

The Supreme Court of Ohio

CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

July 25, 2007

[Cite as *07/25/2007 Case Announcements, 2007-Ohio-3699.*]

MERIT DECISIONS WITH OPINIONS

2006-0105 and 2006-0216. State v. Tooley, 2007-Ohio-3698.

Portage App. No. 2004-P-0064, 2005-Ohio-6709. Certified questions answered in the negative, judgment of the court of appeals reversed, and cause remanded to the trial court.

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

Lundberg Stratton, J., concurs separately.

Lisa Sadler, J., of the Tenth Appellate District, was assigned to sit for Resnick, J., whose term ended on January 1, 2007.

Cupp, J., whose term began on January 2, 2007, did not participate in the consideration or decision of this case.

2006-0151. State v. Carswell, 2007-Ohio-3723.

Warren App. No. CA2005-04-047, 2005-Ohio-6547. Judgment affirmed.

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

Pfeifer, J., concurs in syllabus and judgment only.

O'Donnell, J., concurs separately.

Lanzinger, J., dissents.

Judith L. French, J., of the Tenth Appellate District, was assigned to sit for Resnick, J., whose term ended on January 1, 2007.

Cupp, J., whose term began on January 2, 2007, did not participate in the consideration or decision of this case.

2006-0305. Celmer v. Rodgers, 2007-Ohio-3697.

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

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

Lanzinger, J., concurs in syllabus and judgment only.
Moyer, C.J., O'Connor and Cupp, JJ., dissent.

2006-2260. Cleveland Bar Assn. v. McMahon, 2007-Ohio-3673.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 06-006. Carl G. McMahon, Attorney Registration No. 0001304, is suspended from the practice of law in Ohio for six months.

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

Lanzinger, J. concurs in judgment only.

Pfeifer and O'Donnell, JJ., dissent and would impose a six-month stayed suspension.

2006-2334. Disciplinary Counsel v. Rafidi, 2007-Ohio-3674.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 06-014. Joseph F. Rafidi, Attorney Registration No. 0073061, is suspended from the practice of law in Ohio for six months.

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

2007-0069. Cuyahoga Cty. Bar Assn. v. Jurczenko, 2007-Ohio-3675.

On Certified Report by the Board of Commissioners on Grievances and Discipline, Nos. 05-065 and 06-044. Alexander Jurczenko, Attorney Registration No. 0030918, is permanently disbarred from the practice of law in Ohio.

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

2007-0321. Cuyahoga Cty. Bar Assn. v. Frenden, 2007-Ohio-3676.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 06-027. John A. Frenden, Attorney Registration No. 0031512, is suspended from the practice of law in Ohio for one year, with six months stayed on conditions.

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

Pfeifer, Lundberg Stratton and O'Donnell, JJ., dissent and would impose a 12 month stayed suspension.

MERIT DECISIONS WITHOUT OPINIONS

2006-2079. State ex rel. Griffin v. Smith.

In Mandamus. On relator's motion for default judgment, motions for judgment on the pleadings, summary judgment, and injunctive relief, motion alleging

unauthorized practice of law, motion for sanctions, motion for damages, motion for jury trial on the issue of damages, request for money damages, and motion to arrest judgment, and respondent's notice filed in lieu of response to complaint and notice of dismissal and judgment in United States District Court. This cause was removed from this court to the United States District Court and was dismissed by that court on June 26, 2007. Accordingly, this cause is dismissed. Relator's motions and requests are denied as moot.

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

O'Donnell, J., dissents.

2007-0303. State ex rel. Schwartz v. Turner.

In Prohibition. On relator's motion for issuance of an alternative writ and respondent's motions to dismiss. Motions to dismiss granted on the basis of mootness. Cause dismissed.

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

2007-0548. State ex rel. Carmine v. Bruzzese.

In Mandamus. On complaint in mandamus of Mike Carmine. On S.Ct.Prac.R. X(5) determination, cause dismissed.

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

Lundberg Stratton and O'Donnell, JJ., dissent and would grant an alternative writ.

2007-0606. Hill v. Jeffreys.

In Habeas Corpus. On motion of amicus curiae Ohio Public Defender for leave to file a memorandum in support of petitioner, respondent's return of writ, petitioner's motion for leave to file an amended petition, and motion of amicus curiae Ohio Public Defender for leave to file a memorandum in support of petitioner's motion for leave to amend his petition. Ohio Public Defender's motion for leave to file a memorandum in support of petitioner is granted. Petitioner's motion for leave to file an amended petition and Ohio Public Defender's motion for leave to file a memorandum in support of petitioner's motion for leave to file an amended petition are denied. Because petitioner failed to attach copies of his commitment papers to the habeas corpus petition as required by R.C. 2725.04(D), this cause is dismissed.

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

2007-0725. State ex rel. Taylor v. Erie Cty. Court of Common Pleas.

In Mandamus and Procedendo. On complaint in mandamus/procedendo of Larry Taylor. On S.Ct.Prac.R. X(5) determination, cause dismissed.

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

O'Donnell and Cupp, JJ., dissent and would grant an alternative writ.

2007-0787. State ex rel. Harrington v. Marshall.

In Prohibition. On respondent's motion to dismiss and relator's motion for summary judgment. Motion for summary judgment denied. Motion to dismiss granted. Cause dismissed.

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

2007-0814. State ex rel. Naugle v. Schneiderman.

In Mandamus. On respondent's motion to dismiss and motion for leave to intervene of Dolly Burkhart. Motion for leave to intervene denied. Motion to dismiss granted. Cause dismissed.

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

Lundberg Stratton, J., dissents.

2007-0820. State ex rel. Weaver v. McCreary.

In Procedendo. On complaint in procedendo of Dessalines Weaver. On S.Ct.Prac.R. X(5) determination, cause dismissed.

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

2007-0837. State ex rel. Hill v. Fleegle.

In Mandamus. On complaint in mandamus of Matthew L. Hill. On S.Ct.Prac.R. X(5) determination, cause dismissed.

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

2007-0907. State ex rel. Fuller v. Deters.

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.

2007-0913. State ex rel. Schuhholz v. Hamilton Cty. Court of Common Pleas.

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.

2007-0925. State ex rel. Clark v. Krichbaum.

In Mandamus. On motion for judgment on the pleadings and answer of respondent of Judge R. Scott Krichbaum, motion to dismiss of William Mooney and Robert Lane, and relator's motion to stay the proceedings. Motion to stay denied. Motions for judgment on the pleadings and to dismiss granted. Cause dismissed.

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

O'Donnell, J., dissents and would grant an alternative writ.

2007-0928. Williams v. Unknown Warden.

In Habeas Corpus. On petition for writ of habeas corpus of Vincent D. Williams. Sua sponte, cause dismissed.

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

2007-0935. State ex rel. Grundstein v. Celebrezze.

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.

2007-0940. State ex rel. Clarke v. Gallagher.

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.

2007-0947. Watson v. Wolfe.

In Habeas Corpus. On petition for writ of habeas corpus of James R. Watson Jr. Sua sponte, cause dismissed.

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

2007-1014. Persichino v. Lamneck.

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

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

2007-1040. State ex rel. Radvansky v. Cooper.

In Procedendo and Prohibition. On relator's complaint in procedendo/prohibition and motion for stay and respondents' motion to dismiss. Motion for stay denied. Motion to dismiss granted. Cause dismissed.

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

2007-0358. In re Bozsik.

Medina App. No. 06CA0026-M. Appellant's appeal to this court is barred by R.C. 2323.52(G). Accordingly, this cause is dismissed.

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

2007-0359. State ex rel. Bozsik v. Medina Cty. Commrs.

Medina App. No. 03CA0096-M. Appellant's appeal to this court is barred by R.C. 2323.52(G). Accordingly, this cause is dismissed.

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

MOTION AND PROCEDURAL RULINGS.

2004-1163. State v. Johnson.

Guernsey C.P. No. 03-CR-116. On application for reopening under S.Ct.Prac.R. XI(6). Application denied.

2006-1174. United Tel. Credit Union, Inc. v. Roberts.

Franklin App. Nos. 05AP-827 and 05AP-870, 2006-Ohio-2198. On motion of Kenneth A. Roberts, Acting Superintendent of Credit Unions, for leave to file post-argument notice to correct misstatement at argument. Motion granted. Roberts shall file his notice of misstatement within ten days from the date of this entry. No response to the notice is permitted.

Cupp, J., dissents.

2006-1808. Talik v. Fed. Marine Terminals, Inc.

Cuyahoga App. No. 87073, 2006-Ohio-3979. On motion to strike portions of reply brief. Motion denied.

O'Donnell, J., dissents.

2006-1889. State ex rel. Mosier Indus. Servs. Corp. v. Indus. Comm.

Franklin App. No. 05AP-1096, 2006-Ohio-4620. Sua sponte, the court will hear oral argument on the cause.

2006-1913. Borkowski v. Abood.

Lucas App. No. L-05-1425, 169 Ohio App.3d 31, 2006-Ohio-4913. On motion to dismiss appeal and request for sanctions. Motion and request denied.

Moyer, C.J., dissents.

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

Certified Question of State Law, United States District Court, Northern District of Ohio, Western Division, No. 3:06-CV-1604. On motion for admission pro hac vice of Patrick N. Fanning by Kimberly Conklin. Motion granted.

2006-2062. Air Prods. & Chemicals, Inc. v. Levin.

Board of Tax Appeals, No. 2005-A-20. On joint motion to vacate the Board of Tax Appeals' decision and order and to remand the cause to the Tax Commissioner. Motion granted.

2006-2073. Bikkani v. Lee.

Cuyahoga App. No. 88650. On motion to enter judgment as satisfied. Motion denied as moot.

Cupp, J., dissents.

2006-2239. State ex rel. Cincinnati Enquirer v. Jones-Kelley.

In Mandamus. On answer of respondent. Sua sponte, 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 the evidence; respondent shall file a reply brief within seven days after the filing of respondent's brief.

2006-2302. Bikkani v. Lee.

Cuyahoga App. No. 88650. On appellees' bill and documentation for attorneys' fees, costs, and expenses and appellant's objections to bill and documentation in

support of attorneys' fees. Attorneys' fees and expenses in the amount of \$6,864.18 are awarded to appellees. Objections to bill and documentation in support of attorneys' fees are denied.

2007-0056. O'Toole v. Denihan.

Cuyahoga App. No. 87476, 2006-Ohio-6022. On motion of Department of Children and Family Services, William Denihan, and Kamesha Duncan for clarification. Motion denied.

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

2007-0219. Ackison v. Anchor Packing Co.

Lawrence App. No. 05CA46, 2006-Ohio-7099. On motions for admission pro hac vice of Mark A. Behrens and Christopher E. Appel by Victor E. Schwartz. Motions granted.

2007-0415. Ackison v. Anchor Packing Co.

Lawrence App. No. 05CA46, 2006-Ohio-7099. On motions for admission pro hac vice of Mark A. Behrens and Christopher E. Appel by Victor E. Schwartz. Motions granted.

2007-0581. State v. Farrow.

Cuyahoga App. No. 36833, 2007-Ohio-1976. On motion for leave to file delayed appeal. Motion denied.

2007-0816. Hunter v. Dayton.

Montgomery App. No. 21680, 2007-Ohio-1336. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause held for the decision in 2007-0684, *Rogers v. Dayton*, Montgomery App. No. 21593, 2007-Ohio-673; cause consolidated with 2007-0815, *Hunter v. Dayton*, Montgomery App. No. 21680, 2007-Ohio-1336; and briefing schedule stayed.

2007-0844. State v. Meyers.

Hamilton App. No. C-060012. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause held for the decision in 2007-0595 and 2007-0651, *State v. Cabrales*, Hamilton App. No. C-050682, 2007-Ohio-857, and briefing schedule stayed.

2007-0887. State v. Gresham.

Cuyahoga App. No. 88013, 2007-Ohio-636. On motion for leave to file delayed appeal. Motion denied.

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

2007-0909. State v. Jackson.

Cuyahoga App. No. 88028, 2007-Ohio-823. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

2007-0910. State v. Fuller.

Hamilton App. No. C-040318, 2007-Ohio-1020. On motion for leave to file delayed appeal. Motion denied.

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

2007-0912. In re L.A.B.

Summit App. No. 23309, 2007-Ohio-1479. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause held for the decision in 2006-1074, *In re Spears*, Licking App. No. 2005-CA-93, 2006-Ohio-1920; cause consolidated with 2007-0895, *In re L.A.B.*, Summit App. No. 23309, 2007-Ohio-1479; and briefing schedule stayed.

Cupp, J., would recognize the conflict but not hold the cause.

2007-0936. State v. Gover.

Franklin App. No. 05AP-1034, 2006-Ohio-4338. On motion for leave to file delayed appeal. Motion denied.

Cupp, J., dissents.

2007-0937. State v. Riley.

Wood App. No. WD-03-076, 2006-Ohio-116 and 2007-Ohio-879. On motion for leave to file delayed appeal. Motion granted.

Cupp, J., dissents.

2007-0970. State v. McCall.

Muskingum App. No. CT2006-0032, 2007-Ohio-1081. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Cupp, JJ., dissent.

2007-0977. State v. Spates.

Cuyahoga App. No. 88058, 2007-Ohio-983. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

2007-0978. State v. Gotel.

Lake App. No. 2006-L-015, 2007-Ohio-888. On motion for leave to file delayed appeal. Motion denied.

Lundberg Stratton and Cupp, JJ., dissent.

2007-0981. Simeone v. Girard City Bd. of Edn.

Trumbull App. No. 2006-T-0056, 2007-Ohio-1775. On motion for stay of court of appeals' judgment. Motion denied.

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

2007-0992. State v. Burke.

Franklin App. No. 06AP-686, 2007-Ohio-1810. On joint motion for stay of court of appeals' judgment. Motion granted.

Pfeifer and Cupp, JJ., dissent.

2007-1025. State v. Mullins.

Montgomery App. No. 21277, 2007-Ohio-1051. On motion for leave to file delayed appeal. Motion denied.

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

2007-1028. Gotel v. Gansheimer.

Ashtabula App. No. 2006-A-0087, 2007-Ohio-2311. On motion for stay of court of appeals' judgment. Motion denied.

2007-1030. Valente v. Johnson.

Athens App. Nos. 06CA31 and 06CA38, 2007-Ohio-2664. On motion for stay of court of appeals' judgment. Motion denied.

2007-1045. State v. Vang.

Summit App. No. 23206, 2007-Ohio-46. On motion for leave to file delayed appeal. Motion denied. Motion for copy of the record of trial proceedings denied as moot.

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

2007-1050. State v. Ochoa.

Lorain App. No. 07CA009114. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2007-1056. State v. Davis.

Washington App. No. 06CA39, 2007-Ohio-1281. On motion for leave to file delayed appeal. Motion granted.

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

2007-1112. Jonovich v. E. Cleveland.

Cuyahoga App. No. 88272, 2007-Ohio-1984. On motion for stay of order requiring the mayor of East Cleveland to immediately appoint a fire chief or acting fire chief. Motion denied.

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

2007-1149. Wynn v. Gilbert.

Hamilton App. No. C-060457, 2007-Ohio-2798. On motion for immediate stay of execution of court of appeals' judgment. Motion denied.

Lundberg Stratton, J., dissents.

2007-1173. State v. Warner.

Portage App. No. 2006-P-0048, 2007-Ohio-3016. On motion for stay of court of appeals' judgment. Motion granted.

Pfeifer, J., dissents.

APPEALS ACCEPTED FOR REVIEW

2007-0509. State v. Broyles.

Stark App. 2006CA00170, 2007-Ohio-487. 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.

Lanzinger, J., dissents.

2007-0516. Hembree v. Mendenhall.

Butler App. No. CA2006-06-129, 2007-Ohio-459. Discretionary appeal accepted; cause held for the decision in 2006-0952, *Vitantonio, Inc. v. Baxter*, Lake App. No. 2005-L-004, 2006-Ohio-1685; and briefing schedule stayed.

Pfeifer, J., dissents.

2007-0519. State v. Blackburn.

Ashtabula App. No. 2006-A-0029, 2007-Ohio-1071.

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

2007-0544. Frisch's Restaurants, Inc. v. Ryan.

Franklin App. No. 06AP-117, 2007-Ohio-545.

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

2007-0558. Wilborn v. Bank One Corp.

Mahoning App. No. 04-MA-182, 2007-Ohio-596. Discretionary appeal accepted on Proposition of Law No. II.

Pfeifer, O'Donnell and Cupp, JJ., would also accept the appeal on Proposition of Law No. I.

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

2007-0560. Stevenson v. ABM, Inc.

Medina App. No. 07CA0009-M. Discretionary appeal accepted; cause held for the decision in 2006-1528 and 2006-1589, *Hubbell v. Xenia*, Greene App. No. 2005 CA 99, 2006-Ohio-3369; and briefing schedule stayed.

Moyer, C.J., dissents.

2007-0567. State v. Roberson.

Stark App. No. 2006CA00155, 2007-Ohio-643. 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.

Pfeifer and Lanzinger, JJ., dissent.

2007-0599. Jeakle v. Maumee Police Dept.

Lucas App. No. L-07-1035. Discretionary appeal accepted; cause held for the decision in 2006-1528 and 2006-1589, *Hubbell v. Xenia*, Greene App. No. 2005 CA 99, 2006-Ohio-3369; and briefing schedule stayed.

2007-0609. In re Mills.

Richland App. No. 2006-CA-69, 2007-Ohio-924. Discretionary appeal accepted; cause held for the decision in 2006-1074, *In re Spears*, Licking App. No. 2005-CA-93, 2006-Ohio-1920; and briefing schedule stayed.

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

2007-0664. State v. Ragland.

Franklin App. No. 04AP-829, 2007-Ohio-836. 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.

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

2007-0708. Ryan v. Wright.

Franklin App. No. 06AP-962, 2007-Ohio-942. Discretionary appeal accepted on Proposition of Law No. I; cause held for the decision in 2007-0113, *Schlegel v. Gindlesberger*, Holmes App. No. 05 CA 11, 2006-Ohio-6917; and briefing schedule stayed.

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

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

2007-0742. State v. Brady.

Ashtabula App. No. 2005-A-0085, 2007-Ohio-1779.

Pfeifer and Lanzinger, JJ., dissent.

2007-0815. Hunter v. Dayton.

Montgomery App. No. 21680, 2007-Ohio-1336. Discretionary appeal accepted on Proposition of Law Nos. I, II, and III; cause held for the decision in 2007-0684, *Rogers v. Dayton*, Montgomery App. No. 21593, 2007-Ohio-673; cause consolidated with 2007-0816, *Hunter v. Dayton*, Montgomery App. No. 21680, 2007-Ohio-1336; and briefing schedule stayed.

Moyer, C.J., and Lundberg Stratton, J., would also accept the appeal on Proposition of Law No. IV.

Pfeifer, J., dissents.

2007-0895. In re L.A.B.

Summit App. No. 23309, 2007-Ohio-1479. Discretionary appeal accepted; cause held for the decision in 2006-1074, *In re Spears*, Licking App. No. 2005-CA-93, 2006-Ohio-1920, cause consolidated with 2007-0912, *In re L.A.B.*, Summit App. No. 23309, 2007-Ohio-1479; and briefing schedule stayed.

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

Cupp, J., would accept the appeal but not hold the cause.

Pfeifer, J., dissents.

APPEALS NOT ACCEPTED FOR REVIEW

2006-2038. Aldridge v. Reckart Equip. Co.

Gallia App. No. 04CA17, 2006-Ohio-4964.

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

2007-0098. State v. Benjamin.

Cuyahoga App. No. 87364, 2006-Ohio-5330.

2007-0101. State v. Torres.

Cuyahoga App. No. 86530, 2006-Ohio-3696 and 2007-Ohio-9.

2007-0102. State v. Austin.

Cuyahoga App. No. 87169, 2006-4120.

2007-0104. State v. Lee.

Franklin App. No. 06AP-226, 2007-Ohio-1594.

2007-0248. WW & I Subhis, Inc. v. Ohio Liquor Control Comm.

Franklin App. No. 06AP-626, 2006-Ohio-6901.

2007-0277. State v. Hanning.

Muskingum App. No. CT06-0068.

2007-0332. State v. Kerby.

Clark App. No. 03-CA-55, 2007-Ohio-187. Discretionary appeal and cross-appeal not accepted.

2007-0428. EI UK Holdings, Inc. v. Cinergy UK, Inc.

Summit App. No. 23216, 2007-Ohio-237. Discretionary appeal and cross-appeal not accepted.

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

2007-0448. Galyean v. Greenwell.

Washington App. No. 05CA11, 2007-Ohio-615. Discretionary appeal not accepted.

Pfeifer, J., dissents.

Motion for admission pro hac vice of Scott E. Johnson by Bryan R. Cokeley granted.

2007-0514. Davis v. Timmerman-Cooper.

Madison App. No. CA2006-08-027, 2007-Ohio-787.

2007-0518. Janosek v. Janosek.

Cuyahoga App. Nos. 86771 and 86777, 2007-Ohio-68.

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

2007-0526. State v. Pitts.

Allen App. No. 1-06-59, 2007-Ohio-903. Discretionary appeal not accepted.
Motion for appointment of counsel denied as moot.

Cupp, J., not participating.

2007-0528. Russell v. Dublin Planning & Zoning Comm.

Franklin App. No. 06AP-492, 2007-Ohio-498.

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

2007-0532. Cent. States College of Health Sciences, Inc. v. Ohio Bd. of Regents.

Franklin App. No. 06AP-35, 2007-Ohio-547.

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

Lundberg Stratton, J., dissents.

2007-0536. Bunkers v. Bunkers.

Wood App. No. WD-06-030, 2007-Ohio-561.

2007-0538. Indian Hill v. Wenker.

Hamilton App. Nos. C-060273 and C-060301.

Pfeifer, J., dissents.

2007-0539. Metz v. Metz.

Hamilton App. No. C-050463, 2007-Ohio-549.

2007-0541. State v. Sandlin.

Highland App. No. 06CA44.

2007-0545. Wooding v. Cinfed Emps. Fed. Credit Union.

Hamilton App. No. C-050958, 2007-Ohio-728.

2007-0547. State ex rel. Kocak v. Solon.

Cuyahoga App. No. 87926, 2007-Ohio-412.

2007-0557. Lee v. Norton.

Cuyahoga App. No. 88347, 2007-Ohio-534.

2007-0559. Smith v. Najjar.

Richland App. No. 06 CA 38, 2007-Ohio-735.

2007-0562. State v. George.

Cuyahoga App. No. 89267.

2007-0565. Seven Hills v. Antos.

Cuyahoga App. No. 88091.

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

2007-0571. State v. Sok.

Hamilton App. No. C-060033, 2007-Ohio-729.

Pfeifer, J., dissents.

Lundberg Stratton, J., dissents and would accept the appeal on Proposition of Law Nos. I, III, and IV.

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

2007-0572. Weston, Inc. v. Browning-Ferris Industries of Ohio, Inc.

Cuyahoga App. No. 89051.

Lundberg Stratton, J., dissents.

2007-0575. State v. Rorie.

Stark App. No. 2006CA00181, 2007-Ohio-741.

2007-0583. Diesz v. AMPCO Sys. Parking.

Summit App. No. 23235, 2007-Ohio-621.

2007-0587. State v. Thrasher.

Greene App. No. 06CA0069, 2007-Ohio-674.

O'Connor and Lanzinger, JJ., dissent.

2007-0591. State v. Ashley.

Lake App. No. 2006-L-134, 2007-Ohio-690.

2007-0594. State v. Strunk.

Warren App. No. CA2006-04-046, 2007-Ohio-683.

2007-0596. State v. Bacher.

Hamilton App. No. C-050730, 170 Ohio App.3d 457, 2007-Ohio-727.

Lundberg Stratton, J., dissents.

2007-0598. Hicks v. Allen.

Ashtabula App. No. 2005-A-0002, 2007-Ohio-693.

Lundberg Stratton and Cupp, JJ., dissent.

2007-0600. Breary v. Grafton.

Lorain App. No. 07CA009087. Discretionary appeal not accepted. Motion to dismiss appeal denied as moot.

Moyer, C.J., Lundberg Stratton and O'Donnell, JJ., dissent and would accept the appeal and hold the cause for the decision in 2006-1528 and 2006-1589, *Hubbell v. Xenia*, Greene App. No. 2005 CA 99, 2006-Ohio-3369.

2007-0602. Jade Sterling Steel Co. v. Stacey.

Cuyahoga App. No. 88283, 2007-Ohio-532.

2007-0603. Air-Ride, Inc. v. DHL Express (USA), Inc.

Clinton App. No. CA2006-08-027.

2007-0605. State v. Spurling.

Hamilton App. No. C-060087, 2007-Ohio-858.

2007-0607. Coats v. Columbus.

Franklin App. No. 06AP-681, 2007-Ohio-761.

2007-0608. State v. Culgan.

Medina App. No. 06CA0057-M, 2007-Ohio-764.

2007-0610. State v. Phillips.

Logan App. No. 8-06-14, 2007-Ohio-686.

Cupp, J., not participating.

2007-0612. Aquila v. LaMalfa.

Lake App. No. 2005-L-148, 2007-Ohio-689.

Lundberg Stratton, J., dissents.

2007-0613. State v. Patrick.

Hamilton App. No. C-050444, 2007-Ohio-1175.

2007-0617. State v. Eads.

Cuyahoga App. No. 87636, 2007-Ohio-539.

2007-0618. State v. Stone.

Sandusky App. No. S-06-026, 2007-Ohio-752.

2007-0623. State v. Allen.

Lake App. No. 2006-L-167, 2007-Ohio-774.

2007-0630. State v. Djuric.

Cuyahoga App. No. 87745, 2007-Ohio-413.

2007-0641. State v. Wade.

Montgomery App. No. 21530, 2007-Ohio-1060.

2007-0646. State v. Williams.

Butler App. No. CA2006-11-306.

2007-0647. State v. Anderson.

Washington App. No. 06CA32, 2007-Ohio-1517.

2007-0648. GEICO Gen. Ins. Co. v. Cook.

Ross App. No. 06CA2901, 2007-Ohio-1023.

Pfeifer, J., dissents.

2007-0652. Burns v. Upper Arlington.

Franklin App. No. 06AP-680, 2007-Ohio-797.

2007-0667. Drouard v. United Servs. Auto. Assn.

Lucas App. No. L-06-1275, 2007-Ohio-1049.

2007-0673. Wayland v. Wayland.

Delaware App. No. 06CAF03015, 2007-Ohio-1149.

2007-0675. Walker v. Firelands Community Hosp.

Erie App. No. E-06-023, 2007-Ohio-871.

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

2007-0678. State v. Arrambide.

Cuyahoga App. No. 87423, 2007-Ohio-394.

2007-0681. Studer v. Volvo Cars of N. Am., LLC.

Portage App. No. 2006-P-0020, 2007-Ohio-890.

Pfeifer, J., dissents.

2007-0687. Bishopp v. Dryvit Sys., Inc.

Warren App. No. CA2006-05-063, 2007-Ohio-917.

Lundberg Stratton and Lanzinger, JJ., dissent.

2007-0690. State v. Peoples.

Lake App. No. 2005-L-158, 2007-Ohio-1379.

2007-0692. Acuff v. Motorists Mut. Ins. Co.

Franklin App. No. 06AP-613, 2007-Ohio-938.

Pfeifer, J., dissents.

2007-0702. State v. Cain.

Franklin App. No. 06AP-682, 2007-Ohio-945.

2007-0706. Knotts v. Solid Rock Ents., Inc.

Montgomery App. No. 21622, 2007-Ohio-1059.

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

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

2007-0719. State v. Jones.

Montgomery App. No. 21522, 2007-Ohio-1035.

O'Connor, J., dissents and would accept the appeal on Proposition of Law No. II and hold the cause for the decision in 2005-0749, *State v. Brown*, 2007-0184, *State v. Brown*, Cuyahoga App. No. 87651, 2006-Ohio-6267.

2007-0720. State v. Dunn.

Montgomery App. No. 21553, 2007-Ohio-1666.

2007-0721. State v. Nelson.

Summit App. No. 23479.

2007-0722. State v. Morris.

Butler App. No. CA2006-03-052, 2007-Ohio-1095.

2007-0723. State v. McIntosh.

Cuyahoga App. No. 89433.

2007-0732. Rigdon v. Great Miami Valley YMCA.
Butler App. No. CA2006-06-155, 2007-Ohio-1648.

2007-0744. State v. Barton.
Warren App. No. CA2005-03-036, 2007-Ohio-1099.
Pfeifer, J., dissents.

2007-0750. Leslie v. Ohio Dept. of Dev.
Franklin App. No. 06AP-628, 2007-Ohio-1170.

2007-0759. State v. Pater.
Butler App. No. CA2007-01-029.

2007-0761. State v. Phillips.
Lake App. Nos. 2006-L-136 and 2006-L-137, 2007-Ohio-1061.

2007-0762. State v. Morales.
Lake App. No. 2006-L-129, 2007-Ohio-1066.

2007-0763. State v. Ramirez-Garcia.
Lake App. No. 2006-L-164, 2007-Ohio-1065.

2007-0764. State v. Bounthisavath.
Lake App. No. 2006-L-160, 2007-Ohio-1064.

2007-0765. State v. Gatchel.
Lake App. No. 2006-L-125, 2007-Ohio-1075.

2007-0766. State v. McDonald.
Lake App. No. 2006-L-152, 2007-Ohio-1063.

2007-0779. State v. Stein.
Richland App. No. 05 CA 103, 2007-Ohio-1153.
Pfeifer, J., dissents.

2007-0788. State v. Mansfield.
Lake App. No. 2006-L-117, 2007-Ohio-1198.

2007-0789. State v. Dawson.
Lake App. No. 2006-L-073, 2007-Ohio-1202.

2007-0791. State v. Thomas.

Hamilton App. No. C-060318, 2007-Ohio-1723.

2007-0792. State v. Uchelvich.

Lake App. No. 2006-L-094, 2007-Ohio-1203.

2007-0823. State v. Simmons.

Lake App. Nos. 2006-L-132 and 2006-L-133, 2007-Ohio-1376.

2007-0825. State v. Haffa.

Lake App. No. 2006-L-204, 2007-Ohio-1378.

2007-0833. State v. Selmon.

Richland App. No. 06-CA-52, 2007-Ohio-1451.

2007-0846. State v. Van Dyke.

Lorain App. No. 05CA008723, 2007-Ohio-1356.

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

2007-0850. State v. Barker.

Jefferson App. No. 05-JE-21, 2006-Ohio-1472.

2007-0858. State v. Rady.

Lake App. No. 2006-L-213, 2007-Ohio-1551.

2007-0862. State v. Lee.

Franklin App. No. 06AP-226, 2006-Ohio-5951 and 2007-Ohio-1594.

2007-0878. State v. Brooks.

Summit App. No. 23237, 2007-Ohio-1424.

2007-1005. In re J.W.

Franklin App. Nos. 06AP-1017 and 07AP-15, 2007-Ohio-2007.

O'Connor, J., dissents.

RECONSIDERATION OF PRIOR DECISIONS

2005-1994. In re Brayden James.

Hamilton App. No. C-040533, 163 Ohio App.3d 442, 2005-Ohio-4847. Reported at 113 Ohio St.3d 420, 2007-Ohio-2335, 866 N.E.2d 467. On motion for reconsideration. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

William H. Wolff Jr., J., of the Second Appellate District, sitting for Cupp, J.

2005-2299. Cleveland Mobile Radio Sales, Inc. v. Verizon Wireless.

Cuyahoga App. No. 85620, 2005-Ohio-5439. Reported at 113 Ohio St.3d 394, 2007-Ohio-2203, 865 N.E.2d 1275. On motion for reconsideration. Motion denied.

Pfeifer, J., dissents.

2005-2302. Discount Cellular, Inc. v. Ameritech Mobile Communications, Inc.

Cuyahoga App. No. 85618, 2005-Ohio-5437. Reported at 113 Ohio St.3d 394, 2007-Ohio-2203, 865 N.E.2d 1275. On motion for reconsideration. Motion denied.

Pfeifer, J., dissents.

2006-2256. In re T.G.

Butler App. Nos. CA2005-10-444 and CA2005-12-521, 2006-Ohio-5504. Reported at 113 Ohio St.3d 1520, 2007-Ohio-2487, 866 N.E.2d 1093. On motion for reconsideration. Motion denied.

2006-2279. State ex rel. Wells v. Hudson.

Richland App. No. 06-CA-79. Reported at 113 Ohio St.3d 308, 2007-Ohio-1955, 865 N.E.2d 46. On motion for reconsideration. Motion denied.

2007-0125. State v. Ramey.

Franklin App. No. 06AP-245, 2006-Ohio-6429. Reported at 113 Ohio St.3d 1489, 2007-Ohio-1986, 865 N.E.2d 913. On motion for reconsideration. Motion granted and discretionary appeal accepted and held for the decision in 2007-0052, *State v. Simpkins*, Cuyahoga App. No. 87692, 2006-Ohio-6028, and briefing schedule stayed.

Pfeifer and Cupp, JJ., dissent.

2007-0218. Erie Ins. v. Williams.

Summit App. No. 23157, 2006-Ohio-6754. Reported at 113 Ohio St.3d 1513, 2007-Ohio-2208, 866 N.E.2d 512. On motion for reconsideration. Motion denied.

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

2007-0255. Havel v. Chapek.

Geauga App. No. 2004-G-2609, 2006-Ohio-7014. Reported at 113 Ohio St.3d 1514, 2007-Ohio-2208, 866 N.E.2d 512. On motion for reconsideration. Motion denied.

2007-0273. State v. Fitzgerald.

Cuyahoga App. No. 86443, 2006-Ohio-6575. Reported at 113 Ohio St.3d 1514, 2007-Ohio-2208, 866 N.E.2d 513. On motion for reconsideration. Motion denied.
Lanzinger, J., dissents.

2007-0295. Kovacic v. Eastlake.

Lake App. No. 2005-L-205, 2006-Ohio-7016. Reported at 113 Ohio St.3d 1515, 2007-Ohio-2208, 866 N.E.2d 513. On motion for reconsideration. Motion denied.

2007-0369. In re Guardianship of Boyer.

Franklin App. No. 06AP-1185. Reported at 114 Ohio St.3d 1411, 2007-Ohio-2632, 867 N.E.2d 845. On motion for reconsideration. Motion denied.

2007-0551. Wohl v. Swinney.

Butler App. No. CA2006-05-123, 2007-Ohio-592. Reported at 114 Ohio St.3d 1414, 2007-Ohio-2632, 867 N.E.2d 846. On motion for reconsideration. Motion denied.

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

2007-0554. Collins v. Lyons.

Erie App. No. E-07-006, 2007-Ohio-745. Reported at 114 Ohio St.3d 1406, 2007-Ohio-2632, 867 N.E.2d 841. On motion for reconsideration. Motion denied on the basis of mootness.