

The Supreme Court of Ohio

CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

April 26, 2006

[Cite as *04/26/2006 Case Announcements*, 2006-Ohio-1967.]

MERIT DECISIONS WITH OPINIONS

2004-1726. State ex rel. Fisher v. Cleveland, 2006-Ohio-1827.

Cuyahoga App. No. 83945, 2004-Ohio-4345. Judgment affirmed.

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

2005-1530. Ohio State Bar Assn. v. McCray, 2006-Ohio-1828.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 04-051. Risa Culp McCray, Attorney Registration No. 0032119, is publicly reprimanded.

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

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

2005-2033. Lorain Cty. Bar Assn. v. Lang, 2006-Ohio-1830.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 04-076. William P. Lang, Attorney Registration No. 0008774, is suspended from the practice of law in Ohio for one year, with six months stayed on condition.

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

O'Donnell, J., not participating.

2005-2082. Smith v. Bradshaw, 2006-Ohio-1829.

Richland App. No. 05-CA-66, 2005-Ohio-5403. Judgment affirmed.

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

MERIT DECISIONS WITHOUT OPINIONS

2006-0235. Olynyk v. Andrish.

Cuyahoga App. No. 86009, 2005-Ohio-6632. On review of order certifying a conflict. The court determines that no conflict exists. This cause is therefore dismissed.

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

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

2006-0319. State ex rel. Schulz v. McCloskey.

In Quo Warranto. On motion to dismiss. Motion to dismiss granted. Cause dismissed.

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

Lanzinger, J., not participating.

2006-0323. State v. Stalnaker.

Lake App. No. 2004-L-100, 2005-Ohio-7042. On review of order certifying a conflict. The court determines that no conflict exists. This cause is therefore dismissed.

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

Resnick, J., dissents.

2006-0407. State ex rel. Verizon Wireless v. Villanueva.

In Prohibition. On respondent's motion to dismiss and motions for leave to intervene and to dismiss of Cindy Satterfield, Highland Speech Service, Inc., and Intermassage Communications. Motion for leave to intervene granted. Motions to dismiss granted. Cause dismissed.

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

Lundberg Stratton, J., would deny the motions to dismiss and grant an alternative writ.

Resnick and O'Donnell, JJ., not participating.

2006-0499. Klein v. Leis.

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

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

2006-0538. Simpson v. Jackson.

In Habeas Corpus. On petition for writ of habeas corpus of Donovan E. Simpson. Sua sponte, cause dismissed.

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

MOTION AND PROCEDURAL RULINGS

2005-1483. State ex rel. Navistar Internatl. Transp. Corp. v. Indus. Comm.

Franklin App. No. 04AP-638, 2005-Ohio-3284. On request for oral argument. Request denied.

2005-1789. State ex rel. John Q. Public v. Etna Twp. Bd. of Trustees.

In Mandamus. On relator's motion for leave to file a redacted affidavit and answer of respondents. Motion for leave granted. Alternative writ granted.

Lundberg Stratton, J., would also request briefing on whether John Q. Public is a person capable of suing or being sued.

O'Donnell, J., dissents.

2006-0298. State v. Crager.

Marion App. No. 9-04-54, 2005-Ohio-6868. 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 February 2, 2006:

"Are records of scientific tests, conducted by a government agency at the request of the State for the specific purpose of being used as evidence in the criminal prosecution of a specific individual, "testimonial" under *Crawford v. Washington* (2004), 541 U.S. 36, 124 S.Ct. 1354?"

The conflict case is *State v. Cook*, Wood App. No. WD-04-029, 2005-Ohio-1550.

Sua sponte, cause consolidated with 2006-0294, *State v. Crager*, Marion App. No. 9-04-54, 2005-Ohio-6868.

2006-0405. Geretz v. Ohio Dept. of Job & Family Servs.

Erie App. No. E-05-042, 2006-Ohio-321. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated at paragraph 5 of the court of appeals' Decision and Journal Entry filed January 27, 2006:

"Did the one-time special payment made by appellee General Motors Corporation to appellants constitute holiday pay remuneration such that appellant union members, laid off over the July 4, 1998, holiday weekend due to a strike, were not entitled to unemployment compensation for that week?"

The conflict cases are *Ashwell v. Ohio Dept. of Job & Family Servs.*, Montgomery App. No. 20522, 2005-Ohio-1928; *Brown v. Ohio Dept. of Job & Family Servs.*, Defiance App. No. 4-05-07, 2005-Ohio-5887; *Futey v. Ohio Dept. of Job & Family Servs.*, Richland App. No. 04 CA 14, 2004-Ohio-5400; *Rodriguez v. Ohio Dept. of Job & Family Servs.*, Cuyahoga App. Nos. 86111 and 86134, 2006-Ohio-97; *Nicolas v. Ohio Dept. of Job & Family Servs.*, Franklin App. No. 04AP-771, 2005-Ohio-2635; and *Burns v. Ohio Dept. of Job & Family Servs.*, Trumbull App. Nos. 2004-T-0071 and 2004-T-0072, 2005-Ohio-6290.

2006-0453. State v. Turnbow.

Stark App. No. 2005CA00026, 2005-Ohio-6702. On motion for leave to file delayed appeal. Motion denied.

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

2006-0454. State v. Alfaro.

Butler App. No. CA2004-10-248, 2005-Ohio-5900. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2006-0457. State v. Brown.

Licking App. No. 2005CA00006, 2005-Ohio-3824. On motion for leave to file delayed appeal. Motion denied.

2006-0476. Hutchins v. FedEx Ground Package Sys., Inc.

Summit App. No. 22852, 2006-Ohio-253. On motion for stay of court of appeals' judgment. Motion denied.

Resnick, J., dissents.

2006-0480. State v. Cummings.

Stark App. No. 2005CA00297. On motion for leave to file delayed appeal. Motion denied.

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

2006-0488. State v. Corrado.

Ashtabula App. No. 2004-A-0067, 2005-Ohio-6160. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2006-0495. State v. Tomlinson.

Franklin App. No. 05AP-1291. On motion for leave to file delayed appeal. Motion granted.

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

2006-0517. State v. Richard.

Cuyahoga App. No. 85918, 2005-Ohio-6969. On motion for leave to file delayed appeal. Motion granted.

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

2006-0528. State v. Gray.

Greene App. No. 04CA129, 2006-Ohio-40. On motion for leave to file delayed appeal. Motion granted.

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

2006-0530. State v. Brown.

Butler App. No. CA2005-10-456. On motion for leave to file delayed appeal. Motion denied.

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

2006-0533. State v. Armstrong.

Montgomery App. No. 19655, 2005-Ohio-432. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

APPEALS ACCEPTED FOR REVIEW

2006-0104. C.R. Green, L.P. v. Mayfield Hts.

Cuyahoga App. No. 85853, 2005-Ohio-6359. Discretionary appeal accepted on Proposition of Law Nos. I and II.

Moyer, C.J., Resnick and Lundberg Stratton, JJ., would also accept on all other Propositions of Law.

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

2006-0107. Hughes v. Ohio Dept. of Commerce.

Franklin App. No. 04AP-1386, 2005-Ohio-6368. Discretionary appeal accepted.

Lundberg Stratton, J., would accept the appeal on Proposition of Law No. I only.

Resnick, J., dissents.

On motion for admission pro hac vice of Scott Mendeloff and Gabriel Aizenberg by Fordham E. Huffman. Motion granted.

2006-0115. Curl v. Volkswagon of Am., Inc.

Trumbull App. No. 2004-T-0112, 2005-Ohio-6420.

Resnick, Pfeifer and Lanzinger, JJ., dissent.

2006-0151. State v. Carswell.

Warren App. No. CA2005-04-047, 2005-Ohio-6547.

Resnick and Pfeifer, JJ., dissent.

2006-0184. Caldwell v. Petersburg Stone Co.

Mahoning App. No. 05 MA 12, 2005-Ohio-6793. Discretionary appeal accepted on Proposition of Law No. I and discretionary cross-appeal accepted.

Resnick, J., would also accept the appeal on all other Propositions of Law.

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

2006-0294. State v. Crager.

Marion App. No. 9-04-54, 2005-Ohio-6868. Discretionary appeal accepted on Proposition of Law No. III and cause consolidated with 2006-0298, *State v. Crager*, Marion App. No. 9-04-54, 2005-Ohio-6868.

Pfeifer and Lundberg Stratton, JJ., would also accept the appeal on all other Propositions of Law.

O'Donnell, J., would accept the appeal and hold the cause for the decision in 2005-0773, *State v. Stahl*, Summit App. No. 22261, 2005-Ohio-1137.

Resnick, J., dissents.

2006-0514. In re Adkins.

Tuscarawas App. No. 2005AP06-0044, 2006-Ohio-431. Discretionary appeal accepted. In addition to Proposition of Law Nos. I and II, the parties are to brief and argue issues relating to rights guaranteed by the United States Constitution relevant to this cause.

Resnick and Pfeifer, JJ., dissent.

APPEALS NOT ACCEPTED FOR REVIEW

2005-2119. State v. Gibson.

Ross App. No. 04CA2805, 2005-Ohio-5273.

Pfeifer, J., dissents.

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

2005-2122. State v. Crace.

Ross App. No. 04CA2801, 2005-Ohio-5274.

Pfeifer, J., dissents.

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

2005-2300. Fenstermaker v. Fenstermaker.

Trumbull App. No. 2004-T-0097, 2005-Ohio-5604.

2006-0043. Telxon Corp. v. Smart Media of Delaware, Inc.

Summit App. Nos. 22543 and 22673, 2005-Ohio-6223.

Pfeifer, J., dissents.

2006-0053. Chase Mtge. Serv., Inc. v. Latsa.

Cuyahoga App. No. 85682, 2005-Ohio-6021.

2006-0056. State v. Mack.

Medina App. No. 05CA0024-M, 2005-Ohio-6325.

2006-0058. State v. Adkins.

Lucas App. No. L-05-1043, 2005-Ohio-6650.

Lanzinger, J., not participating.

2006-0071. State v. Rock.

Lake App. No. 2004-L-127, 2005-Ohio-6285.

O'Donnell, J., dissents.

2006-0073. Merante v. Ohio Dept. of Job & Family Servs.

Lorain App. No. 05CA008677, 2005-Ohio-6219.

2006-0074. Republic Servs. of Ohio II, LLC v. Club 3000.

Stark App. No. 2004 CA 00328, 2005-Ohio-6462.

Resnick, J., dissents.

2006-0075. State v. Walker.

Franklin App. No. 04AP-813, 2005-Ohio-6365.

2006-0077. State v. Rittner.

Fulton App. No. F-05-003, 2005-Ohio-6526.

Lanzinger, J., not participating.

2006-0078. White v. Spitzer Motors of Elyria, Inc.

Lorain App. No. 04CA008629, 2005-Ohio-6217.

2006-0082. Miller v. Lindsay-Green, Inc.

Franklin App. No. 04AP-848, 2005-Ohio-6366.

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

2006-0083. State v. Robinson.

Lake App. No. 2004-L-146, 2005-Ohio-6286.

2006-0085. Rickels v. Goyings.

Paulding App. No. 11-05-13.

2006-0086. State v. Oglesby.

Clinton App. No. CA2004-12-027, 2005-Ohio-6556.

2006-0087. Parrish v. Ohio Real Estate Comm.

Franklin App. No. 05AP-313, 2005-Ohio-6375.

2006-0088. State v. Rock.

Lake App. No. 2005-L-005, 2005-Ohio-6291.

O'Connor, J., dissents.

2006-0089. Columbus v. Dials.

Franklin App. No. 04AP-1099, 2005-Ohio-6305 and 2006-Ohio-227.

2006-0091. State v. Turner.

Franklin App. No. 05AP-220, 2005-Ohio-6883.

2006-0092. State v. Lee.

Franklin App. No. 05AP-229, 2005-Ohio-6374.

2006-0103. State v. Kilgore.

Greene App. No. 2004-CA-108, 2005-Ohio-6398.

2006-0113. State v. Combs.

Portage App. No. 2004-P-0040, 2005-Ohio-6419.

2006-0114. Rickels v. Goyings.

Paulding App. No. 11-05-14.

2006-0119. Rinaldi v. City View Nursing & Rehab. Ctr., Inc.

Cuyahoga App. No. 85867, 2005-Ohio-6360.

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

2006-0120. State v. Burroughs.

Logan App. No. 8-05-08, 2005-Ohio-6411.

Pfeifer, J., dissents.

2006-0122. P&M Leasing, LLC v. Circleville Planning & Zoning Comm.

Pickaway App. No. 05CA32, 2005-Ohio-6774.

2006-0123. Pyle v. Wells Fargo Financial.

Franklin App. No. 05AP-644, 2005-Ohio-6478.

Resnick and Pfeifer, JJ., dissent.

2006-0126. State v. Howard.

Hamilton App. No. C-050911.

2006-0130. Camburn v. Camburn.

Franklin App. No. 05AP-152, 2005-Ohio-6502.

Lundberg Stratton, J., dissents.

2006-0132. State v. Thomas.

Lake App. No. 2004-L-176, 2005-Ohio-6570.

2006-0134. In re S.J.

Cuyahoga App. No. 82106, 2003-Ohio-5071 and 2005-Ohio-6353.

O'Connor, J., dissents.

2006-0135. Arnold & Caruso, Ltd. v. Nyktas.

Lucas App. No. L-05-1011, 2005-Ohio-5566.

Resnick, J., not participating.

2006-0137. State v. Simpson.

Guernsey App. No. 04CA000032, 2005-Ohio-6768.

2006-0138. Kingdom Life Ministries, Inc. v. Plessinger.

Hamilton App. No. C-050216.

2006-0139. Shade v. Bleser.

Montgomery App. No. 20938, 2005-Ohio-6544.

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

O'Donnell, J., dissents.

2006-0142. State v. Zakrzewski.

Lucas App. No. L-05-1360.

Lanzinger, J., not participating.

2006-0144. State v. Pryor.

Fairfield App. No. 05-CA-52, 2005-Ohio-6656.

2006-0146. State v. Knuckles.

Cuyahoga App. No. 86053, 2005-Ohio-6345.

2006-0147. State v. Bradley.

Champaign App. No. 2004-CA-15, 2005-Ohio-6533.

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

2006-0148. Republic Bank v. Guttman & Middleton, Inc.

Montgomery App. No. 20896, 2005-Ohio-6543.

Resnick and O'Donnell, JJ., dissent.

2006-0149. DPL, Inc. v. Forester.

Montgomery App. No. 21269.

2006-0152. State v. Pineda.

Cuyahoga App. No. 86116, 2005-Ohio-6386.

Pfeifer, J., dissents.

2006-0153. State v. Quinones.

Lake App. No. 2003-L-015, 2005-Ohio-6576.

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

2006-0154. Columbus Metro. Hous. Auth. v. Flowers.

Franklin App. Nos. 05AP-372 and 05AP-87, 2005-Ohio-6615.

2006-0156. State v. Bradley.

Trumbull App. No. 2004-T-0080, 2005-Ohio-6572.

2006-0162. Taylor v. Kemp.

Belmont App. No. 05 BE 13, 2005-Ohio-6787.

2006-0170. State ex rel. Delmonte v. Woodmere.

Cuyahoga App. No. 86011, 2005-Ohio-6489.

2006-0176. Hamilton v. Digonno.

Butler App. No. CA2005-03-075, 2005-Ohio-6552.

2006-0177. Grange Mut. Ins. Co. v. Brown.

Cuyahoga App. No. 86183.

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

2006-0181. State v. Mundy.

Medina App. No. 05CA0025-M, 2005-Ohio-6608.

2006-0195. State v. Brown.

Franklin App. No. 05AP-222, 2005-Ohio-6808.

2006-0196. State v. Godfrey.

Hamilton App. Nos. C-040808 and C-040809.

2006-0197. State v. Mayes.

Cuyahoga App. No. 86203, 2006-Ohio-105.

2006-0210. State v. Green.

Ashtabula App. No. 2003-A-0111, 2005-Ohio-6715.

2006-0217. Newsome v. Mt. Carmel Health Sys.

Franklin App. No. 05AP-169.

Resnick and Lanzinger, JJ., dissent.

2006-0220. State v. Davenport.

Butler App. No. CA2005-01-005, 2005-Ohio-6686.

2006-0229. State v. Bartl.

Sandusky App. No. S-04-015, 2005-Ohio-1212.

2006-0246. State v. Rector.

Carroll App. No. 04 CA 810, 2005-Ohio-6944.

2006-0248. Kirksey v. Summit Cty. Parking Deck.

Summit App. No. 22755, 2005-Ohio-6742.

2006-0253. State v. Ngiraingas.

Ashtabula App. No. 2004-A-0034, 2005-Ohio-7058.

2006-0254. State v. Moss.

Franklin App. No. 00AP-574, 2005-Ohio-6806.

2006-0256. State v. Sulek.

Greene App. No. 2004-CA-2, 2005-Ohio-4514.

2006-0302. State v. Conway.

Cuyahoga App. No. 86140, 2005-Ohio-6634.

2006-0303. English v. Cornwell Quality Tools Co.

Summit App. No. 22578, 2005-Ohio-6983.

Resnick, J., dissents.

2006-0308. State v. Lewis.

Franklin App. No. 04AP-1112, 2005-Ohio-6955.

2006-0309. State v. Crosby.

Lucas App. No. L-03-1158, 2004-Ohio-4674.

2006-0310. Olynyk v. Andrish.

Cuyahoga App. No. 86009, 2005-Ohio-6632.

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

2006-0325. State v. Stalnaker.

Lake App. No. 2004-L-100, 2005-Ohio-7042.

2006-0334. State v. Simmons.

Warren App. No. CA2004-11-138, 2005-Ohio-7036.

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

2006-0469. State v. Florence.

Montgomery App. No. 20439, 2005-Ohio-4508.

2006-0484. State v. Martin.

Montgomery App. No. 18652, 2001-Ohio-7084.

RECONSIDERATION OF PRIOR DECISIONS

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. Reported at 108 Ohio St.3d 185, 2006-Ohio-657, 842 N.E.2d 488. On motion for reconsideration of United HealthCare of Ohio, Inc. Motion denied.

Lundberg Stratton and Lanzinger, JJ., dissent.

2004-0783. Portage Cty. Bd. of Commrs. v. Akron.

Portage App. No. 2001-P-0127, 156 Ohio App.3d 657, 2004-Ohio-1665. Reported at ____ Ohio St.3d ____, 2006-Ohio-954, ____ N.E.2d _____. On motion for reconsideration of the cities of Ravenna and Akron. Motions denied.

Resnick, J., dissents.

2004-1171. State v. Mathis.

Cuyahoga App. No. 83311, 2004-Ohio-2982. Reported at ____ Ohio St.3d ____, 2006-Ohio-855, ____ N.E.2d _____. On motion for reconsideration. Motion denied.

2004-1267. State v. Fair.

Cuyahoga App. No. 82278, 2004-Ohio-2971. Reported at ____ Ohio St.3d ____, 2006-Ohio-855, ____ N.E.2d _____. On motion for reconsideration. Motion denied.

2005-2160. State v. Byrd.

Defiance App. No. 4-05-19, 2005-Ohio-5612. Reported at 108 Ohio St.3d 1487, 2006-Ohio-962, 843 N.E.2d 793. On motion for reconsideration. Motion denied.

2005-2294. State v. Henley.

Montgomery App. No. 20789, 2005-Ohio-6142. Reported at 108 Ohio St.3d 1489, 2006-Ohio-962, 843 N.E.2d 795. On motion for reconsideration. Motion denied.

2005-2382. State ex rel. Black v. Holmes.

In Mandamus. Reported at 108 Ohio St.3d 1469, 2006-Ohio-665, 842 N.E.2d 1050. On motion for reconsideration. Motion denied.