

The Supreme Court of Ohio

CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

December 27, 2006

[Cite as *12/27/2006 Case Announcements, 2006-Ohio-6712.*]

MERIT DECISIONS WITH OPINIONS

2005-1194 and 2005-1247. Sherwin-Williams Co. v. Dayton Freight Lines, Inc., 2006-Ohio-6498.

Montgomery App. No. 20651, 161 Ohio App.3d 444, 2005-Ohio-2773. Judgment affirmed.

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

Lundberg Stratton, J., dissents.

2005-1438. Cuyahoga Cty. Bd. of Commrs. v. State, 2006-Ohio-6499.

Cuyahoga App. No. 84305, 162 Ohio App.3d 6, 2005-Ohio-2821. Judgment reversed in part and vacated in part.

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

Pfeifer and O'Donnell, JJ, concur in judgment only.

2005-1689. State ex rel. Gross v. Indus. Comm., 2006-Ohio-6500.

Franklin App. No. 04AP-756, 2005-Ohio-3936. Judgment reversed.

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

Pfeifer and Lundberg Stratton, JJ., dissent.

2005-1965 and 2005-2114. State v. Cress, 2006-Ohio-6501.

Marion App. No. 09-04-42, 163 Ohio App.3d 46, 2005-Ohio-4620. Judgment affirmed.

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

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

2005-2265. State ex rel. Shockley v. Indus. Comm., 2006-Ohio-6502.

Franklin App. No. 05AP-48, 2005-Ohio-5706. Judgment affirmed.

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

Resnick and Pfeifer, JJ., dissent.

2005-2401. Ferrell v. Summa Health Sys., 2006-Ohio-6503.

Summit App. No. 22527, 165 Ohio App.3d 110, 2005-Ohio-5944. Judgment affirmed.

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

2006-0003. State ex rel. Grimes Aerospace Co., Inc. v. Indus. Comm., 2006-Ohio-6504.

Franklin App. No. 04AP-1197, 2005-Ohio-6205. Judgment affirmed.

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

Pfeifer and O'Donnell, JJ., concur in judgment only.

2006-0070. State ex rel. Washington v. Indus. Comm., 2006-Ohio-6505.

Franklin App. No. 05AP-18, 2005-Ohio-6470. Judgment affirmed.

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

2006-0395. Akron Bar Assn. v. Holder, 2006-Ohio-6506.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 05-062. William P. Holder Jr., Attorney Registration No. 0015110, is permanently disbarred from the practice of law in Ohio. 2006-1240, *In re Resignation of Holder*, is dismissed.

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

2006-0461. Cuyahoga Cty. Bar Assn. v. Maybaum, 2006-Ohio-6507.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 05-008. Scott D. Maybaum, Attorney Registration No. 0030587, is indefinitely suspended from the practice of law in Ohio.

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

O'Donnell, J., would suspend respondent from the practice of law in Ohio for two years.

Lundberg Stratton, J., dissents.

2006-0569. State ex rel. Kelsey-Hayes Co. v. Heinlen, 2006-Ohio-6508.

Franklin App. No. 05AP-360, 2006-Ohio-428. Judgment affirmed.

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

2006-0655. Gustin v. Chaney, 2006-Ohio-6509.

Highland App. No. 05CA7, 2006-Ohio-1049. Judgment affirmed.

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

2006-0779. Disciplinary Counsel v. Agopian, 2006-Ohio-6510.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 05-079. Richard Van Agopian, Attorney Registration No. 0030924, is publicly reprimanded.

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

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

2006-0839. Ohio State Bar Assn. v. Burdzinski, Brinkman, Czarzasty & Landwehr, Inc., 2006-Ohio-6511.

On Final Report by the Board on the Unauthorized Practice of Law, No. UPL 04-05. Respondents are enjoined from the drafting or writing of contracts.

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

2006-0840. Ohio State Bar Assn. v. Chiofalo, 2006-Ohio-6512.

On Final Report by the Board on the Unauthorized Practice of Law, No. UPL 03-01. Respondents are enjoined from acts constituting the practice of law.

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

2006-0931. State ex rel. Worrell v. Ohio Police & Fire Pension Fund, 2006-Ohio-6513.

Franklin App. No. 05AP-490, 2006-Ohio-1301. Judgment affirmed.

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

2006-1115. State ex rel. Pyle v. Bessey, 2006-Ohio-6514.

Franklin App. No. 05AP-394, 2006-Ohio-2047. Judgment affirmed.

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

Pfeifer, J., dissents and would reverse the judgment of the court of appeals.

2006-1165. North v. Beightler, 2006-Ohio-6515.

Marion App. No. 9-06-11. Judgment affirmed.

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

Lanzinger, J., concurs in judgment only.

2006-1177. Disciplinary Counsel v. Geer, 2006-Ohio-6516.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 05-072. Thomas Lee Geer, Attorney Registration No. 0011038, is suspended from the practice of law in Ohio for one year.

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

Lundberg Stratton and Lanzinger, JJ., dissent.

2006-1178. Disciplinary Counsel v. Curry, 2006-Ohio-6517.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 05-070. Charles Eric Curry, Attorney Registration No. 0062864, is suspended from the practice of law in Ohio for one year.

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

Lundberg Stratton and Lanzinger, JJ., dissent.

2006-1183. Disciplinary Counsel v. Griffith, 2006-Ohio-6518.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 05-058. Curtis Griffith Jr., Attorney Registration No. 0030707, is permanently disbarred from the practice of law in Ohio.

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

2006-1210. Cleveland Bar Assn. v. Greenberg, 2006-Ohio-6519.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 05-009. Alan D. Greenberg, Attorney Registration No. 0011157, is suspended from the practice of law in Ohio for 18 months.

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

Lundberg Stratton, J., concurs in part and dissents in part.

2006-1286. State ex rel. Blanchard Valley Health Assn. v. Bates, 2006-Ohio-6520.

Lucas App. No. L-06-1165, 2006-Ohio-2621. Judgment affirmed.

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

2006-1318. State ex rel. Winnick v. Gansheimer, 2006-Ohio-6521.

Ashtabula App. No. 2006-A-0009, 2006-Ohio-3431. Judgment affirmed.

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

2006-1482. Scanlon v. Brunsman, 2006-Ohio-6522.

Ross App. No. 06CA2902. Judgment affirmed.

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

2006-1549. State ex rel. Brown v. Rhodes, 2006-Ohio-6523.

Hancock App. No. 5-05-25, 2006-Ohio-3394. Discretionary appeal accepted on Proposition of Law Nos. I and III and judgment affirmed.

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

Pfeifer, J., dissents.

2006-1559. Wooton v. Brunsman, 2006-Ohio-6524.

Ross App. No. 06CA2908. Judgment affirmed.

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

2006-1561. Disciplinary Counsel v. Taft, 2006-Ohio-6525.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 06-023. Robert A. Taft II, Attorney Registration No. 0018186, is publicly reprimanded.

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

Lundberg Stratton, J., not participating.

2006-1590. Cuyahoga Cty. Bar Assn. v. Rutherford, 2006-Ohio-6526.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 05-094. Guy D. Rutherford, Attorney Registration No. 0066032, is suspended from the practice of law in Ohio for six months, stayed on conditions.

Resnick, Pfeifer, Lundberg Stratton and Lanzinger, JJ., concur.

O'Donnell, J., concurs in judgment only.

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

2006-1622. Disciplinary Counsel v. Novak, 2006-Ohio-6527.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 06-011. Lawrence John Novak, Attorney Registration No. 0039794, 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.

2006-1646. Adoption Link, Inc. v. Suver, 2006-Ohio-6528.

Greene App. No, 06-CA-81, 2006-Ohio-4438. Judgment affirmed.

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

MERIT DECISIONS WITHOUT OPINIONS

2006-1681. Moody v. Coshocton Cty.

Wayne App. No. 05CA0059, 2006-Ohio-3751. On review of order certifying a conflict. The court determines that no conflict exists. This cause is therefore dismissed.

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

Resnick and Pfeifer, JJ., dissent.

2006-1945. State ex rel. Buoscio v. Court of Appeals, Seventh Appellate Dist.

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.

2006-1965. State ex rel. Newsome v. Brogan.

In Mandamus and Prohibition. On relator's motion to incorporate court of appeals case as evidence, motion to accept stricken complaint as evidence, motion to accept court of appeals pleading as evidence, motion to accept pleadings as evidence for disciplinary action, motion to accept affidavits, motion for the court for disciplinary evidence, and motion to the court as further evidence for disciplinary action, and respondents' motion to dismiss and motion to strike motion to incorporate court of appeals case as evidence and to accept stricken complaint as evidence. Motion to dismiss granted. All other motions denied as moot. Cause dismissed.

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

2006-1971. State ex rel. Griffin v. State.

In Mandamus. On motion to dismiss of Summit County Prosecuting Attorney and relator's motion for judgment on pleadings. Motion to dismiss granted. Motion for judgment on the pleadings denied. Cause dismissed.

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

2006-1974. Ohio High School Athletic Assn. v. Donofrio.

In Prohibition. 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.

2006-1983. Turnbow v. Boggins.

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.

2006-1997. State ex re. Bates v. Schneider.

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.

2006-1999. State ex rel. Piesciuk v. Young.

In Mandamus and Prohibition. On respondents' motion to dismiss and relator's motion for issuance of peremptory writ. Motion to dismiss granted. Motion for issuance of peremptory writ denied. Cause dismissed.

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

2006-2067. Ouwenga v. Bur. of Prisons.

In Habeas Corpus. On petition for writ of habeas corpus of Andrew Stuart Ouwenga. Sua sponte, cause dismissed.

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

2006-2119. Cotten v. Timmerman-Cooper.

In Habeas Corpus. On petition for writ of habeas corpus of Prince Charles Cotten Sr. Sua sponte, cause dismissed.

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

MOTION AND PROCEDURAL RULINGS

2003-0565. State v. Newton.

Richland C.P. 02-CR-48H. On appellant's pro se motion to set an execution date. Motion granted. It is further ordered by the court that appellant's sentence be carried into execution by the Warden of the Southern Ohio Correctional Facility or, in his absence, by the Deputy Warden on Tuesday, the 27th day of February, 2007, in accordance with the statutes so provided.

It is further ordered that a certified copy of this entry and a warrant under seal of this court be duly certified to the Warden of the Southern Ohio Correctional Facility and that said Warden shall make due return thereof to the Clerk of the Court of Common Pleas for Richland County.

2006-1460. Marshall v. Russo.

In Prohibition. On documentation of reasonable expenses submitted pursuant to the court's order of October 4, 2006. Expenses in the amount of \$327.42 are awarded to respondent.

2006-1594. Indus. Energy Users-Ohio v. Pub. Util. Comm.

Public Utilities Commission, No. 05-376-EL-UNC. On motion for admission pro hac vice of David C. Rinebolt by Colleen Mooney. Motion granted.

2006-1868. Internatl. Bhd. of Electrical Workers, Local Union No. 8 v. Vaughn Industries, Inc.

Wood App. No. WD-06-061, 2006-Ohio-5280. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated at page 6 of the court of appeals' Decision and Judgment Entry filed September 25, 2006:

"Where attorney fees are requested in the original pleadings, may a party wait until after judgment on the case in chief is entered to file its motion for attorney fees?"

O'Donnell, J., dissents.

The conflict cases are *Fair Hous. Advocates Assoc., Inc.* (1996), 114 Ohio App.3d 104, *Mollohan v. Court Dev., Inc.*, Lorain App. No. 03CA008361, 2004-

Ohio-2118, *Wengerd v. Martin* (Apr. 5, 2000), Wayne App. No. 99CA0004, and *Shepherd v. Shea* (May 14, 1997), Summit App. No. 17974.

2006-1914. Groch v. Gen. Motors Corp.

Certified Questions of State Law, United States District Court, Northern District of Ohio, Western Division, Case No. 3:06-CV-1604. On review of preliminary memoranda pursuant to S.Ct.Prac.R. XVIII(6). The court will answer the following questions:

1. Do the statutes allowing subrogation for workers' compensation benefits, R.C. 4123.93 and 4123.931, violate the takings clause, Article I, Section 19, of the Ohio Constitution?

2. Do R.C. 4123.93 and 4123.931 violate the due process and remedies clause, Article I, Section 16, of the Ohio Constitution?

3. Do R.C. 4123.93 and 4123.931 violate the equal protection clause, Article I, Section 2 of the Ohio Constitution?

4. Do R.C. 2305.10(C) and (F) violate the open courts provision of Article I, Section 16, of the Ohio Constitution?

5. Do R.C. 2305.10(C) and (F) violate the takings clause, Article I, Section 19, of the Ohio Constitution?

6. Do R.C. 2305.10(C) and (F) violate the due process and remedies clause, Article I, Section 16, of the Ohio Constitution?

7. Do R.C. 2305.10(C) and (F) violate the equal protection clause, Article I, Section 2, of the Ohio Constitution?

8. Do R.C. 2305.10(C) and (F) violate the ban on retroactive laws, Article II, Section 28 of the Ohio Constitution?

9. Does Senate Bill 80 violate the one-subject rule, Article II, Section 15, of the Ohio Constitution.?

2006-2019. State v. Ayers.

Erie App. No. E-05-079, 2006-Ohio-5108. On emergency motion for stay of court of appeals' judgment. Motion denied.

2006-2043. Taylor Bldg. Corp. of Am. v. Benfield.

Clermont App. No. CA2005-09-083, 2006-Ohio-4428. 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' Entry filed October 23, 2006:

“Should an appellate court apply a de novo or abuse of discretion standard of review when reviewing a trial court's decision granting or denying a motion to

compel arbitration where it is alleged that the arbitration clause is unconscionable?”

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

The conflict cases are *Small v. HCF of Perrysburg, Inc.*, 159 Ohio App.3d 66, 2004-Ohio-5757, *Sikes v. Ganley Pontiac Honda, Inc., et al.*, Cuyahoga App. No. 82889, 2004-Ohio-155, *Harper v. J.D. Byrider of Canton*, 148 Ohio App.3d 122, 2002-Ohio-2657, and *Cronin v. California Fitness*, Franklin App. No. 04AP-1121, 2005-Ohio-3273.

Sua sponte, cause consolidated with 2006-1890, *Taylor Bldg. Corp. of Am. v. Benfield*, Clermont App. No. CA2005-09-083, 2006-Ohio-4428.

2006-2051. State v. Weese.

Huron App. No. H-05-003, 2005-Ohio-3996. On motion for leave to file delayed appeal. Motion denied.

2006-2058. State v. Bumphus.

Erie App. No. E-05-054, 2006-Ohio-3869. On motion for leave to file delayed appeal. Motion denied.

O'Donnell, J., dissents.

2006-2061. State v. Love.

Lucas App. No. L-05-1087, 2006-Ohio-2925. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2006-2115. State v. Williams.

Summit App. No. 22710, 2006-Ohio-1031. On motion for leave to file delayed appeal. Motion denied.

2006-2116. State v. Daniel.

Franklin App. Nos. 05AP-564 and 05AP-683, 2006-Ohio-4627. 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 2006-1383, *State v. Payne*, Franklin App. No. 05AP-517, 2006-Ohio-2552; cause consolidated with 2006-1898, *State v. Daniel*, Franklin App. Nos. 05AP-564 and 05AP-683, 2006-Ohio-4627; and briefing schedule stayed.

Pfeifer, J., dissents.

2006-2118. State v. Hamilton.

Hocking App. No. 05CA4, 2005-Ohio-5450. On motion for leave to file delayed appeal. Motion denied.

2006-2120. State v. Parrish.

Montgomery App. No. 21206, 2006-Ohio-4161. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2006-2124. State v. Ratliff.

Franklin App. No. 06AP-84, 2006-Ohio-5785. 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 2006-1383, *State v. Payne*, Franklin App. No. 05AP-517, 2006-Ohio-2552; cause consolidated with 2006-2041, *State v. Ratliff*, Franklin App. No. 06AP-84, 2006-Ohio-5785; and briefing schedule stayed.

Pfeifer, J., dissents.

2006-2135. State v. Wamsley.

Columbiana App. No. 05 CO 11, 2006-Ohio-5303. On motion for stay of court of appeals' judgment. Motion granted.

Pfeifer and Lanzinger, JJ., dissent.

2006-2182. State ex rel. Petro v. Marshall.

Scioto App. No. 05CA3004, 2006-Ohio-5357. On motion for limited remand to the court of appeals. Motion granted. The cause is remanded to the court of appeals to rule on appellant's motion for relief from judgment. It is further ordered that proceedings in this case are stayed and that the parties shall notify this court upon the court of appeals' resolution of the motion.

APPEALS ACCEPTED FOR REVIEW

2006-1687. State v. Silverman.

Franklin App. Nos. 05AP-837, 05AP-838 and 05AP-839, 2006-Ohio-3826. Discretionary appeal accepted on Proposition of Law No. I; cause held for the decision in 2006-1245 and 2006-1383, *State v. Payne*, Franklin App. No. 05AP-517, 2006-Ohio-2552; and briefing schedule stayed.

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

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

2006-1814. Wilson v. Wilson.

Wayne App. No. 05CA0078, 2006-Ohio-4151.

Resnick, Pfeifer and Lanzinger, JJ., dissent.

2006-1831. State v. Curtis.

Franklin App. No. 05AP-795, 2006-Ohio-4230. Discretionary appeal accepted on Proposition of Law No. II; cause held for the decision in 2006-1245 and 2006-1383, *State v. Payne*, Franklin App. No. 05AP-517, 2006-Ohio-2552; and briefing schedule stayed.

2006-1862. State v. Wain.

Cuyahoga App. No. 86960, 2006-Ohio-4124. 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.

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

2006-1890. Taylor Bldg. Corp. of Am. v. Benfield.

Clermont App. No. CA2005-09-083, 2006-Ohio-4428. Discretionary appeal accepted on Proposition of Law No. I and cause consolidated with 2006-2043, *Taylor Bldg. Corp. of Am. v. Benfield*, Clermont App. No. CA2005-09-083, 2006-Ohio-4428.

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

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

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

2006-1898. State v. Daniel.

Franklin App. Nos. 05AP-564 and 05AP-683, 2006-Ohio-4627. Discretionary appeal accepted on Proposition of Law Nos. II and III; cause held for the decision in 2006-1245 and 2006-1383, *State v. Payne*, Franklin App. No. 05AP-517, 2006-Ohio-2552; cause consolidated with 2006-2116, *State v. Daniel*, Franklin App. Nos. 05AP-564 and 05AP-683, 2006-Ohio-4627; and briefing schedule stayed.

Resnick and Pfeifer, JJ., dissent.

2006-1942. In re K.M.

Cuyahoga App. Nos. 87882 and 87883, 2006-Ohio-4878. Discretionary appeal accepted; cause held for the decision in 2006-1695, *In re Adams*, Cuyahoga App. No. 87881; and briefing schedule stayed.

2006-2041. State v. Ratliff.

Franklin App. No. 06AP-84, 2006-Ohio-5785. Discretionary appeal accepted; cause held for the decision in 2006-1245 and 2006-1383, *State v. Payne*, Franklin App. No. 05AP-517, 2006-Ohio-2552; cause consolidated with 2006-2124, *State v. Ratliff*, Franklin App. No. 06AP-84, 2006-Ohio-5785; and briefing schedule stayed.

Pfeifer, J., dissents.

APPEALS NOT ACCEPTED FOR REVIEW

2006-1673. Moody v. Coshocton Cty.

Wayne App. No. 05CA0059, 2006-Ohio-3751.

Resnick and Pfeifer, JJ., dissent.

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

2006-1680. Awig v. Slomovitz.

Cuyahoga App. No. 87191, 2006-Ohio-3716.

2006-1685. State v. Santana.

Cuyahoga App. No. 87170, 2006-Ohio-3843.

Resnick and O'Donnell, JJ., dissent.

2006-1690. State v. Wells.

Summit App. No. 22998.

Lundberg Stratton, J., dissents and would accept the appeal and remand the cause for a determination of whether appellant's counsel was ineffective.

2006-1694. Miles Landing Homeowners Assn. v. Bikkani.

Cuyahoga App. Nos. 86356 and 86942, 2006-Ohio-3328.

2006-1699. Internatl. Bhd. of Electrical Workers, Local Union #8 v. Stollsteimer Elec., Inc.

Fulton App. No. F-05-025, 2006-Ohio-3865.

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

Lundberg Stratton and Lanzinger, JJ., dissent.

2006-1701. State v. Friesel.

Lucas App. No. L-04-1346, 2006-Ohio-3870.

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

2006-1702. State v. Hilliard.

Summit App. No. 22808, 2006-Ohio-3918.

2006-1704. Langlois v. W.P. Hickman Sys., Inc.

Cuyahoga App. No. 86930, 2006-Ohio-3737.

2006-1707. Howe v. Henry Cty. Commrs.

Henry App. No. 7-06-01, 2006-Ohio-3893.

Pfeifer, J., dissents.

2006-1709. State v. Haney.

Clermont App. No. CA2005-07-068, 2006-Ohio-3899.

2006-1711. Meeker R&D, Inc. v. Evenflo Co., Inc.

Portage App. No. 2006-P-0019, 2006-Ohio-3885.

2006-1718. State v. Elston.

Cuyahoga App. No. 87098, 2006-Ohio-3733.

Resnick, J., dissents.

2006-1721. State v. Coston.

Franklin App. No. 05AP-905, 2006-Ohio-3961.

2006-1725. State v. Wellman.

Franklin App. No. 05AP-386, 2006-Ohio-3808.

Resnick and O'Connor, JJ., dissent and would accept the appeal on Proposition of Law No. III and hold the cause for the decision in 2006-1245 and 2006-1383, *State v. Payne*, Franklin App. No. 05AP-517, 2006-Ohio-2552.

2006-1726. State v. Miley.

Richland App. Nos. 2005-CA-67 and 2006-CA-14, 2006-Ohio-4670.

2006-1727. State v. Jones.

Hamilton App. No. C-050833, 2006-Ohio-4284.

2006-1728. Buckeye Retirement Co., LLC, Ltd. v. Brat Automotive, Inc.

Summit App. No. 23114, 2006-Ohio-4078.

2006-1736. Harrison v. Creviston.

Cuyahoga App. No. 86732, 2006-Ohio-3964.

Resnick, J., dissents.

2006-1739. State v. Bonnell.

Cuyahoga App. No. 87337.

2006-1748. State v. Earls.

Hamilton App. No. C-040531, 2006-Ohio-4029.

Lundberg Stratton and Lanzinger, JJ., dissent.

2006-1753. State v. Bobo.

Montgomery App. No. 21012, 2006-Ohio-4147. Discretionary appeal not accepted. Motion for order to transmit certified copy of judgment entry denied as moot.

2006-1755. MRC Receivables Corp. v. Givens.

Belmont App. No. 06-BE-17.

2006-1756. State v. Butler.

Hamilton App. Nos. C-050744 and C-050745.

2006-1761. State v. Alston.

Lorain App. No. 05CA008769, 2006-Ohio-4152.

2006-1763. Sharp v. Andersons, Inc.

Franklin App. No. 06AP-81, 2006-Ohio-4075.

2006-1764. Stembridge v. Summit Academy Mgt.

Summit App. No. 23083, 2006-Ohio-4076.

Resnick, J., dissents.

2006-1768. State v. Mason.

Hamilton App. No. C-050272.

2006-1769. Loop v. Hall.

Scioto App. No. 05CA3041, 2006-Ohio-4363.

2006-1771. Glassman v. Offenber.

Cuyahoga App. Nos. 85838, 85863 and 87175, 2006-Ohio-3837.

O'Connor, J., not participating.

2006-1772. State v. Lipford.

Stark App. No. 2006CA00025, 2006-Ohio-4240.

2006-1782. Enderle v. Zettler.

Butler App. No. CA2005-11-484, 2006-Ohio-4326.

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

2006-1783. In re Contempt of Thomas.

Cuyahoga App. No. 86375, 2006-Ohio-3324.

O'Donnell, J., dissents.

2006-1786. Quinton v. MedCentral Health Sys.

Richland App. No. 2006CA0009, 2006-Ohio-4238.

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

2006-1788. State v. Sawyer.

Medina App. No. 05CA0089-M, 2006-Ohio-4308.

Resnick and Lundberg Stratton, JJ., dissent and would accept the appeal on Proposition of Law No. I, reverse the judgment of the court of appeals, and remand the cause for resentencing on the authority of *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856, 845 N.E.2d 470.

2006-1804. State v. Hinson.

Cuyahoga App. No. 87132, 2006-Ohio-3831.

2006-1810. State v. Martin.

Franklin App. No. 05AP-495, 2006-Ohio-4229.

2006-1816. Mulliken v. Mulliken.

Geauga App. No. 2005-G-2615, 2006-Ohio-4178.

2006-1825. State v. Vinson.

Cuyahoga App. Nos. 87056, 87058 and 87060, 2006-Ohio-3971.

2006-1832. TriHealth, Inc. v. Bd. of Commrs. of Hamilton Cty.

Hamilton App. No. C-060107.

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

2006-1835. State v. Holly.

Cuyahoga App. No. 87095, 2006-Ohio-3845.

2006-1841. State v. Smith.

Lorain App. No. 05CA008822, 2006-Ohio-4419.

Resnick, Lundberg Stratton and O'Connor, JJ., dissent and would accept the appeal on Proposition of Law No. IV and hold the cause for the decision in 2006-1245 and 2006-1383, *State v. Payne*, Franklin App. No. 05AP-517, 2006-Ohio-2552.

2006-1843. State v. Turner.

Hamilton App. Nos. C-050377, C-050747 and C-050748.

2006-1845. State v. Rutherford.

Champaign App. No. 06CA13, 2006-Ohio-5132.

Lanzinger, J., dissents.

2006-1863. State v. Morgan.

Shelby App. No. 17-06-03.

2006-1876. State v. Hemphill.

Cuyahoga App. No. 85431, 2006-Ohio-4372.

2006-1884. State v. Ross.

Summit App. No. 23028, 2006-Ohio-4352.

O'Connor, J., not participating.

2006-2028. State v. Strodes.

Clark App. No. 05CA0070, 2006-Ohio-2335.

2006-2034. In re S.R.

Franklin App. Nos. 05AP-1366 and 05AP-1367, 2006-Ohio-4983.

2006-2111. In re Lloyd.

Tuscarawas App. No. 2006AP070041, 2006-Ohio-5626.

2006-2158. In re W.A.

Franklin App. Nos. 06AP-485 and 06AP-486, 2006-Ohio-5750.

RECONSIDERATION OF PRIOR DECISIONS

2006-0491. Columbus Bar Assn. v. Farmer.

Board of Commissioners on Grievances and Discipline, No. 04-046. Reported at 111 Ohio St.3d 137, 2006-Ohio-5342, 855 N.E.2d 462. On motion for reconsideration. Motion denied.

Pfeifer, J., dissents.

2006-1080. State ex rel. Yavitch & Palmer Co. L.P.A. v. Jackson.

In Mandamus. Reported at 111 Ohio St.3d 1466, 2006-Ohio-5625, 855 N.E.2d 1256. On motion for reconsideration. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

2006-1145. Mentor Exempted Village School Dist. Bd. of Edn. v. Lake Cty. Bd. of Revision.

Board of Tax Appeals, No. 2005-M-603. Reported at 111 Ohio St.3d 1218, 2006-Ohio-5613, 857 N.E.2d 145. On motion for reconsideration. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

2006-1402. Crable v. Nestle USA, Inc.

Cuyahoga App. No. 86746, 2006-Ohio-2887. Reported at 111 Ohio St.3d 1469, 2006-Ohio-5625, 855 N.E.2d 1258. On motion for reconsideration. Motion denied.

2006-1417. Proctor v. N & E Realty, LLC.

Trumbull App. No. 2005-T-0051, 2006-Ohio-3078. Reported at 111 Ohio St.3d 1469, 2006-Ohio-5625, 855 N.E.2d 1258. On motion for reconsideration. Motion denied.

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

2006-1422. State ex rel. Petro v. Mercomp, Inc.

Cuyahoga App. No. 86563, 167 Ohio App.3d 64, 2006-Ohio-2729. Reported at 111 Ohio St.3d 1469, 2006-Ohio-5625, 855 N.E.2d 1258. On motion for reconsideration. Motion denied.

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

Lundberg Stratton and O'Donnell, JJ., dissent and would grant the motion and accept the appeal on Proposition of Law No. I.

2006-1428. State v. White.

Hamilton App. No. C-040770. Reported at 111 Ohio St.3d 1470, 2006-Ohio-5625, 855 N.E.2d 1259. On motion for reconsideration. Motion denied.

Moyer, C.J., and Lundberg Stratton, J., dissent and would grant the motion and accept the appeal on Proposition of Law Nos. I and II.

Lanzinger, J., dissents and would grant the motion and accept the appeal on Proposition of Law No. I.

2006-1440. McGee v. Helmus.

Erie App. Nos. E-05-043, E-05-044 and E-05-066, 2006-Ohio-3061. Reported at 111 Ohio St.3d 1470, 2006-Ohio-5625, 855 N.E.2d 1259. On motion for reconsideration. Motion denied.

2006-1465. George v. Arora.

Stark App. No. 2005 CA 00302, 2006-Ohio-3123. Reported at 111 Ohio St.3d 1470, 2006-Ohio-5625, 855 N.E.2d 1259. On motion for reconsideration. Motion denied.

2006-1492. Baker v. Ohio Dept. of Job & Family Servs.

Lucas App. No. L-05-1296, 2006-Ohio-3176. Reported at 111 Ohio St.3d 1471, 2006-Ohio-5625, 855 N.E.2d 1259. On motion for reconsideration. Motion denied.

2006-1714. In re A.T.

Summit App. No. 23065, 2006-Ohio-3919. Reported at 111 Ohio St.3d 1472, 2006-Ohio-5625, 855 N.E.2d 1260. On motion for reconsideration. Motion denied.