

The Supreme Court of Ohio

CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

August 4, 2004

MERIT DECISIONS WITH OPINIONS

2003-0922. State v. Conese, 2004-Ohio-3889.

Butler App. No. CA2002-06-148, 2003-Ohio-1769. Judgment reversed and cause remanded.

Moyer, C.J., Farmer, Pfeifer, Lundberg Stratton and O'Connor, JJ., concur.

F.E. Sweeney, J., dissents and would affirm the court of appeals.

O'Donnell, J., dissents with opinion.

Sheila G. Farmer, J., of the Fifth Appellate District, sitting for Resnick, J.

2004-0469. Disciplinary Counsel v. Conese, 2004-Ohio-3888.

On Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 03-026.

Mark A. Conese, Attorney Registration No. 0004637, is suspended from the practice of law for a period of two years, stayed on conditions.

Moyer, C.J., F.E. Sweeney, Pfeifer, Lundberg Stratton and O'Connor, JJ., concur.

O'Donnell, J., concurs in judgment only.

Resnick, J., not participating.

MERIT DECISIONS WITHOUT OPINIONS

2004-0820. State ex rel. Thompson v. Ohio Adult Parole Auth.

In Mandamus. On answer of respondent. On S.Ct.Prac.R. X(5) determination, cause dismissed.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

2004-0937. Hardesty v. Tanner.

In Habeas Corpus. On petition for writ of habeas corpus of Donald Hardesty. Sua sponte, cause dismissed.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

2004-0966. Lupinski v. State.

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

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

MOTION AND PROCEDURAL RULINGS

1997-1312. State v. Cowans.

Clermont C.P. No. 96CR005394. On application for reopening. Application denied.

1998-2061. State v. Franklin.

Montgomery C.P. No. 97CR1139. On application for reopening. Application denied.

2001-0253. State v. Bryan.

Cuyahoga C.P. No. CR393660. On motion for appointment of co-counsel. Motion denied.

2004-0001. Academy of Medicine of Cincinnati v. Aetna Health, Inc.

Hamilton App. Nos. C-030109, C-030110 and C-030111, 155 Ohio App.3d 310, 2003-Ohio-6194. On motion for admission pro hac vice of Gregory S. Coleman and Debra J. Pearlstein by Stephen J. Butler, on motion for admission pro hac vice of David H. Thompson by E. Joel Wesp for amici curiae, U.S. Chamber of Commerce and Ohio Chamber of Commerce, and on amended motion for admission pro hac vice of Migel A. Estada, Andrew S. Tulumello, Joshua Lipton, and Amir C. Tayrani by Robert J. Fogarty. Motions granted.

2004-0718. State ex rel. Ullman v. Ohio Dept. of Jobs & Family Serv.

Franklin App. No. 03AP-299, 2004-Ohio-1275. On motion to consolidate with No. 2004-0772, *Ullman v. Ohio Bur. of Jobs & Family Serv.* Motion denied.

2004-0923. State v. Fleming.

Butler App. No. CA2002-11-279, 2003-Ohio-7005. On motion for leave to file delayed appeal. Motion denied.

2004-0940. State v. Coombs.

Lorain App. No. 03CA008262, 2004-Ohio-441. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2004-0944. State v. Hardy.

Butler App. No. CA2002-06-141, 2003-Ohio-4745. On motion for leave to file delayed appeal. Motion denied.

2004-0948. State v. Starcher.

Medina App. No. 03CA0014M, 2003-Ohio-6588. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2004-0960. State v. Williams.

Summit App. No. 21840. On motion for stay of court of appeals' judgment. Motion denied.

2004-0969. State v. Zinn.

Jackson App. No. 03CA27. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2004-0992. State v. Smith.

Cuyahoga App. No. 82676, 2004-Ohio-354. On motion for leave to file delayed appeal. Motion denied.

2004-0996. State v. Marbury.

Montgomery App. No. 19226, 2004-Ohio-1817. On motion for leave to file delayed appeal. Motion denied.

Moyer, C.J., Pfeifer and Lundberg Stratton, JJ., dissent.

2004-1002. State v. Wyer.

Cuyahoga App. No. 82962, 2003-Ohio-6926. On motion for leave to file delayed appeal. Motion granted.

Resnick, F.E. Sweeney and Pfeifer, JJ., dissent.

2004-1022. State v. Balwanz.

Belmont App. No. 02-BE-37, 2004-Ohio-1534. On motion for leave to file delayed appeal. Motion denied.

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

2004-1043. State v. Stearns.

Cuyahoga App. No. 76513. On motion for leave to file delayed appeal. Motion denied.

2004-1088. State v. Arrowood.

Ross App. No. 03CA2706. On motion for stay of court of appeals' judgment. Motion denied.

APPEALS NOT ACCEPTED FOR REVIEW

2004-0281. State v. Johnson.

Montgomery App. No. 19597, 155 Ohio App.3d 417, 2003-Ohio-6523.

2004-0640. State v. Phillips.

Cuyahoga App. No. 82886, 2004-Ohio-484.

2004-0644. State v. Adkins.

Franklin App. No. 04AP-64.

2004-0645. State v. Turner.

Cuyahoga App. No. 84241.

2004-0646. State v. Harris.

Cuyahoga App. No. 83251, 2004-Ohio-1116.

Pfeifer, J., dissents.

2004-0648. Lake Fork Cemetery Assn. v. Studer.

Ashland App. No. 03COA025.

O'Connor, J., dissents.

2004-0649. Shilling v. Schilling.

Ashland App. No. 03COA052.

O'Donnell, J., dissents and would accept on Proposition of Law No. I only.

2004-0652. State v. Shipley.

Lorain App. No. 03CA008275, 2004-Ohio-434.

Lundberg Stratton, J., would accept on Propositions of Law Nos. I and III only.

O'Donnell, J., not participating.

2004-0654. State v. Crosby.

Cuyahoga App. No. 81779, 2003-Ohio-7236.

Pfeifer, J., dissents.

2004-0655. State v. Creary.

Cuyahoga App. No. 82767, 2004-Ohio-858.

O'Donnell, J., dissents and would hold the cause for the decision in 2003-1767, *State v. Francis*, Cuyahoga App. No. 82324, 2003-Ohio-4406.

2004-0657. Cotton v. Ohio Dept. of Rehab. & Corr.

Franklin App. No. 03AP-1131, 2004-Ohio-1625.

O'Donnell, J., not participating.

2004-0658. Beck v. Beck.

Cuyahoga App. No. 83132, 2004-Ohio-861.

O'Donnell, J., dissents and would accept on Proposition of Law No. II only.

2004-0660. State v. Blaine.

Highland App. No. 03CA9, 2004-Ohio-1241.

2004-0671. Klaiman v. Ohio State Univ.

Franklin App. No. 03AP-683, 2004-Ohio-1137.

2004-0674. State v. Fleak.

Clermont App. No. CA2003-07-056, 2004-Ohio-1371.

2004-0678. State v. Butts.

Franklin App. No. 03AP-495, 2004-Ohio-1136.

2004-0679. Furlan v. Saloka.

Cuyahoga App. No. 83186, 2004-Ohio-1250.

2004-0680. State v. Conway.

Franklin App. No. 03AP-585, 2004-Ohio-1222.

2004-0702. State v. Boylen.

Stark App. No. 2003CA00304, 2004-Ohio-1283.

2004-0706. State v. Coykendall.

Cuyahoga App. No. 84236.

2004-0708. Welling v. Perry Twp. Bd. of Zoning Appeals.

Stark App. No. 2003CA00303, 2004-Ohio-1289.

Lundberg Stratton, J., would accept on Propositions of Law Nos. I and III only.

2004-0710. State v. Kimmel.

Marion App. No. 9-03-53, 2004-Ohio-1207.

Moyer, C.J., dissents.

2004-0711. Donlin v. Rural Metro Ambulance, Inc.

Trumbull App. No. 2002-T-0148, 2004-Ohio-1704.

Resnick and Pfeifer, JJ., dissent.

2004-0713. State v. Black.

Hamilton App. No. C-040083.

2004-0716. State v. Nason.

Darke App. No. 04-CA-1636.

2004-0720. Tri-State Crane Rental, Inc. v. Watson Gravel, Inc.

Hamilton App. No. C-030392, 2004-Ohio-1262.

Pfeifer, J., dissents.

2004-0724. Szigeti v. Loss Realty Group.

Lucas App. No. L-03-1160, 2004-Ohio-1339.

2004-0725. Estate of Fite v. Univ. Hosp.

Hamilton App. No. C-030225, 2004-Ohio-1266.

F.E. Sweeney and Pfeifer, JJ., dissent.

2004-0726. Woodell v. Ormet Primary Aluminum Corp.

Monroe App. No. 03MO7, 156 Ohio App.3d 602, 2004-Ohio-1558.

2004-0728. State v. Stange.

Franklin App. Nos. 03AP-519, 03AP-520, 03AP-521, 03AP-522, 03AP-523, 03AP-525 and 03AP-526, 2004-Ohio-1300.

2004-0729. Leppla v. Sprintcom, Inc.

Montgomery App. No. 19969, 156 Ohio App.3d 498, 2004-Ohio-1309.

Lundberg Stratton and O'Connor, JJ., dissent.

2004-0730. Pope v. Trotwood-Madison City School Dist. Bd. of Edn.

Montgomery App. No. 20072, 2004-Ohio-1314.

Resnick, J., dissents.

2004-0731. Belcher v. Ohio State Racing Comm.

Franklin App. No. 03AP-786, 2004-Ohio-1278.

Pfeifer and O'Donnell, JJ., dissent.

2004-0734. Sprowls v. Ohio Dept. of Job & Family Serv.

Montgomery App. No. 20139, 156 Ohio App.3d 513, 2004-Ohio-1317.

2004-0736. Grove v. Fresh Mark, Inc.

Columbiana App. No. 03CO54, 156 Ohio App.3d 620, 2004-Ohio-1728.

2004-0739. State v. Reid.

Montgomery App. No. 19729, 2003-Ohio-6079.

O'Donnell, J., dissents and would hold for No. 2004-0141, *Morgan v. Eads*.

2004-0741. State v. Evans.

Ross App. No. 03CA2697.

2004-0742. Norman v. Longaberger Co.

Muskingum App. No. CT2003-0013, 2004-Ohio-1743.

2004-0744. Tuthill Energy Sys. v. Employers Ins. of Wausau.

Auglaize App. No. 20325, 2004-Ohio-1394.

2004-0745. Grabow v. King Media Ent., Inc.

Cuyahoga App. No. 83109, 2004-Ohio-1122.

Resnick and O'Donnell, JJ., dissent.

2004-0746. Martin v. Estate of Martin.

Allen App. No. 10355, 2004-Ohio-1397.

2004-0748. State v. Bozsik.

Medina App. No. 03CA0139M.

2004-0749. State v. Doak.

Columbiana App. Nos. 03CO15 and 03CO31, 2004-Ohio-1548.

2004-0750. State v. Monroe.

Logan App. No. 8-04-03.

2004-0754. Robinson v. Armstrong.

Guernsey App. No. 03-CA-12, 2004-Ohio-1463.

F.E. Sweeney, J., dissents.

2004-0755. State v. Villa-Garcia.

Franklin App. No. 03AP-384, 2004-Ohio-1409.

Moyer, C.J., dissents.

2004-0756. State v. Graff.

Cuyahoga App. No. 83307, 2004-Ohio-1456.

2004-0759. Doe v. Mt. Carmel Health Sys.

Franklin App. No. 03AP-413, 2004-Ohio-1407.

Lundberg Stratton, J., dissents.

2004-0760. State v. Cooley.

Summit App. No. 21672, 2004-Ohio-1428.

O'Connor, J., not participating.

2004-0761. Prohazka v. Ohio State Univ. Bd. of Trustees.

Franklin App. No. 03AP-616, 2004-Ohio-1601.

2004-0764. State ex rel. Kidwell v. Winemiller.

Montgomery App. No. 20260, 156 Ohio App.3d 479, 2004-Ohio-1484.

Pfeifer, J., dissents.

2004-0765. State v. Taylor.

Hamilton App. No. C-020475, 2004-Ohio-1494.

2004-0766. State v. Major.

Summit App. No. 21662, 2004-Ohio-1423.

2004-0767. State v. Nixon.

Ashland App. No. 03COA072.

2004-0768. State v. Wilson.

Coshocton App. No. 02-CA-030, 2004-Ohio-1857.

2004-0771. State v. Cammon.

Hamilton App. No. C-040147.

2004-0772. Ullman v. Ohio Bur. of Job & Family Serv.

Franklin App. No. 03AP-184, 2004-Ohio-1622.

Pfeifer, J., dissents.

2004-0774. State v. Goldwire.

Montgomery App. No. 19659, 2003-Ohio-6066.

2004-0777. Drake v. Drake.

Butler App. No. CA2003-09-234.

2004-0778. Sherock v. Ohio Mun. League Joint Self-Ins. Pool.

Trumbull App. No. 2003-T-0022, 2004-Ohio-1515.

O'Donnell, J., dissents.

2004-0780. State v. Grimes.

Hamilton App. No. C-030499.

2004-0781. State v. Tolliver.

Franklin App. No. 02AP-811, 2004-Ohio-1603.

2004-0782. State v. Singleton.

Lake App. No. 2002-L-077, 2004-Ohio-1517.

2004-0784. Moore v. OSCO Ind., Inc.

Scioto App. No. 03CA2877.

2004-0785. State v. Close.

Washington App. No. 03CA30, 2004-Ohio-1764.

2004-0786. Barrett v. McCrady.

Washington App. No. 02CA71.

2004-0788. State v. Horch.

Union App. No. 14-03-27, 2004-Ohio-1509.

Pfeifer, J., dissents.

2004-0797. Barnes v. Meijer Dept. Store.

Butler App. No. CA2003-09-246, 2004-Ohio-1716.

F.E. Sweeney and Pfeifer, JJ., dissent.

2004-0803. State v. Shannon.

Lake App. No. 2002-L-008, 2004-Ohio-1669.

2004-0816. State v. Jones.

Franklin App. No. 03AP-696, 2004-Ohio-1624.

2004-0832. In re Janes.

Morgan App. No. 03CA008, 2004-Ohio-1766.

O'Donnell, J., dissents.

2004-0838. State v. Davis.

Lucas App. No. L-02-1387, 2003-Ohio-5977.

2004-0839. Soler v. Evans, St. Clair & Kelsey.

Franklin App. No. 03AP-377, 2004-Ohio-679.

Pfeifer, J., dissents.

2004-0848. Sarka v. Love.

Cuyahoga App. No. 83446, 2004-Ohio-1911.

Lundberg Stratton, J., dissents.