

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

October 29, 2008

[Cite as *10/29/2008 Case Announcements*, 2008-Ohio-5467.]

MERIT DECISIONS WITHOUT OPINIONS

2008-0821. State ex rel. Baldwin v. Hyde.

In Mandamus. On complaint in mandamus of Yvette Barbara Baldwin. 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.

2008-1611. State ex rel. Thomson v. State Bd. of Psychology.

In Mandamus. On relator's complaint in mandamus and motion to amend affidavit of prior actions, respondent Bureau of Motor Vehicles' answer and motion for judgment on the pleadings, respondent State Board of Psychology's answer, and relator's motions audi alteram partem. Motion for judgment on the pleadings granted. Relator's motions denied as moot. Cause dismissed.

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

2008-1640. State ex rel. Whiteside v. Sheets.

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

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

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

2008-1663. State ex rel. Garner v. Court of Appeals, Eleventh Appellate Dist.

In Mandamus. On relator's complaint in mandamus and motion to amend complaint and respondents' motions to dismiss. Motion to amend complaint granted. Motions to dismiss granted. Cause dismissed.

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

2008-1823. Crosswhite v. Tambi.

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

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

2008-1865. Berry v. Beightler.

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

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

MOTION AND PROCEDURAL RULINGS

2008-0661. State v. Hunter.

Cuyahoga App. No. 89456, 2008-Ohio-794. On motion to lift stay of briefing schedule. Motion granted. The Clerk shall issue an order for the transmittal of the record from the Court of Appeals for Cuyahoga County, and the parties shall brief this case in accordance with the Rules of Practice of the Supreme Court of Ohio.

2008-0853. State v. Derov.

Mahoning App. No. 07 MA 71, 176 Ohio App.3d 43, 2008-Ohio-1672. On motion for admission pro hac vice of Michael Dominic Meuti by Benjamin C. Mizer. Motion granted.

O'Connor, J., dissents.

2008-0858. State v. Derov.

Mahoning App. No. 07 MA 71, 176 Ohio App.3d 43, 2008-Ohio-1672. On motion for admission pro hac vice of Michael Dominic Meuti by Benjamin C. Mizer. Motion granted.

O'Connor, J., dissents.

2008-1182. Home Depot USA, Inc. v. Levin.

Board of Tax Appeals, Nos. 2006-M-206 and 2006-M-207. On motion for admission pro hac vice of Randy M. Mastro and Jennifer H. Readen by Gregory J. Gawlik. Motion granted.

2008-1625. Dayton v. Ealy.

Montgomery App. No. 22111. On motion for stay of trial court sentence. Motion denied.

2008-1626. St. Joseph Investments L.L.C. v. Ealy.

Montgomery App. No. 22630. On motion for stay of trial court sentence. Motion denied.

2008-1770. State v. Warren.

Lucas App. No. L-08-1169. On motion for leave to file delayed appeal. Motion denied.

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

2008-1775. State v. Matthews.

Hamilton App. Nos. C-080332 and C-080343. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and O'Donnell, JJ., dissent.

2008-1776. State v. Withers.

Franklin App. Nos. 08AP-39 and 08AP-40, 2008-Ohio-3175. On motion for leave to file delayed appeal. Motion denied.

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

2008-1777. State v. Shaffer.

Muskingum App. No. CT2007-0018, 2008-Ohio-2688. On motion for leave to file delayed appeal. Motion granted.

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

2008-1795. State v. Darrington.

Wood App. No. WD-07-019, 2008-Ohio-3269. On motion for leave to file delayed appeal. Motion granted.

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

2008-1807. State v. Hilton.

Cuyahoga App. No. 89220, 2008-Ohio-3010. On motion for leave to file delayed appeal. Motion denied.

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

2008-1827. State v. Pate.

Cuyahoga App. No. 90093, 2008-Ohio-2934. On motion for leave to file delayed appeal. Motion granted.

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

2008-1835. State v. Walker.

Cuyahoga App. No. 79586, 2002-Ohio-3265. On motion for leave to file delayed appeal. Motion denied.

2008-1844. State v. Walenciej.

Jefferson App. No. 07 JE 6, 2007-Ohio-7206. On motion for leave to file delayed appeal. Motion denied.

APPEALS ACCEPTED FOR REVIEW

2008-1252. Dayton v. State.

Montgomery App. No. 22221, 176 Ohio App.3d 469, 2008-Ohio-2589. 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.

2008-1265. Sisk Assoc., Inc. v. Committee to Elect Timothy Grendell.

Franklin App. No. 07AP-1002, 2008-Ohio-2342.

Lanzinger and Cupp, JJ., dissent.

2008-1424. State v. Satterfield.

Hamilton App. Nos. C-070414 and C-070415. Discretionary appeal accepted; 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.

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

APPEALS NOT ACCEPTED FOR REVIEW

2008-1124. Dayton v. Ealy.

Montgomery App. No. 22635. Discretionary appeal not accepted. Motion requesting correction of transcript, public records, and deletion of Bureau of Motor Vehicles case denied as moot.

2008-1220. State v. Clay.

Summit App. No. 23889, 2008-Ohio-2158.

2008-1263. McCoy v. AFTI Properties, Inc.

Franklin App. No. 07AP-713, 2008-Ohio-2304.

2008-1264. State v. Ulery.

Athens App. No. 07CA28, 2008-Ohio-2452.

2008-1283. Cartwright Chiropractic v. Allstate Ins. Co.

Butler App. No. CA2007-06-143, 2008-Ohio-2623.

Moyer, C.J., and O'Connor and Cupp, JJ., dissent and would accept the appeal and hold the cause for the decision in 2008-1396 and 2008-1489, *W. Broad Chiropractic v. Am. Family Ins.*, Franklin App. No. 07AP-721, 2008-Ohio-2647.

2008-1286. State v. Harmon.

Meigs App. No. 08CA2.

2008-1288. State v. Jamison.

Muskingum App. No. CT2007-0019, 2008-Ohio-2472.

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

2008-1295. State v. Barr.

Cuyahoga App. No. 89740, 2008-Ohio-2176.

2008-1306. Cleveland v. Melton.

Cuyahoga App. No. 91048.

Cupp, J., dissents.

2008-1307. Butcher v. Bally Total Fitness Corp.

Cuyahoga App. No. 90216.

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

2008-1309. State v. Dunn.

Hamilton App. No. C-070357.

2008-1311. Paxton v. Wal-Mart Stores, Inc.

Lucas App. No. L-07-1220, 176 Ohio App.3d 364, 2008-Ohio-2487.

2008-1313. State v. Konate.

Hamilton App. No. C-070569.

2008-1314. State v. Bell.

Montgomery App. No. 22158, 176 Ohio App.3d 378, 2008-Ohio-2578.

2008-1318. State v. Roberts.

Cuyahoga App. No. 90020, 2008-Ohio-2347.

2008-1319. Bishop v. Carpenter's Local Union #126.

Hamilton App. No. C-070591, 2008-Ohio-2846.

2008-1321. State v. Robertson.

Hamilton App. Nos. C-070151 and C-070159, 2008-Ohio-2562. Discretionary appeal and cross-appeal not accepted.

2008-1323. Stairwalt v. Stairwalt.

Champaign App. No. 2007 CA 30, 2008-Ohio-2597.

Cupp, J., not participating.

2008-1324. Wertz v. Tomasik.

Summit App. No. 24013, 2008-Ohio-2965.

O'Connor, J., not participating.

2008-1325. State v. Swogger.

Stark App. No. 2007-CA-00208, 2008-Ohio-2536.

2008-1327. Lane v. Phillabaum.

Butler App. No. CA2007-09-217, 2008-Ohio-2502.

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

2008-1328. State v. Arbaugh.

Fairfield App. No. 07CA45, 2008-Ohio-2621.

2008-1331. State v. Dalrymple.

Fairfield App. No. 07 CA 33, 2008-Ohio-2827.

2008-1333. State v. Hines.

Cuyahoga App. No. 89848, 2008-Ohio-1927.

2008-1335. State v. Collins.

Montgomery App. No. 22330, 2008-Ohio-2590.

O'Connor, J., dissents and would accept the appeal on Proposition of Law No. IV and hold the cause for the decision in 2008-1094 and 2008-1304, *State v. Baker*, Summit App. No. 23840, 2008-Ohio-1909.

2008-1339. State v. Turner.

Hamilton App. No. C-080372.

2008-1342. Adrine v. Miles Landing Homeowner Assn.

Cuyahoga App. No. 90302, 2008-Ohio-3041.

2008-1343. State v. Mitchell.

Clermont App. No. CA2007-04-047, 2008-Ohio-2627.

2008-1351. State v. Egli.

Portage App. No. 2007-P-0052, 2008-Ohio-2507.

2008-1352. State v. Moore.

Cuyahoga App. No. 85828, 2008-Ohio-2359.

Pfeifer and Lanzinger, JJ., dissent and would accept the appeal and hold the cause for the decision in 2007-2443, *State v. Pasqualone*, Ashtabula App. No. 2007-A-0005, 2007-Ohio-6725.

2008-1353. State v. Casalicchio.

Cuyahoga App. No. 89555, 2008-Ohio-2362.

Lanzinger, J., dissents.

2008-1355. State v. Hardin.

Darke App. No. 07-CA-1719, 2008-Ohio-2886.

2008-1356. State v. Graves.

Cuyahoga App. No. 90080, 2008-Ohio-3037.

Lanzinger and Cupp, JJ., dissent and would accept the appeal and hold the cause for the decision 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.

2008-1358. State v. Dyer.

Scioto App. No. 07CA3163, 2008-Ohio-2711.

2008-1359. State v. Holloman-Cross.

Cuyahoga App. No. 90351, 2008-Ohio-2189.

Moyer, C.J., dissents.

2008-1361. Kapszukiewicz v. Maunz.

Lucas App. Nos. L-07-1247 and L-07-1361, 2008-Ohio-2575.

2008-1363. Cummins v. Kettering Med. Ctr.

Montgomery App. No. 22170, 2008-Ohio-2591.

O'Donnell, J., dissents.

2008-1364. State v. Moore.

Wood App. No. WD-07-069, 2008-Ohio-2576.

2008-1365. State v. Yaacov.

Cuyahoga App. No. 89980, 2008-Ohio-2659.

2008-1368. State v. Freeman.

Jefferson App. No. 07 JE 5, 2008-Ohio-2925.

2008-1369. State v. Reading.

Licking App. No. 07-CA-83, 2008-Ohio-2748.

2008-1378. Lipps v. Kash.

Clermont App. No. CA2007-05-060, 2008-Ohio-2628.

2008-1382. State v. Harris.

Richland App. No. 2007CA0059, 2008-Ohio-2681.

2008-1383. State v. Jefferson.

Montgomery App. No. 22511, 2008-Ohio-2888.

Moyer, C.J., dissents.

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

2008-1386. Fair Hous. Advocates Assn., Inc. v. Chance.

Wayne App. No. 07CA0016, 2008-Ohio-2603.

Moyer, C.J., dissents.

2008-1390. State v. Francis.

Mercer App. No. 10-08-02, 2008-Ohio-2605.

2008-1391. Lansky v. Ciaravino.

Cuyahoga App. No. 90073, 2008-Ohio-2666.

2008-1394. State v. Wilkins.

Clinton App. No. CA2007-03-007, 2008-Ohio-2739.

2008-1395. State v. Palmer.

Cuyahoga App. No. 89957, 2008-Ohio-2937.

2008-1402. State v. Nowlin.

Muskingum App. No. CT2007-0008, 2008-Ohio-2830.

2008-1406. State v. Hunter.

Montgomery App. No. 22201, 2008-Ohio-2887.

2008-1411. DeMeo v. Provident Bank.

Cuyahoga App. No. 89442, 2008-Ohio-2936.

2008-1414. State v. Miller.

Cuyahoga App. No. 90035, 2008-Ohio-2350.

2008-1416. State v. Patton.

Hamilton App. No. C-070662.

2008-1417. State v. Wilson.

Fairfield App. No. 07CA56, 2008-Ohio-2863.

Lundberg Stratton, J., dissents.

2008-1421. State v. Helton.

Hamilton App. No. C-070690.

O'Connor, J., dissents.

2008-1434. Piper v. Celina.

Mercer App. No. 10-07-21, 2008-Ohio-2741.

2008-1444. State v. Snyder.

Clark App. No. 07-CA-69, 2008-Ohio-2997.

2008-1445. State v. Stevenson.

Greene App. No. 2007-CA-51, 2008-Ohio-2900.

2008-1448. State v. Rodgers.

Trumbull App. No. 2007-T-0003, 2008-Ohio-2757.

2008-1456. State v. Hamilton.

Clark App. No. 07-CA-0062.

2008-1462. Scott v. Marckel.

Defiance App. No. 4-07-27, 2008-Ohio-2743.

2008-1471. Williams v. Lo.

Franklin App. No. 07AP-949, 2008-Ohio-2804.

2008-1481. State v. Hawthorne.

Cuyahoga App. No. 89932, 2008-Ohio-2049.

2008-1483. State v. Davis.

Montgomery App. No. 22572, 2008-Ohio-2885.

2008-1498. State v. Danko.

Medina App. No. 07CA0070-M, 2008-Ohio-2903.

2008-1501. State v. Stoutamire.

Trumbull App. No. 2007-T-0089, 2008-Ohio-2916.

2008-1515. State v. Fletcher.

Summit App. No. 23838, 2008-Ohio-3105.

2008-1519. State v. Hillman.

Wayne App. Nos. 07CA0048 and 07CA0049, 2008-Ohio-3204.
Moyer, C.J., dissents.

2008-1544. State v. Chavers.

Wayne App. No. 07CA0065, 2008-Ohio-3199. Discretionary appeal not accepted. Motion to correct and add to memorandum in support of jurisdiction and motion for partial stay of the court of appeals judgment denied as moot.

2008-1546. In re Bouska.

Tuscarawas App. No. 2007 AP 09 0063, 2008-Ohio-3277.

2008-1603. Hayes v. Haddox.

Muskingum App. No. CT2007-0071, 2008-Ohio-3310.

2008-1608. State v. Evans.

Hamilton App. No. C-060392. Discretionary appeal not accepted. Motion to hold denied as moot.

O'Connor, O'Donnell, and Cupp, JJ., dissent and would accept the appeal and reverse the judgment of the court of appeals on the authority of *State v. Davis*, ___ Ohio St.3d ___, 2008-Ohio-4608.

2008-1613. State v. Perales.

Delaware App. No. 06-CA-A-12-0093, 2008-Ohio-58.

2008-1632. State v. Gordon.

Muskingum App. No. CT2007-0011, 2007-Ohio-5545.

2008-1651. State v. Franklin.

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

2008-1687. State v. Hatfield.

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

2008-1751. State v. Harris.

Champaign App. No. 2006 CA 39, 2008-Ohio-1753.

RECONSIDERATION OF PRIOR DECISIONS

2008-1253. State v. Cromartie.

Medina App. No. 06CA0107-M, 2008-Ohio-273. Reported at 119 Ohio St.3d 1450, 2008-Ohio-4487, 893 N.E.2d 518. On motion for reconsideration. Motion denied.

2008-1300. Gates v. Anderson.

In Habeas Corpus. Reported at 119 Ohio St.3d 1439, 2008-Ohio-4487, 893 N.E.2d 511. On motion for reconsideration. Motion denied.