

The Supreme Court of Ohio

CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

November 29, 2006

[Cite as *11/29/2006 Case Announcements, 2006-Ohio-6171.*]

MERIT DECISIONS WITH OPINIONS

2005-0855. State v. Lee, 2006-Ohio-5849.

Summit App. No. 22262, 2005-Ohio-996. Judgment affirmed.

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

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

2005-0937. State v. Holmes, 2006-Ohio-5850.

Summit App. No. 22174, 2005-Ohio-1632. Sua sponte, cause dismissed as having been improvidently accepted.

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

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

2005-0992. In re D.S., 2006-Ohio-5851.

Warren App. Nos. CA2004-04-036 and CA2004-04-046, 160 Ohio App.3d 552, 2005-Ohio-1803. Judgment reversed and cause remanded.

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

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

2005-1464. Dayton Supply & Tool Co., Inc. v. Montgomery Cty. Bd. of Revision, 2006-Ohio-5852.

Board of Tax Appeals, No. 2003-G-1851. Decision reversed and cause remanded.

Pfeifer, Lundberg Stratton, O'Connor and Lanzinger, JJ., concur.

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

2005-1621 and 2005-1679. Ohio Consumers' Counsel v. Pub. Util. Comm., 2006-Ohio-5853.

Public Utilities Commission, Nos. 04-1931-EL-AAM and 04-1645-EL-AAM. Decisions affirmed.

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

Pfeifer, concurs in part and dissents in part.

2005-2108. State ex rel. Van Gundy v. Indus. Comm., 2006-Ohio-5854.

Franklin App. No. 04AP-1101, 2005-Ohio-5089. Judgment affirmed.

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

2005-2128. Stridsberg v. GEICO Gen. Ins. Co., 2006-Ohio-5855.

Hamilton App. No. C-040689. Sua sponte, cause dismissed as having been improvidently accepted.

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

William A. Klatt, J., of the Tenth Appellate District, sitting for Resnick, J.

2006-0046. Satullo v. Wilkins, 2006-Ohio-5856.

Board of Tax Appeals, Nos. 2003-M-2115, 2003-M-2116, 2003-M-2128, and 2003-M-2129. Decision affirmed.

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

Pfeifer, J., concurs in part and dissents in part.

O'Donnell, J., dissents.

2006-0526. State ex rel. Russell v. Thornton, 2006-Ohio-5858.

Wayne App. No. 05CA0082. Judgment affirmed.

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

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

2006-0784. Cuyahoga Cty. Bar Assn. v. Paulson, 2006-Ohio-5859.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 05-051. Steven Lewis Paulson, Attorney Registration No. 0030044, is suspended from the practice of law in Ohio for two years.

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

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

2006-1149. Akron Bar Assn. v. Holda, 2006-Ohio-5860.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 05-084. Sheri Lynn Holda, Attorney Registration No. 0073993, is publicly reprimanded.

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

2006-1186. Stark Cty. Bar Assn. v. Russell, 2006-Ohio-5861.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 04-053. Michael Scott Russell, Attorney Registration No. 0018566, is suspended from the practice of law in Ohio for one year, stayed on conditions.

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

MERIT DECISIONS WITHOUT OPINIONS

2006-1660. Tran v. Kimbler.

In Procedendo. 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.

2006-1746. State ex rel. Weaver v. Campbell.

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.

2006-1750. State ex rel. Cleaver v. Singer.

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.

2006-1757. Buckner v. Dinkelacker.

In Procedendo. 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.

2006-1797. Vogt v. Eberlin.

In Habeas Corpus. On petition for writ of habeas corpus of Timothy Charles Vogt. Sua sponte, cause dismissed.

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

2006-1799. Elersic v. Bobby.

In Habeas Corpus. On petition for writ of habeas corpus of Shane R. Elersic. Sua sponte, cause dismissed.

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

2006-1800. State ex rel. Wheeler v. Connor.

In Mandamus. On motion for summary judgment. 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.

2006-1875. Weaver v. Moore.

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

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

Lanzinger, J., dissents.

2006-1946. Tran v. Hassinger.

In Habeas Corpus. On petition for writ of habeas corpus of Thanh T. Tran and Henry Tran. Sua sponte, cause dismissed.

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

MOTION AND PROCEDURAL RULINGS

2003-1964. State v. Conway.

Franklin C.P. No. 02CR-3117. On application for reopening under S.Ct.Prac.R. XI(6). Application denied.

2005-1992. State ex rel. Cafaro Mgt. Co. v. Mabe.

In Mandamus. On request for oral argument. Request denied.

Resnick, J., not participating.

2006-1032. State v. Campbell.

Warren App. No. CA2005-06-069. On motion to allow supplemental briefing. Motion denied.

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

2006-1184. Cincinnati School Dist. Bd. of Edn. v. Hamilton Cty. Bd. of Revision.

Board of Tax Appeals, No. 2005-M-346. On joint motion to vacate the Board of Tax Appeals' decision. Motion granted.

2006-1601. State v. Newman.

Summit App. No. 23038, 2006-Ohio-4082. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause held for the decision in 2006-1245 and 2006-1363, *State v. Payne*, Franklin App. No. 05AP-517, 2006-Ohio-2552; cause consolidated with 2006-1793, *State v. Newman*, Summit App. No. 23038, 2006-Ohio-4082; and briefing schedule stayed.

2006-1615. State ex rel. Keith v. Spaeth.

In Mandamus. On motion for default judgment. Alternative writ granted. The following briefing schedule is set for presentation of evidence and filing of briefs pursuant to S.Ct.Prac.R. X.: The parties shall file any evidence they intend to present within 20 days of the date of this entry; relator shall file his brief within 10 days of the filing of the evidence; respondent shall file his brief within 20 days after the filing of relator's brief; and relator may file a reply brief within 7 days after filing of respondent's brief.

2006-1675. State v. Davis.

Franklin App. No. 05AP-538, 2006-Ohio-3707 and 2006-Ohio-4457. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause held for the decision in 2006-1245 and 2006-1363, *State v. Payne*, Franklin App. No. 05AP-517, 2006-Ohio-2552, and briefing schedule stayed.

2006-1776. State v. Hall.

Warren App. No. CA2004-04-045. On motion for leave to file delayed appeal. Motion denied.

2006-1824. State v. Turner.

Licking App. No. 05CA108, 2006-Ohio-3786. On motion for leave to file delayed appeal. Motion denied.

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

2006-1850. State v. Fogel.

Lorain App. No. 05CA008746, 2006-Ohio-3111. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2006-1851. State v. Jones.

Mahoning App. No. 05-MA-69, 2006-Ohio-3636. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated at page 3 of the court of appeals' Journal Entry filed September 20, 2006:

“Whether a trial court complies with Crim.R. 11(E) by simply notifying a defendant of the effect of his/her plea as set out in Crim.R. 11(B) or whether the trial court complies with Crim.R. 11(E) by notifying a defendant of the maximum penalties that could result from a plea and that the defendant waives his/her right to a jury trial by entering a plea but does not notify a defendant of the effect of his/her plea.”

Lanzinger, J., dissents.

The conflict cases are *State v. Horton-Alomar*, Franklin App. No. 04AP-744, 2005-Ohio-1537, and *State v. Raby*, Greene App. No. 2005-CA-88, 2005-Ohio-3741.

Sua sponte, cause consolidated with 2006-1606, *State v. Jones*, Mahoning App. No. 05-MA-69, 2006-3636.

2006-1855. Charvat v. Ryan.

Franklin App. No. 05AP-1331, 2006-Ohio-3705 and 2006-Ohio-4592. 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 September 8, 2006:

“Whether a defendant ‘knowingly’ violates Section 227(b), Title 47, U.S.Code, or the regulations promulgated thereunder, for purposes of awarding treble damages under Section 227(b)(3), where the plaintiff demonstrates that the defendant had knowledge of the facts constituting the offense; or whether the plaintiff must prove that the defendant knew when it placed the offending call that the call constituted a violation of the TCPA [Telephone Consumer Protection Act] or any regulations promulgated thereunder. ”

O'Donnell, J., dissents.

The conflict case is *Reichenbach v. Financial Freedom Ctrs., Inc.*, Lucas App. No. L-03-1357, 2004-Ohio-6164.

Sua sponte, cause consolidated with 2006-1647, *Charvat v. Ryan*, Franklin App. No. 05AP-1331, 2006-Ohio-3705 and 2006-Ohio-4592.

2006-1857. State v. Foreman.

Summit App. No. 23180. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2006-1859. State v. Newman.

Montgomery App. No. 21264, 2006-Ohio-4160. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause held for the decision in 2006-0151, *State v. Carswell*, Warren App. No. CA2005-04-047, 2005-Ohio-6547; cause consolidated with 2006-1760, *State v. Newman*, Montgomery App. No. 21264, 2006-Ohio-4160; and briefing schedule stayed.

2006-1883. State v. Trent.

Licking App. No. 05CA101, 2006-Ohio-3132. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2006-1894. Peterman v. Stewart.

Delaware App. No. 05-CAE-12-0082, 2006-Ohio-4671. On motion for stay of court of appeals' judgment. Motion denied.

2006-1909. State v. Price.

Franklin App. No. 06AP-347. On motion for leave to file delayed appeal. Motion denied.

2006-1916. Melcher v. Ryan.

Belmont App. No. 05 BE 40, 2006-Ohio-4609. On motion for stay of court of appeals' judgment. Motion denied.

2006-1919. State v. Hamilton.

Cuyahoga App. No. 86520, 2006-Ohio-1949. On motion for leave to file delayed appeal. Motion denied.

2006-1931. State v. Williams.

Cuyahoga App. No. 88406. On motion for leave to file delayed appeal. Motion denied.

Moyer, C.J., dissents.

2006-1932. State v. Westfall.

Summit App. No. 22048, 2004-Ohio-7172. On motion for leave to file delayed appeal. Motion denied.

2006-1933. State v. Heard.

Summit App. No. 23025, 2006-Ohio-3558. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

2006-1935. State v. Conley.

Franklin App. No. 06AP-142. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

APPEALS ACCEPTED FOR REVIEW

2006-1360. WCI, Inc. v. Ohio Liquor Control Comm.

Franklin App. No. 05AP-896, 2006-Ohio-2751.

Pfeifer and Lanzinger, JJ., dissent.

Resnick, J., not participating.

2006-1517. State v. Hassler.

Delaware App. No. 05 CAA 11 0078, 2006-Ohio-3397.

Pfeifer and O'Donnell, JJ., dissent.

2006-1529. State v. Fairbanks.

Ross App. No. 05CA2870, 2006-Ohio-3530.

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

2006-1568. State v. Craig.

Cuyahoga App. No. 88313.

Pfeifer, J., dissents.

2006-1581. State v. Thacker.

Franklin App. No. 05AP-834, 2006-Ohio-3449. Discretionary appeal accepted; cause held for the decision in 2006-1245 and 2006-1363, *State v. Payne*, Franklin App. No. 05AP-517, 2006-Ohio-2552; and briefing schedule stayed.

2006-1606. State v. Jones.

Mahoning App. No. 05-MA-69, 2006-Ohio-3636. Discretionary appeal accepted and cause consolidated with 2006-1851, *State v. Jones*, Mahoning App. No. 05-MA-69, 2006-Ohio-3636.

Resnick and Lanzinger, JJ., dissent.

2006-1647. Charvat v. Ryan.

Franklin App. No. 05AP-1331, 2006-Ohio-3705 and 2006-Ohio-4592. Discretionary appeal accepted on Proposition of Law Nos. II and III and cause consolidated with 2006-1855, *Charvat v. Ryan*, Franklin App. No. 05AP-1331, 2006-Ohio-3705 and 2006-Ohio-4592.

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

Lanzinger, J., would accept the appeal on Proposition of Law No. II only.

O'Donnell, J., dissents.

2006-1695. In re Adams.

Cuyahoga App. No. 87881. Discretionary appeal accepted. On motion for appointment of Christopher Horn as counsel for Lee Adams. Motion granted.

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

2006-1760. State v. Newman.

Montgomery App. No. 21264, 2006-Ohio-4160. Discretionary appeal accepted; cause held for the decision in 2006-0151, *State v. Carswell*, Warren App. No. CA2005-04-047, 2005-Ohio-6547; cause consolidated with 2006-1859, *State v. Newman*, Montgomery App. No. 21264, 2006-Ohio-4160; and briefing schedule stayed.

2006-1793. State v. Newman.

Summit App. No. 23038, 2006-Ohio-4082. Discretionary appeal accepted on Proposition of Law No. II; cause held for the decision in 2006-1245 and 2006-1363, *State v. Payne*, Franklin App. No. 05AP-517, 2006-Ohio-2552; cause consolidated with 2006-1601, *State v. Newman*, Summit App. No. 23038, 2006-Ohio-4082; and briefing schedule stayed.

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

Moyer, C.J., would also accept the appeal on Proposition of Law No. III.

Resnick, J., dissents.

2006-1905. In re V.M.

Franklin App. No. 06AP-144, 2006-Ohio-4461. Discretionary appeal accepted on Proposition of Law No. II; cause held for the decision in 2006-0503, *In re Foster*, Cuyahoga App. No. 85716, 2006-Ohio-88.

Resnick and Pfeifer, JJ., dissent.

APPEALS NOT ACCEPTED FOR REVIEW

2005-2323. State v. Elmore.

Licking App. No. 2005-CA-32, 2005-Ohio-5940.

2006-0934. Poss v. Morris.

Ashtabula App. No. 2004-A-0093, 2006-Ohio-1441.

2006-1068. State v. Jackson.

Butler App. No. CA2005-02-033, 2006-Ohio-1147. Discretionary appeal not accepted. Motion to strike memorandum in support of jurisdiction denied as moot.

2006-1112. In re Boone.

Hancock App. No. 5-06-15. Discretionary appeal not accepted. Motion to strike memorandum in response denied as moot.

2006-1378. State v. Waddy.

Franklin App. No. 05AP-866, 2006-Ohio-2828. Discretionary appeal and cross-appeal not accepted.

2006-1476. Baker v. Adams.

Logan App. No. 8-05-17, 2006-Ohio-3232.

O'Donnell, J., dissents.

2006-1507. State v. Ferrato.

Portage App. No. 2005-P-0070, 167 Ohio App.3d 136, 2006-Ohio-3219.

2006-1508. Ellis v. Woodmere.

Cuyahoga App. No. 86881, 167 Ohio App.3d 111, 2006-Ohio-3007.

Resnick and Pfeifer, JJ., dissent.

2006-1512. State v. West.

Adams App. No. 05CA805, 2006-Ohio-3518.

2006-1514. Hinton v. YMCA of Cent. Stark Cty.

Stark App. No. 2005CA00251, 2006-Ohio-3278.

2006-1515. Fishpaw v. Francisco.

Franklin App. No. 05AP-861, 2006-Ohio-3450.

2006-1518. Huffman v. Bd. of Cty. Commrs.

Columbiana App. No. 05 CO 71, 2006-Ohio-3479.

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

2006-1519. Yarab v. Boardman Twp. Bd. of Zoning Appeals.

Mahoning App. No. 04 MA 266, 2006-Ohio-3565.

2006-1520. Lally v. Am. Isuzu Motors, Inc.

Franklin App. No. 05AP-1137, 2006-Ohio-3315.

Pfeifer, J., dissents.

2006-1521. Janicki v. KForce.Com.

Montgomery App. No. 21183, 2006-Ohio-3370.

Lundberg Stratton, J., dissents.

2006-1523. White Hat Mgt., LLC v. Ohio Farmers Ins. Co.

Medina App. No. 05CA0038-M, 2006-Ohio-3280.

2006-1524. Krauss v. Stitt.

Trumbull App. No. 2005-T-0114, 2006-Ohio-3430.

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

2006-1527. Spencer v. Lakeview School Dist.

Trumbull App. No. 2005-T-0083, 2006-Ohio-3429.

Resnick and Pfeifer, JJ., dissent.

2006-1531. Goyings v. Rickels.

Paulding App. No. 11-06-03. Discretionary appeal not accepted. On motion for an order declaring Romane Rickels to be a vexatious litigator. Motion granted, and the court finds Romane Rickels to be a vexatious litigator under S.Ct.Prac.R. XIV(5)(B). Romane Rickels is prohibited from continuing or instituting legal proceedings in this court without first obtaining leave. Any request for leave shall be submitted to the Clerk of this court for the court's review.

2006-1532. Kistler v. Mabe.

Franklin App. Nos. 04AP-1095 and 04AP-1100, 2006-Ohio-3308.
Resnick, J., dissents.

2006-1533. State v. Dach.

Trumbull App. Nos. 2005-T-0048 and 2005-T-0054, 2006-Ohio-3428.
O'Connor, J., not participating.

2006-1534. Cincinnati v. Dimasi.

Hamilton App. No. C-060368, 2006-Ohio-3345.
Resnick, J., dissents.

2006-1535. Bergholtz Coal Holding Co. v. Dunning.

Lake App. No. 2004-L-209, 2006-Ohio-3401.

2006-1536. State v. Kanner.

Monroe App. No. 04 MO 10, 2006-Ohio-3485.

2006-1537. Howland Twp. Bd. of Trustees v. Dray.

Trumbull App. No. 2004-T-0137, 2006-Ohio-3402.
Resnick and Lundberg Stratton, JJ., dissent.

2006-1538. Cincinnati Ins. Co. v. Schwerha.

Mahoning App. No. 04 MA 257, 2006-Ohio-3521.
Pfeifer, J., dissents.

2006-1539. Thamann v. Bartish.

Hamilton App. No. C-040097, 2006-Ohio-3346.
Resnick, Lundberg Stratton and O'Donnell, JJ., dissent.

2006-1540. State v. Dillon.

Franklin App. No. 05AP-679, 2006-Ohio-3312.

2006-1542. State v. Elliott.

Lorain App. Nos. 05CA008686 and 05CA008687, 2006-Ohio-3332.
O'Donnell, J., dissents and would accept the appeal on Proposition of Law
Nos. I and III.

2006-1543. In re Estate of Pally.

Washington App. No. 05CA45, 2006-Ohio-3528.

2006-1545. S.E.A., Inc. v. Dunning-Lathrop & Assoc., Inc.

Franklin App. No. 05AP-769, 2006-Ohio-3447.

Pfeifer, J., dissents.

2006-1563. Cangemi v. Cangemi.

Cuyahoga App. No. 86670, 2006-Ohio-2879.

O'Connor, J., not participating.

2006-1571. State v. Ibarra.

Wood App. No. WD-06-037.

2006-1587. Wilson v. Maple.

Clermont App. No. CA2005-08-075, 2006-Ohio-3536.

Pfeifer, J., dissents.

2006-1591. State v. Landis.

Butler App. No. CA2005-10-428, 2006-Ohio-3538.

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

2006-1596. State v. Bradley.

Cuyahoga App. No. 86351, 2006-Ohio-3360.

2006-1599. State v. Wilson.

Coshocton App. No. 02CA30, 2004-Ohio-1857.

2006-1652. Maseck v. Lindav Properties.

Hamilton App. No. C-050528, 2006-Ohio-3721.

2006-1653. State v. Pruitt.

Cuyahoga App. Nos. 86707 and 86986, 2006-Ohio-4106.

2006-1657. State v. Langley.

Sandusky App. No. S-06-016, 2006-Ohio-3871.

2006-1658. State v. Simpson.

Hamilton App. No. C-050798.

2006-1662. State v. Davis.

Franklin App. No. 05AP-538, 2006-Ohio-3707 and 2006-Ohio-4457.

Moyer, C.J., would accept the appeal on Proposition of Law No. III and hold the cause for the decision in 2006-1245 and 2006-1363, *State v. Payne*, Franklin App. No. 05AP-517, 2006-Ohio-2552.

Pfeifer, J., would accept the appeal on all Propositions of Law and hold the cause for the decision in 2006-1245 and 2006-1363, *State v. Payne*, Franklin App. No. 05AP-517, 2006-Ohio-2552.

O'Donnell, J., would accept the appeal on Proposition of Law Nos. I, II, and IV and hold the cause for the decision in 2006-1245 and 2006-1363, *State v. Payne*, Franklin App. No. 05AP-517, 2006-Ohio-2552.

2006-1663. Palmer v. Foley.

Montgomery App. No. 21235, 2006-Ohio-4013.

2006-1679. State v. Ransby.

Cuyahoga App. No. 86768, 2006-Ohio-3596.

2006-1696. MRK Technologies, Ltd. v. Accelerated Sys. Integration, Inc.

Cuyahoga App. No. 87936.

2006-1713. State v. White.

Franklin App. No. 05AP-1178, 2006-Ohio-4226.

2006-1729. State v. Sapper.

Summit App. No. 22927, 2006-Ohio-2284.

2006-1738. State v. Abboud.

Cuyahoga App. No. 85750, 2006-Ohio-4265.

2006-1745. State v. Bryant.

Cuyahoga App. No. 85836, 2006-Ohio-4105.

2006-1787. State v. Beal.

Franklin App. Nos. 01AP-170, 01AP-171, 01AP-172 and 01AP-173.

2006-1848. State v. Williams.

Cuyahoga App. No. 83707, 2006-Ohio-4269.

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

RECONSIDERATION OF PRIOR DECISIONS

2005-0078. Sheaffer v. Westfield Ins. Co.

Holmes App. No. 03CA006, 2004-Ohio-6755. Reported at 110 Ohio St.3d 265, 2006-Ohio-4476, 853 N.E.2d 275. On motion for reconsideration. Motion denied.
Lundberg Stratton and O'Donnell, JJ., dissent.

2005-0457. Sheaffer v. Westfield Ins. Co.

Holmes App. No. 03CA006, 2004-Ohio-6755. Reported at 110 Ohio St.3d 265, 2006-Ohio-4476, 853 N.E.2d 275. On motion for reconsideration. Motion denied.
Lundberg Stratton and O'Donnell, JJ., dissent.

2005-2118. In re Adoption of Pushcar.

Lake App. No. 2005-L-050, 2005-Ohio-5114. Reported at 110 Ohio St.3d 332, 2006-Ohio-4572, 853 N.E.2d 647. On motion for reconsideration. Motion denied.

2006-1242. Proctor v. Kardassilaris.

Trumbull App. No. 2005-T-0026, 2006-Ohio-2385. Reported at 111 Ohio St.3d 1415, 2006-Ohio-5083, 854 N.E.2d 1093. On motion for reconsideration. Motion granted and discretionary appeal accepted. Sua sponte, cause consolidated with 2006-1243, *Proctor v. Blank*, Trumbull App. No. 2005-T-0027, 2006-Ohio-2386.
Resnick, O'Connor and Lanzinger, JJ., dissent.

2006-1243. Proctor v. Blank.

Trumbull App. No. 2005-T-0027, 2006-Ohio-2386. Reported at 111 Ohio St.3d 1415, 2006-Ohio-5083, 854 N.E.2d 1093. On motion for reconsideration. Motion granted and discretionary appeal accepted. Sua sponte, cause consolidated with 2006-1242, *Proctor v. Kardassilaris*, Trumbull App. No. 2005-T-0026, 2006-Ohio-2385.

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

2006-1246. State ex rel. Jones v. Collins.

In Mandamus. Reported at 111 Ohio St.3d 1404, 2006-Ohio-5083, 854 N.E.2d 1086. On motion for reconsideration. Motion denied.

2006-1252. Ohio Dept. of Taxation v. Freeman.

Hancock App. No. 5-05-17, 2006-Ohio-2372. Reported at 111 Ohio St.3d 1416, 2006-Ohio-5083, 854 N.E.2d 1093. On motion for reconsideration. Motion denied.

2006-1274. Cotton v. Rothgery.

In Procedendo and Prohibition. Reported at 111 Ohio St.3d 1405, 2006-Ohio-5083, 854 N.E.2d 1086. On motion for reconsideration. Motion denied.