

The Supreme Court of Ohio

CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

January 25, 2006

[Cite as *01/25/2006 Case Announcements*, 2006-Ohio-179.]

MERIT DECISIONS WITH OPINIONS

2003-0565. State v. Newton, 2006-Ohio-81.

Richland C.P. No. 02-CR-48H. Judgment affirmed.

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

2005-1168. Columbus Bar Assn. v. Ashton, 2006-Ohio-78.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 04-059. Robert Edwin Ashton, Attorney Registration No. 0032276, is suspended from the practice of law in Ohio for two years, stayed on conditions.

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

2005-1183. Disciplinary Counsel v. Runyan, 2006-Ohio-80.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 04-070. Jeffrey Lynn Runyan, Attorney Registration No. 0004873, is publicly reprimanded.

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

2005-1192. Columbus Bar Assn. v. Ginther, 2006-Ohio-79.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 04-060. Jeffrey D. Ginther, Attorney Registration No. 0022665, is indefinitely suspended from the practice of law in Ohio.

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

MERIT DECISIONS WITHOUT OPINIONS

2005-1717. State ex rel. Conley v. Canton Police Patrolmen's Assn.

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.

2005-2068. State ex rel. Scruggs v. Doan.

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

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

2005-2080. State ex rel. Flora v. Ambrose.

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

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

2005-2126. State ex rel. McGee v. Jorgensen-Martinez.

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

Resnick, Pfeifer, O'Connor and O'Donnell, JJ., concur.

Moyer, C.J., Lundberg Stratton and Lanzinger, JJ., dissent and would grant an alternative writ.

2005-2261. Mike v. Warden.

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

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

2005-2310. State v. Anderson.

Franklin App. No. 04AP-1171, 2005-Ohio-5243. On review of order certifying a conflict. The court determines that no conflict exists. This cause is therefore dismissed.

Resnick, Pfeifer, Lundberg Stratton, O'Donnell and Lanzinger, JJ., concur.

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

MOTION AND PROCEDURAL RULINGS

1998-1483. State v. Jones.

Ashtabula C.P. No. 97CR221. On application for reopening under S.Ct.Prac.R. XI(6). Application denied because (1) the appellant failed to comply with the 90-day filing deadline in S.Ct.Prac.R. XI(6)(A) and (2) second or successive applications for reopening are not permitted under the rule.

2004-0485. State v. Ketterer.

Butler C.P. No. CR-2003-03-0309. On motion for leave to file supplemental brief. Motion denied.

2005-0813. State ex rel. Repository v. Nova Behavioral Health, Inc.

In Mandamus. Sua sponte, the court orders that oral argument be heard.

2005-0929. Fairchilds v. Miami Valley Hosp.

Montgomery App. Nos. 20493 and 20542, 160 Ohio App.3d 363, 2005-Ohio-1712. On motion to strike assignment of error in appellee's merit brief. Motion denied.

Lundberg Stratton, J., dissents and would take the motion under advisement pending oral argument.

2005-1215. In re T.K.

Cuyahoga App. No. 84934, 2005-Ohio-2321. On motion for stay of court of appeals' judgment and motion for issuance of an order compelling the return of Theodore Kennan to the custody of the Ohio Department of Youth Services. Motions granted.

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

2005-1248. State ex rel. Blackwell v. Crawford.

In Prohibition. On motion for sanctions. Motion denied.

2005-2105. In re A.S.

Summit App. No. 22573, 2005-Ohio-5309. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause held for the decision in 2005-1966, *In re A.B.*, Summit App. No. 22659, 2005-Ohio-4936, and briefing schedule stayed.

Resnick, J., dissents.

2005-2192. State v. Craft.

Vinton App. No. 04CA589, 2005-Ohio-3944. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2005-2203. State v. Rockwell.

Stark App. No. 2004CA00193, 2005-Ohio-5213. On motion for leave to file delayed appeal. Motion denied.

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

2005-2204. State v. Arrington.

Montgomery App. No. 20436, 2005-Ohio-433. On motion for leave to file delayed appeal. Motion denied.

2005-2205. State v. Shaw.

Jefferson App. No. 03 JE 14, 2004-Ohio-5121. On motion for leave to file delayed appeal. Motion denied.

2005-2211. State v. Pelfrey.

Montgomery App. No. 19955, 2004-Ohio-3401 and 2005-Ohio-5006. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated in the court of appeals' Decision and Entry filed November 9, 2005:

"Whether the trial court is required as a matter of law to include in the jury verdict form either the degree of the offense of which the defendant is convicted or to state that the aggravating element has been found by the jury when the verdict incorporates the language of the indictment, the evidence overwhelmingly shows the presence of the aggravating element, the jury verdict form incorporates the indictment, and the defendant never raised the inadequacy of the jury verdict form at trial."

Pfeifer, J., dissents.

Sua sponte, cause consolidated with 2005-2075, *State v. Pelfrey*, Montgomery App. No. 19955, 2004-Ohio-3401 and 2005-Ohio-5006.

The conflict cases are *State v. Wireman*, Pike App. No. 01CA662, 2002-Ohio-1526, *State v. Sullivan*, Cuyahoga App. No. 82816, 2003-Ohio-5930, and *Cockrell v. Russell* (Nov. 18, 1996), Warren App. No. CA96-07-071.

2005-2215. State v. Garza.

Wood App. No. WD-04-090, 2005-Ohio-5255. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, 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.

2005-2235. State v. Townsend.

Allen App. No. 1-05-43. On motion for leave to file delayed appeal. Motion denied.

Moyer, C.J., and Pfeifer, J., dissent.

2005-2264. State v. Diar.

Lorain C.P. No. 04CR065248. On motion for admission pro hac vice of Michael C. Alberty by Carl J. Rose. Motion granted.

2005-2324. State v. Evans.

Cuyahoga App. No. 86387. On motion for leave to file delayed appeal. Motion denied.

Lundberg Stratton, J., dissents.

2005-2336. State v. Buehler.

Cuyahoga App. No. 85796, 2005-Ohio-5717. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated in the court of appeals' Journal Entry filed November 29, 2005:

“Must a trial court read R.C. 2953.74 sequentially so that an eligible inmate seeking a DNA test must first meet the outcome determinative criteria set forth in R.C. 2953.74(B)(1) or (B)(2) before a court considers R.C. 2953.74(C) and requires a prosecutor report as provided in R.C. 2953.75?”

O'Donnell, J., dissents.

The conflict case is *State v. Wilkins*, Summit App. No. 22493, 2005-Ohio-5193.

2005-2352. State v. Damen.

Hamilton App. No. C-030814, 2004-Ohio-4363. On motion for leave to file delayed appeal. Motion denied.

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

2005-2357. State v. Reaster.

Lucas App. No. L-03-1006, 2005-Ohio-4022. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

APPEALS ACCEPTED FOR REVIEW

2005-1236. State v. Lee.

Hamilton App. No. C-040540, 162 Ohio App.3d 648, 2005-Ohio-3395. 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.

2005-1593. LeRoy v. Allen Yurasek & Merklin.

Union App. No. 14-04-49, 2005-Ohio-4452. Discretionary appeal and cross-appeal accepted.

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

2005-1674. State v. Marlin.

Cuyahoga App. No. 84399, 2005-Ohio-3691. Discretionary appeal accepted and cross-appeal accepted on Proposition of Law No. 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.

2005-1692. State v. Evans.

Cuyahoga App. No. 85396, 2005-Ohio-3847. Discretionary appeal accepted; discretionary cross-appeal not accepted; cause held for the decision in 2004-1877, *State v. Saxon*, Cuyahoga App. No. 83889, 2004-Ohio-5017; and briefing schedule stayed.

Resnick, J., dissents.

2005-1752. State v. Deters.

Hamilton App. No. C-010645, 163 Ohio App.3d 157, 2005-Ohio-4049. Discretionary appeal accepted on Proposition of Law No. II.

Resnick and Pfeifer, JJ., dissent.

2005-1753. State v. Thompson.

Fairfield App. No. 04CA25, 2005-Ohio-4111. 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.

2005-1766. State v. Roberts.

Hamilton App. Nos. C-040575 and C-050005, 2005-Ohio-4848. 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.

2005-1788. State v. Azbell.

Richland App. No. 2005CA0004, 2005-Ohio-4405.
Resnick, Pfeifer and O'Donnell, JJ., dissent.

2005-1802. Morrow Cty. Airport Auth. v. Whetstone Flyers, Ltd.

Morrow App. No. 04 CA 6, 162 Ohio App.3d 624, 2005-Ohio-4314.
Discretionary appeal accepted on Proposition of Law Nos. I and II.
Moyer, C.J., O'Donnell and Lanzinger, JJ., would also accept on all other Propositions of Law.
Resnick, Pfeifer and Lundberg Stratton, JJ., dissent.

2005-1819. State v. Jefferson.

Montgomery App. No. 20698, 2005-Ohio-4201. Discretionary appeal accepted on Proposition of Law No. III; 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.

2005-1843. State v. Lowe.

Stark App. No. 2004CA00292, 2005-Ohio-4274.
Resnick, O'Donnell and Lanzinger, JJ., dissent.

2005-1844. State v. Houston.

Franklin App. No. 04AP-875, 2005-Ohio-4249. Discretionary appeal accepted on Proposition of Law No. IV; 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.

2005-1874. State v. Brown.

Lucas App. No. L-04-1148, 2005-Ohio-4348. 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.
Resnick and O'Connor, JJ., dissent.

2005-1890. State v. Malcolm.

Cuyahoga App. No. 85351, 2005-Ohio-4133. 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.

2005-1913. State v. Stonestreet.

Hamilton App. No. C-040264, 2005-Ohio-4416. Discretionary appeal accepted on Proposition of Law No. III; 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.

2005-1918. State v. Orwick.

Hancock App. No. 5-04-42, 2005-Ohio-4444. 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.
Resnick, J., dissents.

On motion for admission pro hac vice of Brian L. Daly by Lawrence J. Daly. Motion granted.

2005-1927. State v. Blackburn.

Fairfield App. No. 05 CA 3, 2005-Ohio-4710. Discretionary appeal accepted; cause held for the decision in 2005-2336, *State v. Buehler*, Cuyahoga App. No. 85796, 2005-Ohio-5717; and briefing schedule stayed.
Resnick and O'Donnell, JJ., dissent.

2005-1931. State v. Jones.

Summit App. No. 22483, 2005-Ohio-4664. 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.

2005-1937. State v. Worthington.

Richland App. No. 2004-CA-0083, 2005-Ohio-4719. Discretionary appeal accepted on Proposition of Law No. IV; 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.

Moyer, C.J., would accept and hold the cause on Proposition of Law No. I.
Resnick, J., dissents.

2005-1950. State v. Baker.

Franklin App. No. 05AP-177, 2005-Ohio-4680. 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.

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

2005-1951. State v. Macon.

Franklin App. No. 05AP-155, 2005-Ohio-4929. 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 and Lanzinger, JJ., dissent.

2005-1975. State v. Mullens.

Summit App. Nos. 22482 and 22504. 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.

2005-1994. In re James.

Hamilton App. No. C-040533, 163 Ohio App.3d 442, 2005-Ohio-4847.

Resnick and Pfeifer, JJ., dissent.

2005-2004. State v. Anderson.

Lake App. No. 2004-L-157, 2005-Ohio-4896. 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 and Lanzinger, JJ., dissent.

2005-2023. State v. Taylor.

Franklin App. Nos. 05AP-98 and 05AP-99, 2005-Ohio-5168. 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.

2005-2075. State v. Pelfrey.

Montgomery App. No. 19955, 2004-Ohio-3401 and 2005-Ohio-5006. Discretionary appeal accepted and cause consolidated with 2005-2211, *State v. Pelfrey*, Montgomery App. No. 19955, 2004-Ohio-3401 and 2005-Ohio-5006.

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

2005-2083. State v. Sheaffer.

Summit App. No. 22451, 2005-Ohio-5112. 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.

APPEALS NOT ACCEPTED FOR REVIEW

2005-1259. State v. Benson.

Marion App. No. 9-04-45, 2005-Ohio-2245.

2005-1544. State v. Rippey.

Franklin App. No. 04AP-960, 2005-Ohio-2639.

2005-1751. State v. Johnson.

Cuyahoga App. No. 85416, 2005-Ohio-3724.

2005-1757. State v. Martin.

Scioto App. No. 04CA2946, 2005-Ohio-4059.

2005-1759. Wooten v. Kreischer.

Perry App. No. 04-CA-13, 162 Ohio App.3d 534, 2005-Ohio-4078.

2005-1761. Summit Cty. Fiscal Officer v. Elizabeth Williams Group Home, Inc.

Summit App. No. 22126.

2005-1784. Cleveland v. Pavarini.

Cuyahoga App. No. 85185, 2005-Ohio-3552.

O'Donnell, J., dissents.

2005-1791. Brown v. Campbell.

Cuyahoga App. Nos. 85698 and 85702, 2005-Ohio-3855.

2005-1799. Kessinger v. SR83 Hotel Partners, LLC.

Ashland App. No. 04 CA 83, 2005-Ohio-4110.

2005-1800. Woods v. Caterpillar, Inc.

Lucas App. No. L-04-1176, 2005-Ohio-4170.

Pfeifer, J., dissents.

2005-1806. State v. Weese.

Wayne App. No. 04CA0086, 2005-Ohio-4093.

2005-1807. Akron v. Callaway.

Summit App. No. 22018, 162 Ohio App.3d 781, 2005-Ohio-4095.

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

2005-1809. State v. Dillon.

Franklin App. No. 04AP-1211, 2005-Ohio-4124.

2005-1810. Williams v. Gannett Satellite Information Network, Inc.

Hamilton App. No. C-040635, 162 Ohio App.3d 596, 2005-Ohio-4141.

Lundberg Stratton, J., dissents.

2005-1815. State v. Wright.

Wood App. No. WD-04-070, 2005-Ohio-4171.

O'Donnell, J., dissents.

2005-1817. State v. Greene.

Mahoning App. No. 02 CA 122, 2005-Ohio-4240.

2005-1820. State v. Helton.

Logan App. No. 8-05-06, 2005-Ohio-4184.

2005-1821. In re Jim's Sales, Inc.

Lorain App. No. 04CA008601, 2005-Ohio-4086.

2005-1827. Wilmer v. Interlake, Inc.

Lucas App. No. L-04-1319, 2005-Ohio-3995. Discretionary appeal not accepted.

Motion to dismiss denied as moot.

2005-1831. State v. Martin.

Pickaway App. No. 04CA29, 2005-Ohio-4477.

2005-1832. State v. Madden.

Franklin App. No. 04AP-1228, 2005-Ohio-4281.

2005-1837. Metter v. Konrad.

Cuyahoga App. No. 85271, 2005-Ohio-4290.

2005-1841. Busacca v. Maguire & Schneider, LLP.

Trumbull App. No. 2004-T-0032, 162 Ohio App.3d 689, 2005-Ohio-4215.

2005-1842. State v. Duque.

Seneca App. No. 13-05-01, 2005-Ohio-4187.

2005-1847. W. Reserve Mut. Cas. Co. v. Williams.

Franklin App. No. 05AP-120, 2005-Ohio-4250.

Pfeifer, J., dissents.

2005-1851. State v. Cook.

Cuyahoga App. No. 85186, 2005-Ohio-4010.

2005-1855. Sheesley v. Walsh.

Cuyahoga App. No. 85714, 2005-Ohio-4305.

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

2005-1858. Eberhart v. Paintiff.

Medina App. No. 05CA0002-M, 2005-Ohio-4255.

2005-1860. State v. Thomas.

Summit App. No. 22340, 2005-Ohio-4265.

2005-1863. In re Estate of Baylor.

Brown App. No. CA2004-07-014.

2005-1866. State v. Anderson.

Hamilton App. No. C-040541, 2005-Ohio-4301.

O'Donnell, J., dissents.

2005-1867. State v. Trikilis.

Medina App. Nos. 04CA0096-M and 04CA0097-M, 2005-Ohio-4266.

2005-1868. State v. Smith.

Scioto App. No. 05CA3021.

2005-1871. State v. Dabney.

Hamilton App. No. C-040826.

2005-1872. Yates v. Eberlin.

Belmont App. No. 05 BE 1, 2005-Ohio-4763.

O'Connor, J., not participating.

2005-1881. State v. Steimle.

Cuyahoga App. No. 85162, 2005-Ohio-4412.

2005-1882. State v. DeSellems.

Lake App. No. 2004-L-057, 2005-Ohio-4334.

2005-1885. State v. Courtney.

Cuyahoga App. No. 85331, 2005-Ohio-4297.

2005-1886. Lawrie v. CBS Personnel Serv., LLC.

Butler App. No. CA2004-09-214, 2005-Ohio-4338.

2005-1888. State v. Spears.

Lorain App. No. 05CA008778.

2005-1894. State v. Todd.

Cuyahoga App. No. 85401, 2005-Ohio-4136.

Moyer, C.J., would accept the discretionary appeal on Proposition of Law No. II.

Lanzinger, J., would accept the discretionary appeal.

2005-1895. State v. Johnson-Millender.

Stark App. No. 2004 CA 00288, 2005-Ohio-4407.

2005-1897. State v. Campbell.

Medina App. No. 05CA0032-M, 2005-Ohio-4361.

2005-1898. Cardinal Joint Fire Dist. v. State Emp. Relations Bd.
Franklin App. No. 05AP-264, 2005-Ohio-4355.

2005-1899. State v. Bohannon.
Hamilton App. No. C-050589.

2005-1901. Wilkerson v. Howell Contr., Inc.
Hamilton App. No. C-040634, 163 Ohio App.3d 38, 2005-Ohio-4418.

2005-1905. Richards v. Kerlakian.
Hamilton App. No. C-040825, 162 Ohio App.3d 823, 2005-Ohio-4414.

O'Connor, J., would accept the discretionary appeal on Proposition of Law No. I.

2005-1907. McCartney v. Universal Elec. Power Corp.
Summit App. No. 22417, 2005-Ohio-4366. Discretionary appeal and cross-appeal not accepted.

2005-1908. State v. Speed.
Cuyahoga App. No. 85095, 2005-Ohio-1979 and 2005-Ohio-4423.

2005-1909. State v. Stagger.
Cuyahoga App. No. 85617, 2005-Ohio-4586.

2005-1914. State v. Ratkosky.
Medina App. No. 05CA0012-M, 2005-Ohio-4368.
Pfeifer, J., dissents.

2005-1916. Garver v. Aquatic Amusement Assoc., Ltd.
Cuyahoga App. No. 85438, 2005-Ohio-4304.

2005-1917. Wells Fargo Financial Leasing, Inc. v. Trio Transp., Inc.
Jefferson App. No. 04 JE 33, 2005-Ohio-4687.

O'Donnell, J., would accept the discretionary appeal on Proposition of Law No. II.

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

2005-1919. State v. Unsworth.
Lucas App. Nos. L-03-1189 and L-04-1165.

2005-1920. Hall v. Nationwide Mut. Fire Ins. Co.

Franklin App. No. 05AP-305, 2005-Ohio-4572.

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

2005-1922. State v. Ducic.

Cuyahoga App. No. 84900, 162 Ohio App.3d 721, 2005-Ohio-4291.

2005-1924. Jordan v. Simon Property Group, L.P.

Lake App. No. 2004-L-060, 2005-Ohio-4480.

2005-1928. State v. Rembert.

Richland App. No. 04 CA 66, 2005-Ohio-4718.

2005-1929. Becker v. Hurley.

Ross App. No. 04CA2810, 2005-Ohio-4950.

2005-1940. Boyd v. Hariani.

Summit App. No. 22500, 2005-Ohio-4536.

2005-1942. Pusey v. Bator.

Mahoning App. No. 03 MA 239, 2005-Ohio-4691.

Resnick, J., dissents.

2005-1944. Berlin v. Cleveland Clinic Found.

Cuyahoga App. No. 85123, 2005-Ohio-4160.

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

2005-1963. State v. Hilyard.

Vinton App. No. 05CA598, 2005-Ohio-4957.

2005-1968. Pruitt v. Pruitt.

Cuyahoga App. No. 86779.

2005-1969. State v. Ragland.

Franklin App. No. 04AP-829, 2005-Ohio-4639.

2005-1971. Pruitt v. Pruitt.

Cuyahoga App. Nos. 84335 and 85531, 2005-Ohio-4424.

2005-1979. Below v. Dollar General Corp.

Marion App. No. 9-05-08, 2005-Ohio-4752.

2005-1986. State v. Dunn.

Washington App. No. 03CA47, 2004-Ohio-2883.

O'Donnell and Lanzinger, JJ., dissent and would accept the discretionary appeal on Proposition of Law No. 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.

2005-1989. Pope v. Willey.

Clermont App. No. CA2004-10-077, 2005-Ohio-4744.

2005-1998. State v. Everitt.

Warren App. No. CA2004-07-086.

2005-2007. State v. Riggs.

Franklin App. Nos. 04AP-1279 and 04AP-1280, 2005-Ohio-5244.

2005-2025. State v. Hamilton.

Lake App. No. 2004-L-042, 2005-Ohio-4907.

2005-2028. State v. Tanner.

Muskingum App. No. CT2005-0022, 2005-Ohio-5377.

2005-2039. State v. Spurlock.

Cuyahoga App. No. 81830, 2005-Ohio-5150.

2005-2046. State v. Shimkowiak.

Hamilton App. No. C-050176.

2005-2065. State v. Caldwell.

Cuyahoga App. No. 80556, 2002-Ohio-4911 and 2005-Ohio-5134.

2005-2079. State v. Heard.

Summit App. No. 22568, 2005-Ohio-4943.

2005-2095. State v. Maushardt.

Holmes App. No. 04CA005.

2005-2097. State v. Pimental.

Cuyahoga App. No. 84034, 2005-Ohio-384.

2005-2099. State v. Carmon.

Cuyahoga App. No. 75377, 2005-Ohio-5463.

2005-2104. State v. Ferrell.

Cuyahoga App. No. 83312, 2004-Ohio-5962.

2005-2113. State v. Collins.

Summit App. No. 22333, 2005-Ohio-2812.

2005-2189. State v. Turner.

Richland App. Nos. 04-CA-1 and 04-CA-27, 2005-Ohio-2986.

2005-2212. State v. Collier.

Cuyahoga App. No. 51993, 2005-Ohio-5797.

2005-2236. State v. Short.

Cuyahoga App. No. 73618.

2005-2247. State v. Platt.

Summit App. No. 18835.

O'Connor, J., not participating.

2005-2279. In re T.W.

Cuyahoga App. No. 85845, 2005-Ohio-5446. Discretionary appeal not accepted. Motion for appointment of Jonathan N. Garver as counsel denied as moot.

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

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

RECONSIDERATION OF PRIOR DECISIONS

2002-1604. State v. Jackson.

Allen C.P. CR2002-0011. Reported at 107 Ohio St.3d 53, 2005-Ohio-5981, 836 N.E.2d 1173. On motion for reconsideration. Motion denied.

2002-2130. State v. McKnight.

Vinton C.P. No. 01-CR-7230. Reported at 107 Ohio St.3d 101, 2005-Ohio-6046, 837 N.E.2d 315. On motion for reconsideration. Motion denied.

Moyer, C.J., and Pfeifer, J., dissent.

2005-0180. Spivey v. Keller.

Hardin App. No. 6-04-09, 2004-Ohio-6667. Reported at 107 Ohio St.3d 100, 2005-Ohio-5973, 836 N.E.2d 1220. On motion for reconsideration. Motion denied.

2005-0799. Disciplinary Counsel v. Greco.

Board of Commissioners on Grievances and Discipline, No. 04-029. Reported at 107 Ohio St.3d 155, 2005-Ohio-6045, 837 N.E.2d 369. On motion for reconsideration. Motion denied.

Pfeifer and O'Donnell, JJ., dissent.

2005-1239. Am. Chem. Soc. v. Leadscope, Inc.

Franklin App. No. 04AP-305, 2005-Ohio-2557. Reported at 107 Ohio St.3d 1412, 2005-Ohio-5961, 836 N.E.2d 1231. On motion for reconsideration. Motion denied for want of four votes.

Moyer, C.J., Pfeifer and Lundberg Stratton, JJ., would grant the motion.

Resnick, Grady and Lanzinger, JJ., would deny the motion.

O'Donnell, J., not participating.

Thomas J. Grady, J., of the Second Appellate District, sitting for O'Connor, J.

2005-1375. Signer v. Signer.

Cuyahoga App. No. 86512. Reported at 107 Ohio St.3d 1409, 2005-Ohio-5859, 836 N.E.2d 1229. On motion for reconsideration. Motion denied. Motion for stay denied as moot.

2005-1432. In re Guardianship of Schneider.

Medina App. No. 05CA0050-M. Reported at 107 Ohio St.3d 1423, 2005-Ohio-6124, 837 N.E.2d 1208. On motion for relief pursuant to S.Ct.Prac.R. XIV(4) and motion for reconsideration. Motions denied.

2005-1444. McDaniel v. Rollins.

Allen App. No. 1-04-82, 2005-Ohio-3079. Reported at 107 Ohio St.3d 1423, 2005-Ohio-6124, 837 N.E.2d 1208. On motion for reconsideration. Motion denied.

Pfeifer, J., dissents.

2005-1501. Huntsman v. Perry Local School Dist. Bd. of Edn.

Stark App. No. 2004CA00347, 2005-Ohio-3294. Reported at 107 Ohio St.3d 1424, 2005-Ohio-6124, 837 N.E.2d 1209. On motion for reconsideration. Motion denied.

2005-1511. Tucker v. Life Line Screening of Am., Inc.

Henry App. No. 7-04-05, 2005-Ohio-3236. Reported at 107 Ohio St.3d 1424, 2005-Ohio-6124, 837 N.E.2d 1209. On motion for reconsideration. Motion denied.

2005-1518. Mentor v. Battersby.

Lake App. Nos. 2003-L-186 and 2003-L-188, 2005-Ohio-3387. Reported at 107 Ohio St.3d 1424, 2005-Ohio-6124, 837 N.E.2d 1209. On motion for reconsideration. Motion denied.

O'Donnell, J., dissents.

2005-1787. State v. McMinnis.

Stark App. No. 2002CA00258, 2003-Ohio-1901. Reported at 107 Ohio St.3d 1405, 2005-Ohio-5859, 836 N.E.2d 1226. On motion for reconsideration. Motion denied.