement issued final for the purposes of appeal.

LEGAL REFERENCES: Crim.R. 32

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Martin*, 151 Ohio St.3d 470, 2017-Ohio-7556**

SUMMARY: On direct appeal of death sentence, the Court upheld both the convictions and the sentence of death.

REVISED CODE SECTIONS: R.C. 2929.05

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Morgan*, 153 Ohio St.3d 196, 2017-Ohio-7565**

SUMMARY: The Court held that a guardian ad litem must be appointed for a juvenile without parents who is subject to a bindover amenability hearing, pursuant to R.C. 2151.52. However, the failure to appoint a guardian was subject to plain error review, and was not found to be outcome determinative in this case.

REVISED CODE & LEGAL REFERENCES: R.C. 2151.281; R.C. 2151.52; Juv.R. 4

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Thomas*, 152 Ohio St.3d 15, 2017-Ohio-8011**

SUMMARY: On direct appeal of a capital sentence, the Court found that irrelevant and prejudicial evidence regarding other weapons owned by the defendant were admitted and reversed the sentence of death.

REVISED CODE SECTIONS: R.C. 2925.05

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Bembry*, 151 Ohio St.3d 502, 2017-Ohio-8114**

SUMMARY: Police failed to comply with the knock-and-announce rule set forth in R.C. 2935.12 when executing a warrant on defendant's home. The trial court sustained a motion to suppress and excluded the evidence found when executing the warrant. The Court held that the exclusionary rule was not the proper remedy for violations of the knock-and-announce rule when a valid warrant was issued for a search.

REVISED CODE & LEGAL REFERENCES: R.C. 2935.12; Fourth Amendment to the U.S. Constitution

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***In re D.S.*, 152 Ohio St.3d 109, 2017-Ohio-8289**

SUMMARY: The juvenile court dismissed a case pursuant to Juv.R. 9 against two boys under the age of 13 alleged to have committed sexual acts with each other. The Supreme Court upheld the dismissal, holding that Juv.R. 9(A) gives courts discretion to dismiss delinquency proceedings when formal court action is not appropriate.

LEGAL REFERENCES: Juv.R. 9

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Batista*, 151 Ohio St.3d 584, 2017-Ohio-8304**

SUMMARY: Defendant was convicted of felonious assault for knowingly transmitting HIV to a sexual partner pursuant to R.C. 2903.11(B)(1). They challenged their conviction as unconstitutionally violative of the free speech under the First Amendment, the Equal Protection Clause of the Fourteenth Amendment, and the Ohio Constitution. The Court upheld the judgement of the court of appeals affirming the conviction as the statute regulates conduct, not speech, and further that the provision serves a legitimate state interest.

REVISED CODE & LEGAL REFERENCES: R.C. 2903.11(B)(1); First Amendment and Fourteenth Amendment to the U.S. Constitution

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Clinton*, 153 Ohio St.3d 422, 2017-Ohio-9423**

SUMMARY: On direct appeal of death sentence, the Court upheld both the convictions and the sentence of death.

REVISED CODE SECTIONS: R.C. 2929.05

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Beasley*, 152 Ohio St.3d 470, 2018-Ohio-16**

SUMMARY: The Court held that the trial court abused its discretion in adopting a blanket policy of refusing to accept no-contest pleas and rejecting the request for a no-contest plea without consideration of the case-specific facts and circumstances. The defendant's failure to enter no-contest plea on record did not constitute waiver of the issue when the trial court informed the defendant it would not accept a plea of no contest. The conviction was reversed and the case was remanded for entry of new plea.

LEGAL REFERENCES: Crim.R. 11

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***In re D.H.*, 152 Ohio St.3d 310, 2018-Ohio-17**

SUMMARY: The Court held that a juvenile court's bindover order transferring jurisdiction from juvenile to adult court is not immediately appealable under R.C. 2505.02(B)(4) as they are not final appealable orders.

REVISED CODE SECTIONS: R.C. 2505.02

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Banks-Harvey*, 152 Ohio St.3d 368, 2018-Ohio-201**

SUMMARY: Police arrested defendant for speeding and, pursuant to the arrest, searched the defendant's purse under a policy that their personal effects need to accompany them to the jail. The Court held that relying solely on such policy was insufficient to fall under the inventory search exception to the Fourth Amendment's warrant requirement.

LEGAL REFERENCES: Fourth Amendment to the U.S. Constitution

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Gordon*, 152 Ohio St.3d 528, 2018-Ohio-259**

SUMMARY: The Court held that defendant's two indictments were permissibly joined at the trial level as they could have been included in a single indictment and the joinder did not result in prejudice to the defendant.

LEGAL REFERENCES: Crim.R. 8, 13

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Beasley*, 153 Ohio St.3d 497, 2018-Ohio-493**

SUMMARY: On direct appeal of defendant's sentences, on both capital and non-capital counts, the Court upheld the death sentence in the case, but remanded the non-capital offenses for resentencing as the Court found the record did not reflect the necessary findings to impose consecutive sentences for the non-capital offenses and to impose court costs at the sentencing hearing.

REVISED CODE SECTIONS: R.C. 2929.05; R.C. 2929.19(C) (4); R.C. 2947.23,

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Noling*, 153 Ohio St.3d 108, 2018-Ohio-795**

SUMMARY: The Court held that the appellate court and, therefore, the Supreme Court, had jurisdiction over appeals made for discretionary decisions on DNA-testing claims at the trial-court level and, further, that the defendant was entitled to the results of such testing under the law.

REVISED CODE SECTIONS: R.C. 2953.72; R.C. 2953.73; R.C. 2953.81

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Mason*, 153 Ohio St.3d 476, 2018-Ohio-1462**

SUMMARY: The Court held that Ohio's death penalty scheme did not violate the defendant's Sixth Amendment right to a trial by jury, as the jury is not required to explain why it found that aggravating circumstances in the case outweighed mitigating circumstances. The Sixth Amendment right is satisfied once the jury finds the defendant guilty of aggravated murder and the capital specifications.

REVISED CODE & LEGAL REFERENCES: R.C. 2929.03; R.C. 2929.04; Sixth Amendment to the U.S. Constitution

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Myers*, 154 Ohio St.3d 405, 2018-Ohio-1903**

SUMMARY: On direct appeal of a death sentence, the Court upheld both the convictions and the sentence of death.

REVISED CODE SECTIONS: R.C. 2929.05

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Oliver v. Turner; Eppinger*, 153 Ohio St.3d 605, 2018-Ohio-2102**

SUMMARY: Habeas corpus petition granted and defendant ordered released when the Court found that the trial court's sentencing entry did not specify that sentences were to run consecutively and that, therefore, by operation of law, they ran concurrently.

REVISED CODE SECTIONS: R.C. Chapter 2725; R.C. 2929.41

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Jackson*, 154 Ohio St.3d 542, 2018-Ohio-2169**

SUMMARY: A social worker who interviewed defendant while investigating a child abuse allegation was not an agent of law enforcement absent some evidence they acted at the direction of, or were influenced by law enforcement officials, and, as such, the protections of the Fifth and Sixth Amendments, namely the requirement of *Miranda* warnings, did not apply to that interview.

REVISED CODE SECTIONS: R.C. 2925.01; R.C. 2925.11

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None. See also, *In Re M.H.*, Slip Opinion No. 2020-Ohio-5485, page 64.

***State ex rel. O'Malley v. Collier-Williams*, 153 Ohio St.3d 553, 2018-Ohio-3154**

SUMMARY: The Court granted a writ of prohibition to the prosecuting attorney ordering a sentencing entry to be vacated after the trial court empaneled a new jury to resentence a capital murder case when the defendant originally waived jury trial.

REVISED CODE & LEGAL REFERENCES: R.C. Chapter 2973; S.Ct.Prac.R. 12

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Moore*, 154 Ohio St.3d 94, 2018-Ohio-3237**

SUMMARY: The Court held that the jail-time-credit statute does not allow for the reduction of mandatory prison terms imposed for a firearm specification, as the plain language of the specification statute prohibits any reduction. The Court further found that application of the statute did not violate the defendant's right to equal protection under the law.

REVISED CODE SECTIONS: R.C. 2941.141; R.C. 2941.145; R.C. 2967.191

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Carnes*, 154 Ohio St.3d 527, 2018-Ohio-3256**

SUMMARY: The Court held that a prior juvenile adjudication can be used as an element for a violation of the having-a-weapon-under-disability statute R.C. 2953.13. The

adjudication was not used for sentence enhancement, merely as an element of the offense proving the disability.

REVISED CODE SECTIONS: R.C. 2953.13

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: The Court revisits a similar issue in *State v. Buttery*, 162 Ohio St.3d 10, 2020-Ohio-2998.

***State v. Vega*, 154 Ohio St.3d 569, 2018-Ohio-4002**

SUMMARY: The Court held that police had probable cause to search a vehicle when they found a strong odor of marijuana during a traffic stop and, further, that after finding drugs and paraphernalia subsequent to that search, they could open sealed packages based on reasonable suspicion there could be additional illicit drugs inside.

LEGAL REFERENCES: Fourth Amendment to the U.S. Constitution

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Bonnell*, 155 Ohio St.3d 176, 2018-Ohio-4069**

SUMMARY: The Court held that defendant failed to show that any DNA testing in their cause could be outcome-determinative, and further that they had no jurisdiction to review the extent to which the State searched for biological material that could be tested in their case.

REVISED CODE SECTIONS: R.C. 2953.73; R.C. 2953.74; R.C. 2953.75

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Ireland*, 155 Ohio St.3d 287, 2018-Ohio-4494**

SUMMARY: When the defendant alleged he experienced a dissociative episode as a result of post-traumatic stress disorder, the Court held a “blackout” is an affirmative defense that must be proved by the defendant by a preponderance of the evidence. The Court further held that this did not constitute unconstitutional burden shifting from the prosecution to the defendant.

REVISED CODE SECTIONS: R.C. 2901.05

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Apanovitch*, 155 Ohio St.3d 358, 2018-Ohio-4744**

SUMMARY: Defendant filed a fourth post-conviction relief petition based on a DNA-testing claim. The filing occurred well outside the statutory deadlines for filing such a petition. The Court held that the trial court lacked subject matter jurisdiction to hear the post-conviction petition, as the circumstances of the case did not fall into one of the specific avenues allowing for untimely and/or successive appeals provided by statute.

REVISED CODE SECTIONS: R.C. 2953.23(A)

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***Girard v. Giordano*, 155 Ohio St.3d 470, 2018-Ohio-5024**

SUMMARY: Defendant pled no contest to a misdemeanor charge and the trial court found defendant guilty without an explanation of circumstances. That conviction was reversed by the court of appeals, which also held that jeopardy attached prohibiting further prosecution. The Court held that jeopardy did not attach under circumstances when a trial court fails to fulfill the explanation of circumstances requirement.

LEGAL REFERENCES: Fifth Amendment to the U.S. Constitution; Ohio Constitution, Article I, Section 10

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Braden*, 158 Ohio St.3d 452, 2018-Ohio-5079**

SUMMARY: The Court held that the provisions of R.C. 2947.23(C) allowing a trial court to change orders with regard to court costs only applies to cases sentenced after the statute's effective date of March 22, 2013. Trial courts lack jurisdiction to alter court-cost imposition in sentences imposed prior to that effective date.

REVISED CODE SECTIONS: R.C. 2947.23

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: The opinion was vacated on reconsideration in *State v. Braden*, 158 Ohio St.3d 462, 2019-Ohio-4204.

***State v. Braden*, 158 Ohio St.3d 462, 2019-Ohio-4204**

SUMMARY: Upon a motion for reconsideration, the Court reversed its December 2018 decision and held that the provisions of R.C. 2947.23 apply retroactively. A trial court may waive, modify, or suspend any court costs that were imposed at any time, even for cases sentenced prior to the enactment date of the statute.

REVISED CODE SECTIONS: R.C. 2947.23

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Tench*, 156 Ohio St.3d 85, 2018-Ohio-5205**

SUMMARY: On direct appeal of death sentence, the Court upheld both the convictions and the sentence of death.

REVISED CODE SECTIONS: R.C. 2929.05

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Cupp*, 156 Ohio St.3d 207, 2018-Ohio-5211**

SUMMARY: The defendant was detained on a pretrial bond for a rape case at the same time he was serving a jail sentence for a probation violation on an unrelated domestic-violence conviction. The Court held that as the pretrial case was not the cause of the probation violation that the defendant was not entitled to jail-time credit for the number of days he was confined for that violation.

REVISED CODE SECTIONS: R.C. 2967.191

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Dixon v. Bowerman*, 156 Ohio St.3d 317, 2019-Ohio-716**

SUMMARY: Dismissal of petition for habeas corpus affirmed as inmate failed to include the necessary affidavit of prior actions, pursuant to R.C. 2969.25(A).

REVISED CODE SECTIONS: R.C. Chapter 2725; R.C. 2969.25

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***Handcock v. Shoop*, 156 Ohio St.3d 282, 2019-Ohio-718**

SUMMARY: Inmate filed for a writ of habeas corpus alleging issues with their trial and sentencing, including ineffective assistance of counsel at the trial and appellate level. The Court affirmed dismissal as all claims could have been addressed on direct appeal of the case or the appeals.

REVISED CODE SECTIONS: R.C. Chapter 2725; R.C. 2969.25

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Howard v. Turner, et al.*, 156 Ohio St.3d 285, 2019-Ohio-759**

SUMMARY: Dismissal of petition for mandamus affirmed as inmate failed to include the necessary affidavit of prior actions, pursuant to R.C. 2969.25(A).

REVISED CODE SECTIONS: R.C. Chapter 2731; R.C. 2969.25

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. White v. Tepe*, 156 Ohio St.3d 286, 2019-Ohio-760**

SUMMARY: After having their habeas petition denied at the trial-court level, the defendant filed a complaint seeking writs of mandamus and probation against the trial court, alleging they had no jurisdiction over the habeas petition. The Court affirmed dismissal of the case as the offender failed to prove the trial court lacked jurisdiction over the habeas claim.

REVISED CODE & LEGAL REFERENCES: R.C. Chapters 2725 and 2731; S.Ct.Prac.R. 12

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Allen v. Goulding*, 156 Ohio St.3d 337, 2019-Ohio-858**

SUMMARY: Inmate filed a writ of mandamus asking for a new sentencing hearing. The court of appeals denied the petition, holding there was no need for a hearing to correct typographical errors. The Court affirmed the decision.

REVISED CODE SECTIONS: R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***Dean v. Marquis*, 156 Ohio St.3d 341, 2019-Ohio-900**

SUMMARY: Defendant challenged their sentence in habeas, alleging there were errors in the time he was brought to trial pursuant to the Interstate Agreement on Detainers. The Court affirmed the dismissal of the cases as the issues alleged could have been addressed on direct appeal.

REVISED CODE SECTIONS: R.C. Chapter 2725; R.C. 2963.30

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***Bear v. Buchanan*, 156 Ohio St.3d 348, 2019-Ohio-931**

SUMMARY: Inmates habeas petition denied as all issues alleged could have been addressed on direct appeal.

REVISED CODE SECTIONS: R.C. Chapter 2725

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Hunley v. Ohio Dept. Of Rehab. & Corr.*, 156 Ohio St.3d 354, 2019-Ohio-933**

SUMMARY: Defendant filed complaints for writs of mandamus and procedendo seeking recalculation of their sentence due to alleged improper imposition of consecutive sentences. The Court affirmed dismissal of the complaints as the sentences ran consecutively by operation of law, regardless of language in the entry, and that procedendo is relief against a court, not an executive branch department.

REVISED CODE & LEGAL REFERENCES: R.C. Chapter 2731; S.Ct.Prac.R. 12

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***Curtis v. Wainwright*, 156 Ohio St.3d 357, 2019-Ohio-942**

SUMMARY: The Court affirmed the dismissal of a habeas corpus petition when the appellate court correctly held that issues of merger and errors in issuing a corrected sentencing entry are of the type addressed on direct appeal and not through habeas.

REVISED CODE SECTIONS: R.C. Chapter 2725

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Powe v. Lanzinger*, 156 Ohio St.3d 358, 2019-Ohio-954**

SUMMARY: The Court affirmed the dismissal of a defendant's petition for mandamus for not attaching the proper documentation of accounts under R.C. 2969.25(C) when asking for the filing fee to be waived for indigency.

REVISED CODE SECTIONS: R.C. Chapter 2731; R.C. 2969.25

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Swanson v. Ohio Department of Rehabilitation & Correction*, 156 Ohio St.3d 408, 2019-Ohio-1271**

SUMMARY: Inmate did not include all previous actions in the necessary attachment to their petition for writ of mandamus. The Court affirmed dismissal of the petition for failure to comply with R.C. 2969.25(A).

REVISED CODE SECTIONS: R.C. Chapter 2731; R.C. 2969.25

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***Grinnell v. Bowen, et al.*, 156 Ohio St.3d 409, 2019-Ohio-1311**

SUMMARY: The Court affirmed the dismissal of a habeas corpus petition alleging that the trial court never properly journalized a sentencing entry in their case. The dismissal was proper, as such an error is not of the type for which habeas relief can be granted.

REVISED CODE SECTIONS: R.C. Chapter 2725

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***Ridenour v. Shoop*, 156 Ohio St.3d 412, 2019-Ohio-1313**

SUMMARY: Defendant sought relief in habeas alleging errors in the imposition of consecutive sentences and sufficiency of the evidence. The Court upheld the dismissal of the petition, as all claims made had a remedy through direct appeal of the sentence.

REVISED CODE SECTIONS: R.C. Chapter 2725

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Evans v. Chambers-Smith*, 156 Ohio St.3d 430, 2019-Ohio-1335**

SUMMARY: Inmate asked for a writ of mandamus ordering the Department of Rehabilitation and Correction to remove their classification as a security threat based on

white supremacist tattoos. The Court upheld dismissal of the complaint at the appellate level, as the inmate failed to show a present injury required for mandamus relief.

REVISED CODE SECTIONS: R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Roberts v. Marsh*, 156 Ohio St.3d 440, 2019-Ohio-1569**

SUMMARY: Defendant filed a petition seeking a mandamus or procedendo writ ordering they be conveyed to court for a new sentencing hearing following a remand on appeal for the incorrect imposition of post-release control. The appellate court dismissed the complaints holding that the deletion of an incorrect imposition of post-release control did not require the defendant's physical presence, and the Court affirmed.

REVISED CODE & LEGAL REFERENCES: R.C. Chapter 2731; S.Ct.Prac.R. 12

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Hairston*, 156 Ohio St.3d 363, 2019-Ohio-1622**

SUMMARY: Officers responding to four to five gunshots they heard nearby conducted a *Terry v. Ohio*, 392 U.S. 1, 88 S.Ct. 1868 (1968) pat-down of the sole subject they located in the area. The search revealed the individual to be in possession of a concealed handgun. The Court held that officers had reasonable suspicion to conduct the stop, and the fact that they approached with their firearms drawn did not elevate the *Terry* stop into an arrest for purposes of Fourth Amendment analysis.

LEGAL REFERENCES: Fourth Amendment to the U.S. Constitution; Ohio Constitution, Article I, Section 14

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Miller v. Bower*, 156 Ohio St.3d 455, 2019-Ohio-1623**

SUMMARY: Mandamus claim asking for recalculation of an inmate's sentences alleging improper imposition of consecutive sentences by the trial court. The Court affirmed the dismissal of the petition as all issues alleged could have been addressed on direct appeal.

REVISED CODE SECTIONS: R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***Smith v. Sheldon*, 157 Ohio St.3d 1, 2019-Ohio-1677**

SUMMARY: Habeas corpus petition by inmate alleging that the trial court sentenced the defendant in error to both prison and community control, that their community-control violations were technical in nature and subject to 90-day caps, and that an amendment indictment in their case deprived them of their due process rights. The Court upheld the

dismissal of the petition as all claims made by the defendant could have been addressed on direct appeal of their sentence.

REVISED CODE SECTIONS: R.C. Chapter 2725

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

State ex rel. O'Malley v. Russo, 156 Ohio St.3d 548, 2019-Ohio-1698

SUMMARY: County prosecuting attorney sought a writ of prohibition claiming the judge did not have proper jurisdiction over a wrongful imprisonment claim and asked for a writ of procedendo to compel that judge to dismiss the case. The Court denied the prosecutor's applications, holding that the trial court had jurisdiction over the most current civil action on the claim and that the state was not entitled to an order that judgement be entered in their favor, as they requested.

REVISED CODE & LEGAL REFERENCES: R.C. 2743.48; S.Ct.Prac.R. 12

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

State ex rel. Zander v. Judge of Summit County Common Pleas Court, 156 Ohio St.3d 466, 2019-Ohio-1704

SUMMARY: Defendant sought to challenge their aggravated murder convictions through mandamus and prohibition writs. The Court upheld the dismissal of the complaints as all issues could have been addressed on direct appeal.

REVISED CODE & LEGAL REFERENCES: R.C. Chapter 2731, S.Ct.Prac.R. 12

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

State ex rel. Martin v. Greene, 156 Ohio St.3d 482, 2019-Ohio-1827

SUMMARY: Inmate's mandamus request for public records from the correctional institution where they were housed was denied as the records already were provided.

REVISED CODE SECTIONS: R.C. 149.43; R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

State ex rel. Shaffer v. Wainwright, 156 Ohio St.3d 559, 2019-Ohio-1828

SUMMARY: The Court affirmed dismissal of a habeas petition that would not have resulted in the offender's immediate release from incarceration.

REVISED CODE SECTIONS: R.C. Chapter 2725

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***Rock v. Harris*, 157 Ohio St.3d 6, 2019-Ohio-1849**

SUMMARY: Inmate asked for relief via writ of habeas corpus arguing issues with enhancement of their OVI offenses. The Court upheld dismissal of the complaint for failure to state a claim for which relief could be granted, as all issues could have been challenged on direct appeal.

REVISED CODE SECTIONS: R.C. Chapter 2725

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Husband v. Shanahan*, 157 Ohio St.3d 148, 2019-Ohio-1853**

SUMMARY: Dismissal of inmate's mandamus petition related to a public record request upheld by the Court, holding that the inmate did not seek the necessary leave of the trial court with regard to the public record request for records relating to their case.

REVISED CODE SECTIONS: R.C. 149.43; R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. White v. Woods*, 156 Ohio St.3d 562, 2019-Ohio-1893**

SUMMARY: Criminal defendant sought both a writ of mandamus and procedendo to compel their trial court to issue a corrected sentencing entry. The Court affirmed dismissal of the complaint as the issues alleged could have been addressed on direct appeal.

REVISED CODE SECTIONS: R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Richard et al.; Calo v. Chambers-Smith, et al.*, 157 Ohio St.3d 16, 2019-Ohio-1962**

SUMMARY: Three inmates sought mandamus relief regarding their parole consideration hearings, having previously filed the same action five years prior. The Court upheld dismissal of the petitions as barred by res judicata.

REVISED CODE SECTIONS: R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Martin*, 156 Ohio St.3d 503, 2019-Ohio-2010**

SUMMARY: The Court held that continuances attributable to a defendant's request found on the record, but not properly memorialized in an entry, effectively tolled statutory speedy trial.

REVISED CODE SECTIONS: R.C. 2945.71; R.C. 2945.72

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***Dailey v. Wainwright*, 156 Ohio St.3d 510, 2019-Ohio-2064**

SUMMARY: The Court affirmed the dismissal of a habeas petition for failure to attach copies of the offender's commitment papers, pursuant to R.C. 2725.04(D).

REVISED CODE SECTIONS: R.C. 2725.04

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Evans v. Tieman, et al.*, 157 Ohio St.3d 99, 2019-Ohio-2411**

SUMMARY: Inmate filed a mandamus petition directly to the Ohio Supreme Court. Motions to dismiss the petition based on failure to include an affidavit of all civil actions, pursuant to R.C. 2969.25, were overruled by the Court, holding that the statutory provision only applies to actions filed in appeals courts, but the petition itself also was dismissed for failure to state any claim for which mandamus relief could be granted.

REVISED CODE SECTIONS: R.C. Chapter 2731; R.C. 2969.25

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Cowell v. Croce*, 157 Ohio St.3d 103, 2019-Ohio-2844**

SUMMARY: Inmate sought writ of mandamus seeking vacated convictions and resentencing. The Court affirmed the dismissal of the petition as all issues raised could have been addressed on direct appeal.

REVISED CODE SECTIONS: R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Ellis v. Wainwright*, 157 Ohio St.3d 279, 2019-Ohio-2853**

SUMMARY: Dismissal of habeas petition affirmed for inmate's failure to comply with R.C. 2969.25(C) requirement to include a statement of account when asking for filing fees to be waived for indigency.

REVISED CODE SECTIONS: R.C. Chapter 2725; R.C. 2969.25

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. McDougald v. Greene*, 157 Ohio St.3d 315 2019-Ohio-3309**

SUMMARY: Mandamus writ granted in part by the Court when an inmate requested an incoming mail log.

REVISED CODE SECTIONS: R.C. 149.43, R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

State ex rel. Sands v. Cullota, 158 Ohio St.3d 1, 2019-Ohio-3784

SUMMARY: Defendant filed two petitions for writs of mandamus seeking to change the manner in which they were charged in their case and their sentence vacated, as well as to have a new sentencing hearing and charges dismissed. The appeals were consolidated and the Court upheld dismissal of the claims as they could have been addressed on direct appeal.

REVISED CODE SECTIONS: R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

State ex rel. Alford v. Toledo Correctional Institution, 157 Ohio St.3d 525, 2019-Ohio-3847

SUMMARY: Inmate filed a mandamus petition with regard to a public record request they made regarding efforts to obtain footwear by the correctional institution where they were housed. The Court affirmed dismissal of the complaint as there was no proof such records existed or that the inmate had a legal right to such records.

REVISED CODE SECTIONS: R.C. 149.43; R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

State ex rel. Cincinnati Enquirer v. The City of Cincinnati, 157 Ohio St.3d 290, 2019-Ohio-3876

SUMMARY: Newspaper sought an order in mandamus after requesting body-camera footage from police officers and received redacted footage. The Court held that the nature of the redactions as a security concern negated the right to mandamus relief. However, it went on to hold that the city acted in bad faith with regard to the request and ordered costs and attorneys' fees be paid by the city.

REVISED CODE SECTIONS: R.C. 149.43; R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

State ex rel. Robinson v. Chambers-Smith, 157 Ohio St.3d 379, 2019-Ohio-4111

SUMMARY: Offender asked for mandamus relief ordering that information be removed from their parole file before their next hearing. The appeals court dismissed the complaint for lack of a legal duty on the part of the Ohio Department of Rehabilitation and Correction to remove such information. The Court upheld the dismissal.

REVISED CODE SECTIONS: R.C. Chapter 2725

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Whitt v. Harris*, 157 Ohio St.3d 384, 2019-Ohio-4113**

SUMMARY: Defendant sought habeas relief alleging that the sentences were void because of a claim that the trial court lacked jurisdiction over the crimes in question as they allegedly occurred outside the county. The Court affirmed dismissal of the complaint as the issue previously was litigated on direct appeal would not result in immediate release, and related to sufficiency of the evidence, a claim not cognizable in habeas.

REVISED CODE SECTIONS: R.C. Chapter 2725

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Sands v. Cullota*, 157 Ohio St.3d 387, 2019-Ohio-4129**

SUMMARY: The Court affirmed summary judgment dismissal of a petition for writ of mandamus when defendant alleged issues with the sufficiency of their criminal indictment. The appeals court dismissed the appeal as barred by res judicata, which the Court found to be an error; however, the claim regarding the indictment was not of the type able to be addressed in mandamus, so the Court upheld dismissal.

REVISED CODE SECTIONS: R.C. 149.43; R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Penland v. Ohio Dept. of Rehab. & Corr.*, 158 Ohio St.3d 15, 2019-Ohio-4130**

SUMMARY: A mandamus request for compliance with a public record request was denied by the Court as the defendant refused to pay for delivery costs of the record as required by law, along with a request for damages.

REVISED CODE SECTIONS: R.C. 149.43; R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Ellis v. Maple Hts. Police Dept.*, 158 Ohio St.3d 25, 2019-Ohio-4137**

SUMMARY: Dismissal of a mandamus petition related to a public record request affirmed when it was found to be moot due to the records already having been provided.

REVISED CODE SECTIONS: R.C. 149.43; R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Norris v. Wainwright*, 158 Ohio St.3d 20, 2019-Ohio-4138**

SUMMARY: The Court consolidated two appeals – one relating to the offender’s request for habeas relief dismissed as the offender would not be entitled to immediate release, and a second seeking mandamus dismissed for having an adequate remedy at law through direct appeal. The Court affirmed both dismissals.

REVISED CODE SECTIONS: R.C. Chapter 2725

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Rodriguez v. Barker*, 158 Ohio St.3d 39, 2019-Ohio-4155**

SUMMARY: Defendant sought a mandamus writ declaring their sentence void when a nunc pro tunc was used to correct an error of leaving a firearm specification out of the sentencing entry and when post-release control was not imposed when mandatory. The Court affirmed the summary judgement dismissal of the petition as the issues could have been addressed on direct appeal.

REVISED CODE SECTIONS: R.C. 149.43; R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Ellis v. Cleveland Police Forensic Laboratory*, 157 Ohio St.3d 483, 2019-Ohio-4201**

SUMMARY: Inmate sought a writ of mandamus forcing the Cleveland Police Forensic Laboratory to comply with a public records request related to lab records about their case and records about lab policies. The appeals court granted the writ with regard to non-case related records, but denied the case-related records as the defendant did not obtain approval of the trial court before making the request, pursuant to R.C. 149.43(B)(8). The Court upheld the decision.

REVISED CODE SECTIONS: R.C. 149.43; R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Hawkins*, 158 Ohio St.3d 94, 2019-Ohio-4210**

SUMMARY: The Court held that a reasonable and articulable suspicion existed when an officer initiated a traffic stop after noticing that a vehicle's paint color did not match the registration records in the BMV database and the officer's experience led them to believe a crime may have occurred.

LEGAL REFERENCES: Fourth Amendment to the U.S. Constitution; Ohio Constitution, Article I, Section 14

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Green v. Wetzel*, 158 Ohio St.3d 104, 2019-Ohio-4228**

SUMMARY: The Court affirmed the dismissal of a petition for writ of mandamus asking that a sentence be declared void based on alleged deficiencies in the post-release-control notification and in referring to a life sentence as a definite term in the sentence, as those issues had an adequate remedy at law via direct appeal.

REVISED CODE SECTIONS: R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Parker v. Russo*, 158 Ohio St.3d 123, 2019-Ohio-4420**

SUMMARY: Defendant filed petitions for a writ of mandamus and of habeas corpus. They alleged that the trial court lacked jurisdiction to issue a nunc pro tunc entry correcting an error in the mandamus claim, and in the habeas petition they claimed that the lack of a written jury waiver negated the jurisdiction of the three-judge panel that accepted their guilty plea. The Court upheld the dismissal of both petitions, although finding issue with evidence relied on by the appeals court in the mandamus claim, as both issues had an adequate remedy at law through direct appeal.

REVISED CODE SECTIONS: R.C. Chapter 2725; R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Soto*, 158 Ohio St.3d 44, 2019-Ohio-4430**

SUMMARY: Defendant had an involuntary-manslaughter charge dismissed pursuant to a plea agreement in a homicide case involving his son. After his release from prison on that plea, he confessed to authorities that the killing was intentional and he was charged with aggravated murder and murder for the homicide. The Court held that jeopardy did not attach to the involuntary-manslaughter charge that was dismissed from the initial indictment and that the defendant could be tried for the homicide.

LEGAL REFERENCES: Fifth Amendment to the U.S. Constitution

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: Petition for writ of certiorari pending, *Ohio v. Ford*, S.Ct., case no. 19-1191.

***State ex rel. Sands v. Culotta*, 158 Ohio St.3d 238, 2019-Ohio-4741**

SUMMARY: The Court affirmed the dismissal of a petition for writ of mandamus asking for a sentencing entry to be produced that was compliant with Crim.R. 32(C). The appeals court dismissed the petition for failure to provide a proper affidavit of indigency, pursuant to R.C. 2969.25, and because all issues presented could have been raised on direct appeal.

REVISED CODE SECTIONS: R.C. Chapter 2731; R.C. 2969.25

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Kerr v. Turner*, 158 Ohio St.3d 241, 2019-Ohio-4760**

SUMMARY: Defendant filed a petition for a writ of habeas corpus, which was dismissed by the court of appeals, as all claims made in the petition could have been address on direct appeal or were otherwise not cognizable in habeas. The Court affirmed the dismissal.

REVISED CODE SECTIONS: R.C. Chapter 2725

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Wintermeyer*, 158 Ohio St.3d 513, 2019-Ohio-5156**

SUMMARY: The State failed to raise a standing argument in a challenge to a Fourth Amendment claim at the trial-court level and the Court held that the state was therefore barred from making that argument on appeal.

LEGAL REFERENCES: Fourth Amendment to the U.S. Constitution

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Straley*, 159 Ohio St.3d 82, 2019-Ohio-5206**

SUMMARY: Defendant filed to withdraw a guilty plea due to the sentencing court mistakenly informing them that their sentences were not mandatory. The Court held that since the defendant was properly informed of the maximum sentence they could face on each count and that the sentence imposed was consistent with the joint recommendation made by the defense and the prosecutor, that the defendant failed to demonstrate the necessary manifest injustice to allow the plea to be withdrawn.

LEGAL REFERENCES: Crim.R. 11

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***Smith v. May*, 159 Ohio St.3d 106, 2020-Ohio-61**

SUMMARY: Defendant sought a habeas writ alleging that the juvenile court did not adequately notify their parent of a hearing during a previous juvenile adjudication that led to the bindover to adult court and criminal sentence. While the Court found that such error occurred, it revisited its decisions on the issue and found that such an error did not divest the common pleas court of jurisdiction on the matter. As such, the Court upheld dismissal by the appellate court as all claims made in the habeas petition could have been raised on direct appeal.

REVISED CODE SECTIONS: R.C. 2125.12; R.C. Chapter 2725

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. McDougald v. Greene*, 158 Ohio St.3d 533, 2020-Ohio-287**

SUMMARY: Following the Court’s previous holding on the matter in 157 Ohio St.3d 1468, 2019-Ohio-4419 ordering the custodian of records at a correctional facility to show cause for failure to provide records to inmate McDougald, the Court found Greene in contempt for that failure and ordered them to pay \$1,000 as a sanction and to provide the required records by a date certain or face further financial sanction.

REVISED CODE SECTIONS: R.C. 149.43; R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Davis*, 159 Ohio St.3d 31, 2020-Ohio-309**

SUMMARY: The indigent defendant claimed ineffective assistance of counsel for failure to request waiver of court costs at sentencing. The Court applied the test from *State v. Bradley*, 42 Ohio St.3d 136, 538 N.E.2d 373 (1989) and held that the reviewing court must assess both whether counsel’s performance was deficient, and whether that deficient performance affected the outcome of the case. In the case of failure to request waiver of court costs the defendant must establish a reasonable possibility that the request would have been granted if made.

REVISED CODE SECTIONS: R.C. 2947.23

SUBSEQUENT ACTION AND RECOMMENDATIONS: None.

***State ex rel Newsome v. Hack*, 159 Ohio St.3d 44, 2020-Ohio-336**

SUMMARY: The Court granted a petition for a writ compelling a county court reporter’s office to inform the defendant of the fee necessary to obtain a transcript in their case.

REVISED CODE SECTIONS: R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: See *State ex rel. Newsome v. Hack*, 2020-Ohio-4812.

***State ex rel. Jefferson v. Russo*, 159 Ohio St.3d 280, 2020-Ohio-338**

SUMMARY: Defendant sought a mandamus writ challenging their sentence, but was denied by the appellate court for having raised the issue previously on several occasions. The Court upheld the dismissal based on res judicata.

REVISED CODE SECTIONS: R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel Roden v. Ohio Dept. of Rehab. & Corr.*, 159 Ohio St.3d 314, 2020-Ohio-408**

SUMMARY: Defendant claimed error in how their prison terms were aggregated and sought a writ of mandamus to compel a “legal” computation of their sentence. The

appeals court dismissed the writ for failure to provide adequate financial records in their affidavit of indigency as required by R.C. 2969.25(C). The Court upheld the dismissal.

REVISED CODE SECTIONS: R.C. Chapter 2731; R.C. 2969.25

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel Kerr v. Pollex*, 159 Ohio St.3d 317, 2020-Ohio-411**

SUMMARY: The appeals court dismissed a petition for a writ of prohibition filed by a defendant asking to have criminal convictions vacated as the claims were barred by res judicata as having been addressed on direct appeal, that the direct appeal was the adequate remedy for the alleged errors, and that the trial court in fact had requisite jurisdiction over the defendant's criminal case. The Court affirmed the dismissal.

LEGAL REFERENCES: S.Ct.Prac.R. 12

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***Davis v. Sheldon*, 159 Ohio St.3d 147, 2020-Ohio-436**

SUMMARY: The Court affirmed dismissal of a habeas petition for failure to include the necessary commitment papers, pursuant to R.C. 2725.04(D).

REVISED CODE SECTIONS: R.C. Chapter 2725

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Craig*, 159 Ohio St.3d 398, 2020-Ohio-455**

SUMMARY: Defendant was convicted on two counts of a multicount indictment, but the jury was hung as to the verdict on the third. The Court held that in such a case there was no final appealable order as to the first two counts, but went on to hold that a subsequent finding of incompetency to stand trial as to the remaining count effectively severed the convictions sufficiently to create a final appealable order on the two convictions.

REVISED CODE SECTIONS: R.C. 2945.39; R.C. 2945.401; R.C. 2505.02

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***Robinson v. Fender*, 159 Ohio St.3d 99, 2020-Ohio-458**

SUMMARY: Dismissal of habeas petition affirmed for failure to comply with the provisions of R.C. 2969.25 by including reference to all previous civil actions in the case.

REVISED CODE SECTIONS: R.C. 2969.25; R.C. Chapter 2725

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel Kerr v. Turner*, 159 Ohio St.3d 97, 2020-Ohio-459**

SUMMARY: The Court affirmed dismissal of a habeas petition for failure to include the necessary commitment papers pursuant to R.C. 2725.04(D) and for failure to state claims cognizable in habeas, as evidence admissibility and manifest weight claims must be addressed on direct appeal.

REVISED CODE SECTIONS: R.C. 2725.04

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Dibble*, 159 Ohio St.3d 322, 2020-Ohio-546**

SUMMARY: In requesting a search warrant, a detective made several unrecorded statements to the judge while under oath that were not included in the affidavit. The Court held that these statements were admissible in the hearing on a motion to suppress as they related to the officer's good faith reliance on the warrant signed by the judge. The exclusionary rule was not the proper remedy for a violation of Crim.R. 41's requirement that such statements be recorded.

LEGAL REFERENCES: Crim.R. 41

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Ramirez*, 159 Ohio St.3d 426, 2020-Ohio-602**

SUMMARY: After a finding of guilt by the jury, the trial court granted a motion for a new trial on the basis of insufficient evidence under Crim.R. 33(A)(4). The state appealed the decision, but the appellate court denied the appeal based on double-jeopardy concerns. The Court held that this was not a double-jeopardy violation as the order for a new trial is not a final verdict for R.C. 2945.97 purposes.

REVISED CODE & LEGAL REFERENCES: R.C. 2945.97; Crim.R. 33

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Bates*, 159 Ohio St.3d 156, 2020-Ohio-634**

SUMMARY: Defendant's capital conviction for aggravated murder was overturned and remanded for a new trial on ineffective-assistance-of-counsel grounds. After a potential juror expressed racial bias against the defendant's race during voir dire, defense counsel both failed to inquire into those statements and failed to strike the juror from the panel. The Court held that racial bias need not be expressed against a defendant personally when the statement shows the juror's inability to be impartial to a defendant based on race or ethnicity.

LEGAL REFERENCES: Sixth Amendment to the U.S. Constitution

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel Franks v. Ohio Adult Parole Authority*, 159 Ohio St.3d 435, 2020-Ohio-711**

SUMMARY: Defendant had their writ of mandamus petition denied at the appellate level based on failure to pay the required filing fee or to ask for its waiver. The Court upheld the denial, holding that the defendant's failure to object to the magistrate's decision dismissing the case for failure to meet the fee requirements barred further consideration of the issues, as the civil rules prohibit reconsideration of magistrate's recommendations accepted by the appeals court without objection. The defendant could not seek relief from judgement under the civil rules as an end-around for their failure to object.

REVISED CODE & LEGAL REFERENCES: R.C. Chapter 2731; S.Ct.Prac.R. 12

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Nettles*, 159 Ohio St.3d 180, 2020-Ohio-768**

SUMMARY: Here, the Court was asked to interpret the warrant requirements of R.C. 2933.53. Police used a warrant issued in one county to listen to a phone call that took place in another. The Court held that in such cases the "interception" for purposes of the statute takes place in **both** the county where the call occurred and the county where it was intercepted.

REVISED CODE SECTIONS: R.C. 2933.53

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel Ware v. Walsh*, 159 Ohio St.3d 120, 2020-Ohio-769**

SUMMARY: Defendant sought a mandamus writ asking for the prosecuting attorney in their case to respond to a public records request. The appeals court dismissed the complaint for failure to include the required list of prior actions in the case under R.C. 2969.25(A) and the Court upheld the dismissal.

REVISED CODE & LEGAL REFERENCES: R.C. Chapter 2731; R.C. 2969.25; S.Ct.Prac.R. 12

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Christian*, 159 Ohio St.3d 510, 2020-Ohio-828**

SUMMARY: Defendant had their convictions vacated on direct appeal and remanded for resentencing. The trial court took that opportunity to issue new sentences on all counts that were vacated. The Court held that this was permissible and the defendant could be resentenced de novo on the vacated counts.

LEGAL REFERENCES: Fifth Amendment to the U.S. Constitution

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel Martin v. Russo*, 160 Ohio St.3d 21, 2020-Ohio-829**

SUMMARY: The Court affirmed the dismissal of a request for a mandamus writ challenging the imposition of fines and costs in a criminal case, as the issues could have been addressed on direct appeal.

REVISED CODE & LEGAL REFERENCES: R.C. Chapter 2731; S.Ct.Prac.R. 12

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel Phelps v. McClelland*, 159 Ohio St.3d 184, 2020-Ohio-831**

SUMMARY: Defendant was convicted of capital murder, in part based on the testimony of their co-defendant spouse who entered into an agreement with the State to testify on condition that the capital specifications be dismissed. Defendant sought a mandamus writ asking the Court to enforce the terms of the defendant's agreement and vacate the capital specification. The Court upheld dismissal of the mandamus action based on res judicata and the fact that the issues could have been raised on direct appeal or upon motion to the trial court.

REVISED CODE & LEGAL REFERENCES: R.C. Chapter 2731; S.Ct.Prac.R. 12

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***Moore v. Wainwright*, 160 Ohio St.3d 103, 2020-Ohio-846**

SUMMARY: Defendant sought habeas relief for issues related to the juvenile bindover in their case that had been addressed on direct appeal. The Court upheld the dismissal of the habeas petition, as res judicata bars reconsideration of such issues through habeas proceedings.

REVISED CODE & LEGAL REFERENCES: R.C. Chapter 2725; S.Ct.Prac.R. 12

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel Green v. Shoop*, 159 Ohio St.3d 439, 2020-Ohio-873**

SUMMARY: Defendant filed a second habeas petition, alleging that the lack of a complaint filed in their case nullified the sentence in their case. The appeals court dismissed the petition, holding that not only was the claim not cognizable in habeas, as the defendant was indicted in their case, but that res judicata prohibits subsequent habeas claims. The Court upheld the dismissal.

REVISED CODE & LEGAL REFERENCES: R.C. Chapter 2725; S.Ct.Prac.R. 12

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel Holman v. Collins*, 159 Ohio St.3d 537, 2020-Ohio-874**

SUMMARY: Defendant sought relief in habeas after denial of parole and the appeals court dismissed the petition on summary judgment. The Court upheld this dismissal, as habeas relief only is available when the result would be immediate release, and the law states there is no right to release on parole.

REVISED CODE & LEGAL REFERENCES: R.C. Chapter 2725; S.Ct.Prac.R. 12

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel Russell v. Klatt*, 159 Ohio St.3d 357, 2020-Ohio-875**

SUMMARY: Defendant appealed the dismissal of their mandamus claim asking for findings in previous entries to be corrected as they alleged they were “untruthful.” The Court upheld the dismissal, holding the action was improper as the defendant sought mandamus by the appellate court against itself, and since an adequate remedy at law existed to remedy the alleged errors.

REVISED CODE & LEGAL REFERENCES: R.C. Chapter 2731; S.Ct.Prac.R. 12

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel Newell v. Ohio Adult Parole Authority*, 160 Ohio St.3d 25, 2020-Ohio-967**

SUMMARY: Defendant appealed the dismissal and summary judgement on a mandamus claim by the appellate court. However, on appeal, the defendant alleged only a new issue not raised in the initial complaint, which the Court held to be waived.

REVISED CODE & LEGAL REFERENCES: R.C. Chapter 2731; S.Ct.Prac.R. 12

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel Johnson v. Bureau of Sentence Computation*, 159 Ohio St.3d 552, 2020-Ohio-999**

SUMMARY: Defendant sought a mandamus writ for claims that previously were dismissed as part of a habeas action. The Court affirmed the appellate district’s ruling that res judicata barred further consideration of the claims. Defendant was declared a vexatious litigator.

REVISED CODE & LEGAL REFERENCES: R.C. Chapter 2731; S.Ct.Prac.R. 4.03; S.Ct. Prac.R. 12

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Bryant*, 160 Ohio St.3d 113, 2020-Ohio-1041**

SUMMARY: In a case where defendant was alleged to have left the scene of a motor vehicle accident without providing proper information, the Court held that the

“registered number,” pursuant to R.C. 454902, was the license plate number of the vehicle, and that when the defendant gave the required information to the other parties involved they did not violate R.C. 4549.05 by failing to give the same information to the police when they had no knowledge the police were en route.

REVISED CODE SECTIONS: R.C. 4549.02

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None

***State ex rel Davies v. Schroeder*, 160 Ohio St.3d 29, 2020-Ohio-1045**

SUMMARY: The defendant sought relief through mandamus and procedendo for reimbursement of fines and court costs they had paid after having their convictions vacated on appeal. The Court affirmed the dismissal of the request as having an adequate remedy for redress through motion to the trial court and appeal of that decision.

REVISED CODE & LEGAL REFERENCES: R.C. Chapter 2731; S.Ct.Prac.R. 12

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***Taylor v. Harris*, 159 Ohio St.3d 564, 2020-Ohio-1046**

SUMMARY: The defendant filed a request for release via a habeas petition alleging that the trial court lacked jurisdiction to sentence them as the required findings for a juvenile bindover were not made, and challenging the constitutionality of the bindover process in Ohio. The appeals court dismissed, finding that the transfer was in order and that the constitutional claim did not include the necessary affidavit listing prior actions in the case, pursuant to R.C. 2969.25(A). The Court upheld the decisions.

REVISED CODE & LEGAL REFERENCES: R.C. Chapters 2152 and 2725; R.C. 2969.25; Juv.R. 30

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Boaston*, 160 Ohio St.3d 46, 2020-Ohio-1061**

SUMMARY: An expert witness is required by Crim.R. 16(K) to provide a written report of their findings. In this case, the coroner testified to certain facts that were not within the written autopsy report submitted through discovery and entered into evidence. The Court held that Crim.R. 16 mandated that any testimony outside the scope of that report must be excluded from evidence.

LEGAL REFERENCES: Crim.R. 16

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None

***State ex rel Dobson v. Handwork*, 159 Ohio St.3d 442, 2020-Ohio-1069**

SUMMARY: The Court granted a writ of prohibition when the prosecuting attorney sought to vacate post-sentence orders issued by the trial court after the defendant had filed an appeal. The Court held that the trial judge lacked jurisdiction to make the post-sentence orders and granted default judgement as the trial court did not file a response in the case.

LEGAL REFERENCES: S.Ct.Prac.R. 12

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel Hibbler v. O'Neill*, 159 Ohio St.3d 566, 2020-Ohio-1070**

SUMMARY: Defendant sought writ of procedendo seeking ruling on pending motions, which the appeals court held already were resolved in declaring the issue moot. The Court upheld the ruling.

LEGAL REFERENCES: S.Ct.Prac.R. 12

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel Peoples v. Schneider*, 159 Ohio St.3d 360, 2020-Ohio-1071**

SUMMARY: Defendant requested a mandamus writ seeking an amended sentencing entry, which they had already sought and been denied on direct appeal. The Court affirmed the decision to dismiss the request as barred by res judicata.

REVISED CODE & LEGAL REFERENCES: R.C. Chapter 2731; S.Ct.Prac.R. 12

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Fips*, 160 Ohio St.3d 348, 2020-Ohio-1449**

SUMMARY: Defendant's case was overturned on appeal as against the manifest weight of the evidence. The appellate court then modified the judgement and found the defendant guilty of a lesser included offense. The Court held that the proper remedy for a successful manifest weight appeal is a new trial and ordered the judgement reversed and the case remanded for that new trial.

REVISED CODE SECTIONS: R.C. 2903.13

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***In re A.W.*, 160 Ohio St.3d 183, 2020-Ohio-1457**

SUMMARY: A juvenile court judge ordered the imposition of the adult portion of a Serious Youthful Offender sentence one day before the offender's 21st birthday. However, the entry was not filed until the next day. The Court held that failure to file

the sentencing entry before the juvenile's 21st birthday divested the sentencing court of jurisdiction to impose the sentence.

REVISED CODE SECTIONS: R.C. 5139.04

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

State ex rel. Bonner v. Serrott, 160 Ohio St.3d 298, 2020-Ohio-1450

SUMMARY: Defendant claimed their sentencing entry was not in compliance with Crim.R. 32 and was, therefore, not a final appealable order. The Court upheld the dismissal of the complaint, as the defendant could have filed a motion with the trial court asking for a corrected entry and did not yet do so.

REVISED CODE & LEGAL REFERENCES: R.C. Chapter 2731; Crim.R. 32

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

Stever v. Wainwright, 160 Ohio St.3d 139, 2020-Ohio-1452

SUMMARY: The Court affirmed the dismissal of a writ of habeas corpus that claimed the trial court lacked subject matter jurisdiction to sentence the defendant for a 1987 homicide conviction. The defendant's allegations were refuted by evidence at the appellate level – they alleged no bindover had occurred when, in fact, court records showed that it did.

REVISED CODE SECTIONS: R.C. Chapter 2725

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

State ex rel. Davis v. Janus, 160 Ohio St.3d 187, 2020-Ohio-1462

SUMMARY: The Court held that the trial court lacked jurisdiction to issue a nunc pro tunc entry in 1999 for a 1994 sentence that was upheld on appeal in 1996. Dismissal of defendant's complaint was reversed and the case was remanded to appellate court.

REVISED CODE SECTIONS: R.C. 2969.25; R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

State ex rel. Parker Bey v. Loomis, 160 Ohio St.3d 192, 2020-Ohio-1463

SUMMARY: Defendant filed a mandamus writ against the correctional institution where they were housed, asking for them to be compelled to produce records. The Court overruled an appellate court dismissal of the request, holding that the request was not moot based on review of the record. Case was remanded for reconsideration.

REVISED CODE SECTIONS: R.C. 149.43; R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Jeffries*, 160 Ohio St.3d 300, 2020-Ohio-1539**

SUMMARY: Defendant in a rape trial wished to cross-examine the victim regarding past non-consensual sexual activity, arguing that Ohio’s rape-shield law only prohibited questioning regarding consensual sexual activity. The Court upheld both the trial and appellate courts’ decisions that “sexual activity” as used in R.C. 2907.02 and 2907.05 includes both consensual and non-consensual activity

REVISED CODE SECTIONS: R.C. 2907.02; R.C. 2907.05

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Kendrick v. Parker*, 160 Ohio St.3d 448, 2020-Ohio-1509**

SUMMARY: The Court upheld the dismissal of a request for a writ of prohibition or mandamus stating the defendant’s claims were barred by res judicata as they already were addressed on appeal.

REVISED CODE & LEGAL REFERENCES: R.C. Chapter 2731; S.Ct.Prac.R. 12

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Steiner v. Rinfret*, 159 Ohio St.3d 455, 2020-Ohio-1510**

SUMMARY: Defendant alleged several errors in their sentence and the Court upheld the dismissal of the request for a writ of mandamus as the claims could have been addressed on direct appeal.

REVISED CODE SECTIONS: R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Roberts v. Marsh*, 159 Ohio St.3d 457, 2020-Ohio-1540**

SUMMARY: Defendant sought both a mandamus or procedendo writ to compel the trial court to issue a sentencing entry correcting an alleged error. The court dismissed the requests as the issuance, a nunc pro tunc entry, was a final appealable order, subject to direct appeal.

REVISED CODE & LEGAL REFERENCES: R.C. Chapter 2731; S.Ct.Prac.R. 12

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Nelson v. Russo*, 160 Ohio St.3d 74, 2020-Ohio-1541**

SUMMARY: The Court affirmed the dismissal of a petition for a writ of mandamus as the defendant could have addressed the issue on direct appeal, when the inmate sought vacated prisons sentences based on alleged errors with consecutive sentences.

REVISED CODE SECTIONS: R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Parker Bey v. Byrd*, 160 Ohio St.3d 141, 2020-Ohio-2766**

SUMMARY: Defendant was an inmate in a correctional facility who sought a mandamus order compelling a clerk of courts to produce records related to their 1995 criminal conviction. The appeals court dismissed the complaint, holding that the Rules of Superintendence govern inmate requests for court records, rather than R.C. 149.43 public records rules. The Court held that there's no need to cite a specific statute or rule in making a records request, remanding the case, in part, for reconsideration by the appeals court.

REVISED CODE & LEGAL REFERENCES: R.C. 149.43; R.C. Chapter 2731; Sup.R. 44-47

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. McDougald v. Greene*, 160 Ohio St.3d 82, 2020-Ohio-2782**

SUMMARY: McDougald was an inmate in a correctional facility who sought a mandamus order compelling a custodian at the facility to comply with a public records request and requesting damages. The Court upheld dismissal of the requests, holding that the custodian averred the records did not exist and had, therefore, complied with their public-records duties.

REVISED CODE SECTIONS: R.C. 149.43; R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Harris v. Turner*, 160 Ohio St.3d 506, 2020-Ohio-2901**

SUMMARY: The Court upheld the dismissal of a habeas writ for failure to state claims cognizable in habeas, as they could have been addressed by direct appeal or would not result in his immediate release.

REVISED CODE SECTIONS: R.C. Chapter 2725

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Haynie v. Rudduck*, 160 Ohio St.3d 99, 2020-Ohio-2912**

SUMMARY: Defendant requested a mandamus writ ordering the trial court to issue a sentencing entry that was compliant with Crim.R. 32 and R.C. 2505.02 for a 1993 conviction. The appellate court ordered the sentencing court to issue a nunc pro tunc entry that would create a final appealable order that could be appealed. The Court held that the appellate court erred in issuing the order for a nunc pro tunc entry, holding that

the defendant could have addressed the issue through direct appeal and dismissed the mandamus action.

REVISED CODE & LEGAL REFERENCES: R.C. 2505.02; R.C. Chapter 2731; Crim.R. 32

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***Dixon v. Bowerman*, 160 Ohio St.3d 323, 2020-Ohio-3049**

SUMMARY: Defendant filed a second habeas writ seeking relief from their sentence after having the first dismissed and affirmed on appeal. The Court upheld the dismissal of the second habeas petition as being barred by res judicata.

REVISED CODE SECTIONS: R.C. Chapter 2725

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Jones*, 160 Ohio St.3d 314, 2020-Ohio-3051**

SUMMARY: During voir dire, the State of Ohio waived its final preemptory challenge to a juror, but the trial court later erroneously allowed the State to exercise that challenge after a defense challenge brought a new juror to the panel. The Court held that this error did not rise to the level of a “constitutional defect” in the trial and was, therefore, subject to harmless-error review and that the error in allowing the additional preemptory challenge did not affect the outcome of the trial.

REVISED CODE & LEGAL REFERENCES: R.C. 2945.21; Crim.R. 24

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***Brook Park v. Rodojev*, 161 Ohio St.3d 58, 2020-Ohio-3253**

SUMMARY: Decided on June 10, 2020, the Court held that radar or laser speed-measuring device results may be used in court without the need for an expert to testify as to the scientific reliability of their use and operation, but that the finder of fact is still required to determine whether the device’s accuracy and the qualifications of the person using the device merit a conviction for the offense in question.

LEGAL REFERENCES: Evid.R. 201

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Miller v. May*, 161 Ohio St.3d 8, 2020-Ohio-3248**

SUMMARY: Defendant appealed in habeas alleging their sentences had expired, but failed to attach the required commitment papers, pursuant to R.C. 2725.04(D). The Court upheld the dismissal of the writ on those grounds.

REVISED CODE SECTIONS: R.C. Chapter 2725

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Simmons v. Breaux*, 160 Ohio St.3d 223, 2020-Ohio-3251**

SUMMARY: The appellate court dismissed a request for a writ of mandamus asking for a new sentencing hearing as the issues alleged could have been raised on appeal. The Court upheld the dismissal.

REVISED CODE SECTIONS: R.C. 2945.73; R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Thomas v. Gaul*, 160 Ohio St.3d 227, 2020-Ohio-3257**

SUMMARY: Defendant sought a writ of mandamus ordering the trial court to vacate their sentences. The Court affirmed a dismissal of the request by the appellate court on res judicata grounds, as the claims could have been raised at trial and on direct appeal.

REVISED CODE SECTIONS: R.C. 2945.73; R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***Bey et al. v. Rasawehr*, 161 Ohio St.3d 79, 2020-Ohio-3301**

SUMMARY: The Court held that prohibitions imposed as part of a civil-stalking protection order under R.C. 2903.214, which forbade future internet or social media posts about the petitioner, were unconstitutional as they violate the right to free speech under the First Amendment, subject to strict scrutiny as a prior restraint on speech.

REVISED CODE & LEGAL REFERENCES: R.C. 2903.211; R.C. 2903.214; First Amendment to the U.S. Constitution

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. King v. Fleegle*, 160 Ohio St.3d 380, 2020-Ohio-3302**

SUMMARY: The Court affirmed the dismissal of a writ of mandamus asking for the sentencing court to correct an alleged sentencing error, which was found not to be a claim cognizable in mandamus, as it could have been asserted on direct appeal.

REVISED CODE SECTIONS: R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***McIntyre v. Hooks*, 162 Ohio St.3d 213, 2020-Ohio-3529**

SUMMARY: Dismissal of habeas petition affirmed for failure to state a claim, as the issues alleged could have been addressed on direct appeal.

REVISED CODE SECTIONS: R.C. 2725.01; R.C. 2724.14

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Neguse v. McIntosh*, 161 Ohio St.3d 125, 2020-Ohio-3533**

SUMMARY: The Court upheld the dismissal of a writ of prohibition for failure to properly state a claim for relief.

REVISED CODE & LEGAL REFERENCES: R.C. 2969.25; S.Ct.Prac.R. 12

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Stuart v. Greene*, 161 Ohio St.3d 11, 2020-Ohio-3685**

SUMMARY: Inmate sought statutory damages after successfully being given mandamus relief with regard to a public record request they made of the correctional institution where they were housed. The Court held that the records were provided in a reasonable time and not in bad faith and dismissed the petition.

REVISED CODE SECTIONS: R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. McDougald v. Greene*, 161 Ohio St.3d 130, 2020-Ohio-3686**

SUMMARY: Denial of writ of mandamus and request for damages as the request was moot.

REVISED CODE SECTIONS: R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Ware v. Giavasis*, 160 Ohio St.3d 383, 2020-Ohio-3700**

SUMMARY: The Court affirmed a decision denying a writ of mandamus as it lacked the necessary approval of the sentencing judge.

REVISED CODE SECTIONS: R.C. 149.43; R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Madison*, 160 Ohio St.3d 232, 2020-Ohio-3735**

SUMMARY: Finding of guilt and death sentence affirmed on direct appeal of capital sentence.

REVISED CODE SECTIONS: R.C. 2929.04; R.C. 2929.05

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

State ex rel. Penland v. Dinkelacker, 162 Ohio St.3d 59, 2020-Ohio-3774

SUMMARY: Defendant sought relief in mandamus ordering the trial court to include findings of fact and conclusions of law in the sentencing entry, which was denied as it could have been addressed on direct appeal. The Court overruled its prior decisions in *State v. Mapson*, 1 Ohio St.3d 217, 438 N.E.2d 910 (1982) and *State ex rel. Ferrell v. Clark*, 13 Ohio St.3d 3, 469 N.E.2d 843 (1984) and held a judgement-entry ruling on a post-conviction relief motion is a final appealable order even if it does not include findings of fact and conclusions of law.

REVISED CODE SECTIONS: R.C. Chapter 2731; R.C. 2969.25

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

State v. Hundley, Slip Opinion No. 2020-Ohio-3775

SUMMARY: Finding of guilt and death sentence affirmed on direct appeal of capital sentence.

REVISED CODE SECTIONS: R.C. 2929.04; R.C. 2929.05

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

State ex rel. Lemaster v. Meigs Cty. Court of Common Pleas, 161 Ohio St.3d 14, 2020-Ohio-3776

SUMMARY: The Court affirmed the dismissal of a mandamus petition asking for the trial court to enter a final judgement on a 1993 conviction. It held that the 1993 entry contained all elements of a final appealable order and further held that the sentence was properly imposed.

REVISED CODE & LEGAL REFERENCES: R.C. Chapter 2731; Crim.R. 32

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

State ex rel. Hedenberg v. North Central Correctional Complex et al., 162 Ohio St.3d 85, 2020-Ohio-3815

SUMMARY: The Court denied a mandamus writ where it was clear that the public records requested did not exist and denied the request for damages and court costs.

REVISED CODE SECTIONS: R.C. 149.43; R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. McDougald v. Sehlmeier*, 162 Ohio St.3d 94, 2020-Ohio-3927**

SUMMARY: The Court denied a petition for writ of mandamus made by an inmate asking the Court to compel the Toledo Correctional Institution to allow them to inspect records in person when records had been made available by other means.

REVISED CODE SECTIONS: R.C. 149.43; R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***McDougald v. Bowerman*, 161 Ohio St.3d 268, 2020-Ohio-3942**

SUMMARY: Dismissal of habeas petition affirmed for failure to state a claim as the issues alleged could have been addressed on direct appeal and for failure to comply with the provisions of R.C. 2969.25

REVISED CODE SECTIONS: R.C. 2725; R.C. 2969.25

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Ware v. Pureval*, 160 Ohio St.3d 387, 2020-Ohio-4024**

SUMMARY: The Court reversed the appellate court's dismissal of a petition for mandamus asking to compel the clerk of courts to produce records as it appeared to have been the result of an error in the docket.

REVISED CODE SECTIONS: R.C. Chapter 2725; R.C. 2969.25

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Jones*, Slip Opinion No. 2020-Ohio-4031**

SUMMARY: Reconsideration of *State v. Jones* 2020-Ohio-630 and order that record be supplemented with transcript that had previously been unavailable. Case remanded to appeals court for reconsideration.

REVISED CODE SECTIONS: R.C. 2929.04; R.C. 2929.05

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Kirkland*, 160 Ohio St.3d 389, 2020-Ohio-4079**

SUMMARY: Finding of guilt and death sentence affirmed after remand for resentencing with a second finding of capital murder and recommendation of death sentence.

REVISED CODE SECTIONS: R.C. 2929.04; R.C. 2929.05

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***McDougald v. Green*, 162 Ohio St.3d 250, 2020-Ohio-4268**

SUMMARY: The Court denied a petition for writ of mandamus made by an inmate when the correctional institution cited security concerns in redacting records turned over as part of a public records request. The Court held the records were security records not subject to request, pursuant to R.C. 149.43.

REVISED CODE SECTIONS: R.C. 149.43; R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Hill v. Navarre*, 161 Ohio St.3d 188, 2020-Ohio-4274**

SUMMARY: Defendant sought a mandamus order compelling resentencing in their case based on alleged deficiencies in sentencing notifications. The appellate court dismissed the case as defendant could have addressed the issues through direct appeal. Defendant was declared to be a vexatious litigator.

REVISED CODE & LEGAL REFERENCES: R.C. Chapter 2731; S.Ct.Prac.R. 4

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. McDougald v. Sehlmeier*, Slip Opinion No. 2020-Ohio-4428**

SUMMARY: The Court denied a petition for writ of mandamus made by an inmate when the correctional institution cited insufficient funds to pay for the request as a reason for the denial.

REVISED CODE SECTIONS: R.C. 149.43; R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Hartman*, 161 Ohio St.3d 214, 2020-Ohio-4440**

SUMMARY: The Court ruled that evidence of past sexual abuse of a stepdaughter should have been excluded in the trial of a defendant accused of raping an adult female acquaintance. The defendant's conviction was reversed since this other-acts evidence did not meet the standards under evidentiary Rules 404(B) and 403(A). Courts are instructed to not only determine if the evidence is being offered for a non-propensity purpose, but also to weigh the probative value against the dangers of prejudice and/or confusion of the issues and to craft appropriate limiting instructions when such evidence is deemed admissible.

LEGAL REFERENCES: Evid.R. 404

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Smith*, Slip Opinion No. 2020-Ohio-4441**

SUMMARY: Correspondingly with *Hartman* above, the Court held that the Double Jeopardy Clause of the Ohio Constitution does not impose a *per se* bar to introducing other-acts evidence for crimes when a defendant was previously acquitted. Evidence of a defendant's past molestation of his daughter was permissible evidence for the charge of sexually abusing his granddaughter, since it met the admissibility standards under Evidence Rules 401, 403, and 404(B).

LEGAL REFERENCES: Evid.R. 401; Evid.R. 403; Evid.R. 404

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***Dailey v. Wainwright*, 161 Ohio St.3d 233, 2020-Ohio-4519**

SUMMARY: The Court affirmed the dismissal of a habeas petition when the record showed that the same arguments were raised previously in habeas and denied.

REVISED CODE SECTIONS: R.C. Chapter 2725

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Herring v. Wainwright*, 162 Ohio St.3d 274, 2020-Ohio-4521**

SUMMARY: Dismissal of habeas petition affirmed, as the Court held that defendant's firearm specifications ran consecutively by operation of law, despite a failure to mention prior convictions in the sentencing entry.

REVISED CODE SECTIONS: R.C. Chapter 2725; R.C. 2929.14

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***Carter v. May*, 161 Ohio St.3d 236, 2020-Ohio-4522**

SUMMARY: Dismissal of a habeas petition for failure to state a claim as all issues alleged could have been raised on direct appeal.

REVISED CODE SECTIONS: R.C. Chapter 2725; R.C. 2929.20

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Froman*, Slip Opinion No. 2020-Ohio-4523**

SUMMARY: Finding of guilt and death sentence affirmed on direct appeal of capital sentence.

REVISED CODE SECTIONS: R.C. 2929.04; R.C. 2929.05

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Owens*, Slip Opinion No. 2020-Ohio-4616**

SUMMARY: The Court held that reckless homicide is not a lesser included offense of R.C. 2903.02(B) felony murder, as reckless homicide includes a mens rea element that felony murder lacks. The trial court's decision not to grant an instruction on reckless homicide was upheld.

REVISED CODE SECTIONS: R.C. 2903.02; R.C. 2903.041

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Brown*, 161 Ohio St.3d 276, 2020-Ohio-4623**

SUMMARY: The Court held that the trial court erroneously dismissed felony non-support charges, holding that the emancipation of the child at the time the charges were brought did not absolve the defendant of criminal conduct that occurred prior to the emancipation.

REVISED CODE SECTIONS: R.C. 2919.21

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. McDougald v. Sehlmeier*, Slip Opinion No. 2020-Ohio-4637**

SUMMARY: The Court denied a petition for writ of mandamus made by an inmate asking the Court to compel Toledo Correctional Institution to allow them to inspect use-of-force reports. The Court held that the inmate failed to meet the burden of proving they were entitled to the writ, citing security concerns in allowing them to inspect the records.

REVISED CODE SECTIONS: R.C. 149.43; R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***McKinney v. Haviland*, 162 Ohio St.3d 150, 2020-Ohio-4785**

SUMMARY: Defendant challenged the imposition of consecutive sentences in his case, arguing that the trial court failed to make all findings necessary under R.C. 2929.14(C) at a resentencing hearing. The Court held there is no statutory requirement that the findings made at the original sentencing cannot be readopted by reference after a remand, and further, that sentencing errors such as this can be addressed via direct appeal and are, therefore, not cognizable in a habeas petition.

REVISED CODE SECTIONS: R.C. 2929.14(C)(4)

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Martre v. Reed*, 161 Ohio St.3d 281, 2020-Ohio-4777**

SUMMARY: Defendant sought a mandamus order after numerous motions attempting to challenge his plea and sentence. They sought to force correction of a trial-court record,

but were unable to do so pursuant to App.R. 9(E). The appeals court decision dismissing the petition based on an adequate remedy existing at law was upheld by the Court.

REVISED CODE & LEGAL REFERENCES: R.C. Chapter 2731; App.R. 9

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

State ex rel. Russell v. Ohio Dept. of Rehab. & Corr., 161 Ohio St.3d 312, 2020-Ohio-4788

SUMMARY: Inmate's failure to include details of all prior civil actions pursuant to R.C. 2969.2(A) resulted in the Court upholding the dismissal of the defendant's mandamus petition.

REVISED CODE SECTIONS: R.C. Chapter 2731; R.C. 2969.25

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

State ex rel. Newsome v. Hack, Slip Opinion No. 2020-Ohio-4812

SUMMARY: The Court vacated its previous judgment granting a mandamus writ and ordering that a transcript be provided to the defendant of a hearing in their criminal case. The evidence showed that no transcript existed.

REVISED CODE SECTIONS: R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

State v. Pettus, Slip Opinion No. 2020-Ohio-4836

SUMMARY: Defendant was convicted of theft after having multiple instances of fraudulent passing of checks aggregated into single counts of theft for each bank victim. The Court held that, under R.C. 2913.61(C)(1), multiple instances of theft involving a common victim may be aggregated for charging and conviction purposes, regardless of whether the victim falls under one of the statutorily defined special victim categories. The conflict question was dismissed as the fact-specific circumstances in this case were distinguishable from those in *State v. Phillips*, 12th Dist. Clinton No. CA2009-03-001, 2010-Ohio-2711. *State v. Phillips* involved the aggregation of multiple thefts against multiple victims into a single count.

REVISED CODE SECTIONS: R.C. 2913.02; R.C. 2913.61

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

State ex rel. Neal v. Mandros, 162 Ohio St.3d 154, 2020-Ohio-4866

SUMMARY: The Court upheld the sua sponte dismissal of a mandamus petition, asking for judicial release to be granted, for failure to state a valid mandamus claim.

REVISED CODE SECTIONS: R.C. 2929.20; R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***Jones v. Wainwright*, Slip Opinion No. 2020-Ohio-4870**

SUMMARY: Court dismissed a second habeas petition as barred by res judicata, for failure to state a claim that could not have been raised in the first habeas action.

REVISED CODE & LEGAL REFERENCES: R.C. Chapter 2725; Crim.R. 32

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Crangle v. Summit Cty. Common Pleas Court*, Slip Opinion No. 2020-Ohio-4871**

SUMMARY: The Court upheld the dismissal of a petition for mandamus asking for a conviction to be vacated, as the defendant could have raised the issues involved on direct appeal.

REVISED CODE SECTIONS: R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***McDougal v. Kuhn*, Slip Opinion No. 2020-Ohio-4924**

SUMMARY: The court upheld the dismissal of defendant's request for a writ of procedendo for failure state a claim, as a valid final appealable order existed in the case.

LEGAL REFERENCES: Crim.R. 32; S.Ct.Prac.R. 12

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Price*, Slip Opinion No. 2020-Ohio-4926**

SUMMARY: Defendant was convicted for corrupting another with drugs after providing the victim drugs which led to their overdose death. At trial, the defendant requested that the court instruct the jury on causation pursuant to *Burrage v. United States*, 571 U.S. 204 (2014), that the defendant must be found either to be the but-for cause or an independently sufficient cause of the harm suffered by the victim. The trial court did not give the specifically requested instruction. The Eighth District Court of Appeals upheld the instruction, but certified a conflict between their decision and that in *State v. Kosto*, 5th Dist. Licking No. 17 CA 54, 2018-Ohio-1925. The Court held there was no conflict as the circumstances in *Kosto* were distinguishable from those in Price's case. The Court also rejected defendant's argument that the trial court's causation instruction was insufficient, as the defendant failed to object to the instruction at trial.

REVISED CODE SECTIONS: R.C. 2925.02

SUBSEQUENT ACTION AND RECOMMENDATIONS: None.

***State ex rel. Olmstead v. Forsthoefel*, Slip Opinion No. 2020-Ohio-4951**

SUMMARY: Defendant’s mandamus petition seeking a resentencing and merger of counts was dismissed by the appeals court on summary judgement as all issues could have been addressed on direct appeal. The Court upheld the dismissal, citing that the alleged errors on direct appeal could be addressed through a request to reopen under App.R. 26(B).

REVISED CODE SECTIONS: R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. McDougald v. Greene*, Slip Opinion No. 2020-Ohio-5100**

SUMMARY: The Court partially granted a mandamus petition which asked that the records custodian at the institution be compelled to comply with a public record request made by an inmate. The Court held that the request for clarification by the custodian did not moot the mandamus claim, as it merely provides a defense to the claim. However, the inmate was not entitled to records that did not exist, nor to statutory damages for failure to provide the records.

REVISED CODE SECTIONS: R.C. 149.43; R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Burfitt v. Sehlmeier*, 161 Ohio St.3d 403, 2020-Ohio-5147**

SUMMARY: The Court denied a petition for a writ of mandamus compelling a correctional institution to provide an inmate with security guard rosters pursuant to a public records request, holding that such records are exempt as “security records” under R.C. 149.433.

REVISED CODE SECTIONS: R.C. 149.43; R.C. 149.433; R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Ware v. DeWine*, Slip Opinion No. 2020-Ohio-5148**

SUMMARY: The Court affirmed the dismissal of an inmate’s petition for a mandamus writ compelling compliance with a public records request where the records had to be provided pursuant to law.

REVISED CODE SECTIONS: R.C. 149.43; R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Bowers*, Slip Opinion No. 2020-Ohio-5167**

SUMMARY: Defendant was convicted of rape of a child under the age of 13 with an additional specification that the victim was under the age of 10. At sentencing, the court

sentenced the defendant to 25 years to life under R.C. 2971.03(B)(1)(c), a provision that requires a finding that the crime was committed by force or threat of force. The Court held the sentence was improper since this additional factor, which increased the penalty for the offense, was not submitted to the jury.

REVISED CODE & LEGAL REFERENCES: R.C. 2971.03; Sixth Amendment to the U.S. Constitution

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

State ex rel. Ware v. Giavasis, Slip Opinion No. 2020-Ohio-5453

SUMMARY: Defendant requested writ of mandamus following eight public records requests directed at the clerk of courts in his case. The Court held that absent a finding by the sentencing court that the information was “necessary to support a justiciable claim” there is no duty to provide certain public records.

REVISED CODE SECTIONS: R.C. 149.43; R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

State v. Long, Slip Opinion No. 2020-Ohio-5363

SUMMARY: Defendant’s case was remanded to trial court for retrial by the appellate court for deficiencies in the Crim R. 11 plea colloquy. The defendant then filed a motion to dismiss on speedy-trial grounds before a trial date after 198 days from the date of the remand. After several hearings, there was a nine-month gap in the court’s docket of the case and the defendant again filed a motion to dismiss on speedy-trial grounds. The Court held that the speedy-trial clock started upon the order of remand by the appellate court and that the motion to dismiss did not reset the clock. It then analyzed the four speedy-trial violation factors set forth in *Barker v. Wingo*, 507 U.S. 647 (1992) and found the defendant’s speedy-trial rights were violated and vacated the conviction in the case.

LEGAL REFERENCES: Sixth Amendment to the U.S. Constitution; Ohio Constitution, Article I, Section 10

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

In re R.B., 162 Ohio St.3d 281, 2020-Ohio-5476

SUMMARY: Defendant was convicted of a sex offense as a juvenile, classified as a sex offender, and placed on probation until the age of 21. A second classification hearing was held at the completion of the defendant’s time on probation, as required by law. The defendant challenged the timing of the second classification hearing. The Court held that this hearing needs to occur in a timely fashion, but need not occur the same day as the completion of the juvenile disposition. The Court also held that that the juvenile court

had jurisdiction to conduct the statutorily required second-classification hearing even after the defendant's 21st birthday.

REVISED CODE SECTIONS: R.C. 2151.23; R.C. 2152.84; R.C. Chapter 2950

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***Steele v. Harris*, 161 Ohio St.3d 407, 2020-Ohio-5480**

SUMMARY: Defendant was bound over as a juvenile for aggravated homicide offenses and sentenced to 30 years to Life. They filed a habeas writ arguing that the transfer decision should have been submitted to the jury, that the juvenile court could not determine amenability without making efforts toward rehabilitation, and that the bindover process creates a presumption of guilt that violates the equal protection clause of the Fourteenth Amendment. The Court held that, as all such claims could have been addressed on direct appeal, the defendant did not have a claim in habeas.

REVISED CODE SECTIONS: R.C. Chapters 2151; R.C. 2152

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***In Re M.H.*, Slip Opinion No. 2020-Ohio-5485**

SUMMARY: A juvenile suspected of committing child abuse was interviewed by an investigator from the local children's services agency without their parent present. The juvenile was not informed of their *Miranda* rights and admitted to the abuse during the interview. The Court held that absent any evidence that the investigator was a law enforcement officer or acting under the direction of law enforcement that they need not give *Miranda* warnings prior to the interview. The Court further held that admitting testimony about the interview and admission did not violate the defendant's due process rights.

LEGAL REFERENCES: Fourth Amendment to the U.S. Constitution; Fourteenth Amendment to the U.S. Constitution

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Grate*, Slip Opinion No. 2020-Ohio-5584**

SUMMARY: Finding of guilt and death sentence affirmed on direct appeal of capital sentence.

REVISED CODE SECTIONS: R.C. 2929.04; R.C. 2929.05

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State ex rel. Summers v. Fox*, Slip Opinion No. 2020-Ohio-5585**

SUMMARY: Petitioner was the father of a defendant convicted of sexual battery and sentenced to prison, who sought to procure records pertaining to his son’s criminal case claiming to be his designee pursuant to R.C. 149.43(B)(8). The Court held that the county failed to prove that petitioner was acting as the inmate’s designee and, as such, was not entitled to deny the request without accompanying approval by the trial court. The Court granted the writ with regard to some records, denied some as moot as they already were provided, and denied the writ for some records.

REVISED CODE SECTIONS: R.C. 149.43; R.C. Chapter 2731

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Gideon*, Slip Opinion No. 2020-Ohio-5635**

SUMMARY: The defendant was a licensed physician accused of inappropriately touching patients. In an interview with an investigator from the state medical board they made admissions to criminal conduct that the investigator shared with the local police. The defendant argued that as they were required by law to answer the investigator’s questions truthfully or face potential license revocation, that the admissions should be suppressed as made under coercion. The Court held that while the threat of losing one’s medical license could be sufficient coercion to warrant suppression, that the trial court considered all relevant facts and circumstances in finding there was no coercive behavior in this case.

LEGAL REFERENCES: Fifth Amendment to the U.S. Constitution

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Groce*, Slip Opinion No. 2020-Ohio-6671, *State v. Dent*, Slip Opinion No. 2020-Ohio-6670**

SUMMARY: Three co-defendants were convicted of engaging in a pattern of corrupt activity for possession, manufacture, and trafficking in illegal drugs out of a house. They challenged the sufficiency of the evidence for their convictions. At trial, the state introduced video footage recovered from the scene showing the defendants engaged in drug activities over a four-hour period on a single day. The Court held that sufficient evidence existed to show the existence of a criminal enterprise, as well as the familiarity of the defendants with each other and the business being conducted.

REVISED CODE SECTIONS: R.C. 2923.32

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Simpson*, Slip Opinion No. 2020-Ohio-6719**

SUMMARY: Defendant alleged that his appellate counsel was ineffective and requested to reopen his case under App. R. 26(B) on that basis. The Twelfth District denied the

request, applying the analysis set forth in *Strickland v. Washington*, 466 U.S. 668 (1984) requiring the defendant to establish that appellate counsel’s efforts were objectively deficient, and that those errors were reasonably likely to have affected the result of the appeal. The Supreme Court upheld the Twelfth District’s holding, and declined to mandate that courts consider the numerous factors laid out by *Mapes v. Coyle*, 171 F.3d 408 (6th Cir. 1999), holding that those factors are merely instructive to courts conducting a *Strickland* analysis.

LEGAL REFERENCES: App.R. 26

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Chapman*, Slip Opinion No. 2020-Ohio-6730**

SUMMARY: As part of the community control conditions placed on the defendant for a conviction for failing to pay child support, the trial court ordered the defendant “make all reasonable efforts to avoid impregnating a woman.” The Court held that the conditions of probation that restrict a defendant’s liberty must be both reasonably related to the end goals of placing the defendant on community control and that this condition was improper.

REVISED CODE SECTIONS: R.C. 2929.15; R.C. 2919.21

SUBSEQUENT ACTIONS AND RECOMMENDATION: None.

***State v. Fazenbaker*, Slip Opinion No. 2020-Ohio-6731**

SUMMARY: The defendant was convicted of breaking and entering for theft from a pull-behind being stored for the winter. The Court was called on to determine if this “recreational travel trailer” constituted an “unoccupied structure” sufficient to prove the elements of breaking and entering. The Court held that as the structure was designed to be a temporary dwelling and was still capable of being “occupied” even after being winterized, it was, in fact, an “unoccupied structure” as contemplated by the statute.

REVISED CODE SECTIONS: R.C. 2911.13; R.C. 2901.01

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

***State v. Turner*, Slip Opinion No. 2020-Ohio-6773**

SUMMARY: Defendant was pulled over by police after have been witnessed driving on – not over – the white “fog line” on the right side of the roadway. The Court resolved a conflict among several districts holding that merely “touching” the white line without crossing over does not constitute reasonable and articulable suspicion sufficient to prove probable cause and initiate a traffic stop.

REVISED CODE SECTIONS: R.C. 4511.33; R.C. 4511.01

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.

State v. Weber, Slip Opinion No. 2020-Ohio-6832

SUMMARY: Police responding to the defendant's home found him holding a shotgun while highly intoxicated. The defendant was convicted of misdemeanor possession of a firearm while under the influence and challenged his conviction, alleging a violation of his Second Amendment right to bear arms. The Court, applying the two-step analysis set forth in *District of Columbia v. Heller*, 554 U.S. 570 (2008), upheld the constitutionality of the statute.

REVISED CODE SECTIONS: R.C. 2923.15

SUBSEQUENT ACTIONS AND RECOMMENDATIONS: None.



OHIO

CRIMINAL SENTENCING COMMISSION

65 South Front Street Columbus, Ohio 43215-3431