

The Supreme Court of Ohio

CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

May 10, 2006

[Cite as *05/10/2006 Case Announcements*, 2006-Ohio-2226.]

MERIT DECISIONS WITH OPINIONS

2005-0074. Davenport v. Montgomery Cty., 2006-Ohio-2034.

Montgomery App. No. 20350, 2004-Ohio-6781. Judgment reversed.

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

Resnick and Pfeifer, JJ., dissent.

2005-0247. Smith v. Conley, 2006-Ohio-2035.

Stark App. No. 2004CA00068, 2004-Ohio-7057. Judgment reversed.

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

Lundberg Stratton, J., dissents.

2005-0733. State ex rel. Erieview Metal Treating Co. v. Indus. Comm., 2006-Ohio-2036.

Franklin App. No. 04AP-447, 2005-Ohio-1154. Judgment affirmed.

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

Lundberg Stratton and Lanzinger, JJ., dissent.

2005-1170. Cuyahoga Cty. Bar Assn. v. Ballou, 2006-Ohio-2037.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 03-053. Scott H. Ballou, Attorney Registration No. 0025669, is publicly reprimanded.

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

Lundberg Stratton, J., dissents.

O'Donnell, J., not participating.

2005-2036. Cincinnati Bar Assn. v. Blankemeyer, 2006-Ohio-2038.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 05-014. Thomas F. Blankemeyer, Attorney Registration No. 0071812, is permanently disbarred from the practice of law in Ohio.

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

Resnick, J., dissents and would indefinitely suspend respondent.

2005-2045. Richland Cty. Bar Assn. v. Bourdeau, 2006-Ohio-2039.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 04-067. Julia M. Bourdeau, Attorney Registration No. 0071697, is publicly reprimanded.

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

MERIT DECISIONS WITHOUT OPINIONS

2006-0257. Miller v. First Internatl. Fidelity & Trust Building, LTD.

Lucas App. No. L-05-1311, 2006-Ohio-187. On review of order certifying a conflict. The court determines that no conflict exists. This cause is therefore dismissed.

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

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

2006-0525. Berman v. Sheward.

In Prohibition. On relator's emergency complaint in prohibition and respondent's answer and motion for judgment on the pleadings. 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.

2006-0577. Furlow v. Moore.

In Habeas Corpus. On petition for writ of habeas corpus of Sylvania O. Furlow. Sua sponte, cause dismissed.

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

2006-0619. Perry v. Kelly.

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

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

2006-0631. McCormick v. Jeffreys.

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

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

2006-0634. Longanbach v. Jeffreys.

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

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

2006-0640. Milam v. Jeffreys.

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

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

2006-0641. Leisky v. Jeffreys.

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

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

2006-0650. Strubing v. Jeffreys.

In Habeas Corpus. On petition for writ of habeas corpus of Jackson D. Strubing Jr. Sua sponte, cause dismissed.

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

2006-0660. Hall v. Jeffreys.

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

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

2006-0661. St. John v. Jeffreys.

In Habeas Corpus. On petition for writ of habeas corpus of William St. John. Sua sponte, cause dismissed.

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

2006-0662. Hood v. Jeffreys.

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

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

MOTION AND PROCEDURAL RULINGS

2002-2241. State v. Monroe.

Franklin C.P. No. 01CR04-2118. On application for reopening under S.Ct.Prac.R. XI(6). Application denied.

2006-0503. In re Foster.

Cuyahoga App. No. 85716, 2006-Ohio-88. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issues stated in the court of appeals' Journal Entry filed February 10, 2006:

1. "Whether a reasonable efforts determination is required in motions for permanent custody filed pursuant to R.C. 2151.413?"

2. "Whether a trial court abuses its discretion by denying a request for an in camera interview in a permanent custody determination when there is nothing in the record to indicate that having the children testify would have been detrimental to them or that they did not desire to testify?"

Moyer, C.J., would certify a conflict as to the first issue only.

O'Donnell, J., dissents.

As to the first issue, the conflict cases are: *In re Stevens* (July 16, 1993), Montgomery App. No. 13523; *In re Lawson/Reid Children* (Apr. 18, 1997), Clark App. No. 96-CA-0010; *In re Cook*, Seneca App. No. 13-02-29, 2003-Ohio-868; *In re Efaw* (Apr. 21, 1998), Athens App. No. 97CA49; *In re Leitwein*, Hocking App. No. 03CA18, 2004-Ohio-1296; *In re Guisinger* (May 31, 1994), Stark App. No. CA-9478; *In re Elliot*, Jefferson App. Nos. 03JE30 and 03JE33, 2004-Ohio-388; *In re C.W.*, Summit App. No. 22820, 2005-Ohio-6739; *In re Moore* (Dec. 15, 1999), Summit App. No. 19217; *In re S.S.*, Franklin App. No. 05AP-204, 2005-Ohio-4282; *In re S.P.*, Butler App. No. CA2004-10-255, 2005-Ohio-1079; *In re A.C.*, Clermont App. No. CA2004-05-041, 2004-Ohio-5531; and *In re T.T.*, Butler App. Nos. CA2004-07-175 and CA2004-08-198, 2005-Ohio-240.

As to the second issue, the conflict cases are: *In re Beresh Children*, Stark App. No. 2003CA00089, 2003-Ohio-4898; *In re Sunderman/Daniels Minor Children*, Stark App. No. 2004CA00093, 2004-Ohio-4608; *In re D.M.*, Summit App. Nos. 22732 and 22749, 2005-Ohio-6740; and *In re Funk*, Portage App. Nos. 2002-P-0035 and 2002-P-0036, 2002-Ohio-4958.

2006-0526. State ex rel. Russell v. Thorton.

Wayne App. No. 05CA0082. On motion for stay of court of appeals' judgment. Motion denied.

2006-0550. State v. Boczar.

Ashtabula App. No. 2004-A-0063, 2005-Ohio-6910. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated at page 2 of the court of appeals' Judgment Entry filed March 6, 2006:

"Whether R.C. 4511.19(D)(4)(b), providing that the results of field sobriety tests are admissible if the officer administered the tests in substantial compliance with the testing standards, is constitutional."

Resnick and O'Donnell, JJ., dissent.

The conflict cases are *State v. Robinson*, Fairfield App. No. 2004-CA-45, 160 Ohio App.3d 802, 2005-Ohio-2280, and *State v. Hall*, Licking App. No. 2004-CA-115, 163 Ohio App.3d 90, 2005-Ohio-4271.

2006-0568. State v. Taylor.

Montgomery App. Nos. 20649, 20654 and 20655, 2006-Ohio-313. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated at page 2 of the court of appeals' Decision and Entry filed February 28, 2006:

"Whether a conviction for an attempted drug offense that would have been, if successfully completed, a first-degree felony, but which becomes a second degree felony by virtue of the fact that it is merely an attempt to commit an offense, is subject to the mandatory prison term provisions in R.C. 2925.11."

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

The conflict case is *State v. Pringle* (June 30, 1999), Lucas App. No. L-98-1275.

2006-0580. State v. Saddler.

Cuyahoga App. No. 85550, 2005-Ohio-6026. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2006-0586. State v. Franks.

Franklin App. No. 04AP-1370, 2005-Ohio-5923. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2006-0589. State v. Trouten.

Jefferson App. No. 04 JE 18, 2005-Ohio-6592. On motion for leave to file delayed appeal. Motion granted.

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

On motion for admission pro hac vice of Susan Lynn Ferguson by Eric J. Yavitch. Motion granted.

2006-0591. State v. Rosado.

Cuyahoga App. No. 83694, 2005-Ohio-6626. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

2006-0599. State v. Hach.

Summit App. No. 19772. On motion for leave to file delayed appeal. Motion denied.

2006-0604. State v. Shelton.

Hamilton App. No. C-040658, 2006-Ohio-182. On motion for leave to file delayed appeal. Motion granted.

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

2006-0620. State v. Fisher.

Franklin App. No. 01AP-614, 2001-Ohio-8772. On motion for leave to file delayed appeal. Motion denied.

2006-0639. State v. Biggers.

Morgan App. No. 05 CA 1, 2005-Ohio-5956. On motion for leave to file delayed appeal. Motion denied.

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

2006-0672. Asset Acceptance, L.L.C. v. Rees.

Franklin App. No. 05AP-388, 2006-Ohio-794. On motion for stay of judgment pending appeal. Motion denied.

2006-0690. Toledo v. Tellings.

Lucas App. No. L-04-1224, 2006-Ohio-975. On motion for stay of execution of judgment. Motion granted.

Resnick, J., dissents.

2006-0691. State Farm Mut. Auto. Ins. Co. v. Reid.

Cuyahoga App. No. 87718. On motion for stay of court of appeals' judgment. Motion denied.

APPEALS ACCEPTED FOR REVIEW

2006-0373. Miller v. First Internatl. Fidelity & Trust Building, LTD.

Lucas App. No. L-05-1311, 2006-Ohio-187.

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

2006-0185. State v. Siler.

Ashland App. No. 02 COA 028, 2003-Ohio-5749. Discretionary appeal accepted; cause held for the decision in 2005-0773, *State v. Stahl*, Summit App. No. 22261, 2005-Ohio-1137; and briefing schedule stayed.

Pfeifer and O'Connor, JJ., would accept the appeal without holding.

Lanzinger, J., dissents.

2006-0189. Uddin v. Embassy Suites Hotel.

Franklin App. No. 04AP-754, 2005-Ohio-6613.

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

2006-0190. Ignazio v. Clear Channel Broadcasting, Inc.

Mahoning App. No. 04 MA 261, 165 Ohio App.3d 32, 2005-Ohio-6783.

Resnick, Pfeifer and Lanzinger, JJ., dissent.

2006-0223. Snyder v. Am. Family Ins. Co.

Franklin App. No. 05AP-16, 2005-Ohio-6751.

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

2006-0236. State v. Parker.

Ashtabula App. No. 2004-A-0004, 2005-Ohio-6908.

Pfeifer, J., dissents.

2006-0275. Ohio Academy of Nursing Homes v. Ohio Dept. of Job & Family Servs.

Franklin App. No. 05AP-562, 164 Ohio App.3d 808, 2005-Ohio-6888.

Lundberg Stratton, J., dissents.

2006-0305. Celmer v. Rodgers.

Trumbull App. No. 2004-T-0074, 2005-Ohio-7054.

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

Motion to consolidate with 2006-0304, *Celmer v. Rodgers*, Trumbull App. No. 2004-T-0083, 2005-Ohio-7055, denied.

2006-0336. State v. Burk.

Cuyahoga App. No. 86162, 164 Ohio App.3d 740, 2005-Ohio-6727. Discretionary appeal accepted; cause held for the decision in 2006-0151, *State v. Carswell*, Warren App. No. CA2005-04-047, 2005-Ohio-6547; and briefing schedule stayed.

Moyer, C.J., Resnick and Pfeifer, JJ., would accept the appeal on Proposition of Law No. I only.

APPEALS NOT ACCEPTED FOR REVIEW

2005-2387. Westfield Ins. Co. v. Russo.

Summit App. No. 22529, 164 Ohio App.3d 533, 2005-Ohio-5942.

2006-0047. State v. Conway.

Franklin App. No. 05AP-76, 2005-Ohio-6377.

2006-0112. Snyder v. Ford Motor Co.

Allen App. No. 1-05-41, 2005-Ohio-6415.

Moyer, C.J., and O'Connor, J., dissent and would accept the appeals of Ford Motor Company, General Dynamics Land Systems, Inc. on Proposition of Law Nos. I and II, and the Bureau of Workers' Compensation.

2006-0157. Henry Spack Serv., Inc. v. Pietrzak.

Columbiana App. No. 04 CO 57, 2005-Ohio-6780.

2006-0159. State v. Powell.

Defiance App. No. 4-05-39.

2006-0160. State v. Jackson.

Hamilton App. No. C-050412.

2006-0163. State v. Caudill.

Hancock App. No. 5-05-27, 2005-Ohio-6867.

2006-0166. Dever v. Clark.

Clark App. Nos. 05CA0126 and 05CA0127.

2006-0175. State v. Ikharo.

Franklin App. No. 05AP-167, 2005-Ohio-6616.

2006-0180. Stone v. N. Star Steel Co.

Mahoning App. No. 05 MA 106, 2005-Ohio-6796.

Resnick, J., dissents.

2006-0183. State v. Parker.

Columbiana App. No. 04 CO 44, 2005-Ohio-6777.

2006-0186. State v. Bajaj.

Columbiana App. No. 04 CO 45, 2005-Ohio-6778.

2006-0187. State v. Staten.

Franklin App. No. 05AP-201, 2005-Ohio-6753.

2006-0193. Bungard-Smith v. United Servs. Auto. Assn.

Mahoning App. No. 05 MA 21, 2005-Ohio-7074.

Pfeifer, J., dissents.

2006-0194. Dillard v. Cincinnati.

Hamilton App. No. C-050045, 2005-Ohio-6819.

Lundberg Stratton, J., dissents.

2006-0199. State v. Staley.

Madison App. No. CA2005-10-037.

2006-0203. Adkins v. Welch.

Franklin App. No. 05AP-482.

2006-0204. Lofino v. Berkemeier.

Greene App. No. 2005-CA-33, 2005-Ohio-6676. Discretionary appeal not accepted. Motion to strike and motion for sanctions denied as moot.

2006-0205. Hummel v. Ohio Dept. of Job & Family Servs.

Lucas App. No. L-05-1137, 164 Ohio App.3d 776, 2005-Ohio-6651.

2006-0206. State v. Richard.

Cuyahoga App. No. 86154, 2005-Ohio-6494.

2006-0207. Herzberg v. Am. Natl. Property & Cas. Co.

Franklin App. No. 05AP-292, 2005-Ohio-6639.

Resnick, J., dissents.

2006-0211. State v. Scheidel.

Ashtabula App. No. 2003-A-0087, 2006-Ohio-195.

Resnick, J., dissents.

2006-0212. State v. Jones.

Mahoning App. No. 04-MA-76, 2005-Ohio-6937.

2006-0214. State v. Wise.

Franklin App. No. 05AP-1237.

2006-0227. State v. Rogers.

Fayette App. No. CA2004-06-014, 2005-Ohio-6693.

Resnick and Pfeifer, JJ., dissent.

2006-0230. State v. Weiss.

Lake App. No. 2004-L-090, 2005-Ohio-6704.

Resnick, J., dissents.

2006-0234. Ramun v. Ramun.

Mahoning App. No. 05 MA 44, 2005-Ohio-6921.

Resnick and Pfeifer, JJ., dissent.

On motion for admission pro hac vice of Christopher R. Opanlinski and F. Timothy Grieco by Jay M. Skolnick. Motion granted.

2006-0238. L.S. Industries v. Coe.

Summit App. No. 22603, 2005-Ohio-6736.

2006-0241. Baumgartner v. Smith.

Ottawa App. No. OT-05-020.

Lanzinger, J., not participating.

2006-0244. State v. Fed. Ins. Co.

Franklin App. No. 04AP-1350, 2005-Ohio-6807.
Resnick and Pfeifer, JJ., dissent.

2006-0245. Perin v. Spurney.

Franklin App. No. 05AP-428, 2005-Ohio-6811.
Pfeifer, J., dissents.

2006-0260. State v. Peebles.

Pickaway App. No. 05CA25, 2006-Ohio-218.

2006-0270. McCoy v. Kroger Co.

Franklin App. No. 05AP-7, 2005-Ohio-6965.

2006-0280. Molnar v. Klammer.

Lake App. No. 2004 L 072 CA, 2005-Ohio-6905.

2006-0282. State v. Crum.

Stark App. No. 2005CA00024, 2005-Ohio-7037.

2006-0283. Palco Investments, Inc. v. Springfield.

Clark App. No. 2004 CA 80, 2005-Ohio-6838.
Resnick, J., dissents.

2006-0285. Embry v. Bur. of Workers' Comp.

Franklin App. No. 04AP-1374, 2005-Ohio-7021.
Resnick, J., dissents.

2006-0288. State v. Boczar.

Ashtabula App. No. 2004-A-0063, 2005-Ohio-6910.
Moyer, C.J., and Pfeifer, J., dissent.

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

2006-0289. State v. Reed.

Trumbull App. No. 2004-T-0117, 2005-Ohio-6901.
O'Donnell, J., dissents.
O'Connor, J., not participating.

2006-0297. State v. Bailey.

Portage App. No. 2004-P-0086, 2005-Ohio-6900.

O'Donnell, J., dissents and would accept the appeal on Proposition of Law Nos. II and III.

2006-0301. Celeste v. Wiseco Piston.

Lake App. No. 2004-L-073, 2005-Ohio-6893.

Lanzinger, J., dissents.

2006-0304. Celmer v. Rodgers.

Trumbull App. No. 2004-T-0083, 2005-Ohio-7055.

Resnick and O'Donnell, JJ., dissent.

2006-0320. State v. Williams.

Summit App. No. 22730, 2006-Ohio-73.

2006-0333. State v. Pore.

Cuyahoga App. No. 86215, 2006-Ohio-106.

2006-0356. State v. Taylor.

Montgomery App. Nos. 20649, 20654, and 20655, 2006-Ohio-313.

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

2006-0362. State v. Mathis.

Summit App. No. 22039, 2004-Ohio-6749.

2006-0371. State v. Skorvanek.

Lorain App. No. 05CA008743, 2006-Ohio-69.

O'Connor, J., dissents.

2006-0379. State v. Woodley.

Cuyahoga App. No. 87439.

2006-0382. State v. Kish.

Lorain App. No. 05CA008856.

2006-0383. State v. Logan.

Cuyahoga App. No. 87437.

2006-0384. State v. Breeden.

Cuyahoga App. No. 86115, 2006-Ohio-98.

2006-0390. State v. Levy.

Cuyahoga App. No. 83114, 2004-Ohio-4489.

2006-0402. State v. Phillips.

Cuyahoga App. No. 87438.

O'Donnell, J., dissents.

2006-0416. State v. Dowell.

Cuyahoga App. No. 86232, 2006-Ohio-110.

2006-0422. State v. Unsworth.

Lucas App. No. L-03-1189.

Lanzinger, J., not participating.

2006-0424. State v. Schlatter.

Paulding App. No. 11-05-05, 2005-Ohio-5041.

2006-0427. State v. Prince.

Warren App. No. CA2005-12-130.

2006-0429. State v. Pordash.

Lorain App. No. 04CA008480, 2004-Ohio-6081.

2006-0532. State v. Smith.

Hamilton App. Nos. C-040512 and C-040524.

2006-0562. State v. Rembert.

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

2006-0570. State v. Conley.

Medina App. No. 3264-M.