

The Supreme Court of Ohio

CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

December 29, 2004

MERIT DECISIONS WITH OPINIONS

2002-1350. State v. Foust, 2004-Ohio-7006.

Cuyahoga C.P. No. CR-406021. Judgment affirmed.

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

2002-1377. State v. Cunningham, 2004-Ohio-7007.

Allen C.P. No. CR2002-0010. Judgment affirmed.

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

2003-0135. State v. Sapp, 2004-Ohio-7008.

Clark App. No. 99CA84, 2002-Ohio-6863. Judgment affirmed.

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

Pfeifer, J., concurs in part and dissents in part.

2004-1009. Cuyahoga Cty. Bar Assn. v. Kelley, 2004-Ohio-7009.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 03-021. Elliott Ray Kelley, Attorney Registration No. 0009587, is indefinitely suspended from the practice of law in Ohio.

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

2004-1011. Warren Cty. Bar Assn. v. Marshall, 2004-Ohio-7011.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 03-050. Bernard Marshall, Attorney Registration No. 0067838, is suspended from the practice of law in Ohio for two years, stayed on conditions.

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

2004-1012. Disciplinary Counsel v. Bein, 2004-Ohio-7012.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 03-041. William Sam Bein, Attorney Registration No. 0033234, is permanently disbarred from the practice of law in Ohio.

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

2004-1059. Lorain Cty. Bar Assn. v. Noll, 2004-Ohio-7013.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 03-092. Carl F. Noll, Attorney Registration No. 0023386, is suspended from the practice of law in Ohio for two years, with eighteen months stayed on conditions.

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

2004-1064. Mahoning Cty. Bar Assn. v. Sinclair, 2004-Ohio-7014.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 03-045. R. Allen Sinclair, Attorney Registration No. 0055915, is indefinitely suspended from the practice of law in Ohio.

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

2004-1066. Toledo Bar Assn. v. Abood, 2004-Ohio-7015.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 03-031. Norman Abood, Attorney Registration No. 0029004, is suspended from the practice of law in Ohio for one year, with six months stayed on conditions.

Moyer, C.J., F.E. Sweeney, O'Connor and O'Donnell, JJ., concur.

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

2004-1456. State v. Vasquez, 2004-Ohio-7016.

Franklin App. No. 03AP-460, 2004-Ohio-3880. Discretionary appeal accepted and judgment affirmed.

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

F.E. Sweeney, J., dissents.

MERIT DECISIONS WITHOUT OPINIONS

2004-1794. Sanders v. Court of Appeals, Eighth Appellate Dist.

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

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

Moyer, C.J., dissents and would grant an alternative writ.

MOTION AND PROCEDURAL RULINGS

1990-1433. State v. Smith.

Hamilton App. No. C-880287. On motion to set execution date. Motion granted.

2004-0320. Hoover v. Transcontinental Ins. Co.

Greene App. No. 2003-CA-46, 2004-Ohio-72. On motion for substitution of William M. Hoover by Wendy J. Hoover, administrator of the estate of William M. Hoover, deceased. Motion granted.

O'Connor, J., dissents.

2004-0394. State ex rel. Dispatch Printing Co. v. Johnson.

In Mandamus. On motion to immediately and temporarily seal Exhibit 13 to the deposition of Anne Thompson. Motion granted.

Motion to substitute a redacted copy of Exhibit 13 is dismissed as moot.

2004-0485. State v. Ketterer.

Butler C.P. No. CR-2003-03-0309. On motion for release of evidence for distribution to heirs of decedent. Motion granted.

2004-1894. State v. Beard.

Hamilton App. No. C-030325. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2004-1921. State v. Allen.

Hamilton App. Nos. C-030617 and C-030618. On motion for leave to file delayed appeal. Motion denied.

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

2004-1931. State v. Griffith.

Trumbull App. No. 2001-T-0136, 2003-Ohio-6980. On motion for leave to file delayed appeal. Motion denied.

2004-1933. State v. Ellison.

Hamilton App. No. C-030386. On motion for leave to file delayed appeal. Motion denied.

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

2004-1946. State v. Ruvalcaba.

Summit App. No. 22019. On motion for leave to file delayed appeal. Motion denied.

2004-1956. Croston v. DeVaux.

Stark App. Nos. 2003CA00394 and 2003CA00420, 2004-Ohio-5472. On motion for stay of court of appeals' judgment. Motion denied.

Resnick, J., dissents.

2004-1973. State v. Armstrong.

Trumbull App. Nos. 2001-T-0120 and 2002-T-0071, 2004-Ohio-5635. On motion for stay of court of appeals' judgment. Motion granted.

APPEALS ACCEPTED FOR REVIEW

2004-1525. State v. Zucco.

Cuyahoga App. No. 83602, 2004-Ohio-4095. Discretionary appeal accepted; cause held for the decisions in 2004-1171, *State v. Mathis*, Cuyahoga App. No. 83311, 2004-Ohio-2982, and 2004-1267, *State v. Fair*, Cuyahoga App. No. 82278, 2004-Ohio-2971; and briefing schedule stayed.

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

2004-1561. State v. Blade.

Cuyahoga App. No. 83796, 2004-Ohio-4486. Discretionary appeal accepted; cause held until further notice by the court; and briefing schedule stayed.

Resnick, F.E. Sweeney and O'Donnell, JJ., dissent.

2004-1568. State v. Foster.

Licking App. No. 03CA95, 2004-Ohio-4209. Discretionary appeal accepted on Proposition of Law II; cause held until further notice by the court; and briefing schedule stayed.

Resnick, F.E. Sweeney and O'Donnell, JJ., dissent.

2004-1594. M. Conley Co. v. Arthur Anderson.

Stark App. No. 2003CA00386, 2004-Ohio-4216.

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

2004-1619. Valentine v. PPG Industries.

Pickaway App. No. 03CA17, 2004-Ohio-4521. Discretionary appeal accepted on Propositions of Law II and III.

Resnick, O'Connor and O'Donnell, JJ., dissent.

2004-1635. State v. Lett.

Cuyahoga App. Nos. 83821 and 83822, 2004-Ohio-4094. Discretionary appeal accepted on appellant's Proposition of Law VI and appellee's Proposition of Law II; cause held until further notice by the court; and briefing schedule stayed.

Resnick, F.E. Sweeney and O'Donnell, JJ., dissent.

APPEALS NOT ACCEPTED FOR REVIEW

2004-1082. State v. Coulibaly.

Hamilton App. No. C-010788.

2004-1150. State v. Lane.

Richland App. No. 03-CA-89, 2004-Ohio-2235.

2004-1500. State v. McKinney.

Fairfield App. No. 03CA083, 2004-Ohio-4035.

Moyer, C.J., Lundberg Stratton and O'Connor, JJ., dissent.

2004-1503. Williams v. Safe Auto Ins. Co.

Cuyahoga App. No. 83882, 2004-Ohio-3741.

Moyer, C.J., Resnick and O'Connor, JJ., dissent.

2004-1512. State v. Borer.

Seneca App. No. 13-04-21.

2004-1530. State v. Riggins.

Hamilton App. No. C-030626, 2004-Ohio-4247.

2004-1533. Jones v. Swagelok Co.

Cuyahoga App. No. 83849, 2004-Ohio-3876.

O'Donnell, J., dissents.

2004-1544. State v. Jackson.

Union App. No. 14-03-28, 2004-Ohio-4016.

2004-1545. State v. Patterson.

Richland App. No. 03 CA 48, 2004-Ohio-4298.

2004-1549. State v. Raymer.

Hamilton App. No. C-040498.

2004-1552. Smith v. McVicker.

Tuscarawas App. No. 2003AP120092, 2004-Ohio-4217.

2004-1557. McGowan v. Cuyahoga Metro. Hous. Auth.

Cuyahoga App. No. 84041, 2004-Ohio-4070.

Moyer, C.J., dissents and would accept on Proposition of Law I.

O'Donnell, J., not participating.

2004-1562. Straw v. Straw.

Lorain App. No. 04CA008433, 2004-Ohio-4065.

O'Donnell, J., dissents.

2004-1565. State ex rel. Fischer v. Hall.

Wood App. No. WD-03-004, 2004-Ohio-4150.

Moyer, C.J., dissents.

2004-1569. State v. Spencer.

Franklin App. No. 03AP-579, 2004-Ohio-4102.

2004-1570. State v. Prunty.

Franklin App. No. 04AP-361.

O'Donnell, J., dissents.

2004-1573. State v. Chapman.

Franklin App. No. 03AP-1208, 2004-Ohio-4222.

2004-1580. State v. Ware.

Lake App. No. 2003-L-141, 2004-Ohio-4281.

2004-1586. Peters v. Allison.

Sandusky App. No. S-03-044, 2004-Ohio-4143.

Pfeifer, J., dissents.

2004-1587. Health Admrs. of Am. v. Am. Med. Security, Inc.

Delaware App. No. 03-CA-E-12065, 2004-Ohio-4339.

2004-1591. Pingue v. Pingue.

Delaware App. No. 03-CA-E-12070, 2004-Ohio-4173.

Moyer, C.J., and O'Donnell, J., dissent.

2004-1592. Swaney v. Swaney.

Tuscarawas App. No. 2004AP030020, 2004-Ohio-4338.

2004-1593. Wright v. Campbell Soup Co.

Henry App. No. 7-04-02, 2004-Ohio-4164.

Pfeifer, J., dissents.

Resnick, J., not participating.

2004-1596. Beaver Adhesives, Inc. v. Ashland, Inc.

Franklin App. No. 03AP-1193, 2004-Ohio-4245.

O'Donnell, J., dissents.

2004-1598. State v. Thomas.

Warren App. No. CA2004-01-010, 2004-Ohio-4527.

O'Donnell, J., dissents.

2004-1602. SuperValu Holdings, Inc. v. Jackson Ctr. Assoc., L.P.

Clermont App. Nos. CA2003-12-108 and CA2003-12-110, 2004-Ohio-4314.

Pfeifer, J., dissents.

2004-1606. Scales v. Six Flags, Inc.

Portage App. No. 2003-P-0043, 2004-Ohio-4385.

2004-1607. State v. Ambrose.

Cuyahoga App. No. 83859, 2004-Ohio-4237.

2004-1608. State v. Ibrahim.

Franklin App. No. 03AP-900, 2004-Ohio-4220.

2004-1610. Ganoom v. Zero Gravity Motor Sports, Inc.

Lucas App. No. L-03-1199, 2004-Ohio-4276.

2004-1611. Meister v. Zaragoza.

Butler App. Nos. CA2003-05-126, CA2003-05-128, CA2003-05-129 and CA2003-05-130, 2004-Ohio-4311.

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

2004-1616. Niepsuj v. Niepsuj.

Summit App. No. 21888, 2004-Ohio-4201.

2004-1622. State v. Richardson.

Hamilton App. No. C-030541. Discretionary appeal not accepted. All motions denied as moot.

2004-1626. Baeslach v. Dancy.

Cuyahoga App. No. 83371, 2004-Ohio-4091.

2004-1627. State v. Anderson.

Cuyahoga App. No. 83800, 2004-Ohio-4071.

2004-1631. Harris v. Harris.

Cuyahoga App. No. 83526, 2004-Ohio-4084.

2004-1636. State v. Lovell.

Butler App. No. CA2003-09-238.

2004-1637. Doe v. Catholic Diocese of Cleveland.

Cuyahoga App. No. 82542, 2004-Ohio-3470.

2004-1640. State v. Steele.

Cuyahoga App. No. 83388, 2004-Ohio-4628.

2004-1642. State v. Wichert.

Hamilton App. No. C-030781.

2004-1643. Haren v. Superior Dairy, Inc.

Stark App. No. 2003-CA-00331, 2004-Ohio-4436.

2004-1644. State v. Alley.

Hamilton App. No. C-040018.
O'Connor, J., dissents.

2004-1645. Charter One Mtge. Corp. v. Keselica.

Lorain App. No. 04CA008426, 2004-Ohio-4333.
F.E. Sweeney, J., dissents.
O'Donnell, J., not participating.

2004-1675. Handy v. Hamilton Cty. Park Dist.

Hamilton App. No. C-030926.
O'Connor, J., dissents.

2004-1677. Bailey v. Progressive Ins. Co.

Huron App. No. H-03-043, 2004-Ohio-4853.

2004-1679. Summit Cty. v. Meyer.

Summit App. No. 21882, 2004-Ohio-4457.

O'Connor, J., would accept the appeal and reverse and remand for application of *State v. Cowan*, 103 Ohio St.3d 144, 2004-Ohio-4777, 814 N.E.2d 846, to the Akron ordinance.

O'Donnell, J., dissents.

2004-1706. State v. Kolvek.

Summit App. No. 21752, 2004-Ohio-3706.

2004-1715. Lytle v. McClain.

Lorain App. No. 03CA008400, 2004-Ohio-4572.

2004-1723. Pleasant v. EMSA Correctional Care, Inc.

Franklin App. No. 03AP-1161, 2004-Ohio-4554.
Pfeifer, J., dissents.

2004-1724. In re Villaneuva/Hampton Children.

Stark App. No. 2004CA00120, 2004-Ohio-4609.
O'Connor, J., dissents.

2004-1731. Daniel v. Cleveland Mun. School Dist.

Cuyahoga App. No. 83541, 2004-Ohio-4632.

2004-1766. State v. Todd.

Clermont App. No. CA2003-11-093.

2004-1872. In re Abram.

Franklin App. Nos. 04AP-220, 04AP-221 and 04AP-224, 2004-Ohio-5435.

RECONSIDERATION OF PRIOR DECISIONS

2001-2072. State v. Adams.

Trumbull C.P. No. 00-CR-700. Reported at 103 Ohio St.3d 508, 2004-Ohio-5845, 817 N.E.2d 29. On motion for reconsideration. Motion denied.

2002-1880. Danziger v. Luse.

Sandusky App. No. S-01-042, 2002-Ohio-4945. Reported at 103 Ohio St.3d 337, 2004-Ohio-5227, 815 N.E.2d 658. On motion for reconsideration. Motion denied.
Moyer, C.J., Lundberg Stratton and O'Donnell, JJ., dissent.

2004-0718. State ex rel. Ullmann v. Hay.

Franklin App. No. 03AP-299, 2004-Ohio-1275. Reported at 103 Ohio St.3d 405, 2004-Ohio-5469, 816 N.E.2d 245. On motion for reconsideration. Motion denied.

2004-1175. Humbert v. Borkowski.

Fulton App. No. F-04-012, 2004-Ohio-4275. Reported at 103 Ohio St.3d 1493, 2004-Ohio-5605, 816 N.E.2d 1079. On motion for reconsideration. Motion denied.

2004-1217. Miller v. Watkins.

Hamilton App. No. C-030065, 2004-Ohio-3132. Reported at 103 Ohio St.3d 1493, 2004-Ohio-5605, 816 N.E.2d 1080. On motion for reconsideration. Motion denied.

2004-1235. Borkowski v. Ebersole.

Fulton App. No. F-04-014. Reported at 103 Ohio St.3d 1525, 2004-Ohio-5852, 817 N.E.2d 409. On motion for reconsideration. Motion denied.

2004-1259. State v. Taylor.

Madison App. No. CA2003-07-025, 2004-Ohio-3171. Reported at 103 Ohio St.3d 1526, 2004-Ohio-5852, 817 N.E.2d 409. On motion for reconsideration. Motion granted; cause held until further notice by the court; and briefing schedule stayed.

Resnick, F.E. Sweeney and O'Donnell, JJ., dissent.

2004-1459. McBroom v. Techneglas, Inc.

Franklin App. No. 04AP-480. Reported at 104 Ohio St.3d 1409, 2004-Ohio-6364, 818 N.E.2d 711. On motion for reconsideration. Motion denied.

2004-1618. ADSA, Inc. v. Bessey.

In Prohibition. Reported at 103 Ohio St.3d 1519, 2004-Ohio-5849, 817 N.E.2d 105. On motion for reconsideration. Motion denied.