

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

December 26, 2007

[Cite as *12/26/2007 Case Announcements*, 2007-Ohio-6803.]

MERIT DECISIONS WITHOUT OPINIONS

2007-1738. State ex rel. Hubbard v. Travis.

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

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

2007-1878. State ex rel. Talley v. Collins.

In Mandamus. On answer of respondents. On S.Ct.Prac.R. X(5) determination, cause dismissed.

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

2007-1897. State ex rel. Fogel v. Zaleski.

In Prohibition. On respondent's motion to dismiss and relator's motion to strike the motion to dismiss. Motion to strike denied. Motion to dismiss granted. Cause dismissed.

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

2007-1912. State ex rel. Haney v. Wolaver.

In Mandamus. On answer of respondent 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.

2007-2057. Nash v. Thomas.

In Habeas Corpus. On petition for writ of habeas corpus of Timothy M. Nash and motion to amend petition for writ of habeas corpus. Sua sponte, cause dismissed.

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

2007-2060. Ali v. Thomas.

In Habeas Corpus. On petition for writ of habeas corpus of George B. Ali. Sua sponte, cause dismissed.

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

2007-2063. Wright v. Thomas.

In Habeas Corpus. On petition for writ of habeas corpus of Jessie B. Wright. Sua sponte, cause dismissed.

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

2007-2081. Webb v. Thomas.

In Habeas Corpus. On petition for writ of habeas corpus of Jason L. Webb. Sua sponte, cause dismissed.

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

2007-2099. Keister v. Eberlin.

In Habeas Corpus. On petition for writ of habeas corpus of Larry Thomas Keister. Sua sponte, cause dismissed.

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

2007-2103. Hale v. Wilson.

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

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

2007-2123. Williams v. Hart.

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

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

2007-2128. Walsh v. Thomas.

In Habeas Corpus. On petition for writ of habeas corpus of Thomas P. Walsh. Sua sponte, cause dismissed.

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

MOTION AND PROCEDURAL RULINGS

2007-1585. State v. Foster.

Hamilton App. No. C-060720. 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 2006-0651, *State v. Cabrales*, Hamilton App. No. C-050682, 2007-Ohio-857, and briefing schedule stayed.

Lanzinger, J., not participating.

2007-1802. State v. Clay.

Cuyahoga App. No. 88823, 2007-Ohio-4295. 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 September 12, 2007:

"Whether knowledge of the pending indictment is required for a conviction for having a weapon while under disability pursuant to R.C. 2923.13(A)(3) when the disability is based on a pending indictment."

O'Donnell, J., dissents.

The conflict case is *State v. Burks* (Jun. 22, 1990), Sandusky App. No. S-89-13.

Sua sponte, cause consolidated with 2007-1852, *State v. Clay*, Cuyahoga App. No. 88823, 2007-Ohio-4295.

2007-2003. State v. Harris.

Hamilton App. No. C-060691, 2007-Ohio-5127. 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 2006-0651, *State v. Cabrales*, Hamilton App. No. C-050682, 2007-Ohio-857, and briefing schedule stayed.

2007-2054. State v. Bryant.

Butler App. No. CA2007-05-130. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Cupp, JJ., dissent.

2007-2056. State v. Pryor.

Fairfield App. No. 07 CA 25, 2007-Ohio-4427. On motion for leave to file delayed appeal. Motion granted.

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

2007-2058. State v. Foster.

Lucas App. No. L-06-1126, 2007-Ohio-1867. On motion for leave to file delayed appeal and motion for transcripts at state expense. Motions denied.

2007-2098. State v. Sellers.

Cuyahoga App. No. 88535, 2007-Ohio-4681. On motion for leave to file delayed appeal. Motion granted.

O'Connor, J., dissents.

2007-2129. State v. Scott.

Cuyahoga App. No. 88084, 2007-Ohio-2111. On motion for leave to file delayed appeal. Motion denied.

2007-2131. State v. Cooper.

Hamilton App. No. C-060677, 2007-Ohio-4464. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

2007-2132. State v. Taher.

Hamilton App. No. C-050401. On motion for leave to file delayed appeal. Motion denied.

2007-2133. State v. Jackson.

Clermont App. No. CA2006-07-050, 2007-Ohio-914. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2007-2135. State v. Johnson.

Hamilton App. No. C-060852. On motion for stay of court of appeals' judgment. Motion denied.

2007-2142. State v. Johnson.

Mahoning App. No. 06-MA-78, 2007-Ohio-3405. On motion for leave to file delayed appeal and motion for copies of pretrial conferences, docket items, and other data. Motions denied.

Pfeifer, J., dissents.

2007-2152. State v. Chattams.

Butler App. No. CA2007-07-178. On motion for leave to file delayed appeal. Motion denied.

2007-2177. In re J.P.-M.

Summit App. No. 23714, 2007-Ohio-5412. On motion for stay of court of appeals' judgment. Motion denied.

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

APPEALS ACCEPTED FOR REVIEW

2007-1529. Fletcher v. Univ. Hosps. of Cleveland.

Cuyahoga App. No. 88573, 172 Ohio App.3d 153, 2007-Ohio-2778.

Pfeifer, Lanzinger, and Cupp, JJ., dissent.

2007-1611. State v. Rivas.

Greene App. No. 05-CA-147, 172 Ohio App.3d 473, 2007-Ohio-3593. Discretionary appeal accepted on Proposition of Law No. I.

Moyer, C.J., and O'Connor and Lanzinger, JJ., would also accept the appeal on Proposition of Law No. II.

Pfeifer and Lundberg Stratton, JJ., dissent.

2007-1628. DiCenzo v. A-Best Prods. Co., Inc.

Cuyahoga App. No. 88583, 2007-Ohio-3270. Discretionary appeal accepted on Proposition of Law No. II.

Lundberg Stratton and Cupp, JJ., would also accept the appeal on Proposition of Law No. I.

Pfeifer, J., dissents.

Motion for admission pro hac vice of Joni M. Mangino by Bruce P. Mandel granted.

Motions for admission pro hac vice of Mark A. Behrens and Cary Silverman by Victor E. Schwartz granted.

Motions for admission pro hac vice of Diana Nickerson Jacobs, Mark C. Meyer, David B. Rodes, and Jason T. Shipp by Joseph J. Cirilano granted.

2007-1703. State v. Kalish.

Lake App. No. 2006-L-093, 2007-Ohio-3850.

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

Pfeifer and O'Donnell, JJ., dissent.

2007-1734. State v. Silverman.

Hamilton App. No. C-060515. Discretionary appeal accepted; cause held for the decision in 2007-0265, *State v. Fulmer*, Lake App. No. 2005-L-137, 2006-Ohio-7015; and briefing schedule stayed.

2007-1740. State v. Nickum.

Stark App. No. 2006CA00151, 2007-Ohio-4032. Discretionary appeal accepted on Proposition of Law No. I; 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.

2007-1752. State v. Hollingsworth.

Hamilton App. No. C-060896.

Pfeifer, Lanzinger, and Cupp, JJ., dissent.

2007-1755. State v. Brewer.

Cuyahoga App. No. 87701, 2007-Ohio-3407 and 2007-Ohio-4291.

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

2007-1759. State v. Masters.

Crawford App. No. 3-06-20, 2007-Ohio-4229.

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

2007-1787. State v. Bailey.

Hamilton App. No. C-060918. 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.

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

O'Connor, J., would consolidate the appeal with 2007-1415, *State v. Mosmeyer*, Hamilton App. No. C-060747.

Pfeifer, J., dissents.

2007-1852. State v. Clay.

Cuyahoga App. No. 88823, 2007-Ohio-4295. Discretionary appeal accepted and cause consolidated with 2007-1802, *State v. Clay*, Cuyahoga App. No. 88823, 2007-Ohio-4295

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

O'Donnell, J., dissents.

APPEALS NOT ACCEPTED FOR REVIEW

2007-1181. State v. Saleem.

Hamilton App. No. C-060258.

Pfeifer, J., dissents.

2007-1507. Ohio Patrolmen's Benevolent Assn. v. Geauga Park Dist.

Cuyahoga App. No. 88699, 2007-Ohio-3775. Discretionary appeal not accepted. Motion to strike and motion for sanctions denied.

2007-1583. State v. Foster.

Hamilton App. No. C-060720.

Lundberg Stratton and O'Donnell, JJ., dissent and would accept the appeal and hold the cause for the decision in 2007-0651, *State v. Cabrales*, Hamilton App. No. C-050682, 2007-Ohio-857.

2007-1586. State v. Lininger.

Lucas App. No. L-06-1327, 2007-Ohio-3686.

2007-1607. Nash v. Cleveland Clinic Found.

Cuyahoga App. No. 89862.

Lundberg Stratton, J., dissents.

2007-1608. Sull v. Kaim.

Cuyahoga App. No. 88541, 172 Ohio App.3d 297, 2007-Ohio-3269.

2007-1609. State v. Souffrance.

Hamilton App. No. C-060406.

2007-1610. State v. Stayer.

Defiance App. No. 4-06-38, 2007-Ohio-3598.

2007-1612. State v. Snyder.

Darke App. No. 1696, 2007-Ohio-3816.

2007-1615. State v. Randlett.

Franklin App. Nos. 06AP-1073, 06AP-1074, 06AP-1075, and 06AP-1076, 2007-Ohio-3546.

2007-1619. Davis & Meyer Law, Ltd. v. ProNational Ins. Co.

Franklin App. No. 06AP-730, 2007-Ohio-3552.

Pfeifer, J., dissents.

2007-1620. State v. Burks.

Lucas App. Nos. L-05-1346 and L-05-1347, 2007-Ohio-3562.

2007-1635. McIntosh v. Slick.

Stark App. No. 2006CA00158, 2007-Ohio-3672.

Pfeifer, J., dissents.

2007-1638. State v. Shamaly.

Cuyahoga App. No. 88409, 2007-Ohio-3409.

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

2007-1640. State v. Roddy.

Cuyahoga App. No. 88759, 2007-Ohio-4015.

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

2007-1642. State v. Mastice.

Wayne App. No. 06CA0050, 2007-Ohio-4107.

2007-1643. State v. Hatton.

Pickaway App. No. 06CA35, 2007-Ohio-3725.

2007-1662. Michaels v. Michaels.

Lorain App. No. 07CA009147.

2007-1665. State v. Allen.

Franklin App. No. 06AP-605, 2007-Ohio-3790.

2007-1667. State v. Rogers.

Fayette App. No. CA2006-09-036, 2007-Ohio-3720.

Lundberg Stratton, J., dissents and would accept the appeal and hold the cause for the decision in 2007-0052, *State v. Simpkins*, Cuyahoga App. No. 87692, 2006-Ohio-6028.

2007-1669. Deutsche Bank Natl. Trust Co. v. Doucet.

Franklin App. No. 07AP-453.

2007-1670. Kananian v. Lorillard Tobacco Co.

Cuyahoga App. No. 89528.

2007-1672. Martin v. Friedberg.

Morgan App. No. 2006-CA-103, 2007-Ohio-3932.

2007-1677. Malone v. Bd. of Zoning Appeals of Xenia Twp.

Greene App. No. 06-CA-62, 2007-Ohio-3812.

2007-1689. Horak v. Nationwide Ins. Co.

Summit App. No. 23327, 2007-Ohio-3744.

Pfeifer, J., dissents.

2007-1690. State v. Yopp.

Ashtabula App. No. 2006-A-0042, 2007-Ohio-3848.

2007-1691. State v. Thornton.

Summit App. No. 23417, 2007-Ohio-3743.

2007-1693. Riehl v. Rossford.

Wood App. No. WD-06-050, 2007-Ohio-3824.

2007-1695. Lasley v. Nguyen.

Montgomery App. No. 21968, 2007-Ohio-4086.

Lanzinger, J., dissents and would accept the appeal on Proposition of Law Nos. III and IV and hold the cause for the decision in 2006-1914, *Groch v. Gen. Motors Corp.*

2007-1698. State v. Moore.

Cuyahoga App. No. 90251.

2007-1704. State v. Le.

Cuyahoga App. No. 88799, 2007-Ohio-4045.

2007-1707. State v. Duncan.

Clark App. No. 2006 CA 109, 2007-Ohio-4079.

2007-1708. State v. Lewis.

Cuyahoga App. Nos. 88627, 88628, and 88629.

2007-1710. State v. Stadmire.

Cuyahoga App. No. 88735, 2007-Ohio-3644.

2007-1711. State v. Tiller.

Hamilton App. No. C-060357, 2007-Ohio-3943.

2007-1714. State v. Garrett.

Franklin App. No. 06AP-1014, 2007-Ohio-3875.

2007-1717. Pojman v. Columbia-Brookpart Mgt., L.L.C.

Cuyahoga App. No. 88666, 2007-Ohio-4044.

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

2007-1719. Skiadas v. Finkbeiner.

Lucas App. No. L-05-1094, 2007-Ohio-3956.

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

2007-1726. State v. Willis.

Lucas App. No. L-06-1244, 2007-Ohio-3959.

Cupp, J., dissents.

Lanzinger, J., not participating.

2007-1727. State v. Huston.

Fayette App. No. CA2006-05-021, 2007-Ohio-4118. Discretionary appeal not accepted. Motion requesting an order for transcripts denied.

2007-1728. State v. Pena.

Franklin App. No. 06AP-688, 2007-Ohio-4516.

2007-1729. State v. El-Amim.

Lucas App. No. L-05-1286, 2007-Ohio-3949.

2007-1731. State v. Ali.

Cuyahoga App. No. 88147, 2007-Ohio-3776.

2007-1735. State v. Horton.

Franklin App. No. 06AP-311, 2007-Ohio-4309.

2007-1736. State v. Velasquez.

Cuyahoga App. No. 88748, 2007-Ohio-3913.

2007-1742. State v. Berry.

Delaware App. No. 2006CA060035, 2007-Ohio-4122.

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

2007-1745. Kirby v. Parma Community Hosp.

Cuyahoga App. No. 90077.

O'Connor, J., not participating.

2007-1746. State v. Guidry.

Washington App. Nos. 06CA36 and 04CA36, 2007-Ohio-4422.

Pfeifer, J., dissents.

2007-1747. State v. Evans.

Clark App. No. 06CA0110, 2007-Ohio-4081.

2007-1748. State v. Posey.

Stark App. No. 2007CA00001, 2007-Ohio-4035.

2007-1749. State v. Walker.

Cuyahoga App. No. 87968, 2007-Ohio-3772.

2007-1763. State v. Hess.

Montgomery App. No. 21646, 2007-Ohio-4099.

2007-1774. State v. Stoneburner.

Lake App. No. 2006-L-227, 2007-Ohio-4775.

2007-1783. Abuhilwa v. O'Brien.

Montgomery App. No. 21603, 2007-Ohio-4328.

O'Connor, J., not participating.

2007-1784. Macken v. KDR Holdings.

Lorain App. No. 06CA009003, 2007-Ohio-4106.

O'Donnell, J., dissents.

2007-1785. Peoples v. Lang.

Stark App. No. 2006CA00304, 2007-Ohio-4249. Discretionary appeal not accepted. Motion for leave pursuant to Civ.R. 60(A) denied.

2007-1788. Moser v. Moser.

Portage App. No. 2006-P-0047, 2007-Ohio-4109.

Moyer, C.J., dissents.

2007-1793. Flight Servs. & Sys., Inc. v. Lloyd's Policy Signing Office.

Cuyahoga App. No. 90242.

Lanzinger and Cupp, JJ., dissent.

Motion for admission pro hac vice of Christopher R. Barth, Matthew J. Kalas, and Hugh S. Balsam by Dennis J. Bartek granted.

2007-1794. Hosta v. Chrysler.

Greene App. No. 2007 CA 26, 2007-Ohio-4205.

2007-1796. State v. White.

Richland App. No. 06CA84, 2007-Ohio-4244.

2007-1809. State v. Starks.

Lucas App. Nos. L-07-1245 and L-07-1246.

2007-1810. State v. Archie.

Franklin App. No. 07AP-402.

2007-1813. State v. Smith.

Lake App. No. 2006-L-261, 2007-Ohio-4777.

2007-1814. State v. Jenkins.

Trumbull App. No. 2006-T-0058, 2007-Ohio-4227.

O'Connor, J., not participating.

2007-1835. State v. Burnett.

Cuyahoga App. No. 87506, 2007-Ohio-284 and 2007-Ohio-4434.

2007-1876. State v. Trott.

Franklin App. No. 07AP-560.

2007-1904. State v. Turner.

Licking App. No. 2006-CA-123, 2007-Ohio-1961 and 2007-Ohio-4583.

2007-2010. State v. Brown.

Montgomery App. No. 21540, 2007-Ohio-2098.

2007-2041. State v. Johnson.

Mahoning App. No. 06-MA-78, 2007-Ohio-3405. Discretionary appeal not accepted. Motion for copies of pretrial conferences, docket items, and other data denied.

RECONSIDERATION OF PRIOR DECISIONS

2006-0957. Prouse, Dash & Crouch, L.L.P. v. DiMarco.

Cuyahoga App. No. 86324, 2006-Ohio-1538. Reported at 116 Ohio St.3d 167, 2007-Ohio-5753, 876 N.E.2d 1226. On motion for reconsideration. Motion denied.

2007-1030. Valente v. Johnson.

Athens App. Nos. 06CA31 and 06CA38, 2007-Ohio-2664. Reported at 115 Ohio St.3d 1440, 2007-Ohio-5567, 875 N.E.2d 101. On motion for reconsideration. Motion denied.

2007-1192. State v. Babos.

Lucas App. Nos. L-05-1394, L-05-1424 and L-06-1209, 2007-Ohio-2393. On motion for reconsideration. Motion denied.

2007-1219. Margolis v. Stratemeyer.

Hamilton App. No. C-060590. Reported at 115 Ohio St.3d 1442, 2007-Ohio-5567, 875 N.E.2d 103. On motion for reconsideration. Motion denied.

O'Donnell, J., dissents.

2007-1251. State v. Coats.

Mercer App. No. 10-07-08. Reported at 115 Ohio St.3d 1442, 2007-Ohio-5567, 875 N.E.2d 103. On motion for reconsideration. Motion denied.

2007-1271. Howard v. Howard.

Pike App. No. 06CA755, 2007-Ohio-3940. Reported at 115 Ohio St.3d 1443, 2007-Ohio-5567, 875 N.E.2d 103. On motion for reconsideration. Motion denied.
Pfeifer, J., dissents.

2007-1288. State v. Griffith.

Franklin App. No. 07AP-288. Reported at 115 Ohio St.3d 1443, 2007-Ohio-5567, 875 N.E.2d 103. On motion for reconsideration. Motion denied.

2007-1289. State v. Hall.

Putnam App. No. 12-07-08. Reported at 115 Ohio St.3d 1473, 2007-Ohio-5735, 875 N.E.2d 627. On motion for reconsideration. Motion denied.

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

Stark App. No. 2006CA00102, 2007-Ohio-2815. Reported at 115 Ohio St.3d 1473, 2007-Ohio-5735, 875 N.E.2d 627. On motion for reconsideration. Motion granted, and discretionary appeal accepted.
O'Donnell and Cupp, JJ., dissent.

2007-1353. Chadwell v. Ohio State Racing Comm.

Franklin App. No. 06AP-1226, 2007-Ohio-2727. Reported at 115 Ohio St.3d 1444, 2007-Ohio-5567, 875 N.E.2d 104. On motion for reconsideration. Motion denied.

2007-1391. Myles v. Johnson.

Montgomery App. No. 21600, 2007-Ohio-2963. Reported at 115 Ohio St.3d 1444, 2007-Ohio-5567, 875 N.E.2d 104. On motion for reconsideration. Motion denied.

2007-1394. State v. Crosby.

Lucas App. No. L-05-1241, 2007-Ohio-3468. Reported at 115 Ohio St.3d 1475, 2007-Ohio-5735, 875 N.E.2d 628. On motion for reconsideration. Motion denied.
Lanzinger, J., not participating.

2007-1683. Martin v. Leisy.

In Procedendo. Reported at 115 Ohio St.3d 1471, 2007-Ohio-5735, 875 N.E.2d 626. On motion for reconsideration. Motion denied.

DISCIPLINARY CASES

2007-2053. Disciplinary Counsel v. Walkden.

On Certified Order of the Supreme Court of Florida, No. SC06-323. John Louis Walkden, Attorney Registration No. 0055041, is indefinitely suspended from the practice of law in Ohio.