

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

August 6, 2008

[Cite as *08/06/2008 Case Announcements*, 2008-Ohio-3880.]

MERIT DECISIONS WITH OPINIONS

2007-0739. Environmental Network Corp. v. Goodman Weiss Miller, L.L.P., Slip Opinion No. 2008-Ohio-3833.

Cuyahoga App. No. 87782, 2007-Ohio-831. Judgment reversed and cause remanded.

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

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

Pfeifer, J., dissents.

2007-1254. State v. Silsby, Slip Opinion No. 2008-Ohio-3834.

Geauga App. No. 2006-G-2725, 2007-Ohio-2308. Certified questions answered and judgment affirmed.

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

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

2007-1475. State v. Roberts, Slip Opinion No. 2008-Ohio-3835.

Hamilton App. No. C-060675. Judgment affirmed.

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

Pfeifer, J., concurs in judgment only.

2008-0398. Toledo Bar Assn. v. Hickman, Slip Opinion No. 2008-Ohio-3837.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 07-039. Gregg D. Hickman, Attorney Registration No. 0020032, is permanently disbarred from the practice of law in Ohio.

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

Lanzinger, J., not participating.

2008-0482. State ex rel. Plant v. Cosgrove, Slip Opinion No. 2008-Ohio-3838.

Summit App. No. 24082. Judgment affirmed.

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

MERIT DECISIONS WITHOUT OPINIONS

2008-0940. State ex rel. Emmons v. West.

In Mandamus. On complaint in mandamus of Scott Emmons. 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.

2008-1025. Price v. Court of Appeals, Ninth Appellate Dist.

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.

2008-1034. State ex rel. Baldwin v. Hamilton Cty. Bd. of Elections.

In Mandamus. On motions to dismiss. Motions to dismiss granted. Cause dismissed.

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

2008-1065. State ex rel. Smiley v. Davis.

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.

2008-1067. State ex rel. Taylor v. Mazur.

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.

2008-1100. Williams v. Ohio Adult Parole Auth.

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

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

2008-1102. Cunningham v. Williams.

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

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

2008-1165. State ex rel. Swartz v. Anderson.

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

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

2008-1190. Cottrill v. Anderson.

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

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

2008-1254. Breckenridge v. Washington.

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

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

MOTION AND PROCEDURAL RULINGS

1987-0447. State v. Henderson.

Hamilton App. No. C-850557. On motion to set execution date. Motion denied.

O'Donnell, J., dissents.

2008-0289. State ex rel. Barnes v. Cleveland.

In Mandamus. This cause originated in this court on the filing of a complaint for a writ of mandamus. Upon consideration pursuant to S.Ct.Prac.R. X(5) and consideration of respondents' motion to dismiss,

IT IS ORDERED that the motion to dismiss is denied, that an alternative writ is granted, and that the following 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; respondents shall file an unredacted copy of the requested records under seal as part of their evidence for an in camera inspection; relator shall file a brief within ten days of the filing of the evidence; respondents shall file a brief within 20 days after the filing of relator's brief; and relator may file a reply brief within seven days after the filing of respondents' brief.

2008-0331. State v. Harrison.

Madison App. No. CA2006-08-028, 2007-Ohio-7078. On motion for stay of sentence and for appeal bond. Motion granted.

O'Donnell, J., dissents.

Cupp, J., not participating.

2008-0972. Stetter v. R.J. Corman Derailment Servs., L.L.C.

Certified Questions of State Law, United States District Court, Northern District of Ohio, Western Division, Case No. 3:07CV866. On review of preliminary memoranda pursuant to S.Ct.Prac.R. XVIII(6). The court will answer the following questions:

1. Is R.C. §2745.01, as amended by Senate Bill 80, effective April 7, 2005, unconstitutional for violating the right to trial by jury?
2. Is R.C. §2745.01, as amended by Senate Bill 80, effective April 7, 2005, unconstitutional for violating the right to a remedy?
3. Is R.C. §2745.01, as amended by Senate Bill 80, effective April 7, 2005, unconstitutional for violating the right to an open court?
4. Is R.C. §2745.01, as amended by Senate Bill 80, effective April 7, 2005, unconstitutional for violating the right to due process of law?
5. Is R.C. §2745.01, as amended by Senate Bill 80, effective April 7, 2005, unconstitutional for violating the right to equal protection of the law?
6. Is R.C. §2745.01, as amended by Senate Bill 80, effective April 7, 2005, unconstitutional for violating the separation of powers.

7. Is R.C. §2745.01, as amended by Senate Bill 80, effective April 7, 2005, unconstitutional for conflicting with the legislative authority granted to the General Assembly by §34 and §35, Article II, of the Ohio Constitution?

8 Does R.C. §2745.01, as amended by Senate Bill 80, effective April 7, 2005, do away with the common law cause of action for employer intentional tort?

2008-0991. Chojnacki v. Rogers.

Warren App. No. CA2008-03-040. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated at page 2 of the court of appeals' Entry filed May 5, 2008:

"[W]hether a decision denying a request for appointment of counsel in a reclassification hearing held pursuant to Ohio's version of the Adam Walsh Act, Senate Bill 10, is a final appealable order."

O'Donnell, J., dissents.

The conflict case is *King v. State* (Mar. 19, 2008), Miami App. No. 2008-CA-2.

Sua sponte, cause consolidated with 2008-0992, *Chojnacki v. Rogers*, Warren App. No. CA2008-03-040.

2008-1056. Washington Mut. Bank v. Beatley.

Franklin App. No. 06AP-1189, 2008-Ohio-1679. 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 May 20, 2008:

"When a trial court dismisses a plaintiff's action for lack of capacity to maintain an action, does R.C. 1703.29 prevent the plaintiff from appealing that decision?"

O'Donnell, J., dissents.

The conflict case is *Quality Internatl. Ents., Inc. v. IFCO Sys. N. Am., Inc.*, Summit App. No. 23131, 2006-Ohio-51.

2008-1084. State v. Webb.

Marion App. No. 9-08-03. On motion for leave to file delayed appeal. Motion denied.

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

2008-1113. State v. Barnett.

Jefferson App. No. 06-JE-23, 2008-Ohio-1546. On motion for leave to file delayed appeal. Motion granted.

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

2008-1155. State v. Webb.

Richland App. No. 07CA43, 2008-Ohio-901. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Cupp, JJ., dissent.

2008-1156. State v. Watson.

Clinton App. No. CA2007-04-020, 2008-Ohio-629. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2008-1157. State v. Shears.

Hamilton App. No. C-040285. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2008-1164. State v. Whitfield.

Cuyahoga App. No. 89570, 2008-Ohio-1090. On motion for leave to file delayed appeal. Motion denied.

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

2008-1166. State v. Nayar.

Lawrence App. No. 07CA6, 2007-Ohio-6092. On motion for leave to file delayed appeal. Motion denied.

2008-1169. State v. Reeds.

Lake App. No. 2007-L-120, 2008-Ohio-1781. On motion for leave to file delayed appeal. Motion granted.

O'Connor, J., dissents.

2008-1204. State v. Swanson.

Butler App. No. CA2005-04-093. On motion for leave to file delayed appeal. Motion denied.

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

2008-1223. State v. Bumgardner.

Trumbull App. No. 2007-T-0106, 2008-Ohio-1778. On motion for leave to file delayed appeal. Motion fails for want of four votes.

Pfeifer, O'Donnell, and Lanzinger, JJ., would grant the motion.

Moyer, C.J., and Lundberg Stratton and Cupp, JJ., would deny the motion.

O'Connor, J., not participating.

2008-1240. Cleveland v. State.

Cuyahoga App. Nos. 89486 and 89565, 2008-Ohio-2655. On motion for stay of judgment. Motion granted.

Lanzinger and Cupp, JJ., dissent.

2008-1252. Dayton v. State.

Montgomery App. No. 22221, 2008-Ohio-2589. On motion for stay of court of appeals' judgment. Motion granted.

Lanzinger, J., dissents.

2008-1255. State v. Singleton.

Cuyahoga App. No. 90042, 2008-Ohio-2351. On motion for stay of court of appeals' judgment. Motion granted.

O'Donnell and Cupp, JJ., dissent.

2008-1258. State v. Henderson.

Cuyahoga App. No. 89377, 2008-Ohio-1631. On motion for stay of court of appeals' judgment. Motion denied.

O'Connor, J., dissents.

2008-1262. State v. Gillman.

Union App. No. 14-08-02, 2008-Ohio-2606. On motion for stay of court of appeals' judgment. Motion denied.

2008-1322. State ex rel. Auto-Owners Ins. v. Wortham.

Montgomery App. No. 22540, 2008-Ohio-2873. On motion for stay of court of appeals' decision. Motion granted.

Lanzinger and Cupp, JJ., dissent.

APPEALS ACCEPTED FOR REVIEW

2008-0419. State v. Person.

Hamilton App. No. C-060656, 174 Ohio App.3d 287, 2007-Ohio-6869. Discretionary appeal accepted on Proposition of Law No. II; cause held for the decision in 2007-0184, *State v. Brown*, Cuyahoga App. No. 87651, 2006-Ohio-6267; and briefing schedule stayed.

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

Pfeifer and O'Donnell, JJ., dissent.

2008-0661. State v. Hunter.

Cuyahoga App. No. 89456, 2008-Ohio-794. Discretionary appeal accepted on Proposition of Law No. I; cause held for the decision in 2008-0215 and 2008-0429, *State v. Sanchez*, Greene App. No. 06-CA-154, 2007-Ohio-6697; and briefing schedule stayed.

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

2008-0767. State v. South.

Union App. No. 14-07-40, 2008-Ohio-1143. Discretionary appeal accepted; cause held for the decision in 2007-2182, *State v. Goldsberry*, Union App. No. 14-07-06, 2007-Ohio-5493; and briefing schedule stayed.

Pfeifer and Lundberg Stratton, JJ., dissent.

2008-0784. Hayes v. Oakridge Home.

Cuyahoga App. No. 89400, 175 Ohio App.3d 334, 2008-Ohio-787.

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

2008-0785. State v. Jones.

Cuyahoga App. No. 89499, 2008-Ohio-802. Discretionary appeal accepted on Proposition of Law No. I.

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

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

2008-0844. State v. Lawrence.

Butler App. No. CA2007-01-017, 2008-Ohio-1354.

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

2008-0857. Kaminski v. Metal & Wire Prods. Co.

Columbiana App. No. 07-CO-15, 175 Ohio App.3d 227, 2008-Ohio-1521.

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

Pfeifer, J., dissents.

2008-0895. Niskanen v. Giant Eagle, Inc.

Summit App. No. 23445, 2008-Ohio-1385. Discretionary appeal accepted.

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

Motions for admission pro hac vice of Scott D. Livingston, Bernard D. Marcus, and Stephen S. Zubrow by Robert C. McClelland granted.

2008-0975. Toledo v. Ohio.

Lucas App. No. L-07-1261, 2008-Ohio-1957. Discretionary appeal accepted; cause held for the decisions in 2008-0128, *Lima v. State*, Allen App. No. 1-07-21, 2007-Ohio-6419, and 2008-0418, *State v. Akron*, Summit App. No. 23660, 2008-Ohio-38; and briefing schedule stayed.

2008-0992. Chojnacki v. Rogers.

Warren App. No. CA2008-03-040. Discretionary appeal accepted and cause consolidated with 2008-0991, *Chojnacki v. Rogers*, Warren App. No. CA2008-03-040.

O'Donnell, J., dissents.

APPEALS NOT ACCEPTED FOR REVIEW

2008-0273. State v. Blandin.

Allen App. No. 1-06-107, 2007-Ohio-6418.

2008-0317. State v. Wade.

Lucas App. No. L-07-1198, 2007-Ohio-6891.

2008-0321. State v. Davie.

Trumbull App. No. 2007-T-0069, 2007-Ohio-6940.

2008-0340. State v. Land.

Auglaize App. No. 2-07-20, 2007-Ohio-6963.

2008-0353. State v. Kepiro.

Franklin App. No. 06AP-1302, 2007-Ohio-4593.

2008-0372. State v. Konkell.

Summit App. No. 23592, 2007-Ohio-6186.

2008-0393. State v. Bell.

Mahoning App. No. 06-MA-82, 2007-Ohio-6924.

2008-0524. State v. Harris.

Franklin App. No. 07AP-137, 2008-Ohio-27.

2008-0549. Pelzl v. Greene Cty. Combined Health Dist.

Greene App. No. 07-CA-05, 2008-Ohio-2068.

2008-0558. State v. Wallace.

Miami App. No. 2007-CA-4, 2008-Ohio-620.

2008-0604. State v. Wade.

Franklin App. No. 06AP-644, 2008-Ohio-543 and 2008-Ohio-1797.

Lundberg Stratton and O'Connor, JJ., dissent and would accept the appeal and grant the motion to consolidate.

2008-0622. State v. Carlisle.

Lawrence App. No. 07CA16, 2008-Ohio-744.

2008-0631. State v. Davis.

Clark App. No. 07-CA-100, 175 Ohio App.3d 318, 2008-Ohio-753.

Lundberg Stratton, J., dissents.

2008-0634. State v. Kuriger.

Jefferson App. No. 07 JE 48, 175 Ohio App.3d 676, 2008-Ohio-1673.

2008-0637. Pavlik v. Home Ins. Co. in Liquidation.

Cuyahoga App. No. 89513, 2008-Ohio-452.

2008-0638. State v. Wegmann.

Allen App. No. 1-06-98, 2008-Ohio-622.

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

2008-0641. State v. Smith.

Preble App. No. CA2007-05-011.

2008-0643. State v. Obsaint.

Hamilton App. No. C-060629, 2007-Ohio-2661.

2008-0646. Cambridge Co. Ltd. v. Telsat, Inc.

Summit App. No. 23935, 2008-Ohio-1056.

2008-0648. Elizabeth Williams Group Home, Inc. v. Summit Cty. Fiscal Officer.

Summit App. No. 24051.

2008-0653. State v. Travis.

Medina App. No. 07CA0035-M, 2008-Ohio-723.

2008-0654. In re D.D.

Cuyahoga App. No. 89042, 2008-Ohio-222.

Lanzinger, J., dissents.

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

2008-0656. State v. Russell.

Montgomery App. No. 21458, 2008-Ohio-774.

O'Donnell, J., dissents.

2008-0658. State ex rel. Cook v. Seneca Cty. Bd. of Commrs.

Seneca App. No. 13-07-26, 175 Ohio App.3d 721, 2008-Ohio-736.

Moyer, C.J., dissents.

2008-0659. State v. Fanaro.

Licking App. No. 2006CA00168, 2008-Ohio-841.

2008-0666. State v. Franklin.

Franklin App. No. 06AP-1154, 2008-Ohio-462.

2008-0669. State v. Hicks.

Highland App. No. 07CA7, 2008-Ohio-964.

2008-0670. Crosby-Edwards v. Ohio Bd. of Embalmers & Funeral Directors.

Franklin App. No. 06AP-1220, 175 Ohio App.3d 762, 2008-Ohio-762.

Lanzinger, J., dissents.

2008-0672. State v. Leyland.

Summit App. Nos. 23833 and 23900, 2008-Ohio-777.

2008-0673. State v. Lisboa.

Cuyahoga App. No. 89283, 2008-Ohio-571.

2008-0674. Simms v. Alliance Community Hosp.

Stark App. No. 2007-CA-00225, 2008-Ohio-847.

O'Donnell, J., dissents.

2008-0679. Kirtos v. Nationwide Ins. Co.

Mahoning App. No. 07-MA-97, 2008-Ohio-870.

Pfeifer, J., dissents.

2008-0680. Foppe Technical Group, Inc. v. Papp.

Clermont App. No. CA2007-06-076.

2008-0683. Jay v. Massachusetts Cas. Ins. Co.

Stark App. No. 2006CA00201, 2008-Ohio-846. Discretionary appeal not accepted.

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

Motion for admission pro hac vice of Evan M. Tager and Jack L. Wilson by Fidelis I. Agbapuruonwu granted.

2008-0685. State v. Sofer.

Hamilton App. No. C-070149, 2008-Ohio-811.

2008-0689. State v. Jamison.

Montgomery App. No. 22177, 2008-Ohio-2065.

2008-0690. State v. Lindsey.

Hamilton App. No. C-070409.

2008-0695. Lowry v. Rothstein.

Montgomery App. No. 22288, 2008-Ohio-2066.

O'Donnell, J., dissents.

2008-0699. Rockport Realty Investments, Inc. v. Riedel.

Erie App. No. E-07-042, 2008-Ohio-820.

2008-0701. Caccavale v. W. & S. Life.

Lorain App. No. 07CA009124, 2008-Ohio-825.

Pfeifer, J., dissents.

2008-0702. State v. Green.

Belmont App. No. 07-BE-8, 2008-Ohio-1175.

2008-0703. Kelly v. May Assoc. Fed. Credit Union.

Summit App. No. 23423, 2008-Ohio-1507.

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

2008-0704. State v. Quinn.

Lucas App. No. L-06-1003, 2008-Ohio-819.

2008-0712. State v. Bell.

Cuyahoga App. No. 89514, 2008-Ohio-453.

2008-0713. Wright v. Fleming.

Hamilton App. No. C-070121, 2008-Ohio-1435.

2008-0716. Bousquet v. State Auto Ins. Co.

Cuyahoga App. No. 89601, 2008-Ohio-922.

Pfeifer, J., dissents.

2008-0719. Howard v. Lawton.

Franklin App. No. 07AP-603, 2008-Ohio-767. Discretionary appeal not accepted.
Motion for writ of supersedeas denied.

2008-0727. Harris v. Greater Cleveland Regional Transit Auth.

Cuyahoga App. No. 89541, 2008-Ohio-676.

2008-0729. Walker v. Stark Cty. Health Dept.

Stark App. No. 2007 CA 00236, 2008-Ohio-886.

2008-0731. Brooklyn v. Jackim.

Cuyahoga App. No. 89659, 2008-Ohio-931.

2008-0732. Keith v. Bringardner.

Franklin App. No. 07AP-666, 2008-Ohio-950.

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

2008-0734. In re Gould.

Licking App. No. 07-CA-0099, 2008-Ohio-900.

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

2008-0736. State v. Miller.

Washington App. No. 07CA1, 2008-Ohio-1059.

2008-0737. State v. Blandon.

Mahoning App. No. 07 MA 3, 2008-Ohio-1064.

2008-0739. State v. Johnson.

Mahoning App. No. 07 MA 8, 2008-Ohio-1065.

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

Cupp, J., dissents.

2008-0741. State v. Posey.

Franklin App. No. 07AP-522.

2008-0743. State v. Garner.

Franklin App. No. 07AP-474, 2008-Ohio-944.

2008-0750. State v. Baumgartner.

Ottawa App. No. OT-06-046, 2008-Ohio-971.

Lanzinger, J., not participating.

2008-0751. Cincinnati v. Wallpe.

Hamilton App. No. C-070115.

2008-0755. State v. Dover.

Stark App. No. 2007-CA-00140, 2008-Ohio-1071.

2008-0756. Harrison v. Nickum.

Clermont App. No. CA2007-07-084.

2008-0757. Natl. Interstate Corp. v. West.

Summit App. No. 23877, 2008-Ohio-1057.

Pfeifer, J., dissents.

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

2008-0759. State v. Reese.

Jefferson App. No. 07 JE 7, 2008-Ohio-1548.

2008-0761. State v. Plunkett.

Warren App. No. CA2007-01-012, 2008-Ohio-1014.

Moyer, C.J., dissents.

2008-0764. State v. Hall.
Putnam App. No. 12-07-15.

2008-0766. Robinson v. Slarb.
Ashland App. No. 07COA042, 2008-Ohio-1161.

2008-0768. Hull v. J.C. Penney Co., Inc.
Stark App. No. 2007-CA-00183, 2008-Ohio-1073. Discretionary appeal not accepted.

Lanzinger, J., dissents.

Motion for admission pro hac vice of Nicholas A. O’Kelly by Paul L. Bittner granted.

2008-0775. State v. Bennett.
Brown App. No. CA2007-01-003.

2008-0776. Miller v. Geico Indemn. Co.
Cuyahoga App. No. 89603, 2008-Ohio-791.

2008-0777. Ruck v. Cleveland.
Cuyahoga App. No. 89564, 2008-Ohio-1075.

2008-0778. Royce v. Yardmaster, Inc.
Lake App. No. 2007-L-080, 2008-Ohio-1030.

2008-0779. Arth Brass & Aluminum Castings v. Ryan.
Franklin App. No. 07AP-811, 2008-Ohio-1109.
O’Donnell, J., dissents.

2008-0783. State v. Larimer.
Muskingum App. No. CT08-0010.

2008-0788. Price v. Dillon.
Mahoning App. Nos. 07-MA-75 and 07-MA-76, 2008-Ohio-1178.

2008-0789. State v. Moore.
Mahoning App. No. 06-MA-15, 2008-Ohio-1190.
O’Connor, J., dissents.

2008-0790. Monahan v. Duke Realty Corp.

Hamilton App. No. C-070318, 2008-Ohio-1113.

2008-0791. State v. Kunkel.

Fayette App. No. CA2006-02-007.

2008-0792. State v. Taylor.

Lorain App. No. 06CA009000, 2008-Ohio-1462.

2008-0793. Progressive Max Ins. Co. v. Matta.

Mahoning App. No. 07 MA 30, 2008-Ohio-1112.

O'Connor and Cupp, JJ., dissent.

2008-0794. State v. Strickland.

Franklin App. No. 06AP-1269, 2008-Ohio-1104.

2008-0796. State v. Chapple.

Montgomery App. No. 22198, 175 Ohio App.3d 658, 2008-Ohio-1157.

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

2008-0797. State v. Tomlin.

Cuyahoga App. No. 91154.

2008-0799. State v. Amadasu.

Hamilton App. No. C-070306.

2008-0800. State v. Jones.

Mahoning App. No. 07 MA 81, 2008-Ohio-1536.

2008-0804. State v. Wells.

Montgomery App. No. 22046, 2008-Ohio-1153.

2008-0806. Miller v. Susa Partnership, L.P.

Franklin App. No. 07AP-702, 2008-Ohio-1111.

2008-0810. State v. Price.

Geauga App. No. 2007-G-2785, 2008-Ohio-1134.

2008-0813. State v. Brice.

Hamilton App. No. C-070128.

2008-0814. Strongsville v. Carr.

Cuyahoga App. No. 89666, 2008-Ohio-907.

2008-0815. State v. Lababidi.

Cuyahoga App. No. 89460, 2008-Ohio-574.

Lundberg Stratton, J., dissents.

2008-0818. Crenshaw v. Crenshaw.

Warren App. No. CA2007-06-072.

2008-0825. In re Foreclosure of Lien for Delinquent Taxes.

Jefferson App. No. 06-JE-40, 2008-Ohio-1173. Discretionary appeal not accepted.
Motion to strike denied as moot.

2008-0827. State v. Yenser.

Mercer App. No. 10-07-19, 2008-Ohio-1145.

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

2008-0829. Cleveland Mun. School Dist. v. Farson.

Cuyahoga App. No. 89525, 2008-Ohio-912.

2008-0834. Lafi v. Lafi.

Miami App. No. 2007 CA 37, 2008-Ohio-1871.

2008-0836. Estate of Westover v. Wilson.

Stark App. No. 2007 CA 00177, 2008-Ohio-1250.

2008-0840. State v. Lester.

Auglaize App. No. 2-07-34, 2008-Ohio-1148.

2008-0842. State v. Langenkamp.

Shelby App. Nos. 17-07-08 and 17-07-09, 2008-Ohio-1136.

2008-0846. State v. Eyer.

Warren App. No. CA2007-06-071, 2008-Ohio-1193.

2008-0849. State v. Graham.

Allen App. No. 1-07-64, 2008-Ohio-1149.

Cupp, J., not participating.

2008-0850. Elizabeth Williams Group Home, Inc. v. Summit Cty. Fiscal Officer.

Summit App. No. 24051.

2008-0852. State v. Long.

Belmont App. No. 07 BE 27, 2008-Ohio-1531.

2008-0856. Regula v. Paradise.

Mahoning App. No. 07 MA 40.

Pfeifer, J., dissents.

2008-0862. Natl. Check Bur., Inc. v. Esque.

Cuyahoga App. No. 89556, 2008-Ohio-692.

2008-0864. Spring Creek Condominium Assn. v. Colony Dev. Corp.

Franklin App. No. 07AP-671, 2008-Ohio-1420.

2008-0867. Wolf v. Miller Diversified Consulting, L.L.C.

Wood App. No. WD-07-049, 2008-Ohio-1233.

2008-0868. State v. Cunningham.

Allen App. No. 1-07-69, 2008-Ohio-1345.

2008-0870. State v. Manley.

Allen App. No. 1-07-49.

2008-0871. Chorpenning v. Carmack.

Summit App. No. 23933, 2008-Ohio-1224.

2008-0872. State v. Bowers.

Hocking App. No. 07CA16, 2008-Ohio-1399.

2008-0874. Williams v. State Farm Mut. Auto. Ins. Co.

Hamilton App. No. C-070355.

2008-0876. State v. Evans.

Washington App. No. 07CA45, 2008-Ohio-1446.

2008-0878. Schwenke v. Wayne-Dalton Corp.

Holmes App. No. 07-CA-003, 2008-Ohio-1412.

Moyer, C.J., dissents.

2008-0880. State v. Batista.

Hamilton App. No. C-080217.

2008-0885. Matrix Technologies, Inc. v. Kuss Corp.

Lucas App. No. L-07-1301, 2008-Ohio-1301.

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

2008-0888. State v. Johnson.

Lake App. No. 2007-L-050, 2008-Ohio-1329.

2008-0889. State v. Bates.

Franklin App. No. 07AP-753, 2008-Ohio-1422.

2008-0891. Owner-Operator Indep. Drivers Risk Retention Group v. Stafford.

Marion App. No. 9-07-46, 2008-Ohio-1347.

Cupp, J., not participating.

2008-0892. State v. Cleland.

Medina App. No. 06CA0073-M, 2008-Ohio-1319.

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

2008-0897. State v. Gonzalez.

Defiance App. No. 4-05-04, 2005-Ohio-4912.

Cupp, J., not participating.

2008-0898. State v. Logsdon.

Clark App. Nos. 07-CA-50 and 07-CA-53, 2008-Ohio-1606.

2008-0899. State v. Murage.

Butler App. No. CA2007-07-166, 2008-Ohio-1356. Discretionary appeal not accepted. Motion for production of documents denied.

2008-0901. Gray v. Newman.

Cuyahoga App. No. 89549, 2008-Ohio-1076.

2008-0908. Trice v. Ohio Dept. of Rehab. & Corr.

Franklin App. No. 07AP-828, 2008-Ohio-1371.

2008-0909. State v. Caldero.

Cuyahoga App. No. 90470, 2008-Ohio-795.

2008-0910. In re J.R.R.

Summit App. No. 23784, 2008-Ohio-1380.

2008-0913. State v. Snyder.

Clark App. No. 03CA0067, 2004-Ohio-4265.

2008-0914. Cincinnati v. Flannery.

Hamilton App. Nos. C-070248, C-070249, C-070250, and C-070251, 2008-Ohio-1437.

2008-0917. State v. Trikilis.

Medina App. No. 06CA0068-M, 2007-Ohio-5475.

2008-0918. State v. Barnhouse.

Lucas App. No. L-08-1016.

Lanzinger, J., not participating.

2008-0923. Patrick v. Patrick.

Ashland App. No. 07COA013.

Lundberg Stratton, J., dissents.

2008-0925. Ballinger v. Leaniz Roofing, Ltd.

Franklin App. No. 07AP-696, 2008-Ohio-1421.

2008-0927. State v. Sowell.

Franklin App. No. 07AP-809, 2008-Ohio-1518.

2008-0928. State v. Smith.

Hamilton App. No. C-070382.

2008-0931. State v. Moore.

Hamilton App. No. C-070519.

2008-0932. State v. James.

Hamilton App. No. C-070612.

2008-0934. State v. Woodson.

Wayne App. No. 07CA0044, 2008-Ohio-1469.

2008-0935. Prouse, Dash & Crouch, L.L.P. v. DiMarco.

Cuyahoga App. No. 86324, 175 Ohio App.3d 467, 2008-Ohio-919.

2008-0941. State v. Wade.

Franklin App. No. 06AP-644, 2008-Ohio-1797.

Lundberg Stratton, J., dissents and would accept the appeal and accept the cross-appeal on Proposition of Law Nos. I, II, and III and grant the motion to consolidate.

O'Connor, J., dissents and would accept the appeal and accept the cross-appeal on Proposition of Law No. II and grant the motion to consolidate.

2008-0944. Ferron v. RadioShack Corp.

Franklin App. No. 07AP-567, 175 Ohio App.3d 257, 2008-Ohio-1511.

O'Donnell and Lanzinger, JJ., dissent.

2008-0945. State v. Frasure.

Ashtabula App. No. 2007-A-0033, 2008-Ohio-1504.

2008-0946. State v. Kelley.

Lorain App. No. 06CA008967, 2008-Ohio-1458.

2008-0958. State v. Moore.

Butler App. No. CA2007-03-060, 2008-Ohio-1477.

2008-0983. State v. Terry.

Summit App. No. 23043, 2007-Ohio-6790.

2008-0986. State v. Taylor.

Erie App. No. E-07-035, 2007-Ohio-7105.

2008-0990. State v. Keenan.

Cuyahoga App. No. 89554, 2008-Ohio-807.

O'Donnell, J., not participating.

2008-0997. State v. Langley.

Sandusky App. No. S-02-037, 2004-Ohio-2459.

2008-1000. State v. Matthews.

Hamilton App. Nos. C-060669 and C-060692, 2007-Ohio-4881.

O'Donnell and Lanzinger, JJ., dissent 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.

2008-1029. State v. Bertuzzi.

Marion App. No. 9-07-13, 2007-Ohio-6236.

2008-1033. State v. Hairston.

Allen App. No. 1-06-92, 2007-Ohio-2988.

2008-1051. State v. Brownlow.

Allen App. No. 1-02-95, 2003-Ohio-5757.

Cupp, J., not participating.

2008-1073. State v. Adams.

Cuyahoga App. No. 88791, 2007-Ohio-3918 and 2008-Ohio-1939.

2008-1081. In re Chicase.

Trumbull App. No. 2007-T-0119, 2008-Ohio-1999.

Pfeifer, J., dissents.

2008-1117. State v. Richardson.

Cuyahoga App. No. 87886, 2007-Ohio-8 and 2008-Ohio-2360.

2008-1118. State v. Dixon.

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

2008-1187. In re D.T.

Franklin App. No. 07AP-853, 2008-Ohio-2287.

Pfeifer, J., dissents.

RECONSIDERATION OF PRIOR DECISIONS

2007-0114. Cleveland Constr., Inc. v. Cincinnati.

Hamilton App. Nos. C-050749, C-050779, and C-050888, 169 Ohio App.3d 627, 2006-Ohio-6452. Reported at 118 Ohio St.3d 283, 2008-Ohio-2337, 888 N.E.2d 1068. On motion for reconsideration and motion to clarify. Motions denied.

Pfeifer, J., dissents.

2007-0268. State v. Smith.

Hamilton App. No. C-060077, 2006-Ohio-6980. Reported at 117 Ohio St.3d 447, 2008-Ohio-1260, 884 N.E.2d 595. On motion for reconsideration. Sua sponte, the court accepts jurisdiction over Proposition of Law No. II. The parties shall brief that proposition of law in accordance with the Rules of Practice of the Supreme Court of Ohio.

2007-0347. Polaris Amphitheater Concerts, Inc. v. Delaware Cty. Bd. of Revision.

Board of Tax Appeals, No. 2004-V-1294. Reported at 118 Ohio St.3d 330, 2008-Ohio-2454, 889 N.E.2d 103. On motion for reconsideration. Motion denied.

2007-0394. State v. Hairston.

Franklin App. No. 06AP-420, 2007-Ohio-143. Reported at 118 Ohio St.3d 289, 2008-Ohio-2338, 888 N.E.2d 1073. On motion for reconsideration. Motion denied.

2007-0549 and 2007-0684. Rogers v. Dayton.

Montgomery App. No. 21593, 2007-Ohio-673. Reported at 118 Ohio St.3d 299, 2008-Ohio-2336, 888 N.E.2d 1081. On motions for reconsideration. Motions denied.

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

2007-1893. In re J.Y.

Hamilton App. Nos. C-060835 and C-060836, 2007-Ohio-4469. Reported at 118 Ohio St.3d 266, 2008-Ohio-2544, 888 N.E.2d 412. On motion for reconsideration. Motion denied.

Lanzinger, J., dissents.

Cupp, J., dissents and would remand the cause to the court of appeals for further consideration in view of our decision in *State v. Cabrales*, 118 Ohio St.3d 54, 2008-Ohio-1625, 886 N.E.2d 181.

2008-0220. Hiddens v. Leibold.

Montgomery App. No. 21861, 2007-Ohio-6688. Reported at 118 Ohio St.3d 1408, 2008-Ohio-2340, 886 N.E.2d 871. On motion for reconsideration, motion for sanctions, and motion to strike. Motions denied.

Lundberg Stratton, J., would grant the motion for sanctions.

2008-0221. State v. Fletcher.

Licking App. No. 07CA103, 2007-Ohio-7110. Reported at 118 Ohio St.3d 1432, 2008-Ohio-2595, 887 N.E.2d 1202. On amended motion for reconsideration. Motion denied.

2008-0322. Hans v. Hartford Fire Ins. Co.

Hamilton App. No. C-061066, 174 Ohio App.3d 212, 2007-Ohio-7064. Reported at 118 Ohio St.3d 1433, 2008-Ohio-2595, 887 N.E.2d 1202. On motion for reconsideration. Motion denied.

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

2008-0355. Foster v. Wickliffe.

Lake App. No. 2006-L-053, 2007-Ohio-7132. Reported at 118 Ohio St.3d 1411, 2008-Ohio-2340, 886 N.E.2d 873. On motion for reconsideration. Motion denied.

O'Donnell, J., dissents.

2008-0431. Appenzeller v. Attorney Gen.

Franklin App. No. 07AP-953. Reported at 118 Ohio St.3d 1434, 2008-Ohio-2595, 887 N.E.2d 1203. On motion for reconsideration. Motion denied.

2008-0721. Planey v. Hepfner.

Mahoning App. No. 07 MA 172, 2008-Ohio-711. Reported at 118 Ohio St.3d 1414, 2008-Ohio-2488, 887 N.E.2d 352. On motion for reconsideration and motion to dismiss. Motions denied.