

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

November 21, 2007

[Cite as *11/21/2007 Case Announcements*, 2007-Ohio-6140.]

MERIT DECISIONS WITH OPINIONS

2006-1606 and 2006-1851. State v. Jones, Slip Opinion No. 2007-Ohio-6093.

Mahoning App. No. 05-MA-69, 2006-Ohio-3636. Judgment reversed and cause remanded.

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

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

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

2006-1949. State ex rel. Gilbert v. Indus. Comm., Slip Opinion No. 2007-Ohio-6096.

Franklin App. No. 05AP-777, 2006-Ohio-4484. Judgment affirmed.

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

2006-1972. Whipkey v. Aqua-Chem, Inc., Slip Opinion No. 2007-Ohio-6094.

Cuyahoga App. No. 88240. Judgment reversed and cause remanded.

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

2007-0683. In re Application of Holbrook, Slip Opinion No. 2007-Ohio-6095.

On Report by the Board of Commissioners on Character and Fitness, No. 338. Melinda Long Holbrook may reapply and sit for the February 2008 bar examination if approved by the board.

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

Lanzinger, J., dissents and would allow applicant to reapply as of July 2008.

MERIT DECISIONS WITHOUT OPINIONS

2007-1654. State ex rel. Bozsik v. Court of Appeals, Ninth Appellate Dist.

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.

2007-1656. State ex rel. Babos v. Court of Appeals, Sixth Appellate Dist.

In Mandamus. On motion for judgment on the pleadings. Motion granted. Cause dismissed.

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

2007-1675. Poston v. Timmerman-Cooper.

In Prohibition. On motion for judgment on the pleadings. Motion granted. Cause dismissed.

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

2007-1699. State ex rel. Macfarlane v. Tanner.

In Mandamus and 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.

2007-1779. Sharpe v. Wolfe.

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

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

MOTION AND PROCEDURAL RULINGS

2003-0346. State v. Turner.

Franklin C.P. No. 01CR-06-3615. On application for reopening under S.Ct.Prac.R. XI(6). Motion denied because the appellant failed to comply with the 90-day filing deadline in S.Ct.Prac.R. XI(6)(A).

2006-2095. McKinley v. Ohio Bur. of Workers' Comp.

Washington App. No. 06CA7, 2006-Ohio-5271. On motion for leave to file post-hearing brief. Motion denied.

Pfeifer, J., dissents.

2007-0288 and 2007-0410. Ahmad v. AK Steel Corp.

Butler App. No. CA2006-04-089, 2006-Ohio-7031. On amended motion to strike pages 26 through 33 of second supplement to merit brief. Motion granted.

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

2007-0507. Albrecht v. Treon.

Certified Question of State Law, United States District Court, Southern District of Ohio, Western Division, No. 1:06CV274. On motion to strike brief of amici curiae Catholic League and Brunner Funeral Home. Motion denied.

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

2007-1761. State v. Jackson.

Cuyahoga App. No. 88074, 2007-Ohio-2494. On motion for leave to file delayed appeal. Motion denied.

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

2007-1770. State v. Wilkins.

Montgomery App. No. 21562, 2007-Ohio-2962. On motion for leave to file delayed appeal. Motion denied.

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

2007-1798. State v. Henson.

Erie App. No. E-06-021, 2007-Ohio-3567. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2007-1799. State v. Shelton.

Cuyahoga App. No. 88477, 2007-Ohio-3900. On motion for leave to file delayed appeal. Motion granted.

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

2007-1812. State v. Harris.

Hamilton App. No. C-060587. On motion for leave to file delayed appeal. Motion granted.

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

2007-1815. State v. Adams.

Butler App. No. CA2006-07-160, 2007-Ohio-2583. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and O'Donnell, JJ., dissent.

2007-1827. State v. Lothes.

Portage App. No. 2006-P-0086, 2007-Ohio-4266. On motion for stay of court of appeals' judgment. Motion denied.

2007-1837. State v. Razo.

Lorain App. No. 05CA008639, 2005-Ohio-3793. On motion for leave to file delayed appeal. Motion denied.

2007-1900. State ex rel. Stillwell v. Timmerman-Cooper.

Madison App. No. CA2007-04-014. On motion for stay of court of appeals' judgment. Motion denied.

2007-1910. Hylant Group, Inc. v. Locker.

Cuyahoga App. No. 90289. On motion for immediate stay of permanent injunction. Motion denied.

Moyer, C.J., and Lundberg Stratton and O'Donnell, JJ., dissent and would grant the motion subject to an appropriate bond.

2007-1911. State v. Lindsay.

Logan App. No. 8-06-24, 2007-Ohio-4490. On motion for stay of court of appeals' judgment. Motion denied.

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

APPEALS ACCEPTED FOR REVIEW

2007-1358. Zajc v. Hycomp.

Cuyahoga App. No. 88421, 172 Ohio App.3d 117, 2007-Ohio-2637. Discretionary appeal accepted.

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

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

Pfeifer, J., dissents.

Motion for admission pro hac vice of Nancy L. Heilman by Keith A. Ashmus granted.

2007-1408. Cassarlie v. Shell Oil Co.

Cuyahoga App. No. 88361, 2007-Ohio-2633. Discretionary appeal accepted on Proposition of Law No. I.

Pfeifer and Lundberg Stratton, JJ., would also accept the appeal on Proposition of Law Nos. II and III.

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

O'Donnell and Lanzinger, JJ., dissent.

Motion for admission pro hac vice of Anthony E. Farah by Sean S. Kelly granted.

2007-1439. State v. Barnes.

Portage App. No. 2006-P-0089, 2007-Ohio-3362. Discretionary appeal accepted on Proposition of Law Nos. I, II, and III; cause held for the decision in 2007-0052, *State v. Simpkins*, Cuyahoga App. No. 87692, 2006-Ohio-6028; and briefing schedule stayed.

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

2007-1449. State v. Cotton.

Hamilton App. No. C-060264. Discretionary appeal accepted; cause held for the decision in 2007-0184, *State v. Brown*, Cuyahoga App. No. 87651, 2006-Ohio-6267; and briefing schedule stayed. Motion to compel counsel denied.

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

2007-1451. In re A.J.S.

Franklin App. No. 06AP-597, 2007-Ohio-3216.

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

Pfeifer and O'Donnell, JJ., dissent.

2007-1452. Sogg v. Ohio Dept. of Commerce.

Franklin App. No. 06AP-883, 2007-Ohio-3219.

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

2007-1468. State v. Cruzado.

Lorain App. No. 06CA008952, 2007-Ohio-3120. 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.

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

2007-1490. Tenney v. Gen. Elec. Co.

Trumbull App. No. 2005-T-0119, 2007-Ohio-3367. Discretionary appeal accepted on Proposition of Law No. III.

O'Connor and O'Donnell, JJ., would also accept the appeal on Proposition of Law Nos. I and II.

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

APPEALS NOT ACCEPTED FOR REVIEW

2007-1173. State v. Warner.

Portage App. No. 2006-P-0048, 2007-Ohio-3016.

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

O'Donnell, J., dissents.

2007-1227. Reik v. Bowden.

Hamilton App. No. C-060531, 172 Ohio App.3d 12, 2007-Ohio-2533. Discretionary appeal and cross-appeal not accepted.

2007-1328. Haas v. Semrad.

Lucas App. No. L-06-1294, 2007-Ohio-2828.

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

2007-1343. State v. Lankford.

Belmont App. No. 07 BE 3, 2007-Ohio-3330.

2007-1348. Citimortgage, Inc. v. Clardy.

Franklin App. No. 06AP-1011, 2007-Ohio-2940.

2007-1350. Willoughby Hills v. Qasim.

Lake App. No. 2006-L-199, 2007-Ohio-2860.

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

Lundberg Stratton and Lanzinger, JJ., dissent.

2007-1351. State v. Gonzales.

Hancock App. No. 5-06-43, 2007-Ohio-3132.

2007-1355. W. Chester Twp. Bd. of Trustees v. Speedway SuperAmerica, LLC.

Butler App. No. CA2006-06-104, 2007-Ohio-2844.

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

2007-1359. State v. Lopez.

Hamilton App. No. C-070389.

2007-1362. Harris v. Harris.

Lorain App. No. 06CA009056, 2007-Ohio-3123.

2007-1363. State v. Theis.

Seneca App. No. 13-06-49, 2007-Ohio-2862.

2007-1366. State v. Smith.

Greene App. No. 2006 CA 68, 2007-Ohio-2969.

2007-1371. Pol v. Miller.

Hamilton App. No. C-060539, 2007-Ohio-2954.

2007-1374. State v. Wilkins.

Montgomery App. No. 21562, 2007-Ohio-2962.

2007-1375. In re Gulley.

Hamilton App. No. C-060375.

2007-1378. State v. Alvarez.

Wood App. No. WD-06-027, 2007-Ohio-3114.

2007-1379. State v. Perry.

Ross App. No. 06CA2930, 2007-Ohio-3939.

2007-1380. State v. Bronston.

Cuyahoga App. No. 90018.

2007-1384. 2-J Supply, Inc. v. Udeagbala.

Franklin App. No. 06AP-1152.

2007-1385. Kilgore v. Ethicon Endo-Surgery, Inc.

Hamilton App. No. C-060233, 2007-Ohio-2952.

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

2007-1387. State v. Castrataro.

Cuyahoga App. No. 88413, 2007-Ohio-2764.

Lundberg Stratton, J., dissents.

2007-1388. Boston Hts. v. Cerny.

Summit App. No. 23331, 2007-Ohio-2886.

Moyer, C.J., dissents.

2007-1390. State v. Curd.

Lake App. No. 2006-L-159, 2007-Ohio-3193.

2007-1393. State v. Brown.

Summit App. No. 23455, 2007-Ohio-2885.

2007-1397. State v. Dickey.

Hamilton App. No. C-060509.

2007-1401. State v. Wellman.

Hamilton App. No. C-060484, 2007-Ohio-2953. Discretionary appeal not accepted. Motion to strike the memorandum in support of jurisdiction denied as moot.

2007-1402. Finley v. First Realty Property Mgt., Ltd.

Summit App. No. 23355, 2007-Ohio-2888.

Moyer, C.J., dissents.

2007-1403. State v. Jordan.

Harrison App. No. 06 HA 586, 2007-Ohio-3333.

2007-1405. Holm v. Berner.

Clark App. No. 06-CA-140, 2007-Ohio-3440.

2007-1410. Carpet One Mentor, Inc. v. Bridge.

Lake App. No. 2006-L-005, 2007-Ohio-3028.

2007-1418. State v. Dixon.

Crawford App. No. 3-06-17, 2007-Ohio-2989.

2007-1419. State v. Norwood.

Lake App. No. 2006-L-184, 2007-Ohio-3377.

2007-1421. State v. Semala.

Lake App. No. 2006-L-128, 2007-Ohio-3011.

2007-1422. Garnett v. Nationwide Property Ins.

Cuyahoga App. No. 88500, 2007-Ohio-2774.

2007-1423. Siebert v. Tavaréz.

Cuyahoga App. No. 88310, 2007-Ohio-2643.

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

2007-1432. State v. Stillwell.

Lake App. No. 2006-L-010, 2007-Ohio-3190.

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

2007-1435. Harvey v. Austinburg Dev. Corp.

Ashtabula App. No. 2006-A-0044, 2007-Ohio-3025.

2007-1436. Niepsuj v. Niepsuj.

Summit App. No. 23625.

2007-1442. Davilla v. Harman.

Mahoning App. No. 06 MA 89, 2007-Ohio-3146.

2007-1450. State v. Harris.

Jefferson App. No. 06 JE 36, 2007-Ohio-3173.

2007-1457. State v. Smith.

Lorain App. No. 07CA009086, 2007-Ohio-3304.

2007-1459. Doe v. Jackson Local School Dist.

Stark App. No. 2006CA00212, 2007-Ohio-3258.

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

Pfeifer, J., dissents.

2007-1466. Hans v. Ohio State Univ. Med. Ctr.

Franklin App. No. 07AP-10, 2007-Ohio-3294.

2007-1472. State v. Jackson.

Cuyahoga App. No. 88345, 2007-Ohio-2925 and 2007-Ohio-5431.

2007-1473. State v. White.

Cuyahoga App. No. 88491, 2007-Ohio-3080.

2007-1476. State v. Maksem.

Franklin App. No. 06AP-900, 2007-Ohio-3288.

Pfeifer, J., dissents.

2007-1477. State v. Gillespie.

Montgomery App. No. 21747, 172 Ohio App.3d 304, 2007-Ohio-3439.

2007-1480. Chester Twp. Bd. of Trustees v. Bank One, N.A.

Geauga App. No. 2005-G-2660, 2007-Ohio-3365.

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

2007-1488. State v. Dewitt.

Montgomery App. No. 21620, 2007-Ohio-3437.

2007-1491. State v. Latessa.

Lake App. No. 2006-L-108, 2007-Ohio-3373.

2007-1497. State v. Johnson.

Lucas App. No. L-06-1364, 2007-Ohio-3470.

2007-1512. State v. Bradley.

Cuyahoga App. No. 88163, 2007-Ohio-2642.

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

2007-1513. Zaychek v. Nationwide Mut. Ins. Co.

Summit App. No. 23441, 2007-Ohio-3297.

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

2007-1517. State v. Zuniga.

Lucas App. No. L-06-1067, 2007-Ohio-3573.

Lanzinger, J., not participating.

2007-1520. State v. Evans.

Cuyahoga App. No. 85396, 2007-Ohio-3278.

Lanzinger, J., dissents.

2007-1528. State v. Terry.

Hamilton App. No. C-060572.

2007-1532. State v. Rauscher.

Marion App. No. 9-06-42, 2007-Ohio-3339.

2007-1533. State v. Markiewicz.

Lake App. No. 2006-L-249, 2007-Ohio-3974.

2007-1543. Dieble v. Auto Owners Ins. Co.

Stark App. No. 2006CA00211, 2007-Ohio-3429.

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

2007-1553. State v. Rogers.

Stark App. No. 2006CA00192, 2007-Ohio-3677.

2007-1555. State v. Reznickchek.

Lucas App. Nos. L-07-1048 and L-07-1049.

Lanzinger, J., not participating.

2007-1578. State v. Starks.

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

2007-1597. State v. Osborne.

Cuyahoga App. No. 88453, 2007-Ohio-3267.

Moyer, C.J., dissents.

Lundberg Stratton and O'Donnell, JJ., dissent and would accept the appeal on Proposition of Law No. V, reverse the judgment of the court of appeals, and remand the cause on the authority of *State v. Bezak*, 114 Ohio St.3d 94, 2007-Ohio-3250.

2007-1614. State v. Robinson.

Lucas App. No. L-06-1205, 2007-Ohio-3577.

2007-1653. State v. Weese.

Huron App. No. H-05-003, 2005-Ohio-3996.

2007-1657. State v. Jones.

Williams App. No. WM-02-012, 2003-Ohio-1037.

2007-1803. State v. Robinson.

Hamilton App. No. C-060459.

Lanzinger, J., dissents and would accept the appeal and hold the cause for the decision in 2007-0325, *State v. Davis*, Hamilton App. No. C-040665, 2006-Ohio-3171.

RECONSIDERATION OF PRIOR DECISIONS

2006-0705. Terry v. Caputo.

Ottawa App. No. OT-05-009, 165 Ohio App.3d 638, 2006-Ohio-866. Reported at 115 Ohio St.3d 351, 2007-Ohio-5023, 875 N.E.2d 72. On motion for reconsideration. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

2006-0830. Elyria Foundry Co. v. Pub. Util. Comm.

Public Utilities Commission, Nos. 05-704-EL-ATA, 05-1125-EL-ATA, 05-1126-EL-AAM, and 05-1127-EL-UNC. Reported at 114 Ohio St.3d 305, 2007-Ohio-4164, 871 N.E.2d 1176. On motion for reconsideration of intervening appellee FirstEnergy Corp. Motion denied.

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

2006-1032. State v. Campbell.

Warren App. No. CA2005-06-069. Reported at 114 Ohio St.3d 430, 2007-Ohio-4552, 872 N.E.2d 1212. On motion for reconsideration. Motion denied.

Cupp, J., not participating.

2007-0842. State ex rel. Pesci v. Lucci.

Lake App. No. 2006-L-112, 2007-Ohio-1547. Reported at 115 Ohio St.3d 218, 2007-Ohio-4795, 874 N.E.2d 774. On motion for reconsideration and motion to strike memorandum opposing reconsideration. Motions denied.

2007-0953. State v. Zemke.

Erie App. No. E-06-051. Reported at 115 Ohio St.3d 1411, 2007-Ohio-4884, 873 N.E.2d 1316. On motion for reconsideration. Motion denied.

2007-0968. State v. Niepsuj.

Summit App. No. 23593. Reported at 115 Ohio St.3d 1411, 2007-Ohio-4884, 873 N.E.2d 1316. On motion for reconsideration. Motion denied.

2007-0984. State v. Lange.

Mercer App. No. 10-06-28, 2007-Ohio-2280. Reported at 115 Ohio St.3d 1412, 2007-Ohio-4884, 873 N.E.2d 1316. On motion for reconsideration. Motion denied.

2007-1113. Acordia of Ohio, LLC v. Fishel.

Hamilton App. No. C-060292. Reported at 115 Ohio St.3d 1413, 2007-Ohio-4884, 873 N.E.2d 1317. On motion for reconsideration. Motion denied.

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