

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS

June 18, 2008

[Cite as *06/18/2008 Case Announcements*, 2008-Ohio-2823.]

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## MERIT DECISIONS WITH OPINIONS

**2006-1811. Paterek v. Petersen & Ibold, Slip Opinion No. 2008-Ohio-2790.**

Geauga App. No. 2005-G-2624, 2006-Ohio-4179. Judgment reversed and cause remanded.

Moyer, C.J., and Pfeifer, Lundberg Stratton, Brogan, Lanzinger, and JJ., concur.

O'Connor and Cupp, JJ., concur in part and dissent in part.

James A. Brogan, J., of the Second Appellate District, sitting for O'Donnell, J.

**2007-0375. State v. Gardner, Slip Opinion No. 2008-Ohio-2787.**

Montgomery App. No. 21357, 2007-Ohio-182. Judgment reversed and cause remanded.

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

O'Donnell, J., concurs in judgment only.

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

**2007-0873. Howard v. Miami Twp. Fire Div., Slip Opinion No. 2008-Ohio-2792.**

Montgomery App. No. 21478, 171 Ohio App.3d 184, 2007-Ohio-1508. Judgment of the court of appeals reversed and judgment of the trial court reinstated.

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

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

## MERIT DECISIONS WITHOUT OPINIONS

**2008-0623. State ex rel. Ohio Family First v. Clunk.**

In Prohibition. On respondent's motion to dismiss, motion for leave to intervene and intervenor's motion to dismiss, and relators' motion to strike intervenor's motion to dismiss. Motion for leave to intervene granted. Motion to strike denied. Motions to dismiss granted. Cause dismissed.

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

**2008-0647. State ex rel. Lee 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.

**2008-0808. Lewis v. Mason.**

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

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

**2008-0841. State ex rel. Cole v. O'Malley.**

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

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

**2008-0855. Simpson v. Jackson.**

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

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

**MOTION AND PROCEDURAL RULINGS**

**2008-0216. State ex rel. Agosto v. Cuyahoga Cty. Court of Common Pleas.**

Cuyahoga App. No. 90631, 2007-Ohio-6806. Sua sponte, cause held for the decision in 2007-1184, *State v. Baker*, Summit App. No. 23713, and further briefing stayed.

**2008-0721. Planey v. Hepfner.**

Mahoning App. No. 07 MA 172, 2008-Ohio-711. On expedited motion to stay any further activity by the Mahoning County Court of Common Pleas. Motion denied.

**2008-0754. State ex rel. King v. Welbaum.**

Miami App. No. 2008-CA-1. On motion for stay of briefing. Motion granted. Briefing in this cause is stayed until further notice by the court.

Pfeifer and O'Donnell, JJ., dissent.

**2008-0798. State v. Taylor.**

Montgomery App. No. 20944, 2006-Ohio-843. On motion for leave to file delayed appeal. Motion denied.

**2008-0801. State v. Davenport.**

Hamilton App. No. C-070092. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Lanzinger, JJ., dissent.

**2008-0809. State v. Mungai.**

Cuyahoga App. No. 89369, 2007-Ohio-6988. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

**2008-0817. Sullivan v. Anderson Twp.**

Hamilton App. No. C-070253, 2008-Ohio-1438. 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' Entry filed April 23, 2008:

“Whether an order that denies a political subdivision the benefit of an alleged immunity from liability as provided in Chapter 2744 of the Ohio Revised Code or any other provision of the law is a final and appealable order when the subject order lacks a Civ.R. 54(B) certification.”

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

The conflict case is *Drew v. Laferty* (June 1, 1999), Vinton App. No. 98CA522.

Sua sponte, cause consolidated with 2008-0691, *Sullivan v. Anderson Twp.*, Hamilton App. No. C-070253, 2008-Ohio-1438.

**2008-0823. State v. Johnson.**

Cuyahoga App. No. 87706, 2006-Ohio-6030. On motion for leave to file delayed appeal. Motion denied.

**2008-0851. State v. Phillips.**

Medina App. No. 06CA0027-M, 2006-Ohio-6909. On motion for leave to file delayed appeal. Motion denied.

**2008-0863. State v. Brumbaugh.**

Licking App. No. 07-CA-30, 2007-Ohio-5638. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

**2008-0887. State v. Palmer.**

Hamilton App. No. C-060754, 2007-Ohio-6870. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

**2008-0890. State v. Scott.**

Hardin App. No. 6-07-17, 2008-Ohio-86. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

**APPEALS ACCEPTED FOR REVIEW**

**2008-0366. Eppley v. Tri-Valley Local School Dist.**

Muskingum App. No. CT2007-0022, 2008-Ohio-32. Discretionary appeal accepted.

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

Pfeifer and Cupp, JJ., dissent.

Discretionary cross-appeal not accepted.

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

**2008-0462. Crawford-Cole v. Lucas Cty. Dept. of Job & Family Servs.**

Lucas App. No. L-07-1188, 174 Ohio App.3d 617, 2008-Ohio-359.

Pfeifer and O'Connor, JJ., dissent.

**2008-0522. State v. Cooke.**

Butler App. No. CA2007-01-005. Discretionary appeal accepted on Proposition of Law No. I; cause held for the decision in 2007-1703, *State v. Kalish*, Lake App. No. 2006-L-093, 2007-Ohio-3850; and briefing schedule stayed.

Pfeifer, J., dissents.

Cupp, J., not participating.

**2008-0534. Torchik v. Boyce.**

Ross App. No. 06CA2921, 2008-Ohio-399.  
Cupp, J., dissents.

**2008-0536. State v. Coburn.**

Erie App. Nos. E-07-051, E-07-050, and E-07-049, 2008-Ohio-371.  
Pfeifer and Cupp, JJ., dissent.

**2008-0691. Sullivan v. Anderson Twp.**

Hamilton App. No. C-070253, 2008-Ohio-1438. Discretionary appeal accepted and cause consolidated with 2008-0817, *Sullivan v. Anderson Twp.*, Hamilton App. No. C-070253, 2008-Ohio-1438.  
Pfeifer, O'Donnell, and Lanzinger, JJ., dissent.

**APPEALS NOT ACCEPTED FOR REVIEW**

**2008-0076. State v. Lozier.**

Franklin App. Nos. 07AP-348 and 07AP-349, 2007-Ohio-5798.

**2008-0079. State v. Mosby.**

Knox App. No. 05-CA-33, 2007-Ohio-2542.

**2008-0369. Carter-Jones Lumber Co. v. B & A Building Servs., Inc.**

Knox App. No. 07CA000003, 2008-Ohio-21.  
O'Connor and O'Donnell, JJ., dissent.

**2008-0387. State v. Stiltner.**

Paulding App. No. 11-07-12.

**2008-0394. State v. Foster.**

Licking App. No. 2006 CA 00152, 2008-Ohio-29.

**2008-0404. State v. Fuller.**

Madison App. No. CA2006-11-047, 2008-Ohio-20.

**2008-0420. State v. Bentley.**

Montgomery App. No. 21898, 2008-Ohio-195.

**2008-0441. Perrysburg Twp. v. Rossford Arena Amphitheater Auth.**

Wood App. No. WD-07-008, 2008-Ohio-363. Discretionary appeal and cross-appeal not accepted.

Moyer, C.J., and O'Donnell, J., dissent and would accept the appeal.

**2008-0444. State v. West.**

Wood App. No. WD-07-002, 2008-Ohio-368.

**2008-0445. State v. Abrams.**

Clermont App. No. CA2007-03-040, 2008-Ohio-94.

**2008-0449. Edwards v. I. Schumann & Co.**

Cuyahoga App. No. 88528, 2007-Ohio-3067.

**2008-0453. State v. Renicker.**

Tuscarawas App. No. 2006 AP 10 0059, 2008-Ohio-288.

**2008-0456. Mattia v. Hall.**

Summit App. No. 23778, 2008-Ohio-180.

Pfeifer and Cupp, JJ., dissent.

**2008-0457. State v. Huber.**

Miami App. No. 06-CA-51, 2008-Ohio-420.

**2008-0458. Hudson v. John Hancock Financial Servs., Inc.**

Franklin App. No. 06AP-1284, 2007-Ohio-6997. Discretionary appeal not accepted.

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

Motions for admission pro hac vice of Tracy W. Laws, Kimberly M. Welsh, and Matthew T. Wulf by Alan F. Berliner, Lawrence S. Greengrass, Daniel Markewich, and Emilie L. Bakal-Caplan by John T. Sunderland, Stanley J. Parzen and Michele L. Odorizzi by John R. Gall, and Mitchell A. Orpett and H. Wesley Sunu by John P. Brody granted.

**2008-0459. State v. Davis.**

Franklin App. No. 07AP-356, 2008-Ohio-107.

**2008-0461. State v. Crosky.**

Franklin App. No. 06AP-655, 2008-Ohio-145.

Pfeifer, J., dissents.

**2008-0463. In re Guardianship of Scobie.**

Lucas App. No. L-07-1177, 2008-Ohio-364.

**2008-0464. Stonehenge Land Co. v. Beazer Homes Investments, L.L.C.**  
Franklin App. No. 07AP-449, 2008-Ohio-148.

**2008-0467. In re Guardianship of Hughes.**  
Cuyahoga App. Nos. 89113 and 89126, 2007-Ohio-6843.  
Pfeifer, J., dissents.

**2008-0472. Grenga v. K.D. Machine, Inc.**  
Mahoning App. No. 07 MA 6, 2007-Ohio-6911.

**2008-0476. State v. Oprandi.**  
Perry App. No. 07 CA 5, 2008-Ohio-168.

**2008-0483. Brown v. Nationwide Mut. Ins. Co.**  
Franklin App. No. 07AP-570, 174 Ohio App.3d 694, 2008-Ohio-174.  
Pfeifer, J., dissents.

**2008-0484. State v. Cromartie.**  
Medina App. No. 06CA0107-M, 2008-Ohio-273.

**2008-0487. State v. Ahmed.**  
Cuyahoga App. No. 84220, 2008-Ohio-217.

**2008-0489. Johns 3301 Toledo Café, Inc. v. Ohio Liquor Control Comm.**  
Franklin App. No. 07AP-632, 2008-Ohio-394.

**2008-0490. Bauman v. Faught.**  
Clermont App. Nos. CA2006-11-101 and CA2006-11-102, 2008-Ohio-166.

**2008-0491. State v. Howard.**  
Hamilton App. No. C-070097.

**2008-0492. State v. Dixon.**  
Stark App. No. 2007-CA-00039, 2008-Ohio-438.

**2008-0493. State v. Robinson.**  
Cuyahoga App. Nos. 89222 and 89223, 2008-Ohio-224.

**2008-0494. State v. Goza.**

Cuyahoga App. No. 89032, 2007-Ohio-6837.

**2008-0495. State v. Massey.**

Hamilton App. No. C-070060. Discretionary appeal not accepted. Motion for order to transmit certified copy of journal entry from court of appeals denied as moot.

**2008-0496. State v. Harsh.**

Butler App. No. CA2007-03-083. Discretionary appeal not accepted. Motion for summary judgment denied.

**2008-0498. State v. Hofer.**

Adams App. No. 07CA835, 2008-Ohio-242.

**2008-0502. State v. McPherson.**

Licking App. No. 07CA148.

**2008-0504. White v. Summit Cty. Dept. of Human Servs.**

Summit App. No. 23740, 2008-Ohio-176.

Moyer, C.J., dissents.

**2008-0507. State v. Ball.**

Hocking App. No. 07CA2, 2008-Ohio-337.

**2008-0509. State v. Weaver.**

Stark App. No. 2007CA00138, 2008-Ohio-559.

**2008-0510. State v. Thompson.**

Fairfield App. No. 06 COA 62, 2008-Ohio-435.

**2008-0514. Frisby v. Frisby.**

Allen App. No. 10-7-48, 2008-Ohio-279.

**2008-0517. State v. McLain.**

Lucas App. No. L-07-1164, 2008-Ohio-481.

**2008-0518. State v. Mays.**

Cuyahoga App. No. 89362, 174 Ohio App.3d 681, 2008-Ohio-128.

Lanzinger, J., dissents.



**2008-0520. State v. Pahoundis.**

Coshocton App. No. 07CA0018, 2008-Ohio-667.

**2008-0523. Warrensville Hts. v. Brown.**

Cuyahoga App. No. 89346, 2008-Ohio-126.

**2008-0526. State v. Laboy.**

Cuyahoga App. No. 89510, 2008-Ohio-451.

**2008-0527. Twinsburg v. Lacerva.**

Summit App. No. 23849, 2008-Ohio-550.

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

**2008-0528. In re Estate of Kirkland.**

Clark App. No. 2006 CA 129, 175 Ohio App.3d 73, 2008-Ohio-421.

**2008-0533. State v. Matus.**

Wood App. No. WD-06-072, 2008-Ohio-377.

**2008-0535. Ohio Patrolmen's Benevolent Assn. v. Munroe Falls.**

Summit App. No. 23898, 2008-Ohio-659.

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

**2008-0537. State v. Harris.**

Cuyahoga App. No. 89156, 2008-Ohio-934.

**2008-0538. Ro-Mai Industries, Inc. v. Weinberg.**

Summit App. No. 23792, 2008-Ohio-301.

**2008-0540. State v. Doran.**

Montgomery App. No. 22290, 2008-Ohio-416.

**2008-0542. State v. Maga.**

Montgomery App. No. 21998, 2008-Ohio-423.

**2008-0543. State v. Dixon.**

Montgomery App. No. 21823, 2008-Ohio-755.

**2008-0544. State v. Rigdon.**

Warren App. No. CA2007-03-038.

**2008-0545. State v. Babos.**

Lucas App. No. L-07-1213, 2008-Ohio-599.

**2008-0553. Karnofel v. Kmart Corp.**

Trumbull App. Nos. 2007-T-0036 and 2007-T-0064, 2007-Ohio-6939.  
Discretionary appeal not accepted. Motions to dismiss denied as moot.

**2008-0568. State v. Dudley.**

Franklin App. No. 06AP-1272, 2008-Ohio-390.

**2008-0570. State v. Easley.**

Franklin App. No. 07AP-578, 2008-Ohio-468.

**2008-0572. Roberts v. Clinton Cty. Aud.**

Clinton App. Nos. CA2007-03-012, CA2007-03-013, CA2007-03-014, CA2007-03-015, CA2007-03-016, CA2007-03-017, CA2007-03-018, and CA2007-03-019, 2008-Ohio-535.

Moyer, C.J., dissents.

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

**2008-0587. State v. Chambers.**

Hamilton App. Nos. C-060922 and C-061036, 2008-Ohio-470.

**2008-0592. State v. White.**

Franklin App. No. 07AP-743, 2008-Ohio-701.

**2008-0597. State v. Bishop.**

Hamilton App. No. C-070043.

**2008-0619. State v. McCarley.**

Summit App. No. 23607, 2008-Ohio-552.

O'Connor, J., not participating.

**RECONSIDERATION OF PRIOR DECISIONS**

**2007-0391. Columbus v. Kim.**

Franklin App. No. 05AP-1334, 2006-Ohio-6985. Reported at 118 Ohio St.3d 93, 2008-Ohio-1817, 886 N.E.2d 217. On motion for reconsideration. Motion denied.

**2007-1581. Cleveland Bar Assn. v. Mitchell.**

Board of Commissioners on Grievances and Discipline, No. 06-007. Reported at 118 Ohio St.3d 98, 2008-Ohio-1822, 886 N.E.2d 222. On motion for reconsideration. Motion denied.

**2008-0093. State ex rel. Digiacobbe v. Beasley.**

In Mandamus. Reported at 117 Ohio St.3d 1473, 2008-Ohio-1841, 884 N.E.2d 1106. On motion for reconsideration. Motion denied.

Pfeifer, J., dissents.

**2008-0099. Watson v. Ford Motor Co.**

Erie App. No. E-06-074, 2007-Ohio-6374. Reported at 117 Ohio St.3d 1478, 2008-Ohio-1841, 884 N.E.2d 1110. On motion for reconsideration. Motion denied.

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

**2008-0386. State v. Duncan.**

Clark App. No. 2006 CA 109, 2007-Ohio-4079. Reported at 117 Ohio St.3d 1480, 2008-Ohio-1841, 884 N.E.2d 1110. On motion for reconsideration. Motion denied.