

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

September 26, 2012

[Cite as *09/26/2012 Case Announcements*, 2012-Ohio-4381.]

MERIT DECISIONS WITH OPINIONS

2011-1053. Rowell v. Smith, Slip Opinion No. 2012-Ohio-4313.

Franklin App. Nos. 10AP-675 and 10AP-708, 2011-Ohio-2809. Judgment reversed.

O'Connor, C.J., and Pfeifer, Lundberg Stratton, Lanzinger, and McGee Brown, JJ., concur.

O'Donnell and Cupp, JJ., dissent.

2011-1197. Bay Mechanical & Elec. Corp. v. Testa, Slip Opinion No. 2012-Ohio-4312.

Board of Tax Appeals, No. 2008-K-1687. Decision affirmed.

O'Connor, C.J., and Lanzinger, Cupp, and McGee Brown, JJ., concur.

Pfeifer and Lundberg Stratton, JJ., dissent.

O'Donnell, J., not participating.

2011-2055. Disciplinary Counsel v. McCormack, Slip Opinion No. 2012-Ohio-4309.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 10-086.

Thomas Arthur McCormack, Attorney Registration No. 0015570, is suspended from the practice of law in the state of Ohio for one year, stayed on conditions.

O'Connor, C.J., and Pfeifer, Lundberg Stratton, O'Donnell, Lanzinger, Cupp, and McGee Brown, JJ., concur.

MERIT DECISIONS WITHOUT OPINIONS

2012-0360. State ex rel. Lane v. Newark Group, Inc.

In Mandamus. On respondent's answer and motion for judgment on the pleadings. Motion granted. Cause dismissed.

O'Connor, C.J., and Pfeifer, Lundberg Stratton, O'Donnell, Lanzinger, Cupp, and McGee Brown, JJ., concur.

2012-1086. Dudas v. Kelly.

In Habeas Corpus. On amended petition for writ of habeas corpus of Ronald Dudas. Sua sponte, cause dismissed.

O'Connor, C.J., and Pfeifer, Lundberg Stratton, O'Donnell, Lanzinger, Cupp, and McGee Brown, JJ., concur.

2012-1105. Netter v. Schneider.

In Mandamus. On answer of respondent and on motion for judgment on the pleadings. Motion granted and cause dismissed.

O'Connor, C.J., and Pfeifer, Lundberg Stratton, O'Donnell, Lanzinger, Cupp, and McGee Brown, JJ., concur.

2012-1136. State ex rel. Roberts v. Cocroft.

In Procedendo. On motion to dismiss. Motion to dismiss granted. Cause dismissed.

O'Connor, C.J., and Pfeifer, Lundberg Stratton, O'Donnell, and McGee Brown, JJ., concur.

Lanzinger and Cupp, JJ., dissent and would grant an alternative writ.

2012-1169. State ex rel. Harsh v. Oney.

In Mandamus and Prohibition. Upon consideration of respondent's amended motion to dismiss. Amended motion to dismiss granted. On relator's motion for judgment on the pleadings, motion to show cause, motion for judicial notice of facts, Civ.R. 44.1(A) and Evid.R. 201(A)(B)(C)(D) motion, motion to strike amended motion to dismiss, and second motion for order to show cause. Motions denied. Cause dismissed.

O'Connor, C.J., and Pfeifer, Lundberg Stratton, O'Donnell, Lanzinger, Cupp, and McGee Brown, JJ., concur.

2012-1174. Doshak v. Fuerst.

In Procedendo. On motion to dismiss. Motion to dismiss granted. Cause dismissed.

O'Connor, C.J., and Pfeifer, Lundberg Stratton, O'Donnell, Lanzinger, Cupp, and McGee Brown, JJ., concur.

2012-1190. State ex rel. Bloodworth v. Pietrykowski.

In Mandamus. On motion to dismiss of the Sixth District Court of Appeals. Motion to dismiss granted. Relator's motion to strike is denied. Cause dismissed.

O'Connor, C.J., and Pfeifer, Lundberg Stratton, O'Donnell, Lanzinger, Cupp, and McGee Brown, JJ., concur.

2012-1194. Riggerbach v. Frary.

In Mandamus and Prohibition. On motion to dismiss. Motion to dismiss granted. Motion for leave to file an amended cover page is denied. Cause dismissed.

O'Connor, C.J., and Pfeifer, Lundberg Stratton, O'Donnell, Lanzinger, Cupp, and McGee Brown, JJ., concur.

2012-1267. Seymour v. United States Dist. Court for the N. Dist. of Ohio.

In Habeas Corpus. On petition for writ of habeas corpus of Irving Tywon Seymour. Sua sponte, cause dismissed.

O'Connor, C.J., and Pfeifer, Lundberg Stratton, O'Donnell, Lanzinger, Cupp, and McGee Brown, JJ., concur.

2012-1297. Nash v. Reid.

In Habeas Corpus. On petition for writ of habeas corpus of Timothy M. Nash. Sua sponte, cause dismissed.

O'Connor, C.J., and Pfeifer, Lundberg Stratton, O'Donnell, Lanzinger, Cupp, and McGee Brown, JJ., concur.

2012-1298. Seymour v. Rothgery.

In Habeas Corpus. On petition for writ of habeas corpus of Irving Tywon Seymour. Sua sponte, cause dismissed.

O'Connor, C.J., and Pfeifer, Lundberg Stratton, O'Donnell, Lanzinger, Cupp, and McGee Brown, JJ., concur.

2012-1308. Hunter v. Cooper.

In Habeas Corpus. On petition for writ of habeas corpus of Stefoun D. Hunter. Sua sponte, cause dismissed.

O'Connor, C.J., and Pfeifer, Lundberg Stratton, O'Donnell, Lanzinger, Cupp, and McGee Brown, JJ., concur.

2012-1333. State ex rel. Davis v. Miller.

In Habeas Corpus. On petition for writ of habeas corpus of Antoine E. Davis. Sua sponte, cause dismissed.

O'Connor, C.J., and Pfeifer, Lundberg Stratton, O'Donnell, Lanzinger, Cupp, and McGee Brown, JJ., concur.

MOTION AND PROCEDURAL RULINGS

2012-0098. State v. Sutton.

Cuyahoga App. No. 96408, 2011-Ohio-6270. On motion to dismiss appeal as improvidently accepted. Motion granted. Cause dismissed.

O'Donnell, J., dissents.

2012-0909. Schloemer v. Hamilton Cty. Bd. of Revision.

Board of Tax Appeals, No. 2009-Y-3585. On motion to quash subpoena. Motion denied. On motion to dismiss of Hamilton County Auditor. Motion to dismiss granted. Cause dismissed.

2012-1223. State v. Wilson.

Stark App. No. 2011CA00266, 2012-Ohio-2164. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Cupp, JJ., dissent.

2012-1245. State v. Taylor.

Montgomery App. No. 23916, 2011-Ohio-2563. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2012-1250. State v. Hauptstueck.

Montgomery App. No. 24013, 2011-Ohio-3502. On motion for leave to file delayed appeal. Motion denied.

2012-1262. State v. Campbell.

Cuyahoga App. No. 96628, 2012-Ohio-1738. On motion for leave to file delayed appeal. Motion denied.

Lundberg Stratton and Lanzinger, JJ., dissent.

2012-1269. State v. Jones.

Warren App. No. CA2011-05-044, 2012-Ohio-1480. On motion for leave to file delayed appeal. Motion granted.

O'Connor, C.J., and Pfeifer and O'Donnell, JJ., dissent.

2012-1287. State ex rel. Capretta v. Zamiska.

Medina App. No. 11CA0085-M. On motion to dismiss of appellees. Motion denied.

2012-1291. State v. Lacey.

Mahoning App. No. 10 MA 122, 2012-Ohio-1685. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, Lundberg Stratton, and Cupp, JJ., dissent.

2012-1345. State v. Frazier.

Summit App. No. 25654, 2012-Ohio-790. On motion for leave to file delayed appeal. Motion denied.

2012-1347. State v. Yarbrough.

Hamilton App. No. C-110355, 2012-Ohio-2153. On motion for leave to file delayed appeal. Motion granted.

O'Connor, C.J., and Pfeifer and O'Donnell, JJ., dissent.

2012-1348. State v. Brown.

Richland App. No. 11 CA 42, 2012-Ohio-2672. On motion for leave to file delayed appeal. Motion granted.

Pfeifer and O'Donnell, JJ., dissent.

2012-1357. State v. Roe.

Ross App. No. 12CA3320. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Cupp, JJ., dissent.

2012-1358. State v. Green.

Cuyahoga App. No. 96966, 2012-Ohio-1941. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2012-1387. State v. Vance.

Franklin App. No. 11AP-755, 2012-Ohio-2594. On motion for leave to file delayed appeal. Motion granted.

O'Connor, C.J., and O'Donnell, JJ., dissent.

2012-1388. State v. Rojas.

Franklin App. No. 11AP-683, 2012-Ohio-1967. On motion for leave to file delayed appeal. Motion denied.

Lanzinger and McGee Brown, JJ., dissent.

2012-1399. Kime Design, L.L.C. v. Aouthmany.

Lucas App. No. L-11-1162, 2012-Ohio-3183. On motion for stay of the court of appeals' judgment. Motion denied.

2012-1425. In re Setzer.

Lake App. No. 2012-L-005, 2012-Ohio-2246.

On motion for stay of the court of appeals' judgment. Motion denied.

APPEALS ACCEPTED FOR REVIEW

2012-0941. Esber Beverage Co. v. Labatt USA Operating Co., L.L.C.

Stark App. Nos. 2011CA00113 and 2011CA00116, 2012-Ohio-1183.

O'Connor, C.J., and Lanzinger, J., dissent.

2012-0954. Ries v. Ohio State Univ. Med. Ctr.

Franklin App. No. 11AP-1004, 2012-Ohio-1766.

Lundberg Stratton and Lanzinger, JJ., dissent.

McGee Brown, J., not participating.

2012-1039. State v. Kempson.

Cuyahoga App. Nos. 97409 and 97410, 2012-Ohio-1954. Discretionary appeal accepted on Proposition of Law III and cause held for the decision in 2011-1066, *State v. Brunning*, Cuyahoga App. No. 95376, 2011-Ohio-1936.

Lundberg Stratton and O'Donnell, JJ., would also accept the appeal on Propositions of Law I and II and would hold the cause for the decision in 2011-1066, *State v. Brunning*, Cuyahoga App. No. 95376, 2011-Ohio-1936.

Cupp, J., would also accept the appeal on Propositions of Law I and II but would not hold the cause for the decision in 2011-1066, *State v. Brunning*, Cuyahoga App. No. 95376, 2011-Ohio-1936.

Pfeifer, J., dissents.

APPEALS NOT ACCEPTED FOR REVIEW

2012-0742. State v. Rodrigues.

Lorain App. No. 11CA009971, 2012-Ohio-535.

2012-0766. Crotts v. Bunting.

Marion App. No. 9-11-52.

2012-0861. Doby-Robinson v. Kaiser Permanente Found.

Cuyahoga App. No. 97495, 2012-Ohio-1548.

2012-0919. State v. Akemon.

Hamilton App. No. C-110422.

2012-0921. Goodrich v. Ohio Unemp. Comp. Rev. Comm.

Franklin App. No. 11AP-473, 2012-Ohio-467.

2012-0922. Wiltz v. Moundbuilders Guidance Ctr.

Licking App. No. 11-CA-22, 2012-Ohio-1798.

2012-0925. Nationsbanc Mtge. Corp. v. Davet.

Cuyahoga App. No. 97658.

O'Donnell, J., dissents and would accept the appeal and hold the cause for the decision in 2011-1201 and 2011-1362, *Fed. Home Loan Mtge. Corp. v. Schwartzwald*, Greene App. No. 5-10-35, 2011-Ohio-2681.

2012-0928. State v. Eatmon.

Richland App. No. 11CA72.

2012-0932. State v. Smith.

Greene App. No. 2010-CA-80, 2012-Ohio-113.

2012-0935. Dismuke v. Grier.

Montgomery App. No. 24676.

2012-0936. Cobb v. Shipman.

Trumbull App. No. 2011-T-0049, 2012-Ohio-1676.

Lundberg Stratton, J., dissents.

Lanzinger, J., dissents and would accept the appeal on Proposition of Law No. II.

2012-0937. Wolf v. Interstate Wrecker Serv., Inc.

Cuyahoga App. No. 97144, 2012-Ohio-1744.

Pfeifer, J., dissents.

2012-0939. Ebbing v. New Miami.

Butler App. No. CA2011-02-035.

2012-0942. Akron City School Dist. Bd. of Edn. v. Civ. Serv. Comm.

Summit App. No. 26026, 2012-Ohio-1618.

Cupp, J., dissents.

Pfeifer, Acting C.J.

O'Connor, C.J., not participating.

2012-0944. State v. Odums.

Richland App. No. 2011-CA-0037, 2012-Ohio-1724.

2012-0946. State v. Fogel.

Licking App. No. 11-CA-97, 2012-Ohio-1960.

2012-0949. State v. Corbissero.

Ashtabula App. No. 2011-A-0028, 2012-Ohio-1449.

2012-0951. State v. Current.

Champaign App. No. 2010 CA 31, 2012-Ohio-1851.

2012-0952. State v. Williams.

Hamilton App. No. C-110537.

2012-0955. State v. Davis.

Lake App. No. 2011-L-023, 2012-Ohio-527.

2012-0958. State v. Jones.

Hamilton App. No. C-110603, 2012-Ohio-2075.

2012-0961. Iacampo v. Oliver-Iacampo.

Geauga App. No. 2011-G-3026, 2012-Ohio-1790.

2012-0963. Nelson v. Nelson.

Medina App. No. 10CA0115-M, 2011-Ohio-6200.

Pfeifer, Acting C.J.

O'Connor, C.J., not participating.

2012-0965. In re A.N.

Ashtabula App. Nos. 2011-A-0057 and 2011-A-0058, 2012-Ohio-1789.
Cupp, J., dissents.

2012-0968. State v. Smith.

Greene App. No. 2009-CA-81, 2012-Ohio-113.

2012-0969. State v. Garcia.

Putnam App. No. 12-11-07, 2012-Ohio-1795.

2012-0973. State v. Renkes.

Delaware App. No. 11CAA070067, 2012-Ohio-1931.
O'Connor, C.J., dissents.

2012-0982. State v. Matthews.

Allen App. Nos. 1-11-39, 1-11-40, and 1-11-41, 2012-Ohio-1894.

2012-0989. State v. Griggs.

Cuyahoga App. No. 97284, 2012-Ohio-1837.

2012-1000. State v. Baker.

Allen App. No. 1-11-49, 2012-Ohio-1890.
O'Connor, C.J., dissents.

2012-1004. Harr v. Jackson Twp.

Franklin App. No. 10AP-1060, 2012-Ohio-2030.

2012-1006. Dragon v. Dragon.

Ashtabula App. No. 2011-A-0037, 2012-Ohio-978.

2012-1010. White v. Emmons.

Scioto App. No. 11CA3438, 2012-Ohio-2024.

2012-1012. Univ. Hosp. v. Campbell.

Hamilton App. No. C-110285, 2012-Ohio-1909.

2012-1019. State v. Jackson.

Lake App. No. 2011-L-107, 2012-Ohio-2123.

2012-1021. State v. Smith.

Marion App. No. 9-11-36, 2012-Ohio-1891.

2012-1022. McBroom v. Safford.

Franklin App. No. 11AP-885, 2012-Ohio-1919.

2012-1024. State v. Jackson.

Cuyahoga App. No. 98225.

2012-1026. Selevan v. Selevan.

Hamilton App. Nos. C-110591 and C-110657.

2012-1028. Bank of New York Mellon Trust Co., N.A. v. Unger.

Cuyahoga App. No. 97315, 2012-Ohio-1950.

2012-1030. State v. Mitchell.

Erie App. No. E-11-039, 2012-Ohio-1992.

O'Donnell, J., dissents.

2012-1031. State v. White.

Franklin App. No. 11AP-908, 2012-Ohio-1969.

Pfeifer, J., dissents.

2012-1032. State v. Kimkhe.

Franklin App. No. 11AP-433, 2012-Ohio-1964.

2012-1033. State v. Rivera.

Franklin App. No. 10AP-945, 2012-Ohio-1915.

2012-1034. State v. Slade.

Franklin App. No. 11AP-850.

O'Donnell, J., dissents.

2012-1036. State v. Parks.

Montgomery App. No. 24493, 2012-Ohio-1981. Discretionary appeal not accepted. Motion to dismiss denied as moot.

2012-1037. State v. Vore.

Warren App. No. CA2011-08-093, 2012-Ohio-2431.

2012-1040. Robinson v. Ohio Dept. of Edn.
Montgomery App. No. 24808, 2012-Ohio-1982.
O'Donnell, J., dissents.

2012-1044. Shankle v. Egner.
Stark App. Nos. 2011 CA 00121 and 2011 CA 00143, 2012-Ohio-2027.

2012-1052. Bohl v. Cassens Transport Co.
Seneca App. No. 13-11-36.
O'Donnell, J., dissents.
Lanzinger, J., not participating.

2012-1058. State v. Stonerock.
Highland App. No. 11CA15, 2012-Ohio-2290.

2012-1065. State v. Aguirre.
Seneca App. No. 13-11-19, 2012-Ohio-2014.

2012-1073. De Noma v. Deters.
Hamilton App. No. C-110616.

2012-1078. State v. Ysrael.
Hamilton App. No. C-100622.
Pfeifer, J., dissents.

2012-1081. State v. Sutton.
Cuyahoga App. No. 97132, 2012-Ohio-1054.

2012-1082. State v. Allen.
Hamilton App. No. C-110748.

2012-1084. State v. Lenoir.
Delaware App. No. 10CAA010011.

2012-1094. Beard v. Bloomfield.
Wyandot App. No. 16-11-09, 2012-Ohio-2133.

2012-1098. State v. Phelps.
Hamilton App. No. C-110539.

2012-1101. State v. Mason.
Franklin App. No. 12AP-359.

2012-1102. State v. Kostenbauder.
Lucas App. No. L-12-1061.

2012-1104. Huber v. Mues.
Clark App. No. 2011-CA-75, 2012-Ohio-2540.

2012-1110. State v. Castro.
Cuyahoga App. No. 97451, 2012-Ohio-2206.

2012-1117. State v. Simms.
Franklin App. No. 10AP-1063, 2012-Ohio-2321.
McGee Brown, J., not participating.

2012-1125. Bank of New York Mellon v. Ackerman.
Montgomery App. No. 24390, 2012-Ohio-956.

2012-1126. State v. Taylor.
Cuyahoga App. No. 97690, 2012-Ohio-2070.

2012-1127. State v. Grice.
Cuyahoga App. No. 97046, 2012-Ohio-1938.

2012-1129. State v. Hughes.
Hamilton App. No. C-110524.

2012-1135. State v. Calhoun.
Summit App. No. 26144, 2012-Ohio-2374.

2012-1143. State v. Holmes.
Hamilton App. No. C-110457.
O'Donnell, J., dissents and would accept the appeal on Proposition of Law No. VI.

2012-1154. State v. Foster.
Franklin App. No. 12AP-92.

2012-1155. State v. Brooks.

Summit App. No. 26264.

2012-1158. State v. Petefish.

Mahoning App. No. 10 MA 78, 2012-Ohio-2723.

2012-1198. State v. Hazel.

Clark App. No. 2011 CA 16, 2012-Ohio-835.

2012-1206. State v. Gipson.

Erie App. No. E-10-038, 2012-Ohio-515.

2012-1281. State v. Quigley.

Cuyahoga App. No. 96299, 2012-Ohio-2751.

2012-1305. State v. Amburgey.

Clermont App. No. CA2005-01-007.

RECONSIDERATION OF PRIOR DECISIONS

2007-2027. State v. Powell.

Lucas C.P. No. G4801-CR-0200603581-000. Reported at 132 Ohio St.3d 233, 2012-Ohio-2577, 971 N.E.2d 865. On motion for reconsideration. Motion denied.

2009-1661. State v. White.

Ashland App. Nos. 07-COA-037 and 07-COA-038, 2009-Ohio-3869. Reported at 132 Ohio St.3d 344, 2012-Ohio-2583, 972 N.E.2d 534. On motion for reconsideration. Motion denied.

Pfeifer and Lanzinger, JJ., dissent.

2012-0206. State ex rel. Bridge v. Franklin Cty. Court of Common Pleas.

Franklin App. No. 11AP-140, 2011-Ohio-6561. Reported at ___ Ohio St.3d ___, 2012-Ohio-3327, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

2012-0702. Miller v. Ohio State Bd. of Pharmacy.

Coshocton App. No. 11-CA-9, 2012-Ohio-1002. Reported at 132 Ohio St.3d 1482, 2012-Ohio-3334, 971 N.E.2d 960. On motion for reconsideration. Motion denied.

O'Donnell, J., dissents.

2012-0739. State v. Napper.

Delaware App. No. 11CAA080073, 2012-Ohio-1028. Reported at 132 Ohio St.3d 1483, 2012-Ohio-3334, 971 N.E.2d 960. On motion for reconsideration. Motion denied.

2012-0787. State ex rel. Bunting v. Potter.

In Mandamus. Reported at 132 Ohio St.3d 1479, 2012-Ohio-3334, 971 N.E.2d 958. On motion for reconsideration. Motion denied.

2012-0790. Supportive Solutions Training Academy, L.L.C. v. Electronic Classroom of Tomorrow.

Cuyahoga App. Nos. 95022 and 95287, 2012-Ohio-1185. Reported at 132 Ohio St.3d 1481, 2012-Ohio-3334, 971 N.E.2d 960. On motion for reconsideration. Motion denied.

Lundberg Stratton, O'Donnell, and Lanzinger, JJ., dissent.

2012-0792. Davet v. Mikhli.

Cuyahoga App. No. 97291, 2012-Ohio-1200. Reported at 132 Ohio St.3d 1484, 2012-Ohio-3334, 971 N.E.2d 961. On motion for reconsideration. Motion denied.

O'Donnell, J., dissents and would grant the motion and hold the cause for the decision in 2011-1201 and 2011-1362, *Fed. Home Loan Mtge. Corp. v. Schwartzwald*, Greene App. No. 5-10-35, 2011-Ohio-2681.