

The Supreme Court of Ohio

CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

March 23, 2005

[Cite as *03/23/2005 Case Announcements, 2005-Ohio-1186.*]

MERIT DECISIONS WITH OPINIONS

2004-1227. Ohio Consumers' Counsel v. Pub. Util. Comm., 2005-Ohio-1023.

Public Utilities Commission, Nos. 03-1459-GA-ATA, 94-987-GA-AIR, 96-1113-GA-ATA, and 98-222-GA-GCR. On motion to intervene and motions to dismiss. Motion to intervene granted. Sua sponte, notice of appeal is stricken. Motions to dismiss granted. Cause dismissed.

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

Resnick and Pfeifer, JJ., concur in part and dissent in part.

MERIT DECISIONS WITHOUT OPINIONS

2004-0987. State ex rel. Tarr v. Court of Appeals, Sixth Appellate Dist.

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

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

2004-1169. Jones v. Goodyear Tire & Rubber Co.

Summit App. No. 21724, 2004-Ohio-2821. On appellees' motion for leave to dismiss claim with prejudice and motion for remand and appellant's request for attorney fees and costs.

IT IS ORDERED by the court that appellees' motion for leave to dismiss claim with prejudice and motion for remand be, and hereby are, granted and this cause is remanded to the trial court with instructions to allow the appellees to dismiss their claim for wrongful discharge in violation of public policy.

IT IS FURTHER ORDERED by the court that appellant's request for attorney fees and costs be, and hereby is, denied.

IT IS FURTHER ORDERED by the court, sua sponte, that the opinion of the court of appeals may not be cited as authority except by the parties inter se.

IT IS FURTHER ORDERED by the court, sua sponte, that this cause be, and hereby is, dismissed.

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

Lundberg Stratton, J., dissents and would deny appellees' motion for leave to dismiss claim with prejudice and grant appellant's request for attorney fees and costs.

2005-0269. State ex rel. Smith v. Pike.

In Prohibition. On S.Ct.Prac.R. X(5) determination, cause dismissed.

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

MOTION AND PROCEDURAL RULINGS

2004-0594. Athens Cty. Auditor v. Wilkins.

Board of Tax Appeals, No. 2002-A-1152. On request for oral argument. Request granted.

O'Donnell, J., dissents.

2005-0290. Hixson v. Callentine.

Athens App. No. 04 CA 4, 2004-Ohio-5943. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated at page 6 of the court of appeals' judgment entry filed January 14, 2005:

“Whether any language in the liability portion of an insurance policy restricting liability coverage carries over to restrict UM/UIM coverage that arises by operation of law when an 'insured', as defined by the automotive policy, is injured by an underinsured motorist.”

Moyer, C.J., and Resnick, J., dissent.

The conflict case is *Mason v. Royal Ins. Co. of Am.*, Stark App. No. 2003CA00029, 2003-Ohio-7047.

2005-0354. Bartlett v. Jefferson Cty. Court of Common Pleas.

Jefferson App. No. 04 JE 28, 2004-Ohio-7217. On motion for injunctive relief. Motion denied.

2005-0385. State v. Kight.

Athens App. No. 04 CA 2, 2005-Ohio-164. On motion for stay of court of appeals' judgment. Motion denied.

Moyer, C.J., dissents.

2005-0400. State v. Lather.

Sandusky App. No. S-03-008, 2005-Ohio-668. On motion for stay of court of appeals' judgment. Motion denied.

Moyer, C.J., and Lanzinger, J., dissent.

APPEALS ACCEPTED FOR REVIEW

2004-2004. Tomasik v. Tomasik.

Summit App. No. 21980, 2004-Ohio-5558.

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

2004-2173. Campbell v. Ohio State Univ. Med. Ctr.

Franklin App. No. 04AP-96, 2004-Ohio-6072. Discretionary appeal accepted on Proposition of Law II.

Pfeifer and O'Donnell, JJ., dissent.

APPEALS NOT ACCEPTED FOR REVIEW

2004-1589. Acevedo v. Dover Elevator Co.

Cuyahoga App. No. 83987, 2004-Ohio-3958.

2004-1843. State v. Miller.

Cuyahoga App. Nos. 83362 and 83363, 2004-Ohio-4097.

2004-2016. In re Certificate of Need Application of Holzer Consol. Health Sys. v. Ohio Dept. of Health.

Franklin App. No. 03AP-1020, 2004-Ohio-5533. Discretionary appeal not accepted.

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

O'Connor, J., dissents and would accept on Propositions of Law II and III.

Discretionary cross-appeal not accepted.

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

2004-2038. State v. Twitty.

Hamilton App. No. C-040707.

2004-2045. State v. Noland.

Washington App. No. 04CA9, 2004-Ohio-5944.

Moyer, C.J., and O'Connor, J., dissent and would accept the appeal and hold the cause for the decisions in 2004-1771, *State v. Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2004-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209.

2004-2053. Sutherland v. Lasson.

Montgomery App. No. 20217, 2004-Ohio-5834.

2004-2057. Lawhorn v. Spradin.

Hamilton App. No. C-040086.

2004-2059. Sharefax Credit Union v. Harmon.

Butler App. No. CA2004-05-100. Discretionary appeal not accepted. Motion for stay denied as moot.

2004-2063. State v. Williams.

Cuyahoga App. No. 83423, 2004-Ohio-5592.

2004-2086. Wilhelm v. Foster.

Mahoning App. No. 03 MA 29, 2004-Ohio-5928.

2004-2091. State v. Murrell.

Hamilton App. No. C-030419.

2004-2094. Hixson v. Callentine.

Athens App. No. 04 CA 4, 2004-Ohio-5943.

O'Connor and Lanzinger, JJ., dissent.

2004-2118. Bolton v. Crockett Homes, Inc.

Stark App. No. 2004CA00051, 2004-Ohio-7318.

Lanzinger, J., dissents.

2004-2124. Wilson v. Wilson.

Warren App. No. CA2004-04-037, 2004-Ohio-6248.

O'Donnell, J., dissents.

2004-2125. State v. Seal.

Lake App. No. 2003-L-163, 2004-Ohio-5938.

2004-2132. State v. Scott.

Clermont App. No. CA2004-02-010, 2004-Ohio-6028.

2004-2133. State v. Culp.

Fulton App. No. F-04-006, 2004-Ohio-6002.

Lanzinger, J., not participating.

2004-2136. Cuyahoga Cty. Veterans Serv. Comm. v. State.

Franklin App. No. 03AP-1251, 2004-Ohio-6124.

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

2004-2140. State v. Gray.

Cuyahoga App. No. 83926, 2004-Ohio-5861.

Moyer, C.J., dissents and would accept the appeal on Proposition of Law I and hold the cause for the decisions in 2004-1771, *State v. Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2004-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209.

2004-2148. State v. Browner.

Hamilton App. No. C-030766.

2004-2149. State v. Bachman.

Stark App. No. 2004 CA 00123, 2004-Ohio-6970.

2004-2151. First Merit Bank, N.A. v. Angelini.

Crawford App. No. 3-03-34, 2004-Ohio-6045.

2004-2153. In re Raiser.

Franklin App. No. 91AP-407.

2004-2154. State v. Colthirst.

Cuyahoga App. No. 84286, 2004-Ohio-6118.

2004-2155. State v. Woodhouse.

Sandusky App. No. S-04-004, 2004-Ohio-6160.

2004-2158. State v. Pordash.

Lorain App. No. 04CA008480, 2004-Ohio-6081.
O'Connor, J., dissents.

2004-2161. In re Estate of Windsor.

Mahoning App. No. 03 MA 184, 2004-Ohio-6213. Discretionary appeal not accepted.

Resnick and Pfeifer, JJ., dissent.

On motion for admission pro hac vice of Jason T. Shipp by John J. Duffy. Motion granted.

2004-2162. In re Estate of Marsteller.

Mahoning App. No. 03 MA 185, 2004-Ohio-6214. Discretionary appeal not accepted. Motion to dismiss denied as moot.

Resnick and Pfeifer, JJ., dissent.

On motion for admission pro hac vice of Jason T. Shipp for appellee Goldberg, Perksy & White, P.C by John J. Duffy. Motion granted.

2004-2165. Bertram v. Norden.

Defiance App. No. 4-04-09, 2004-Ohio-6044.

2004-2170. Grossenbacher v. Strasburg.

Tuscarawas App. No. 2004 AP 04 0030, 2004-Ohio-6258.

2004-2171. Coleman v. Cleveland School Dist. Bd. of Edn.

Cuyahoga App. Nos. 84274 and 84505, 2004-Ohio-5854.

2004-2174. Ciganik v. Kaley.

Portage App. No. 2004-P-0001, 2004-Ohio-6029.

2005-0001. Diversified Environmental Mgt. Co. v. Great Am. Ins. Co.

Montgomery App. Nos. 20236 and 20237, 159 Ohio App.3d 119, 2004-Ohio-6222. Discretionary appeal not accepted.

Moyer, C.J., Resnick and Lanzinger, JJ., dissent.

On motion for admission pro hac vice of Ellen D. Jenkins and Peter F. Lovato III for Great American Insurance Company by Paul H. Shaneyfelt. Motion granted.

2005-0002. Adkins-Bagola v. Universal Nursing Serv.

Summit App. No. 22033, 2004-Ohio-6082.

2005-0005. Bank One, N.A. v. Lytle.

Lorain App. No. 04CA008463, 2004-Ohio-6547.

2005-0006. Westfield Group v. Cramer.

Lorain App. No. 04CA008443, 2004-Ohio-6084.
Resnick and Pfeifer, JJ., dissent.

2005-0007. State v. Bell.

Warren App. No. CA2004-07-082.

2005-0011. State v. Nickelberry.

Cuyahoga App. No. 83964, 2004-Ohio-5976.

2005-0013. State v. Bryan.

Cuyahoga App. No. 84324, 2004-Ohio-6105.

2005-0014. Everage v. Elk & Elk.

Auglaize App. No. 2-04-14, 2004-Ohio-6186.
Moyer, C.J., Pfeifer and Lanzinger, JJ., dissent.

2005-0015. Cassel v. Schuster Electronics, Inc.

Summit App. No. 21966, 159 Ohio App.3d 224, 2004-Ohio-6276.
Pfeifer and Lundberg Stratton, JJ., dissent.

2005-0020. Traveler's Indemn. Co. v. Bates.

Wood App. No. WD-04-047, 2004-Ohio-6317.

2005-0024. State v. Justinger.

Paulding App. No. 11-04-14.

2005-0025. State v. Maddox.

Hamilton App. No. C-040106.

2005-0026. Koos v. Storms.

Cuyahoga App. No. 84260, 2004-Ohio-6020.

2005-0036. State v. Suleiman.

Cuyahoga App. No. 83915, 2004-Ohio-4487.

Lundberg Stratton and O'Connor, JJ., would accept the appeal and reverse and remand the cause for application of *State v. Francis*, 104 Ohio St.3d 490, 2004-Ohio-6894, 820 N.E.2d 355.

2005-0037. Collins v. Cincinnati.

Hamilton App. No. C-040152.

Moyer, C.J., dissents.

2005-0038. State v. Williams.

Franklin App. No. 04AP-279, 2004-Ohio-6254.

2005-0039. State v. Honaker.

Franklin App. No. 04AP-146, 2005-Ohio-462.

2005-0052. State v. Brownlow.

Allen App. No. 1-02-73, 2003-Ohio-1819.

2005-0061. Randolph v. Hartford Financial Serv. Group, Inc.

Geauga App. No. 2003-G-2529, 2004-Ohio-6347.

Pfeifer and Lanzinger, JJ., dissent.

2005-0069. State v. Brundage.

Hamilton App. No. C-030632, 2004-Ohio-6436.

2005-0070. State v. Vaulx.

Hamilton App. No. C-020520.

2005-0080. Livesay v. Livesay.

Montgomery App. No. 20504, 2004-Ohio-6785.

2005-0086. State v. Ford.

Cuyahoga App. No. 84138, 2004-Ohio-5610.

Moyer, C.J., and O'Connor, J., would accept the appeal on Proposition of Law IV and hold the cause for the decisions in 2004-1771, *State v. Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2004-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209.

2005-0093. State v. Aziz.

Cuyahoga App. No. 84181, 2004-Ohio-6631.

2005-0095. State v. Sawyer.

Cuyahoga App. No. 84487, 2004-Ohio-6911.

2005-0155. State v. Sherrills.

Cuyahoga App. No. 84594.

O'Donnell, J., not participating.

2005-0186. Hawk v. Am. Elec. Power Co.

Allen App. No. 1-04-65, 2004-Ohio-7042.

2005-0287. In re Goff.

Ashtabula App. No. 2004-A-0051, 2004-Ohio-7235.

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

RECONSIDERATION OF PRIOR DECISIONS

2004-1219 and 2004-1220. Shirley v. Republic-Franklin Ins. Co.

Stark App. No. 2003CA00361. Reported at 104 Ohio St.3d 638, 2005-Ohio-182, 821 N.E.2d 188. On motion for reconsideration. Motion denied.

Resnick and Pfeifer, JJ., dissent.

2004-1680. Preferred Capital, Inc. v. Sturgill.

Summit App. No. 21787, 2004-Ohio-4453. Reported at 104 Ohio St.3d 1461, 2005-Ohio-204, 821 N.E.2d 577. On motion for reconsideration. Motion denied.

2004-1721. State v. Nicholson.

Stark App. No. 2004CA00027, 2004-Ohio-4850. Reported at 105 Ohio St.3d 1405, 2005-Ohio-279, 821 N.E.2d 1026. On motion for reconsideration. Motion denied.

2004-1725. Lautenschleger v. Monarch Mgt., Inc.

Tuscarawas App. No. 2003AP120090, 2004-Ohio-4670. Reported at 104 Ohio St.3d 1462, 2005-Ohio-204, 821 N.E.2d 578. On motion for reconsideration. Motion denied.

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

2004-1735. Sharonville v. Am. Employers Ins. Co.

Hamilton App. No. C-030905, 158 Ohio App.3d 576, 2004-Ohio-4664. Reported at 105 Ohio St.3d 1406, 2005-Ohio-279, 821 N.E.2d 1026. On motions for reconsideration. Motions granted.

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

2004-1789. State v. Banks.

Cuyahoga App. Nos. 83782 and 83783, 2004-Ohio-4478. Reported at 105 Ohio St.3d 1407, 2005-Ohio-279, 821 N.E.2d 1027. On motion for reconsideration. Motion denied.

2004-1800. Hahn v. Jennings.

Franklin App. No. 04AP-24, 2004-Ohio-4789. Reported at 105 Ohio St.3d 1407, 2005-Ohio-279, 821 N.E.2d 1027. On motion for reconsideration. Motion denied.
Lundberg Stratton, J., not participating.

2004-1832. State ex rel. Bandlow v. LeBarron.

In Mandamus. Reported at 104 Ohio St.3d 1457, 2005-Ohio-204, 821 N.E.2d 575. On motion for reconsideration. Motion denied.

2004-1865. Brannon v. Warren.

Trumbull App. No. 2003-T-0077, 2004-Ohio-5105. Reported at 105 Ohio St.3d 1407, 2005-Ohio-279, 821 N.E.2d 1028. On motion for reconsideration. Motion denied.

2004-1891. State v. Prines.

Cuyahoga App. No. 85196. Reported at 105 Ohio St.3d 1408, 2005-Ohio-279, 821 N.E.2d 1028. On motion for reconsideration. Motion denied.