

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

June 29, 2005

[Cite as *06/29/2005 Case Announcements*, 2005-Ohio-3154.]

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### MERIT DECISIONS WITH OPINIONS

**2004-0701. State ex rel. Stacy v. Batavia Local School Dist. Bd. of Edn., 2005-Ohio-2974.**

Clermont App. No. CA2000-10-077, 157 Ohio App.3d 34, 2004-Ohio-2067. Judgment affirmed in part and reversed in part.

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

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

### MERIT DECISIONS WITHOUT OPINIONS

**2005-0520. State ex rel. Dierdorf v. Hancock Cty. Court of Common Pleas.**

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.

**2005-0590. State ex rel. Davis v. Adams.**

In Mandamus. On answer of respondent. 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.

**2005-0602. State ex rel. Goebel v. Ohio Adult Parole Auth.**

In Mandamus. On motion to dismiss. Motion to dismiss sustained. Cause dismissed. Petitioner has an adequate remedy at law and therefore is not entitled to

extraordinary relief. See *State ex rel. Johnson v. Ohio Adult Parole Auth.*, 104 Ohio St.3d 421, 2004-Ohio-6590, 819 N.E.2d 1106.

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

Pfeifer, J., dissents and would grant an alternative writ.

**2005-0610. State ex rel. Jesus v. State.**

In Procedendo. 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.

**2005-0623. State ex rel. Hancock v. Montgomery Cty. Clerk of Courts.**

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.

**2005-0639. State ex re. Drake v. Fuerst.**

In Mandamus. On motion to dismiss and motion to strike motion to dismiss. Motion to dismiss sustained. Motion to strike motion to dismiss denied. Cause dismissed.

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

**2005-0647. State ex rel. Reed v. Unruh.**

In Prohibition. 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.

**2005-0667. State ex rel. Knox v. Ohio Adult Parole Auth.**

In Mandamus. On motion to dismiss. Motion to dismiss sustained. Motion to strike the motion to dismiss denied as moot. Cause dismissed. Petitioner has an adequate remedy at law and therefore is not entitled to extraordinary relief. See *State ex rel. Johnson v. Ohio Adult Parole Auth.*, 104 Ohio St.3d 421, 2004-Ohio-6590, 819 N.E.2d 1106.

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

Pfeifer, J., dissents and would grant an alternative writ.

**2005-0678. State ex rel. Morris v. Hunter.**

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.

**2005-0698. State ex rel. Wheeler v. Ohio Adult Parole Auth.**

In Mandamus. On motion to dismiss. Motion to dismiss sustained. Cause dismissed. Petitioner has an adequate remedy at law and therefore is not entitled to extraordinary relief. See *State ex rel. Johnson v. Ohio Adult Parole Auth.*, 104 Ohio St.3d 421, 2004-Ohio-6590, 819 N.E.2d 1106.

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

Pfeifer, J., dissents and would grant an alternative writ.

**2005-0722. State ex rel. Janas v. Coyne.**

In Mandamus. On respondent's answer and motion to dismiss. Motion to dismiss sustained. Cause dismissed.

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

**2005-0731. State ex rel. Hall v. Ohio Adult Parole Auth.**

In Mandamus. On motion to dismiss. Motion to dismiss sustained. Petitioner has an adequate remedy at law and therefore is not entitled to extraordinary relief. See *State ex rel. Johnson v. Ohio Adult Parole Auth.*, 104 Ohio St.3d 421, 2004-Ohio-6590, 819 N.E.2d 1106.

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

Pfeifer, J., dissents and would grant an alternative writ.

**2005-0740. State ex rel. Mosely v. Cuyahoga Cty. Dept. of Job & Family Serv.**

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.

**2005-0836. Longwell v. Jeffreys.**

In Habeas Corpus. On petition for writ of habeas corpus of Greg A. Longwell. Sua sponte, cause dismissed.

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

**2005-0916. McGee v. State.**

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

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

**MOTION AND PROCEDURAL RULINGS**

**1998-2449. State v. Issa.**

Hamilton C.P. No. B-9709438. On application for reopening under S.Ct.Prac.R. XI(6). Motion denied because the appellant failed to comply with the 90-day filing deadline in S.Ct.Prac.R. XI(6)(A) and because second or successive applications for reopening are not permitted under the rule.

**2001-1589. State v. Leonard.**

Hamilton C.P. No. B-0005891. On application for reopening under S.Ct.Prac.R. XI(6). Motion denied.

**2003-2039. State ex rel. Heddleson v. Bradshaw.**

In Habeas Corpus. On motion to vacate the court's judgment on grounds of excusable neglect. Motion denied.

**2004-2031. In re C.R.**

Cuyahoga App. No. 82891, 2004-Ohio-4465. On motion to designate Clifford Reust and Stephanie Reust as appellants. Motion granted.

**2005-0311. State Auto. Mut. Ins. Co. v. Titanium Metals Corp.**

Cuyahoga App. No. 83540, 159 Ohio App.3d 338, 2004-Ohio-6618. On motion for emergency relief and expedited consideration of notice of appeal. Motion denied as moot.

**2005-0586. State v. Montgomery.**

Hamilton App. No. C-040190, 159 Ohio App.3d 752, 2005-Ohio-1018. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause consolidated with *State v. Montgomery*, Hamilton App. No. C-040190, 159 Ohio App.3d 752, 2005-Ohio-1018; cause held 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; and briefing schedule stayed.

**2005-0612. State ex rel. Physicians Commt. for Responsible Medicine v. Bd. of Trustees of Ohio State Univ.**

In Mandamus. On answer of respondent. Sua sponte, alternative writ granted.

On motion for admission pro hac vice of Daniel Kinburn and Karen Boyd Williams by Kathaleen B. Schulte. Motion granted.

**2005-0635. State v. Baker.**

Greene App. No. 2004 CA 29, 159 Ohio App.3d 462, 2005-Ohio-45. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

**2005-0644. State v. Waver.**

Cuyahoga App. No. 73976. On motion for leave to file delayed appeal. Motion denied.

**2005-0652. RPM, Inc. v. Oatey Co.**

Medina App. Nos. 3282-M and 3289-M, 2005-Ohio-1280. On motion for an order granting leave to the court of appeals to consider motion for correction of decision and journal entry. Motion granted.

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

**2005-0670. State v. Hunter.**

Cuyahoga App. No. 84105, 2004-Ohio-6569. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

**2005-0673. State v. Short.**

Lucas App. No. L-03-1117, 2004-Ohio-2050. On motion for leave to file delayed appeal. Motion denied.

O'Donnell and Lanzinger, JJ., dissent.

**2005-0675. State v. White.**

Cuyahoga App. No. 82915, 2004-Ohio-1247. On motion for leave to file delayed appeal. Motion denied.

**2005-0679. State v. Martin.**

Montgomery App. No. 20383, 2005-Ohio-209. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

**2005-0682. State v. Johnson.**

Hamilton App. No. C-030643, 2004-Ohio-3624. On motion for leave to file delayed appeal. Motion denied.

**2005-0692. State v. Grier.**

Summit App. No. 22136, 2005-Ohio-716. On motion for leave to file delayed appeal. Motion granted.

Resnick, J., dissents.

**2005-0714. State v. Sour.**

Montgomery App. No. 19913, 2004-Ohio-4048. On motion for leave to file delayed appeal. Motion denied.

**2005-0724. State v. Kimbrough.**

Licking App. Nos. 03CA76 and 03CA78, 2004-Ohio-5429. On motion for leave to file delayed appeal. Motion denied.

**2005-0725. State v. Broadnax.**

Franklin App. No. 02AP-800. On motion for leave to file delayed appeal. Motion denied.

**2005-0730. State v. Brown.**

Cuyahoga App. No. 84059, 2004-Ohio-6862. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

**2005-0734. Doe v. Archdiocese of Cincinnati.**

Shelby App. No. 17-04-10, 2005-Ohio-960. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated at page 4 of the court of appeals' Journal Entry filed April 19, 2005:

“Where a complaint alleges with considerable particularity that due to recently discovered efforts of the church to conceal its involvement, the victim of sexual abuse by a priest did not until recently have sufficient knowledge to apprise him of independent claims against the church, are those allegations subject to a Civ.R. 12(B) dismissal on the basis that under *Doe v. First United Methodist Church* (1994), 68 Ohio St.3d 531, 629 N.E.2d 402, notice of sexual abuse by a

priest constitutes appraisal of the possibility of any other independent claims against the church as a matter of law, so that all relevant statutes of limitations against both the priest and the church are triggered by the sexual abuse?”

The conflict case is *Cramer v. Archdiocese of Cincinnati*, 158 Ohio App.3d 110, 2004-Ohio-3891, 814 N.E.2d 97. Sua sponte, cause consolidated with 2005-0702, *Doe v. Archdiocese of Cincinnati*, Shelby App. No. 17-04-10, 2005-Ohio-960.

**2005-0758. State v. Weaver.**

Hamilton App. No. C-040502. On motion for stay of court of appeals’ judgment. Motion denied.

Pfeifer and O’Donnell, JJ., dissent.

**2005-0793. State v. Scott.**

Trumbull App. No. 2003-T-0172, 2005-Ohio-689. On motion for leave to file delayed appeal. Motion granted.

**2005-0797. Byrd v. Smith.**

Clermont App. No. CA2004-08-067. On review of order certifying a conflict. The court determines that a conflict exists.

Resnick and O’Donnell, JJ., dissent.

The parties are to brief the issue stated at page 3 of the court of appeals’ Entry Granting Motion to Certify filed April 15, 2005:

“Whether it is proper for courts to disregard an affidavit inconsistent with or contradictory to prior deposition testimony when ruling on a motion for summary judgment?”

The conflict case is *Retterer v. Whirlpool Corp.* (1996), 111 Ohio App.3d 847, 677 N.E.2d 417.

**2005-0804. State v. Peoples.**

Miami App. No. 05CA11. On motion for stay of court of appeals’ judgment. Motion denied.

**2005-0806. Simon v. Commonwealth Land Title Ins. Co.**

Cuyahoga App. No. 84553, 2005-Ohio-1007. On motion for stay of court of appeals’ judgment. Motion granted.

Pfeifer and O’Connor, JJ., dissent.

O’Donnell, J., not participating.

**2005-0829. State v. Canfield.**

Medina App. No. 03CA0078-M, 2004-Ohio-2123. On motion for leave to file delayed appeal. Motion denied.

O'Donnell and Lanzinger, JJ., dissent.

**2005-0842. State v. Kelly.**

Stark App. No. 2004CA00080, 2005-Ohio-739. On motion for leave to file delayed appeal. Motion granted.

Resnick, J., dissents.

**2005-0850. In re Keylor.**

Monroe App. No. 04 MO 02, 2005-Ohio-1661. On motion for stay of court of appeals' judgment. Motion granted.

**2005-0851. State ex rel. Coffman v. Indus. Comm.**

Franklin App. No. 04AP-303, 2005-Ohio-1519. On motion for stay of court of appeals' judgment without bond. Motion granted.

Lanzinger, J., would require the posting of an appeal bond.

Resnick and Pfeifer, JJ., dissent.

**2005-0855. State v. Lee.**

Summit App. No. 22262, 2005-Ohio-996. On motion for leave to file delayed appeal. Motion granted.

Resnick, J., dissents.

**2005-0861. State v. Kremer.**

Putnam App. No. 12-05-01. On motion for leave to file delayed appeal. Motion granted.

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

**2005-0862. State v. Kremer.**

Paulding App. No. 11-05-01. On motion for leave to file delayed appeal. Motion granted.

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

**2005-0865. State v. Kremer.**

Defiance App. No. 4-05-01. On motion for leave to file delayed appeal. Motion granted.

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

**2005-0883. State v. Quiles.**



Cuyahoga App. No. 84293, 2005-Ohio-388. On motion for leave to file delayed appeal. Motion granted.

Resnick and O'Connor, JJ., dissent.

**2005-0968. State v. Gokey.**

Cuyahoga App. No. 85827. On motion for stay of court of appeals' judgment. Motion granted.

Pfeifer, J., dissents.

**APPEALS ACCEPTED FOR REVIEW**

**2004-1974. In re Estate of Mason.**

Hancock App. No. 5-04-01, 2004-Ohio-5644. Discretionary appeal and cross-appeal accepted.

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

**2005-0374. State v. Walker.**

Hamilton App. No. C-040202. Discretionary appeal accepted; cause held 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; and briefing schedule stayed.

Resnick, J., dissents.

**2005-0428. State v. Durham.**

Cuyahoga App. No. 84132, 2005-Ohio-202.

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

**2005-0459. State v. Rosenberg.**

Cuyahoga App. No. 84457, 2005-Ohio-101. Discretionary appeal accepted; cause held for the decision in 2004-1678, *State v. Cummings*, Cuyahoga App. No. 83759, 2004-Ohio-4470.

Pfeifer, J., dissents.

**2005-0498. State v. Montgomery.**

Hamilton App. No. C-040190, 159 Ohio App.3d 752, 2005-Ohio-1018. Discretionary appeal accepted; cause consolidated with 2005-0586, *State v. Montgomery*, Hamilton App. No. C-040190, 159 Ohio App.3d 752, 2005-Ohio-1018; cause held 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; and briefing schedule stayed.

**2005-0500. State v. Hall.**

Franklin App. No. 04AP-17, 2005-Ohio-335. Discretionary appeal accepted on Proposition of Law No. I; cause held 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; and briefing schedule stayed.

**2005-0535. State v. Murphy.**

Lake App. No. 2003-L-049, 2005-Ohio-412. Discretionary appeal accepted; cause held 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; and briefing schedule stayed.

Resnick, J., dissents.

**2005-0542. State v. Abdul-Mumin.**

Franklin App. Nos. 04AP-485 and 04AP-486, 2005-Ohio-522. Discretionary appeal accepted; cause held 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; and briefing schedule stayed.

**2005-0548. Crigger v. Crigger.**

Franklin App. No. 04AP-288, 2005-Ohio-519. Discretionary appeal accepted; cause held for the decision in 2004-1492 and 2004-1647, *Estate of Harrold v. Collier*, Wayne App. No. 03CA0064, 2004-Ohio-4331; and briefing schedule stayed.

**2005-0570. State v. Kapsouris.**

Mahoning App. No. 02 CA 230, 2004-Ohio-5119. Discretionary appeal accepted; cause held 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; and briefing schedule stayed.

O'Donnell and Lanzinger, JJ., dissent.

**2005-0576. State v. Wilson.**

Washington App. No. 04CA18, 2005-Ohio-830. Discretionary appeal accepted on Proposition of Law I; cause held 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; and briefing schedule stayed.

**2005-0583. State v. Sharp.**

Cuyahoga App. No. 84346, 2005-Ohio-390. Discretionary appeal accepted on Proposition of Law Nos. I and II; cause held 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; and briefing schedule stayed.

**2005-0587. State v. Dinapoli.**

Lake App. No. 2003-L-169, 2005-Ohio-824. Discretionary appeal accepted on Proposition of Law No. I; cause held 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; and briefing schedule stayed.

**2005-0621. State v. Burley.**

Delaware App. No. 2004-CAA-04031, 2004-Ohio-6204. Discretionary appeal accepted; cause held 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; and briefing schedule stayed.

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

**2005-0702. Doe v. Archdiocese of Cincinnati.**

Shelby App. No. 17-04-10, 2005-Ohio-960. Discretionary appeal accepted and cause consolidated with 2005-0734, *Doe v. Archdiocese of Cincinnati*, Shelby App. No. 17-04-10, 2005-Ohio-960.

**2005-0755. In re Schaefer.**

Geauga App. No. 2004-G-2594, 2005-Ohio-1258. Discretionary appeal accepted. On motion for appointment of counsel. Motion granted.

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

**APPEALS NOT ACCEPTED FOR REVIEW**

**2004-2018. State v. Brinkley.**

Lucas App. No. L-04-1066, 2004-Ohio-5666.

Pfeifer, J., dissents.

Lanzinger, J., not participating.

**2005-0376. State v. Browning.**

Muskingum App. No. CT2004-0036, 2004-Ohio-6992.

**2005-0379. He v. Zeng.**

Licking App. No. 2004CA00066, 2004-Ohio-6708.

**2005-0385. State v. Kight.**

Athens App. No. 04CA2, 2005-Ohio-164.

**2005-0401. State v. Morton.**

Montgomery App. No. 20358, 2005-Ohio-308.

**2005-0403. Scheidler v. Ohio Bur. of Workers' Comp.**

Franklin App. No. 04AP-584, 2005-Ohio-105.

O'Connor, J., dissents.

**2005-0404. State v. Hanna.**

Knox App. Nos. 01CA19, 02CA41 and 03CA38, 2002-Ohio-2512 and 2003-Ohio-6402.

**2005-0406. Schumann v. Schumann.**

Cuyahoga App. Nos. 83404 and 83631, 2005-Ohio-91.

**2005-0409. Walker v. Barnett Mgt., Inc.**

Cuyahoga App. Nos. 84188 and 84210, 2004-Ohio-6632.

**2005-0411. State v. Porter.**

Seneca App. Nos. 13-04-46, 13-04-47 and 13-04-48.

**2005-0414. State ex rel. Campbell v. Fucito.**

Hamilton App. No. C-040003.

**2005-0418. VanWinkle v. Indiana Ins. Co.**

Butler App. No. CA2004-05-113, 2005-Ohio-143.

Pfeifer, J., dissents.

**2005-0420. In re LoDico.**

Stark App. No. 2003-CA-00446, 2005-Ohio-172.

Lundberg Stratton, J., dissents.

**2005-0423. State v. Coffey.**

Warren App. No. CA2004-06-080, 2005-Ohio-147.

**2005-0425. Eye Med. & Surgical Assn., Inc. v. Advantage Health Partners.**

Cuyahoga App. No. 84585, 2005-Ohio-31.

Pfeifer, J., dissents.

**2005-0426. Coulibaly v. Burd.**

Hamilton App. No. C-040164. Discretionary appeal not accepted. Motion to strike notice of appeal and memorandum in support of jurisdiction denied as moot.

**2005-0430. McConaughhead v. Horaitis.**

Stark App. Nos. 2004CA00062 and 2004CA00141, 2005-Ohio-215.

Lundberg Stratton, J., dissents and would accept the discretionary appeal on Proposition of Law Nos. I and II.

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

**2005-0433. Bloomfield v. A-Best Prod. Co.**

Cuyahoga App. No. 85748.

**2005-0434. State v. Richardson.**

Hamilton App. No. C-030453, 2005-Ohio-530.

**2005-0436. State v. Dunlap.**

Franklin App. No. 04AP-943.

**2005-0438. State v. Soto.**

Richland App. No. 05CA3.

**2005-0441. State v. Leet.**

Montgomery App. No. 20357, 2005-Ohio-306.

**2005-0443. Mikhail v. Mikhail.**

Lucas App. No. L-03-1195, 2005-Ohio-322.

**2005-0446. Temple v. Temple.**

Cuyahoga App. Nos. 83758 and 83797, 2005-Ohio-92.

O'Donnell, J., not participating.

**2005-0453. Zimon v. Zimon.**

Medina App. No. 04CA0034-M, 2005-Ohio-271.

Lanzinger, J., dissents.

**2005-0454. Scaravilli v. Spittler.**

Cuyahoga App. No. 85761.

**2005-0456. In re Kupchik.**

Cuyahoga App. No. 84493, 2005-Ohio-23. Discretionary appeal not accepted. On motion to request a master commissioner to investigate fraud and exclusion of evidence. Motion denied.

**2005-0460. Nottke v. Bd. of Park Commrs.**

Erie App. No. E-04-028, 2005-Ohio-323.

O'Donnell, J., not participating.

**2005-0462. Wilkes v. J & J Ent., Inc.**

Cuyahoga App. Nos. 84481 and 84502, 2005-Ohio-106.

O'Connor, J., dissents.

**2005-0463. Frazier v. Bee.**

Richland App. No. 2004CA0037, 2005-Ohio-332.

**2005-0468. State v. Tucker.**

Cuyahoga App. No. 84595, 2005-Ohio-109.

**2005-0472. State v. Panza.**

Cuyahoga App. No. 84177, 2005-Ohio-94.

**2005-0473. Austin v. Webb-Lewis.**

Franklin App. No. 04AP-1135.

**2005-0475. Anthem Life Ins. Co. v. Penny.**

Cuyahoga App. No. 85632.

**2005-0476. In re Ahmed.**

Belmont App. No. 03 BE 58.

**2005-0477. ABN AMRO Mtge. Group, Inc. v. Jackson.**

Montgomery App. No. 20459, 159 Ohio App.3d 551, 2005-Ohio-297.

**2005-0478. Spencer v. Spencer.**

Summit App. No. 22290.

Lundberg Stratton, J., dissents.

**2005-0479. State v. Adams.**

Trumbull App. No. 2003-T-0064, 2005-Ohio-348.

**2005-0480. Rickels v. Goyings.**

Paulding App. No. 11-05-02.

**2005-0481. Sagonowski v. Andersons, Inc.**

Lucas App. No. L-03-1168, 2005-Ohio-326. Discretionary appeal not accepted. Motion to strike memorandum in response denied as moot.

**2005-0483. Wildi v. Wildi.**

Franklin App. No. 04AP-576, 159 Ohio App.3d 568, 2005-Ohio-257.

**2005-0484. State v. Gordon.**

Cuyahoga App. No. 82180, 155 Ohio App.3d 357, 2003-Ohio-6160 and 2005-Ohio-409.

**2005-0485. Kohlbrand v. Ranieri.**

Hamilton App. No. C-030792, 159 Ohio App.3d 140, 2005-Ohio-295.

Lundberg Stratton, J., dissents and would accept the discretionary appeal on Proposition of Law No. II.

**2005-0486. Lehman v. Cracker Barrel Old Country.**

Richland App. No. 2004-CA-0048, 2005-Ohio-370.

Resnick, J., dissents.

**2005-0487. In re M.O.**

Summit App. No. 22177, 2005-Ohio-264.

**2005-0488. Duckworth v. Burger King Corp.**

Franklin App. No. 04AP-697, 159 Ohio App.3d 540, 2005-Ohio-294.

Pfeifer, J., dissents.

**2005-0490. Alam v. Chemstress Consultant Co.**

Summit App. No. 22175, 2005-Ohio-272.

**2005-0491. State v. Coleman.**

Sandusky App. No. S-02-041, 2005-Ohio-318.

**2005-0492. State v. Wright.**

Defiance App. No. 4-04-18.

**2005-0493. Byrd v. Smith.**

Clermont App. No. CA2004-08-067.

Moyer, C.J., dissents and would accept the discretionary appeal on Proposition of Law Nos. I, II and III.

Pfeifer, J., dissents.

**2005-0495. State v. Adkins.**

Lucas App. No. L-05-1043. Discretionary appeal not accepted. Motion for stay of notice of appeal denied as moot.

**2005-0497. State v. Schultz.**

Lake App. No. 2003-L-156, 2005-Ohio-345.

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

**2005-0506. Harris v. Univ. Hosp. of Cleveland.**

Cuyahoga App. No. 85532.

**2005-0509. State v. Norfolk.**

Franklin App. No. 04AP-614, 2005-Ohio-336.

**2005-0511. In re Estate of Eyajan.**

Ashtabula App. No. 2002-A-0041, 2005-Ohio-351.

**2005-0512. Wilson v. Smith.**

Summit App. No. 22193, 2005-Ohio-337.

Pfeifer, J., dissents.

**2005-0514. State v. Goff.**

Summit App. No. 21320, 2005-Ohio-339.

O'Connor, J., dissents.

**2005-0517. State v. Hall.**

Cuyahoga App. No. 85319. Discretionary appeal not accepted. Motion to supplement the record and motion to strike denied as moot.

**2005-0521. B.B. v. Ohio Dept. of Job & Family Serv.**

Summit App. No. 22218, 2005-Ohio-340.



Moyer, C.J., dissents.

**2005-0522. State v. Brown.**

Fayette App. No. CA2003-07-008.

Moyer, C.J., dissents 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.

**2005-0523. State v. Hamilton.**

Summit App. No. 22456.

**2005-0527. Galloway v. Clermont Cty. Dept. of Human Serv.**

Clermont App. No. CA2004-10-085.

**2005-0528. State v. Christie.**

Defiance App. No. 4-04-31.

**2005-0529. State v. Steele.**

Hamilton App. No. C-040528.

**2005-0530. State v. Murphy.**

Marion App. No. 9-04-36, 2005-Ohio-423.

**2005-0531. State v. Hood.**

Butler App. No. CA2004-02-030.

**2005-0532. State v. Lyons.**

Cuyahoga App. No. 84377, 2005-Ohio-392.

O'Donnell and Lanzinger, JJ., dissent and would accept the discretionary appeal and hold the cause 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.

**2005-0533. Reyna v. Escobar.**

Seneca App. No. 13-04-39, 2005-Ohio-424.

**2005-0534. Marsillo v. Stow City Council.**

Summit App. No. 22229, 2005-Ohio-473.

**2005-0536. State v. Horton.**

Franklin App. No. 03AP-665, 2005-Ohio-458.

**2005-0537. Marotta Building Co. v. Lesinski.**

Geauga App. No. 2004-G-2562, 2005-Ohio-558.

Lundberg Stratton, J., dissents and would accept the discretionary appeal on Proposition of Law Nos. I and II.

**2005-0538. White v. Bragg.**

Richland App. No. 04-CA-50, 2005-Ohio-488.

**2005-0539. State v. Walters.**

Warren App. No. CA2004-04-043, 2005-Ohio-418.

O'Donnell, J., dissents.

**2005-0541. Siemientkowski v. Moreland Homes, Inc.**

Cuyahoga App. No. 84758, 2005-Ohio-515.

**2005-0543. Midas Internatl. Corp. v. Fischer.**

Cuyahoga App. No. 84558, 2005-Ohio-507.

**2005-0545. Reasoner v. Columbus.**

Franklin App. No. 04AP-800, 2005-Ohio-468.

**2005-0547. State v. Bolden.**

Hamilton App. No. C-040229.

**2005-0549. State v. Steiner.**

Summit App. No. 22501.

**2005-0551. State v. Butler.**

Franklin App. No. 03AP-800, 2005-Ohio-579.

Lanzinger, J., dissents.

**2005-0553. Ohlemacher v. Ohlemacher.**

Lorain App. No. 04CA008488, 2005-Ohio-474.

Resnick, J., dissents.

**2005-0555. State v. Spinks.**

Cuyahoga App. No. 85818.

**2005-0565. McGowan v. Crossroads Land Co.**

Summit App. No. 22222, 2005-Ohio-598.

**2005-0566. State v. Hilton.**

Summit App. No. 21624, 2004-Ohio-1418.

**2005-0574. State v. Thorpe.**

Franklin App. No. 04AP-245.

**2005-0575. Johnson v. Cleveland Coca Cola Bottling Co., Inc.**

Cuyahoga App. No. 84489, 2005-Ohio-396. Discretionary appeal not accepted.  
Motion to strike memorandum in response denied as moot.

O'Connor, J., dissents.

**2005-0577. Farmers Ins. of Columbus, Inc. v. Martin.**

Clermont App. No. CA2004-03-022, 2005-Ohio-556.

**2005-0582. Black v. Bd. of Mecca Twp. Trustees.**

Trumbull App. No. 2004-T-0031, 2005-Ohio-561.

Moyer, C.J., dissents.

**2005-0595. State v. Brown.**

Montgomery App. No. 20540, 2005-Ohio-656.

**2005-0624. State v. Elko.**

Cuyahoga App. No. 84602, 2005-Ohio-110.

**2005-0630. State v. Muntaser.**

Cuyahoga App. No. 81915, 2003-Ohio-5809.

**2005-0634. State v. Sherrills.**

Cuyahoga App. No. 85873.

**2005-0651. State v. Hinojosa.**

Butler App. No. CA2004-04-089, 2005-Ohio-946.

**2005-0664. State v. Peoples.**

Franklin App. No. 02AP-945, 2003-Ohio-4680.

**2005-0686. State v. Baker.**

Greene App. No. 2004 CA 29, 159 Ohio App.3d 462, 2005-Ohio-45.

**2005-0691. State v. Kirkland.**

Franklin App. No. 04AP-654, 2005-Ohio-1123.

**2005-0814. In re Ratliff.**

Franklin App. No. 04AP-803, 2005-Ohio-1301.

**2005-0830. State v. Banks.**

Franklin App. No. 03AP-1286, 2004-Ohio-6522 and 2005-Ohio-1943.

**2005-0921. In re B.L.**

Franklin App. No. 04AP-1108, 2005-Ohio-1151.

**RECONSIDERATION OF PRIOR DECISIONS**

**2004-0105. State ex rel. Leslie v. Ohio Hous. Fin. Agency.**

Franklin App. No. 02AP-1147, 2003-Ohio-6560. Reported at 105 Ohio St.3d 261, 2005-Ohio-1508, 824 N.E.2d 990. On motion for reconsideration. Motion denied.

**2004-0524 and 2004-0525. Rosette v. Countrywide Home Loans, Inc.**

Cuyahoga App. No. 82938, 2004-Ohio-359, and Cuyahoga App. Nos. 82885 and 82999, 2004-Ohio-356. Reported at 105 Ohio St.3d 296, 2005-Ohio-1736, 825 N.E.2d 599. On motion for reconsideration. Motion denied.

Lundberg Stratton and Lanzinger, JJ., dissent.

**2004-1740. State ex rel. White v. Petro.**

In Mandamus and Procedendo. Reported at 105 Ohio St.3d 1494, 2005-Ohio-1666, 825 N.E.2d 619. On motion for reconsideration. Motion denied.

**2004-1820. State v. Hedrick.**

Summit App. No. 22336. Reported at 105 Ohio St.3d 1499, 2005-Ohio-1666, 825 N.E.2d 623. On motion for reconsideration. Motion denied.

**2005-0048. State v. Muff.**

Perry App. No. 03CA15, 2004-Ohio-6453. Reported at 105 Ohio St.3d 1499, 2005-Ohio-1666, 825 N.E.2d 623. On motion for reconsideration. Motion denied.

**2005-0112. Univ. Contracting Corp. v. Aug.**

Hamilton App. No. C-030719, 2004-Ohio-7133. Reported at 105 Ohio St.3d 1501, 2005-Ohio-1666, 825 N.E.2d 624. On motion for reconsideration. Motion denied. Moyer, C.J., and Pfeifer, J., dissent.

**2005-0113. Cadle Co. II, Inc. v. HRP Auto Centers, Inc.**

Cuyahoga App. No. 84296, 2004-Ohio-6292. Reported at 105 Ohio St.3d 1516, 2005-Ohio-1880, 826 N.E.2d 314. On motion for reconsideration. Motion denied.

**2005-0124. Shaffer v. OhioHealth Corp.**

Franklin App. No. 04AP-236, 2004-Ohio-6523. Reported at 105 Ohio St.3d 1517, 2005-Ohio-1880, 826 N.E.2d 315. On motion for reconsideration. Motion denied. Resnick and Pfeifer, JJ., dissent.

**2005-0191. State v. Rose.**

Hamilton App. No. C-040092, 2004-Ohio-7000. Reported at 105 Ohio St.3d 1518, 2005-Ohio-1880, 826 N.E.2d 315. On motion for reconsideration. Motion denied.

Lundberg Stratton and Lanzinger, JJ., dissent and would grant the motion, accept the appeal, and hold the cause for the decisions in 2004-1771, *State v. Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2005-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209.

**2005-0429. Humbert v. Borkowski.**

Fulton App. No. F-05-007, 2005-Ohio-918. Reported at 105 Ohio St.3d 1495, 2005-Ohio-1666, 825 N.E.2d 620. On motion for reconsideration. Motion denied.