

The Supreme Court of Ohio

CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

June 20, 2007

[Cite as *06/20/2007 Case Announcements*, 2007-Ohio-2904.]

MERIT DECISIONS WITH OPINIONS

2006-1765. State v. Allen, 2007-Ohio-2711.

Cuyahoga App. No. 86880, 2006-Ohio-3838. Judgment affirmed.

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

2006-2078 and 2006-2094. Burya v. Lake Metroparks Bd. of Park Commrs., 2007-Ohio-2712.

Lake App. No. 2005-L-015, 2006-Ohio-5192. Certified question is answered in the negative, judgment of the court of appeals is reversed, and judgment of the trial court is reinstated.

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

Pfeifer, J., dissents and would answer the certified question in the affirmative and affirm the judgment of the court of appeals.

2006-2264. Disciplinary Counsel v. Scacchetti, 2007-Ohio-2713.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 06-055. David J. Scacchetti, Attorney Registration No. 0014117, is suspended from the practice of law in Ohio for two years, with 18 months stayed on conditions, and probation imposed.

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

2006-2294. State v. Forbes, 2007-Ohio-2714.

Cuyahoga App. No. 87473, 2006-Ohio-5612. Judgment affirmed.

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

2006-2308. Cleveland Bar Assn. v. Church, 2007-Ohio-2744.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 05-097. Joseph Jeffrey Church, Attorney Registration No. 0006961, is indefinitely suspended from the practice of law in Ohio.

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

2006-2333. State v. Humphrey, 2007-Ohio-2715.

Franklin App. No. 05AP-1274, 2006-Ohio-5869. Judgment affirmed.

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

2007-0031. State ex rel. James v. Coyne, 2007-Ohio-2716.

Cuyahoga App. No. 88917, 2006-Ohio-6932. Judgment affirmed.

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

MERIT DECISIONS WITHOUT OPINIONS

2007-0542. State ex rel. Watterson v. Disciplinary Counsel.

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

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

2007-0561. Sabitov v. Koch.

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

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

2007-0644. State ex rel. Tomblin v. O'Neill.

In Mandamus. On complaint in mandamus of Jeffery Tomblin. Sua sponte, cause dismissed as moot.

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

2007-0685. State ex rel. Weaver v. Shriver.

In Procedendo. On respondent's answer and motion for judgment on the pleadings. Motion for judgment on the pleadings granted. Cause dismissed.

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

2007-0717. State ex rel. Keith v. Butler Cty. Court of Common Pleas.

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

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

2007-0794. Sargent v. Moore.

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

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

MOTION AND PROCEDURAL RULINGS

2007-0537. State ex rel. Shanks v. Columbus Dept. of Pub. Safety, Division of Fire.

In Mandamus. On motion to dismiss. Sua sponte, an alternative writ is granted and 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 its brief within ten days of the filing of evidence; respondent shall file its brief within 20 days after the filing of relator's brief; and relator may file a reply brief within seven days after the filing of respondent's brief.

2007-0637. State v. Mutter.

Montgomery App. No. 21374, 2007-Ohio-1052. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause held for the

decision in 2006-2187, *Hyle v. Porter*, Hamilton App. No. C-050768, 2006-Ohio-5454; cause consolidated with 2007-0639, *State v. Mutter*, Montgomery App. No. 21374, 2007-Ohio-1052; and briefing schedule stayed.

2007-0656. State v. Veney.

Franklin App. No. 06AP-523, 2007-Ohio-1295. 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 March 22, 2007:

“Whether a trial court must strictly comply with the requirement in Crim.R. 11(C) that it inform the defendant that by entering a plea, the defendant waives the right to have the state prove guilt beyond a reasonable doubt.”

The conflict cases are *State v. Scott* (1996), 113 Ohio App.3d 401, *State v. Cogar* (Oct. 20, 1993), Summit App. No. CA-16234, and *State v. Shinkle* (Aug. 18, 1998), Scioto App. No. 98CA2560.

Sua sponte, cause consolidated with 2007-0657, *State v. Veney*, Franklin App. No. 06AP-523, 2007-Ohio-1295.

2007-0666. State v. Gabriel.

Montgomery App. No. 21343, 2007-Ohio-794. 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; and briefing schedule stayed.

2007-0771. State v. Farley.

Coshocton App. No. 07-CA-1. On motion for leave to file delayed appeal. Motion denied.

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

2007-0780. State v. Howard.

Belmont App. No. 06 BE 1, 2007-Ohio-1237. On motion for immediate stay of court of appeals' judgment. Motion denied.

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

2007-0793. State v. Johnson.

Lorain App. No. 07CA009097. On motion for leave to file delayed appeal. Motion denied.

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

2007-0806. State v. Hubbard.

Stark App. No. 2006CA00204, 2007-Ohio-489. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Lanzinger, JJ., dissent.

2007-0809. State v. Mallette.

Cuyahoga App. No. 87984, 2007-Ohio-715. On motion for leave to file delayed appeal. Motion granted.

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

2007-0886. David P. v. Kim D.

Lucas App. No. L-06-1164, 2007-Ohio-1865. On motion for stay of court of appeals' judgment. Motion denied.

Cupp, J., dissents.

2007-0923. State v. Bieser.

Licking App. No. 06CA00045, 2007-Ohio-1960. On motion for stay of court appeals' judgment. Motion denied.

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

APPEALS ACCEPTED FOR REVIEW

2007-0411. Bartchy v. State Bd. of Edn.

Franklin App. No. 06AP-697, 2007-Ohio-300. Discretionary appeals of Cincinnati City School District and State Board of Education accepted.

O'Connor, J., would accept the appeal of Cincinnati City School District on Proposition of Law No. I only.

O'Donnell and Cupp, JJ., dissent.

2007-0452. Allstate Ins. Co. v. Cleveland Elec. Illuminating Co.

Cuyahoga App. No. 87781, 2007-Ohio-157. Discretionary appeal accepted. Motions for admission pro hac vice of Lynn K. Weaver and Mark S. Grotefeld by Leslie E. Wargo granted.

2007-0456. State v. Rich.

Stark App. No. 2006 CA 00171, 2007-Ohio-362. Discretionary appeal accepted; cause held for the decision in 2007-0052, *State v. Simpkins*, Cuyahoga App. No. 87692, 2006-Ohio-6028; and briefing schedule stayed.

2007-0459. Bonham v. Hamilton.

Butler App. No. CA2006-02-030, 2007-Ohio-349. Discretionary appeal accepted; cause held for the decision in 2006-1262, *Houck v. Bd. of Park Commrs., Huron Cty. Park Dist.*, Huron App. No. H-05-018, 2006-Ohio-2488; and briefing schedule stayed.

Pfeifer, J., would accept the appeal without holding.

Lanzinger and Cupp, JJ., dissent.

2007-0469. State v. Mansfield.

Medina App. No. 06CA0022-M, 2007-Ohio-333. 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.

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

2007-0525. Nadra v. Mbah.

Franklin App. No. 06AP-829, 2007-Ohio-501.

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

Pfeifer and Cupp, JJ., dissent.

2007-0639. State v. Mutter.

Montgomery App. No. 21374, 2007-Ohio-1052. Discretionary appeal accepted; cause held for the decision in 2006-2187, *Hyle v. Porter*, Hamilton App. No. C-050768, 2006-Ohio-5454; cause consolidated with 2007-0637, *State v. Mutter*, Montgomery App. No. 21374, 2007-Ohio-1052; and briefing schedule stayed.

Pfeifer and O'Connor, JJ., dissent.

2007-0640. Dohme v. Eurand Am., Inc.

Montgomery App. No. 21520, 2007-Ohio-865. Discretionary appeal accepted on Proposition of Law Nos. II and III.

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

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

2007-0657. State v. Veney.

Franklin App. No. 06AP-523, 2007-Ohio-1295. Discretionary appeal accepted and cause consolidated with 2007-0656, *State v. Veney*, Franklin App. No. 06AP-523, 2007-Ohio-1295.

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

Pfeifer, J., dissents.

APPEALS NOT ACCEPTED FOR REVIEW

2007-0051. State v. Bennett.

Cuyahoga App. No. 86962, 2006-Ohio-4274.

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

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

2007-0064. State v. Conway.

Franklin App. No. 05AP-550, 2006-Ohio-6219.

2007-0130. State v. Thompkins.

Franklin App. No. 06AP-310, 2006-Ohio-6148.

2007-0282. Norcold, Inc. v. Gateway Supply Co.

Shelby App. No. 17-05-11, 2006-Ohio-6919. Discretionary appeal and cross-appeal not accepted.

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

Pfeifer, J., dissents.

Cupp, J., not participating.

Motion for admission pro hac vice of James E. Wynne by Charles H. Brown III granted.

2007-0417. State v. Watts.

Butler App. No. CA2005-08-364, 2007-Ohio-221.

2007-0421. State v. Roberts.

Cuyahoga App. No. 89144.

2007-0427. Young v. Young.

Lucas App. No. L-07-1007.

2007-0431. Zahn v. Nelson.

Highland App. No. 06CA29, 2007-Ohio-667.

2007-0432. State v. Jones.

Summit App. No. 23316, 2007-Ohio-239.

2007-0434. State v. Stone.

Clark App. No. 06CA0026, 2007-Ohio-801.

2007-0436. State v. Hamilton.

Clark App. No. 2006 CA 24, 2007-Ohio-434.

2007-0438. Wilcox v. Paygro Co., Inc.

Clark App. No. 2006 CA 10, 2007-Ohio-315.

O'Donnell and Cupp, JJ., dissent.

2007-0443. Scheib v. Summit Cty. Child Support Enforcement Agency.

Summit App. No. 23499.

O'Connor, JJ., not participating.

2007-0445. State v. Hopings.

Lucas App. No. L-05-1145, 2007-Ohio-450.

2007-0447. State v. Lorraine.

Trumbull App. No. 2006-T-0100. Discretionary appeal not accepted. Motion for stay of court of appeals' judgment denied.

O'Donnell and Lanzinger, JJ., dissent.

2007-0449. Carl Ralston Ins. Agency, Inc. v. Nationwide Mut. Ins. Co.

Summit App. No. 23336, 2007-Ohio-507.

Pfeifer, J., dissents.

2007-0450. Svette v. Caplinger.

Ross App. No. 06CA2910, 2007-Ohio-664.

Pfeifer, J., dissents.

2007-0453. State ex rel. Malloy v. Gerard.

Trumbull App. No. 2006-T-0019, 2007-Ohio-338.

Lanzinger, J., dissents.

2007-0457. Jackson v. Glidden Co.

Cuyahoga App. No. 87779, 2007-Ohio-277. Discretionary appeal not accepted.

Pfeifer, J., dissents.

Motions for admission pro hac vice of Joy C. Fuhr, Scott A. Smith, Philip H. Curtis, Elyse D. Echtman, Bruce R. Kelly, Michael Nilan, Daniel Thomasch, and Richard Mark by Richard Schuster granted.

2007-0461. State v. Holloman.

Franklin App. No. 06AP-01, 2007-Ohio-840.

2007-Ohio-0468. State v. McCuller.

Butler App. No. CA2005-07-192, 2007-Ohio-348.

2007-0470. Cleveland v. Colon.

Cuyahoga App. No. 87824, 2007-Ohio-269.

O'Donnell, J., dissents.

2007-0471. Franklin v. Bear.

Richland App. No. 2006-CA-49, 2007-Ohio-385.

Pfeifer and O'Donnell, JJ., dissent and would accept the appeal and hold the cause for the decision in 2006-1166, *Glozza v. Univ. Urologists of Cleveland, Inc.*, Cuyahoga App. No. 86371, 2006-Ohio-1726.

2007-0476. State v. Houston.

Franklin App. No. 06AP-662, 2007-Ohio-423.

2007-0479. State v. Caudill.

Hancock App. No. 5-06-34, 2007-Ohio-337.

2007-0480. Spingola v. Stonewall Columbus, Inc.

Franklin App. No. 06AP-403, 2007-Ohio-381.

2007-0481. State ex rel. Dann v. Grand Tobacco.

Franklin App. No. 05AP-213, 2007-Ohio-418.

Lundberg Stratton, J., dissents.

2007-0483. State v. German.

Hamilton App. No. C-051001.

2007-0484. State v. Thompson.

Allen App. No. 1-06-63, 2007-Ohio-773. Discretionary appeal not accepted. Motion for appointment of counsel denied as moot.

Cupp, J., not participating.

2007-0485. French v. Foust.

Allen App. No. 10-7-08.

Cupp, J., not participating.

2007-0486. State v. List.

Hamilton App. No. C-060321.

2007-0487. Spires v. Bd. of Bldgs. Stds. & Bldg. Appeals.

Cuyahoga App. No. 87760, 2007-Ohio-391.

2007-0489. State v. Schroyer.

Clermont App. No. CA2006-08-064, 2007-Ohio-589.

2007-0491. Joiner v. Simon.

Hamilton App. No. C-050718, 2007-Ohio-425.

2007-0493. Dayton Power & Light Co. v. Enerfab, Inc.

Montgomery App. No. 21512, 2007-Ohio-432.

Pfeifer, J., dissents.

2007-0494. State v. Walker.

Cuyahoga App. No. 87373, 2007-Ohio-393.

2007-0502. Joyce v. Godale.

Geauga App. No. 2006-G-2692, 2007-Ohio-473.

Lundberg Stratton, J., dissents.

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

2007-0503. State v. Barnett.

Muskingum App. No. CT07-0003.

2007-0508. State v. Bailey.

Medina App. No. 06CA0040-M, 2007-Ohio-455.

Lundberg Stratton, O'Donnell and Cupp, JJ., dissent and would accept the appeal and hold the cause for the decision in 2006-1245 and 2006-1383, *State v. Payne*, Franklin App. No. 05AP-517, 2006-Ohio-2552.

2007-0510. State v. Billingsley.

Putnam App. No. 12-06-12, 2007-Ohio-687.

Cupp, J., not participating.

2007-0515. State v. Brown.

Columbiana App. No. 05 CO 68, 2007-Ohio-732.

2007-0517. State v. Berry.

Cuyahoga App. No. 87493, 2007-Ohio-278.

2007-0520. Mathewson v. Mathewson.

Greene App. No. 05-CA-035, 2007-Ohio-574.

2007-0521. Lee v. Commodore Apt. Co.

Hamilton App. No. C-060362.

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

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

2007-0522. Deal v. C.J. Kraft Ents.

Fairfield App. No. 06CA00016, 2007-Ohio-666.

2007-0527. Bethel Village Condominium Assn. v. Republic-Franklin Ins. Co.

Franklin App. No. 06AP-691, 2007-Ohio-546.

2007-0531. State v. Powell.

Franklin App. Nos. 06AP-1199 and 06AP-1200.

2007-0535. Blackburn v. Coon Restoration & Sealants, Inc.

Richland App. No. 2006-CA-0037, 2007-Ohio-558.

2007-0540. Maynard v. Rogers.

Ottawa App. No. OT-06-018, 2007-Ohio-565.

O'Donnell and Cupp, JJ., dissent.

2007-0543. Crosset v. Marquette.

Hamilton App. Nos. C-060148 and C-060180, 2007-Ohio-550.

2007-0546. State v. Halloman-Cross.

Cuyahoga App. No. 88159, 2007-Ohio-290.

2007-0552. State v. Fout.

Franklin App. No. 06AP-664, 2007-Ohio-619.

2007-0563. Sliger v. Stark Cty. Visiting Nurses Serv. & Hospice.

Stark App. No. 2006-CA-00202, 2007-Ohio-645.

2007-0574. State v. Senu-Oke.

Franklin App. No. 07AP-51, 2007-Ohio-756.

2007-0576. State v. Clark.

Cuyahoga App. No. 87938, 2007-Ohio-713.

2007-0578. State v. Mobley.

Fairfield App. No. 06-CA-00003, 2007-Ohio-851.

2007-0582. Collier v. Conley.

Stark App. No. 2007CA00012.

2007-0585. State v. Simmons.

Montgomery App. No. 21976.

2007-0588. State v. Burton.

Franklin App. No. 07AP-66.

2007-0590. State v. Villa.

Lorain App. No. 05CA008773, 2006-Ohio-4529. Discretionary appeal not accepted. Motion to supplement record denied as moot.

2007-0601. State v. Gabriel.

Montgomery App. No. 21343, 2007-Ohio-794.

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

2007-0604. State v. Ruhlman.

Butler App. No. CA2006-06-157.

2007-0616. State v. Fitzgerald.

Summit App. No. 23072, 2007-Ohio-701.

2007-0620. State v. Spicuzza.

Lake App. No. 2006-L-141, 2007-Ohio-783.

2007-0628. State v. Bandy.

Mahoning App. No. 05-MA-49, 2007-Ohio-859.

2007-0774. State v. Gibson.

Champaign App. No. 2005 CA 33, 2006-Ohio-6820.

2007-0790. In re Mercy Anne G.

Huron App. Nos. H-06-007, H-06-008, H-06-009, H-06-010, H-06-011, H-06-012, H-06-013, H-06-014, H-06-015, H-06-016 and H-06-017, 2007-Ohio-1197.

O'Donnell, J., dissents.

RECONSIDERATION OF PRIOR DECISIONS

2006-2405. Carmel Financial Corp. v. Leal.

Lucas App. No. L-06-1049, 2006-Ohio-5618. Reported at 113 Ohio St.3d 1467, 2007-Ohio-1722, 864 N.E.2d 653. On motion for reconsideration. Motion denied.

2007-0056. O'Toole v. Denihan. [See correction at 2007-Ohio-3063.]

Cuyahoga App. No. 87476, 2006-Ohio-6022. Reported at 113 Ohio St.3d 1465, 2007-Ohio-1722, 864 N.E.2d 652. On motions for reconsideration of Tallis George-Munro and Department of Children and Family Services, William Denihan, and Kamesha Duncan.

Motion of Tallis George-Munro is granted, and that appeal is accepted on Proposition of Law No. I.

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

Motion of Department of Children and Family Services, William Denihan, and Kamesha Duncan is granted in part, and that appeal is accepted on Proposition of Law Nos. I and II.

Moyer, C.J., Lundberg Stratton and O'Connor, JJ., would also accept that appeal on Proposition of Law Nos. III and IV.

Cupp, J., would also accept that appeal on Proposition of Law No. III.

Pfeifer and O'Donnell, JJ., dissent.

It is further ordered that the briefing schedule in this appeal is to begin de novo. Appellants shall file their briefs within 40 days of the date of this entry and the parties shall otherwise proceed in accordance with S.Ct.Prac.R. VI.

2007-0151. Parma v. Ries.

Cuyahoga App. No. 88975. Reported at 113 Ohio St.3d 1490, 2007-Ohio-1986, 865 N.E.2d 914. On motion for reconsideration. Motion denied.