

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS

October 31, 2007

[Cite as *10/31/2007 Case Announcements*, 2007-Ohio-5735.]

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## MERIT DECISIONS WITH OPINIONS

**2006-0957. Prouse, Dash & Crouch, L.L.P. v. DiMarco, Slip Opinion No. 2007-Ohio-5753.**

Cuyahoga App. No. 86324, 2006-Ohio-1538. Judgment reversed in part and vacated in part, and cause remanded.

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

Lanzinger, J., concurs in judgment only.

**2006-1568. State v. Craig, Slip Opinion No. 2007-Ohio-5752.**

Cuyahoga App. No. 88313. Judgment reversed and cause remanded.

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

## MERIT DECISIONS WITHOUT OPINIONS

**2007-1571. Rosen v. Celebrezze.**

Cuyahoga App. No. 89090, 2007-Ohio-3771. On motion to dismiss of Kathleen R. Rosen. Motion to dismiss granted. Cause dismissed.

**2007-1576. State ex rel. Collins v. Burge.**

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

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

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

**2007-1577. Holloman v. O’Grady.**

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

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

**2007-1587. State ex rel. Bollar v. Ohio Adult Parole Auth.**

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

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

**2007-1617. Hearld v. Hurley.**

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

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

**2007-1683. Martin v. Leisy.**

In Procedendo. On respondent’s answer and motion to dismiss. Motion to dismiss granted. Cause dismissed.

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

**MOTION AND PROCEDURAL RULINGS**

**2007-1706. State v. Whittsette.**

Cuyahoga App. No. 85478, 2005-Ohio-4824. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

**2007-1712. Washington Mut. Bank, FA v. Aultman.**

Champaign App. No. 2006 CA 25, 2007-Ohio-3706. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated at page 5 of the court of appeals’ Decision and Entry filed August 21, 2007:

“Does the doctrine of equitable subrogation overcome the general rule set forth in R.C. 5301.23 when, prior to paying off a recorded mortgage or lien, a lender’s sole negligence is its failure to discover a preexisting recorded subordinate

mortgage or lien while conducting a title search and where the subordinate mortgage or lien-holder acts without fraud?”

Pfeifer, J., dissents.

The conflict cases are *Alegis Group L.P. v. Lerner*, Delaware App. No. 2004-CAE-05038, 2004-Ohio-6205; *Leppo, Inc. v. Kiefer* (Jan. 31, 2001), Summit App. Nos. 20097 and 20105; and *Associates Financial Serv. Corp. v. Miller*, Portage App. No. 2001-P-46, 2002-Ohio-1610.

**2007-1723. State v. Carpenter.**

Muskingum App. No. CT2006-0013, 2007-Ohio-3798. On motion for leave to file delayed appeal. Motion denied.

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

**2007-1733. State v. Jones.**

Montgomery App. No. 17903. On motion for leave to file delayed appeal. Motion denied.

**2007-1739. State v. Calderon.**

Franklin App. No. 05AP-1151, 2007-Ohio-377. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

**2007-1758. Marshall v. Scalf.**

Cuyahoga App. No. 88708, 2007-Ohio-3667. On motion for stay of court of appeal’s judgment. Motion denied.

**APPEALS ACCEPTED FOR REVIEW**

**2007-1296. State v. Mayle.**

Stark App. No. 2006CA128, 2007-Ohio-2816. 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, J., dissents.

**2007-1258. In re Seavolt.**

Morrow App. Nos. 2006-CA-0010 and 2006-CA-0011, 2007-Ohio-2812. Discretionary appeal accepted; cause held for the decision in 2007-0291 and 2007-0472, *State v. D.H.*, 169 Ohio App.3d 798, 2006-Ohio-6953; and briefing schedule stayed.

Pfeifer and O’Donnell, JJ., dissent.

**2007-1292. Grundy v. Dhillon.**

Trumbull App. No. 2006-T-0007, 2007-Ohio-2693.

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

**2007-1311. Doe v. Massillon City School Dist.**

Stark App. No. 2006CA00227, 2007-Ohio-2801.

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

**2007-1415. State v. Mosmeyer.**

Hamilton App. No. C-060747.

Pfeifer and Lanzinger, JJ., dissent.

**2007-1427. State v. Ferguson.**

Cuyahoga App. No. 88450, 2007-Ohio-2777. Discretionary appeal accepted on Proposition of Law No. I.

Lundberg Stratton, J., would also hold the cause for the decision in 2006-2187, *Hyle v. Porter*, Hamilton App. No. C-050768, 170 Ohio App.3d 710, 2006-Ohio-5454.

Lanzinger, J., would also accept the appeal on Proposition of Law Nos. II and III and hold the cause for the decision in 2006-2187, *Hyle v. Porter*.

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

**APPEALS NOT ACCEPTED FOR REVIEW**

**2007-1224. State v. Smith.**

Clark App. No. 2006 CA 59, 2007-Ohio-3167.

**2007-1226. State v. Turnbow.**

Stark App. No. 2006CA00159, 2007-Ohio-2817.

**2007-1233. State ex rel. Helms v. Green.**

Summit App. No. 23534, 2007-Ohio-2889.

**2007-1240. State v. Dane.**

Athens App. No. 07CA12.

**2007-1241. State v. Martin.**

Lake App. No. 2006-L-191, 2007-Ohio-2579.

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

**2007-1247. State v. Chewning.**

Clermont App. No. CA2006-10-090.

**2007-1256. State v. Clements.**

Licking App. No. 2006-CA-0121, 2007-Ohio-2617.

**2007-1260. Martin v. Gahanna.**

Franklin App. No. 06AP-1175, 2007-Ohio-2651.

**2007-1262. Doyle v. Doyle.**

Warren App. No. CA2006-02-027, 2007-Ohio-2554.

O'Donnell, J., dissents.

**2007-1268. Dexter v. Dexter.**

Portage App. No. 2006-P-0051, 2007-Ohio-2568.

**2007-1270. State v. Feathers.**

Portage App. No. 2005-P-0039, 2007-Ohio-3024.

O'Connor, J., not participating.

**2007-1273. State v. Gilbert.**

Scioto App. No. 06CA3055, 2007-Ohio-2717.

**2007-1274. State v. Ward.**

Allen App. No. 10-6-68.

**2007-1277. State v. Bengal.**

Lake App. No. 2006-L-123, 2007-Ohio-2691.

**2007-1286. State v. Harris.**

Licking App. No. 06CA106, 2007-Ohio-2808.

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

**2007-1289. State v. Hall.**

Putnam App. No. 12-07-08.

**2007-1301. Cleary v. Cincinnati.**

Hamilton App. No. C-060410, 2007-Ohio-2797.

**2007-1303. State v. Fitzer.**

Cuyahoga App. No. 88177, 2007-Ohio-2496.

**2007-1304. Doe v. Marlinton Local School Dist.**

Stark App. No. 2006CA00102, 2007-Ohio-2815.

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

Pfeifer, J., dissents.

**2007-1305. State v. Thrasher.**

Wood App. No. WD-06-047, 2007-Ohio-2838.

**2007-1306. State v. Guyton.**

Cuyahoga App. No. 88423, 2007-Ohio-2513.

**2007-1307. State v. Pruitt.**

Cuyahoga App. No. 88208, 2007-Ohio-2497.

**2007-1308. State v. Woody.**

Ottawa App. No. OT-06-015, 2007-Ohio-2955.

O'Donnell, J., dissents and would accept the appeal and hold the cause for the decision in 2007-0475, *State v. Elmore*, Licking C.P. No. 02 CR 275.

**2007-1312. Owens v. Griffin.**

Hamilton App. No. C-060621.

**2007-1313. State v. Scott.**

Pickaway App. No. 07CA5, 2007-Ohio-3543.

**2007-1316. Viola Park, Ltd. v. Pickerington.**

Fairfield App. Nos. 2006 CA 00017 and 2006 CA 00030, 2007-Ohio-2900.

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

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

**2007-1317. State v. Peck.**

Franklin App. No. 06AP-500, 172 Ohio App.3d 25, 2007-Ohio-2730.

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

**2007-1318. Fitch v. Ameritech Corp.**

Franklin App. No. 05AP-1277, 2007-Ohio-2725.

**2007-1320. Tonti v. Tonti.**

Franklin App. No. 06AP-732, 2007-Ohio-2658.

**2007-1321. Lansky v. Rizzo.**

Cuyahoga App. No. 88356, 2007-Ohio-2500.

**2007-1322. State v. Hairston.**

Scioto App. No. 06CA3089, 2007-Ohio-3707.

**2007-1323. State v. Powers.**

Summit App. No. 23400, 2007-Ohio-2738. Discretionary appeal not accepted. Motion for a 30 day stay of jurisdictional consideration denied.

**2007-1325. Akron v. Kiley.**

Summit App. No. 23497, 2007-Ohio-2736.

**2007-1330. State v. Matthieu.**

Auglaize App. No. 2-07-07.

**2007-1331. State v. Smith.**

Montgomery App. No. 21833, 2007-Ohio-2976.

**2007-1332. Promotional Prods. Group, Inc. v. Deighan.**

Summit App. No. 23451.

**2007-1334. State v. Taylor.**

Fayette App. No. CA2006-09-039, 2007-Ohio-2850.

**2007-1337. Akron v. Smith.**

Summit App. No. 23482, 2007-Ohio-2739.

O'Donnell, J., dissents.

**2007-1339. State v. Goff.**

Summit App. No. 23292, 2007-Ohio-2735.

Pfeifer J., dissents.

**2007-1340. Leibold v. Hiddens.**

Montgomery App. No. 21487, 2007-Ohio-2972.

**2007-1341. State v. Smith.**

Hamilton App. No. C-060387, 2007-Ohio-2796.

Pfeifer, J., dissents.

**2007-1342. Norwood v. Kahn.**

Hamilton App. Nos. C-060499, C-060498, and C-060497, 2007-Ohio-2799.

**2007-1354. State v. Rigdon.**

Warren App. No. CA2006-05-064, 2007-Ohio-2843.

**2007-1357. State v. Ahmed.**

Cuyahoga App. No. 88315, 2007-Ohio-2639.

**2007-1361. State v. Nutt.**

Ross App. No. 06CA2926, 2007-Ohio-3031.

**2007-1364. State v. Newsome.**

Ashtabula App. No. 2006-A-0048, 2007-Ohio-3203.

**2007-1367. State v. Nutt.**

Ross App. No. 06CA2927, 2007-Ohio-3032.

**2007-1376. State v. Airwyke.**

Trumbull App. No. 2006-T-0073, 2007-Ohio-3199.

O'Connor, J., not participating.

**2007-1377. Rimedio v. SummaCare, Inc.**

Summit App. No. 23509, 2007-Ohio-3244.

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

**2007-1386. State v. Garr.**

Hamilton App. No. C-060794, 2007-Ohio-3448.

**2007-1392. State v. Poindexter.**

Montgomery App. No. 21036, 2007-Ohio-3461.



**2007-1394. State v. Crosby.**

Lucas App. No. L-05-1241, 2007-Ohio-3468.

Lanzinger, J., not participating.

**2007-1399. State v. Neely.**

Montgomery App. Nos. 21526 and 21525, 2007-Ohio-2965.

Lanzinger, J., dissents and would accept the appeal and hold the cause for the decision in 2006-1606, *State v. Jones*, Mahoning App. No. 05-MA-69, 2006-Ohio-3636.

**2007-1400. State v. Martin.**

Muskingum App. No. CT2006-0065, 2007-Ohio-3093.

**2007-1409. State v. Starks.**

Lucas App. Nos. L-05-1417 and L-05-1419, 2007-Ohio-4897.

**2007-1413. State v. Roberson.**

Cuyahoga App. No. 88338, 2007-Ohio-2772.

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

**2007-1414. State v. Torres.**

Lake App. No. 2006-L-116, 2007-Ohio-3023.

**2007-1426. Bradigan v. Strongsville City Schools.**

Cuyahoga App. No. 88606, 2007-Ohio-2773.

Lundberg Stratton, J., dissents.

**2007-1428. State v. Gebbie.**

Hamilton App. No. C-060505, 2007-Ohio-3089.

**2007-1430. State v. Tyler.**

Cuyahoga App. No. 89577.

**2007-1438. State v. Jeffers.**

Franklin App. No. 06AP-358, 2007-Ohio-3213.

**2007-1441. State v. Lanier.**

Mahoning App. No. 06 MA 94, 2007-Ohio-3172.

**2007-1443. State v. Muhumed.**

Franklin App. No. 07AP-437.

**2007-1445. State v. Walton.**

Montgomery App. No. 21643, 2007-Ohio-3169.

**2007-1446. State v. Thombs.**

Franklin App. Nos. 07AP-364, 07AP-365, and 07AP-366.

**2007-1447. State v. Dye.**

Hamilton App. No. C-070411.

**2007-1456. State v. Terlesky.**

Mahoning App. No. 05 MA 237, 2007-Ohio-3402.

**2007-1484. State v. Wheeler.**

Franklin App. Nos. 06AP-1156 and 06AP-1159, 2007-Ohio-3226.

**2007-1494. State v. Schuster.**

Lucas App. No. L-05-1365, 2007-Ohio-3463.

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

**2007-1502. Washington Mut. Bank, FA v. Aultman.**

Champaign App. No. 2006 CA 25, 2007-Ohio-3706.

Lundberg Stratton, J., dissents.

**2007-1563. State v. Wilson.**

Putnam App. No. 12-05-20, 2006-Ohio-2000.

**2007-1623. State v. Harrison.**

Cuyahoga App. No. 86925, 2007-Ohio-3642.

**2007-1730. State v. Miller.**

Summit App. No. 23240, 2007-Ohio-370.

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

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