

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

October 15, 2008

[Cite as *10/15/2008 Case Announcements*, 2008-Ohio-5273.]

MERIT DECISIONS WITH OPINIONS

2007-0219 and 2007-0415. Ackison v. Anchor Packing Co., Slip Opinion No. 2008-Ohio-5243.

Lawrence App. No. 05CA46, 2006-Ohio-7099. Certified question answered in the affirmative, judgment reversed, and judgment of the trial court reinstated.

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

Moyer, C.J., dissents without opinion.

Pfeifer, J., dissents with opinion.

2007-1460. State ex rel. Pierron v. Indus. Comm., Slip Opinion No. 2008-Ohio-5245.

Franklin App. No. 06AP-391, 172 Ohio App.3d 168, 2007-Ohio-3292. Judgment affirmed.

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

Pfeifer, J., concurs in judgment only.

Moyer, C.J., dissents.

2007-1646. State ex rel. AT&T, Inc. v. McGraw, Slip Opinion No. 2008-Ohio-5246.

Franklin App. No. 06AP-1103, 2007-Ohio-3794. Judgment affirmed.

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

MERIT DECISIONS WITHOUT OPINIONS

2008-1427. [State ex rel.] Duhart v. Nurre.

In Mandamus. On relators' motion for leave to file an amended complaint and motion to dismiss amended complaint of Judge Thomas C. Nurre and Gregory Hartmann. Motion for leave to file an amended complaint granted. Motion to dismiss granted. All other pending motions denied as moot. Cause dismissed.

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

2008-1496. [State ex rel.] LeFlore v. Leuthold.

In Mandamus. On complaint in mandamus of Darius E. LeFlore. 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.

2008-1513. State ex rel. Hawthorne Valley Country Club, L.L.C. v. Patton.

In Mandamus. On motion to dismiss and amended motion opposing motion to dismiss. Motion to dismiss granted. Motion opposing motion to dismiss and motion to consolidate denied as moot. Cause dismissed.

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

Pfeifer, J., dissents and would grant an alternative writ.

2008-1549. [State ex rel.] Day v. McNulty.

In Mandamus. On complaint in mandamus of Leo C. Day Jr. 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.

2008-1550. [State ex rel.] Day v. Sweeney.

In Prohibition. On respondents' motion for judgment on the pleadings, relator's motion to strike motion for judgment on the pleadings, and respondents' motion opposing motion to strike. Motion for judgment on the pleadings granted. All other motions denied. Cause dismissed.

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

2008-1634. State ex rel. Ealy v. Rapeley.

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.

2008-1715. Hughley v. Saunders.

In Habeas Corpus. On petition and amended petition for writ of habeas corpus of Kevin Hughley and petitioner's notice of filing of writ of mandamus with court of appeals, notice of denial of appeal bond and unauthorized sentence, and notice of bond payment. Sua sponte, cause dismissed.

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

2008-1746. Burnett v. Voorhies.

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

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

2008-1754. Cart v. Trumbull Cty. Sheriff.

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

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

MOTION AND PROCEDURAL RULINGS

2007-1984. State ex rel. Hina v. Indus. Comm.

Franklin App. No. 07AP-23, 2007-Ohio-4596. On request for oral argument by Anchor Glass Container Corp. Request denied.

2008-0418. State v. Akron.

Summit App. No. 23660, 2008-Ohio-38. On motion to strike brief of amicus curiae Jon K. Burdeshaw. Motion denied.

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

2008-0598. Med. Mut. of Ohio v. Schlotterer.

Cuyahoga App. No. 89388, 2008-Ohio-49. On motions for admission pro hac vice of Howard Anglin and Kirk J. Nagra by Lisa L. Norris. Motions granted.

2008-0748. State ex rel. Perrea v. Cincinnati Pub. Schools.

In Mandamus. On answer of respondent. Sua sponte, an alternative writ is granted and the following briefing 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; relator shall file a brief within 30 days of the date of this entry; respondent 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 respondent's brief.

2008-1052. State v. Madaris.

Hamilton App. No. C-070287, 2008-Ohio-2470. On motion for stay of briefing schedule or, in the alternative, motion to consolidate for purposes of oral argument. Motion for stay of briefing schedule granted. This cause is held for the decision in 2007-1812, *State v. Harris*, Hamilton App. No. C-060587.

2008-1218. Meerland Dairy L.L.C. v. Ross Twp.

Greene App. No. 07CA0083, 2008-Ohio-2243. On joint motion for stay of jurisdictional determination. Motion granted. The parties shall notify the court of the status of the settlement negotiations within 30 days of the date of this order.

2008-1303. Rzepka v. Solon.

Cuyahoga C.P. No. CV08656878. The stay of briefing previously ordered in this cause is dissolved. The parties shall brief this cause in accordance with the Rules of Practice of the Supreme Court of Ohio. Appellant's brief is due 40 days from the date of this entry.

Pfeifer, J., dissents.

2008-1540. State v. Leffler.

Hardin App. No. 6-07-22, 2008-Ohio-3057. On motion to suspend execution of sentence and set bond pending appeal. Motion denied.

2008-1570. State ex rel. Toledo Blade Co. v. Toledo-Lucas Cty. Port Auth.

In Mandamus. On answer of respondent. Sua sponte, an alternative writ is granted and the following briefing 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; relator shall file a brief within 30 days of the date of this entry; respondent 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 respondent's brief.

Sua sponte, respondent is ordered to submit under seal as part of its evidence an unredacted copy of the requested investigative report for an in camera inspection.

2008-1658. State v. Meyers.

Summit App. Nos. 23864 and 23903, 2008-Ohio-2528. On motion for leave to file delayed appeal. Motion granted.

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

2008-1660. State v. McCullough.

Putnam App. No. 12-07-09, 2008-Ohio-3055. On motion for leave to file delayed appeal. Motion granted.

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

2008-1662. State v. Rosado.

Mahoning App. No. 02 CA 10, 2003-Ohio-2927. On motion for leave to file delayed appeal. Motion denied.

2008-1674. State v. Tillis.

Mahoning App. No. 07 MA 89. On motion for leave to file delayed appeal. Motion denied.

2008-1679. State v. Patrick.

Hamilton App. No. C-070305. On motion for leave to file delayed appeal. Motion denied.

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

2008-1690. State v. Anaya.

Lucas App. No. L-06-1375, 2008-Ohio-1853. On motion for leave to file delayed appeal. Motion granted.

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

2008-1695. State v. Pankey.

Mahoning App. No. 07 MA 2, 2008-Ohio-3091. On motion for leave to file delayed appeal. Motion granted.

O'Donnell and Lanzinger, JJ., dissent.

2008-1706. State v. Brewer.

Montgomery App. Nos. 22159 and 22160, 2008-Ohio-2715. On motion for leave to file delayed appeal. Motion granted.

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

2008-1711. State v. Naylor.

Muskingum App. No. CT070080. On motion for leave to file delayed appeal. Motion denied.

2008-1714. State v. Pierce.

Cuyahoga App. No. 88598, 2007-Ohio-3416. On motion for leave to file delayed appeal. Motion denied.

2008-1734. State v. Malott.

Fayette App. Nos. CA2007-02-006, CA2007-02-007, and CA2007-02-008, 2008-Ohio-2114. On motion for leave to file delayed appeal. Motion denied.

Cupp, J., dissents.

2008-1740. State v. Crum.

Lawrence App. No. 07CA3, 2007-Ohio-4924. On motion for leave to file delayed appeal. Motion denied.

Cupp, J., dissents.

APPEALS ACCEPTED FOR REVIEW

2008-1195. In re P.F.

Lorain App. No. 07CA009243, 2008-Ohio-2105. Discretionary appeal accepted; cause held for the decision in 2007-0895 and 2007-0912, *In re L.A.B.*, Summit App. No. 23309, 2007-Ohio-1479; and briefing schedule stayed.

2008-1240. Cleveland v. State.

Cuyahoga App. Nos. 89486 and 89565, 2008-Ohio-2655. Discretionary appeals accepted. Appellees' motion that briefing not be stayed is denied. This cause is 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 the briefing schedule is stayed.

Pfeifer, O'Connor, and Lanzinger, JJ., would grant the motion that briefing not be stayed.

2008-1246. State v. Harris.

Hamilton App. No. C-070506. Discretionary appeal accepted on Proposition of Law No. II; cause held for the decisions in 2007-0693, *State v. Bloomer*, Fulton App. No. F-06-012, 2007-Ohio-1039, 2007-1415, *State v. Mosmeyer*, Hamilton

App. No. C-060747, and 2007-1439, *State v. Barnes*, Portage App. No. 2006-P-0089, 2007-Ohio-3362, and briefing schedule stayed.

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

Pfeifer, J., dissents.

2008-1337. Williams v. Spitzer Autoworld Canton, L.L.C.

Stark App. No. 2007 CA 00187, 2008-Ohio-2535.

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

2008-1451. State ex rel. Rogers v. Midway Motor Sales, Inc.

Franklin App. No. 07AP-744, 2008-Ohio-2799.

Pfeifer and Cupp, JJ., dissent.

APPEALS NOT ACCEPTED FOR REVIEW

2008-1086. Frost v. Cleveland Rehab. & Special Care Ctr., Inc.

Cuyahoga App. No. 89694, 2008-Ohio-1718. Discretionary appeal not accepted. Motion to strike notice of appeal and memorandum in support of jurisdiction denied as moot.

2008-1151. Murray Energy Corp. v. Pepper Pike.

Cuyahoga App. No. 90420, 2008-Ohio-2818.

2008-1158. State v. Cereghin.

Paulding App. No. 11-08-01, 2008-Ohio-2118.

O'Donnell, J., dissents.

2008-1181. Balanda v. Ohio Dept. of Job & Family Servs.

Cuyahoga App. No. 89861, 2008-Ohio-1946.

2008-1193. Willwerth v. Ohio Presbyterian Retirement Servs.

Hamilton App. No. C-070621.

2008-1194. Whelan v. Vanderwist of Cincinnati, Inc.

Geauga App. No. 2007-G-2769, 2008-Ohio-2135.

O'Donnell, J., dissents.

2008-1197. Radatz v. Fed. Natl. Mtge. Assn.

Cuyahoga App. No. 89056, 176 Ohio App.3d 319, 2008-Ohio-1937.

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

2008-1199. Zafirau v. Yelsky.

Cuyahoga App. No. 89680, 2008-Ohio-1936.

2008-1207. Ruschel v. Nestle Holdings, Inc.

Cuyahoga App. Nos. 89977 and 90500, 2008-Ohio-2035.
Pfeifer, J., dissents.

2008-1210. State v. Barbour.

Franklin App. No. 07AP-841, 2008-Ohio-2291.

2008-1212. Weatherspoon v. Mack.

Franklin App. No. 07AP-1083, 2008-Ohio-2288.

2008-1214. State v. Mayrides.

Franklin App. No. 07AP-658, 2008-Ohio-2290.

2008-1217. Kerns v. Hobart Bros. Co.

Miami App. No. 2007 CA 32, 2008-Ohio-2242.
Pfeifer and O'Donnell, JJ., dissent.

2008-1219. Grove v. Rodriguez.

Erie App. No. E-07-057, 2008-Ohio-2210.

2008-1221. State v. Howard.

Greene App. No. 2007 CA 42, 2008-Ohio-2241.

2008-1222. State v. Hatfield.

Summit App. No. 23716, 2008-Ohio-2431.

2008-1227. State v. Ward.

Hamilton App. No. C-080344.

2008-1228. State v. McMillan.

Hamilton App. No. C-070602.

2008-1230. Kalnasy v. MetroHealth Med. Ctr.

Cuyahoga App. No. 90211, 2008-Ohio-3035.

2008-1232. In re Miller.

Licking App. No. 2007CA00073, 2008-Ohio-2399.

2008-1243. Hald v. Ohio Dept. of Job & Family Servs.

Franklin App. No. 07AP-760, 2008-Ohio-2297.

2008-1244. State v. Geldrich.

Butler App. No. CA2006-10-267, 2008-Ohio-2622.

2008-1245. State v. Wyerick.

Mercer App. No. 10-07-23, 2008-Ohio-2257.

2008-1249. State v. Caraballo.

Cuyahoga App. No. 89757, 2008-Ohio-2046.

2008-1251. Dawson v. Compton.

Knox App. No. 07CA000024, 176 Ohio App.3d 339, 2008-Ohio-2328.

2008-1256. Monastero v. Novak.

Cuyahoga App. No. 89656, 2008-Ohio-1947.

O'Connor, J., dissents and would accept the appeal on Proposition of Law Nos. I and II and hold the cause for the decision in 2007-1222 and 2007-1370, *Lang v. Holly Hill Motel, Inc.*, Jackson App. No. 06CA18, 2007-Oho-3898.

2008-1257. Jurick v. Jackim.

Cuyahoga App. No. 89997, 2008-Ohio-2346.

2008-1258. State v. Henderson.

Cuyahoga App. No. 89377, 2008-Ohio-1631.

2008-1260. Gomez v. Sauder Woodworking Co.

Fulton App. No. F-07-028, 176 Ohio App.3d 453, 2008-Ohio-2377.

Lanzinger, J., not participating.

2008-1261. Mitri v. Premier Mtge. Funding of Ohio, Inc.

Cuyahoga App. No. 89941, 2008-Ohio-1821.

2008-1262. State v. Gillman.

Union App. No. 14-08-02, 2008-Ohio-2606.

2008-1267. Callander v. Callander.

Franklin App. No. 07AP-746, 2008-Ohio-2305 and 2008-Ohio-3128.

2008-1268. He v. Peden.

Franklin App. No. 07AP-934. Discretionary appeal not accepted. Motion to strike memorandum in response denied as moot.

2008-1269. State v. Whiteside.

Summit App. No. 23891, 2008-Ohio-2309.

2008-1271. State v. McKnight.

Vinton App. No. 07CA665, 2008-Ohio-2435.

2008-1274. State v. Dorsey.

Licking App. No. 2007-CA-091, 2008-Ohio-2515.

2008-1279. State v. Hobbs.

Hamilton App. No. C-070657.

2008-1282. State v. Hobbs.

Meigs App. No. 08CA3.

2008-1290. Zorn v. Zorn.

Medina App. No. 07CA0077-M, 2008-Ohio-2391.

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

2008-1291. Workman v. Am. Natl. Property & Cas. Co.

Stark App. No. 2007CA00239, 2008-Ohio-2538. Discretionary appeal not accepted.

Lundberg Stratton, J., dissents.

Motions for admission pro hac vice of James F. Waltz and Richard L. Norris by Craig G. Pellini granted.

2008-1293. Bonnieville Towers Condominium Owners Assn., Inc. v. Andrews.

Cuyahoga App. No. 89838, 2008-Ohio-1833.

2008-1296. State v. Lair.

Delaware App. No. 07-CAA-05-0023, 2008-Ohio-2417.

2008-1299. Turner v. Rosenfield.

Cuyahoga App. Nos. 89441 and 89719, 2008-Ohio-1932.
Moyer, C.J., and Pfeifer, J., dissent.

2008-1302. State v. O’Conner.

Fayette App. No. CA2007-01-005, 2008-Ohio-2415.
Cupp, J., not participating.

2008-1305. Talik v. Fed. Marine Terminals, Inc.

Cuyahoga App. No. 87073, 2008-Ohio-2045.
Pfeifer, J., dissents.

2008-1312. State v. Kimble.

Trumbull App. No. 2007-T-0066, 2008-Ohio-2505.

2008-1315. State v. Simpson.

Franklin App. No. 07AP-929, 2008-Ohio-2460.

2008-1316. St. Paul’s Lutheran Church v. Brooks.

Huron App. No. H-07-022, 2008-Ohio-2481.

2008-1317. State v. McIntosh.

Hamilton App. No. C-000695.
O’Donnell, J., dissents.

2008-1326. State v. Foster.

Hamilton App. No. C-070518.

2008-1344. State v. Nelson.

Summit App. No. 23479, 2008-Ohio-2530.
Pfeifer, J., dissents.

2008-1354. State v. Vinson.

Summit App. No. 23949, 2008-Ohio-2523.

2008-1366. State v. Madden.

Franklin App. No. 08AP-172, 2008-Ohio-2653.

2008-1371. State v. Butt.

Montgomery App. No. 22105, 2008-Ohio-2587.

2008-1373. Cheriki v. Black River Industries, Inc.
Lorain App. No. 07CA009230, 2008-Ohio-2602.

2008-1380. State v. Williams.
Wood App. No. WD-07-079, 2008-Ohio-2730.
Moyer, C.J., and Cupp, J., dissent.

2008-1385. VanDyke v. Columbus.
Franklin App. No. 07AP-918, 2008-Ohio-2652.

2008-1387. Poleondakis v. Poleondakis.
Summit App. No. 23981, 2008-Ohio-2674.
Lundberg Stratton and Cupp, JJ., dissent.

2008-1389. State v. Ferry.
Lake App. No. 2007-L-217, 2008-Ohio-2616.

2008-1397. Martin v. Ironton.
Lawrence App. No. 07CA37, 2008-Ohio-2842.
O'Donnell, J., dissents.

2008-1398. Peterman v. Stewart.
Delaware App. No. 07 CAE 10 0054, 2008-Ohio-2164.

2008-1418. James v. Cincinnati.
Hamilton App. No. C-070367, 2008-Ohio-2708.
O'Donnell, J., dissents.

2008-1420. Koss v. Kroger Co.
Franklin App. No. 07AP-450, 2008-Ohio-2696.
O'Donnell, J., dissents.

2008-1425. Inman v. Civ. Serv. Comm.
Hamilton App. Nos. C-070316 and C-070434, 2008-Ohio-2707.

2008-1438. Jacobs v. Budak.
Trumbull App. No. 2007-T-0033, 2008-Ohio-2756.
Cupp, J., dissents.

2008-1476. State v. Mackey.

Clark App. No. 98-CA-81.

2008-1490. In re Jorgenson.

Licking App. No. 07-CA-96, 2008-Ohio-2967. Discretionary appeal not accepted.
Motion to consolidate denied as moot.

2008-1495. State v. Altier.

Fayette App. No. CA2007-10-034.

2008-1508. State v. Sweeney.

Lake App. No. 2006-L-252, 2007-Ohio-5223.

2008-1509. State v. Neu.

Logan App. No. 8-08-13.

2008-1512. State v. Miller.

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

2008-1526. State v. Rigdon.

Warren App. No. CA2007-03-038.

2008-1528. State v. Eschrich.

Ottawa App. No. OT-06-045, 2008-Ohio-2984.
Moyer, C.J., and O'Donnell, J., dissent.

2008-1575. State v. Cobb.

Scioto App. No. 06CA3076, 2007-Ohio-1885.
Moyer, C.J., and O'Donnell, J., dissent.

2008-1593. State v. Martin.

Franklin App. No. 07AP-362, 2007-Ohio-7152 and 2008-Ohio-3299.
O'Donnell, J., dissents.

2008-1628. State v. Halder.

Cuyahoga App. No. 87974, 2007-Ohio-5940 and 2008-Ohio-3345.

2008-1685. State v. Smith.

Summit App. Nos. 23464 and 23468, 2007-Ohio-5524.

2008-1692. In re J.Y.

Miami App. No. 07-CA-35, 2008-Ohio-3485.

RECONSIDERATION OF PRIOR DECISIONS

2007-0452. Allstate Ins. Co. v. Cleveland Elec. Illuminating Co.

Cuyahoga App. No. 87781, 2007-Ohio-157. Reported at 119 Ohio St.3d 301, 2008-Ohio-3917, 893 N.E.2d 824. On motion for reconsideration. Motion denied. Lundberg Stratton, J., dissents.