

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

February 22, 2006

[Cite as *02/22/2006 Case Announcements*, 2006-Ohio-665.]

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## MERIT DECISIONS WITH OPINIONS

**2005-0334. Hinkle v. Cleveland Clinic Found., 2006-Ohio-551.**

Cuyahoga App. No. 83721, 159 Ohio App.3d 351, 2004-Ohio-6853. Sua sponte, cause dismissed as having been improvidently accepted.

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

**2005-0803. Cuyahoga Cty. Bar Assn. v. Wise, 2006-Ohio-550.**

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 03-115. David M. Wise, Attorney Registration No. 0037837, 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 and O'Donnell, JJ., concur.  
Lanzinger, J., concurs in judgment only.

O'Connor, J., dissents and would suspend respondent for one year.

**2005-1196. Dayton Bar Assn. v. Landon, 2006-Ohio-546.**

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 04-012. David H. Landon, Attorney Registration No. 0029185, 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.

**2005-1546. Disciplinary Counsel v. McKenna, 2006-Ohio-547.**

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 04-081. Daniel Edward McKenna, Attorney Registration No. 0069944, is indefinitely suspended from the practice of law in Ohio, effective September 3, 2004.

Moyer, C.J., Resnick, Pfeifer, Lundberg Stratton and Lanzinger, JJ., concur.  
O'Connor, J., would indefinitely suspend respondent without credit for time served.

O'Donnell, J., would permanently disbar respondent.

**2005-1612. Boylen v. Bradshaw, 2006-Ohio-549.**

Stark App. No. 2005CA00185. Judgment affirmed.

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

**2005-1667. State ex rel. Rowe v. McCown, 2006-Ohio-548.**

Lawrence App. No. 05-CA-24. Judgment affirmed.

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

### **MERIT DECISIONS WITHOUT OPINIONS**

**2005-2358. State ex rel. Buoscio v. Court of Appeals, Eighth Appellate Dist.**

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

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

O'Connor, J., not participating.

**2005-2367. State ex rel. Baker v. Sheward.**

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.

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

In Mandamus. On respondent's motion to dismiss and relator's motion for judgment on pleadings. Motion for judgment on the pleadings denied. Motion to dismiss granted. Cause dismissed.

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

**2006-0048. State ex rel. Rittner v. Williams.**

In Habeas Corpus. On petition for writ of habeas corpus of Daniel L. Rittner, Sr. Sua sponte, cause dismissed.

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

## **MOTION AND PROCEDURAL RULINGS**

### **2005-1074. Silver Lake v. Metro Regional Transit Auth.**

Summit App. No. 22199, 2005-Ohio-2157. On motion to strike appellee's merit brief in its entirety or, alternatively, portions thereof. Motion denied.

Resnick and O'Donnell, JJ., dissent.

### **2005-2359. Lorain Cty. Auditor v. Ohio Unemployment Comp. Rev. Comm.**

Lorain App. No. 05CA008679, 2005-Ohio-5807. 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 December 12, 2005:

"Is a claimant entitled to unemployment compensation when the claimant worked under a fixed-term contract and has completed the term of the contract?"

Sua sponte, cause consolidated with 2005-2375, *Lorain Cty. Auditor v. Ohio Unemployment Comp. Review Comm.*, Lorain App. No. 05CA008679, 2005-Ohio-5807.

The conflict cases are *Lexington Twp. Trustees v. Stewart* (Mar. 17, 1986), Stark App. No. CA-6766, 1986 WL 3925; *Case W. Res. Univ. v. Ohio Unemployment Comp. Rev. Comm.*, Cuyahoga App. No. 81773, 2003-Ohio-2047; and *Mathieu v. Dudley* (1967), 10 Ohio App.2d 169.

### **2005-2374. Penrod v. Ohio Dept. of Adm. Serv.**

Franklin App. No. 04AP-1118, 2005-Ohio-5836. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated at page 7 of the court of appeals' Decision filed December 13, 2005:

"When an appointing authority abolishes an employee's position as a result of a reorganization for efficient operation under former R.C. 124.321(D), may the appointing authority satisfy former R.C. 124.321(D) by showing that it reasonably projected that greater efficiency would result, or must an appointing authority also show that the abolishment actually resulted in improved efficiency?"

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

Sua sponte, cause consolidated with 2005-2373, *Penrod v. Ohio Dept. of Adm. Serv.*, Franklin App. No. 04AP-1118, 2005-Ohio-5836.

The conflict case is *McAlpin v. Shirey* (1997), 121 Ohio App.3d 68.

### **2006-0049. State v. Plaza.**

Cuyahoga App. No. 83074, 2004-Ohio-3117 and 2005-Ohio-5685. On motion for leave to file delayed appeal. Motion denied.

**2006-0050. State v. Parsons.**

Wood App. No. WD-04-073, 2005-Ohio-5885. On motion for leave to file delayed appeal. Motion denied.

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

**2006-0051. Am. Interstate Ins. Co. v. G & H Serv. Center, Inc.**

Shelby App. No. 17-05-08, 2005-Ohio-5753. 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 December 19, 2005:

“Where a conflicts of law issue exists in a workers' compensation subrogation claim, should sections 146 and 145 or section 185 of the Restatement of the Law of Conflicts govern?”

The conflict case is *Beer v. Cincinnati Machines, Inc.*, 159 Ohio App.3d 715, 2005-Ohio-901.

**2006-0059. State v. Schlatter.**

Paulding App. No. 11-05-05, 2005-Ohio-5041. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

**2006-0063. State v. Foster.**

Cuyahoga App. No. 85790, 2005-Ohio-5716. On motion for leave to file delayed appeal. Motion denied.

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

**2006-0065. State v. Piesciuk.**

Butler App. No. CA2004-03-055, 2005-Ohio-5767. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause consolidated with 2005-2335, *State v. Piesciuk*, Butler App. No. CA2004-03-055, 2005-Ohio-5767; 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.

**2006-0166. Dever v. Clark.**

Clark App. Nos. 05CA0126 and 05CA0127. On motion for stay of court of appeals' judgment. Motion denied.

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

## APPEALS ACCEPTED FOR REVIEW

### **2005-1738. State v. Williams.**

Cuyahoga App. No. 85327, 2005-Ohio-3715. 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.

### **2005-1840. State v. Covington.**

Hamilton App. No. C-040429. 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.

### **2005-2047. State Auto. Ins. Co. v. Pasquale.**

Lake App. No. 2004-L-002, 163 Ohio App.3d 381, 2005-Ohio-4897.  
Resnick, Pfeifer and Lanzinger, JJ., dissent.

### **2005-2061. State v. Buzzard.**

Crawford App. No. 3-04-18, 163 Ohio App.3d 591, 2005-Ohio-5270.  
Resnick, Pfeifer and Lanzinger, JJ., dissent.

### **2005-2063. State v. Smith.**

Lucas App. No. L-05-1004, 2005-Ohio-5020. 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.

### **2005-2073. State v. Ashipa.**

Hamilton App. Nos. C-040867, C-040868 and C-040890. 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. Discretionary cross-appeal not accepted.

Lundberg Stratton and O'Connor, JJ., would also accept the discretionary cross-appeal on Proposition of Law No. I and hold the cause.

### **2005-2074. State v. Henderson.**

Franklin App. No. 04AP-1212, 2005-Ohio-4970. 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.

**2005-2093. O’Nesti v. DeBartolo Realty Corp.**

Mahoning App. No. 04 MA 170, 163 Ohio App.3d 609, 2005-Ohio-5056.  
Pfeifer and O’Donnell, JJ., dissent.

**2005-2112. State v. Eye.**

Washington App. No. 05CA13, 2005-Ohio-5317. 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.

**2005-2115. State v. Ali.**

Cuyahoga App. No. 85234, 2005-Ohio-4815. 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.

Lanzinger, J., would accept the discretionary appeal on Proposition of Law Nos. I, II and III only.

**2005-2127. State v. Garvin.**

Cuyahoga App. No. 85517, 2005-Ohio-4811. 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.

**2005-2128. Stridsberg v. GEICO Gen. Ins. Co.**

Hamilton App. No. C-040689.  
Moyer, C.J., Lundberg Stratton and Lanzinger, JJ., dissent.

**2005-2134. Preferred Capital, Inc. v. Power Eng. Group, Inc.**

Summit App. Nos. 22475, 22476, 22477, 22478, 22485, 22486, 22487, 22488, 22489, 22497, 22499, 22506 and 22513, 163 Ohio App.3d 522, 2005-Ohio-5113. Discretionary appeal accepted on Proposition of Law No. I.

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

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

On motion for admission pro hac vice of Gary L. Brown by R. David Briggs for appellant Doug & Associates, Inc. Motion granted.

**2005-2136. State v. Ross.**

Summit App. Nos. 22447 and 22598, 2005-Ohio-5189. Discretionary appeal accepted on Proposition of Law Nos. V and VI; 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.

**2005-2142. In re D.P.**

Franklin App. Nos. 05AP-117 and 05AP-118, 2005-Ohio-5097. Discretionary appeal accepted; cause held for the decision in 2004-2031, *In re C.R.*, Cuyahoga App. No. 82891, 2004-Ohio-4465; and briefing schedule stayed.

**2005-2162. Bellman v. Am. Internatl. Group.**

Lucas App. No. L-03-1301, 163 Ohio App.3d 540, 2005-Ohio-5250. Discretionary appeal accepted on Proposition of Law Nos. I and II.

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

Lanzinger, J., not participating.

**2005-2186. State v. Wilson.**

Cuyahoga App. No. 85015, 2005-Ohio-4994. Discretionary appeal accepted on Proposition of Law No. I.

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

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

**2005-2218. State v. Galloway.**

Cuyahoga App. No. 85685, 2005-Ohio-5338 and 2005-Ohio-6013. 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.

Lanzinger, J., dissents.

**2005-2220. State v. Hobbs.**

Hamilton App. No. C-030915. Discretionary appeal accepted on Proposition of Law Nos. II and III; cause held for 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.

**2005-2275. State v. Preston.**

Carroll App. No. 04 CA 811, 2005-Ohio-5657. 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.

**2005-2335. State v. Piesciuk.**

Butler App. No. CA2004-03-055, 2005-Ohio-5767. Discretionary appeal accepted on Proposition of Law No. IV; cause consolidated with 2006-0065, *State v. Piescuik*, Butler App. No. CA2004-03-055, 2005-Ohio-5767; 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.

**2005-2342. State v. Gaines.**

Hamilton App. No. C-040123. 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.

**2005-2373. Penrod v. Ohio Dept. of Adm. Serv.**

Franklin App. No. 04AP-1118, 2005-Ohio-5836. Discretionary appeal accepted and cause consolidated with 2005-2374, *Penrod v. Ohio Dept. of Adm. Serv.*, Franklin App. No. 04AP-1118, 2005-Ohio-5836.

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

**2005-2375. Lorain Cty. Auditor v. Ohio Unemployment Rev. Comm.**

Lorain App. No. 05CA008679, 2005-Ohio-5807. Discretionary appeal accepted and cause consolidated with 2005-2359, *Lorain Cty. Auditor v. Ohio Unemployment Rev. Comm.*, Lorain App. No. 05CA008679, 2005-Ohio-5807.

**2006-0064. In re J.J.**

Cuyahoga App. No. 86276, 2005-Ohio-6096.

Resnick and Pfeifer, JJ., dissent.

**APPEALS NOT ACCEPTED FOR REVIEW**



**2005-1532. State v. Melvin.**

Cuyahoga App. No. 84471, 2005-Ohio-2329.

**2005-1640. State v. Neely.**

Hamilton App. No. C-030755, 161 Ohio App.3d 99, 2005-Ohio-2342.

**2005-1878. Patio Enclosures, Inc. v. Four Seasons Marketing Corp.**

Summit App. No. 22458, 2005-Ohio-4933.

Resnick and O'Donnell, JJ., dissent.

**2005-1910. State v. Olekshuk.**

Ashtabula App. No. 2004-A-0030, 2005-Ohio-5275.

Lundberg Stratton, J., dissents.

**2005-2043. State v. Garrett.**

Greene App. No. 2004 CA 110, 2005-Ohio-4832.

**2005-2044. State v. Craig.**

Hamilton App. No. C-050712.

**2005-2055. Vorhees v. Jovingo.**

Athens App. Nos. 04CA16, 04CA17 and 04CA18, 2005-Ohio-4948.

**2005-2056. State v. Reed.**

Defiance App. No. 4-05-22, 2005-Ohio-5614.

**2005-2058. State v. Richardson.**

Clark App. No. 03CA92, 2004-Ohio-5815.

**2005-2062. Fisher v. Harden.**

Morrow App. No. 2004AP0015, 2005-Ohio-4965.

Resnick and O'Donnell, JJ., dissent.

**2005-2067. State v. Scruggs.**

Hamilton App. No. C-040614.

**2005-2072. State v. Yeager.**

Summit App. No. 21510, 2004-Ohio-2368 and 2005-Ohio-4932.

O'Connor, J., dissents.

**2005-2076. Telxon Corp. v. Smart Media of Delaware, Inc.**

Summit App. Nos. 22098 and 22099, 2005-Ohio-4931. Discretionary appeal not accepted.

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

On motion for admission pro hac vice of Maureen E. Mahoney by John C. Fairweather. Motion granted.

**2005-2077. State v. Willis.**

Hamilton App. No. C-040588, 2005-Ohio-5001.

O'Donnell, J., dissents.

**2005-2078. State v. Robinson.**

Cuyahoga App. No. 87002.

**2005-2081. State v. Schlee.**

Lake App. No. 2004-L-070, 2005-Ohio-5117.

**2005-2085. State v. Jackson.**

Delaware App. Nos. 04CA-A-11-078 and 04CA-A-11-079, 2005-Ohio-5173.

**2005-2087. Fifth Third Bank v. Banks.**

Franklin App. No. 04AP-860, 2005-Ohio-4972.

Resnick, J., not participating.

**2005-2089. State v. Golubov.**

Wayne App. No. 05CA0019, 2005-Ohio-4938.

**2005-2091. Willis & Linnen Co., L.P.A. v. Linnen.**

Summit App. No. 22452, 163 Ohio App.3d 400, 2005-Ohio-4934.

**2005-2092. State v. DeMastry.**

Fairfield App. No. 05CA15, 2005-Ohio-5175.

Lanzinger, J., dissents.

**2005-2098. Yassine, Inc. v. Bates Communications, Inc.**

Lucas App. No. L-04-1372, 163 Ohio App.3d 413, 2005-Ohio-5019.

O'Connor, J., dissents.

**2005-2100. State v. Cruse.**

Franklin App. Nos. 05AP-125 and 05AP-127, 2005-Ohio-5095.

**2005-2107. State v. Smith.**

Hamilton App. No. C-040750, 163 Ohio App.3d 567, 2005-Ohio-5204.

**2005-2120. State v. Warren.**

Stark App. No. 2005CA00030, 2005-Ohio-5218. Discretionary appeal not accepted. Motion to hold appellant's notice of appeal in abeyance denied as moot.

**2005-2121. State v. Whitt.**

Scioto App. No. 04CA2962, 2005-Ohio-5154.

**2005-2123. Gallo v. Am. Isuzu Motors, Inc.**

Cuyahoga App. No. 85552, 2005-Ohio-4826.

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

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

**2005-2129. State v. Zerla.**

Franklin App. No. 04AP-1087, 2005-Ohio-5077.

Lundberg Stratton, J., dissents.

**2005-2132. Cincinnati Ins. Co. v. Lohri.**

Franklin App. No. 05AP-94, 2005-Ohio-5167.

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

**2005-2138. State v. Abshear.**

Clark App. No. 03CA0012, 2004-Ohio-1322.

**2005-2139. Jackson v. Saturn of Chapel Hill, Inc.**

Stark App. No. 2005 CA 00067, 2005-Ohio-5302.

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

**2005-2141. Burton v. Allstate Ins. Co.**

Butler App. No. CA2004-10-247, 2005-Ohio-5291.

**2005-2147. Satow v. Columbiana Cty. Budget Comm.**

Columbiana App. No. 04-CO-13, 2005-Ohio-5312.

**2005-2152. State v. Georgekopoulos.**

Summit App. No. 22491, 2005-Ohio-5106.

O'Donnell, J., dissents.  
O'Connor, J., not participating.

**2005-2154. White v. Sears, Roebuck & Co.**

Franklin App. No. 04AP-1286, 163 Ohio App.3d 416, 2005-Ohio-5086 and 2005-Ohio-5922.

**2005-2157. State v. Quigley.**

Geauga App. No. 2004-G-2577, 2005-Ohio-5276.

**2005-2159. Reams v. Reams.**

Lucas App. Nos. L-04-1276 and L-04-1329, 2005-Ohio-5264.

**2005-2164. State v. Muldrew.**

Cuyahoga App. No. 85661, 2005-Ohio-5000.

**2005-2169. State v. Luther.**

Lorain App. No. 05CA008785.

**2005-2174. Payton v. Receivables Outsourcing, Inc.**

Cuyahoga App. No. 85182, 163 Ohio App.3d 722, 2005-Ohio-4978.

O'Connor, J., dissents and would accept the discretionary appeal on Proposition of Law Nos. III and IV.

O'Donnell, J., dissents.

**2005-2179. State v. Baingull.**

Cuyahoga App. No. 87003.

**2005-2188. State v. Gilbert.**

Franklin App. No. 04AP-933, 2005-Ohio-5536.

**2005-2190. State v. Novel.**

Richland App. No. 2005CA0091.

**2005-2195. State v. Stephens.**

Hamilton App. No. C-040810.

**2005-2200. State v. Trewartha.**

Franklin App. No. 04AP-963, 2005-Ohio-5697.

**2005-2210. State v. Pishok.**

Seneca App. No. 13-05-11, 2005-Ohio-5467.

**2005-2222. Fleming v. Westmeyer.**

Lucas App. No. L-05-1121, 2005-Ohio-5568.

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

**2005-2238. State v. Luckett.**

Cuyahoga App. No. 85677, 2005-Ohio-5199.

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

**2005-2242. State v. Harden.**

Montgomery App. No. 20803, 2005-Ohio-5580.

**2005-2243. State v. Boylen.**

Stark App. Nos. 2005CA00247 and 2005CA00248.

**2005-2249. State v. Franklin.**

Montgomery App. No. 19041, 2002-Ohio-2370.

**2005-2251. State v. Huffman.**

Hamilton App. No. C-050734.

**2005-2262. State v. Pietri.**

Cuyahoga App. No. 87173.

**2005-2268. State v. Haines.**

Franklin App. Nos. 05AP-55 and 05AP-56, 2005-Ohio-5707.

**2005-2280. State v. Young.**

Montgomery App. No. 20813, 2005-Ohio-5584.

**2005-2293. State v. Tomlinson.**

Cuyahoga App. No. 83411, 2004-Ohio-3295 and 2005-Ohio-5844.

**2005-2322. State v. Plaza.**

Cuyahoga App. No. 83074, 2004-Ohio-3117 and 2005-Ohio-5685.

**2005-2338. State v. Sims.**

Cuyahoga App. No. 84090, 2005-Ohio-1978 and 2005-Ohio-5845.

## **RECONSIDERATION OF PRIOR DECISIONS**

### **2004-1063. McCrone v. Bank One Corp.**

Stark App. No. 2003CA00092, 2004-Ohio-2538. Reported at 107 Ohio St.3d 272, 2005-Ohio-6505, 839 N.E.2d 1. On motion for reconsideration. Motion denied.  
Resnick and Pfeifer, JJ., dissent.

### **2004-1678. State v. Cummings.**

Cuyahoga App. No. 83759, 2004-Ohio-4470. Reported at 107 Ohio St.3d 1206, 2005-Ohio-6506, 839 N.E.2d 27. On motion for reconsideration. Motion denied.  
Lundberg Stratton, J., dissents.

### **2004-1939. State v. Jackson.**

Allen App. No. 1-04-31, 2004-Ohio-5350. Reported at 107 Ohio St.3d 1697, 2005-Ohio-6763, 840 N.E.2d 203. On motion for reconsideration. Motion denied.

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

Cuyahoga App. No. 84457, 2005-Ohio-101. Reported at 107 Ohio St.3d 1209, 2005-Ohio-6510, 839 N.E.2d 29. On motion for reconsideration. Motion denied.  
Lundberg Stratton, J., dissents.

### **2005-1709. State v. Wilson.**

Cuyahoga App. No. 85598, 2005-Ohio-4285. Reported at 107 Ohio St.3d 1698, 2005-Ohio-6763, 840 N.E.2d 203. On motion for reconsideration. Motion denied.  
Moyer, C.J., dissents.

### **2005-1720. State v. Hill.**

Clark App. No. 04CA0047, 2005-Ohio-3877. Reported at 107 Ohio St.3d 1698, 2005-Ohio-6763, 840 N.E.2d 204. On motion for reconsideration. Motion denied.  
Moyer, C.J., dissents.

### **2005-1801. Houston v. Liberty Mut. Fire Ins. Co.**

Lucas App. No. L-04-1161, 2005-Ohio-4177. Reported at 107 Ohio St.3d 1700, 2005-Ohio-6763, 840 N.E.2d 204. On motion for reconsideration. Motion denied.  
Resnick, Lundberg Stratton and O'Donnell, JJ., dissent.

### **2005-2094. Cerrone v. Money.**

In Habeas Corpus. Reported at 107 Ohio St.3d 1693, 2005-Ohio-6763, 840 N.E.2d 200. On motion for reconsideration. Motion denied.

**2005-2173. State v. Blue.**

Lucas App. No. L-05-1236. Reported at 107 Ohio St.3d 1695, 2005-Ohio-6763, 840 N.E.2d 202. On motion for reconsideration. Motion denied.

Pfeifer and O'Donnell, JJ., dissent.