

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

September 16, 2009

[Cite as *09/16/09 Case Announcements, 2009-Ohio-4776.*]

MERIT DECISIONS WITH OPINIONS

2008-2314. State ex rel. Lucas Cty. Bd. of Mental Retardation & Dev. Disabilities v. Pub. Emps. Retirement Bd., Slip Opinion No. 2009-Ohio-4694. Franklin App. No. 07AP-582, 179 Ohio App.3d 439, 2008-Ohio-5754. Judgment affirmed.

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

2009-0523. State ex rel. McKinney v. Defiance Cty. Court of Common Pleas, Slip Opinion No. 2009-Ohio-4693.

Defiance App. No. 4-09-01. Judgment affirmed.

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

2009-0705. State ex rel. Janosek v. Cuyahoga Support Enforcement Agency, Slip Opinion No. 2009-Ohio-4692.

Cuyahoga App. No. 92387, 2009-Ohio-1098. Judgment affirmed.

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

2009-0755. State ex rel. Wickensimer v. Bartleson, Slip Opinion No. 2009-Ohio-4695.

Lucas App. No. L-09-1049, 2009-Ohio-1477. Judgment reversed and cause remanded.

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

MERIT DECISIONS WITHOUT OPINIONS

2009-1167. [State ex rel.] Beal v. Court of Appeals, Second Appellate Dist.

In Mandamus. On respondent's motion to dismiss. Motion to dismiss granted. Relator's motion for leave to file amended complaint denied. Cause dismissed.

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

2009-1175. State ex rel. Johnson v. Doe.

In Mandamus and Procedendo. On motion to dismiss. Motion to dismiss granted. Cause dismissed.

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

Moyer, C.J., dissents and would grant a limited writ to order a new sentencing entry.

2009-1226. Columbus Heating & Ventilating Co. v. Weaver.

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

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

O'Donnell, J., dissents and would grant an alternative writ.

2009-1240. State ex rel. Clutter v. Wiseman.

In Mandamus and Procedendo. 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.

2009-1242. [State ex rel.] Hawkins v. Watson.

In Prohibition. On complaint in prohibition of Leon Hawkins. 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.

2009-1304. State ex rel. Barksdale 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.

2009-1318. Walls v. Clinton Mem. Hosp.

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

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

2009-1344. Goldshtein v. State.

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

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

2009-1350. Hughley v. Duffey.

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

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

2009-1397. Hughley v. Duffey.

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

Sua sponte, Kevin Hughley is determined to be a vexatious litigator pursuant to S.Ct.Prac.R. XIV(5)(B). Accordingly, it is ordered by the court that Kevin Hughley is prohibited from continuing or instituting legal proceedings in this court without first obtaining leave. Any request for leave shall be submitted to the Clerk of this court for the court's review.

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

2009-1407. Williams v. Brunsman.

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

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

2009-1465. [State ex rel.] Dudley v. Toledo Mun. Court.

In Prohibition. On complaint in prohibition of Clinton D. Dudley Sr. 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.

MOTION AND PROCEDURAL RULINGS

2009-0104. Pennsylvania Gen. Ins. Co. v. Park-Ohio Industries, Inc.

Cuyahoga App. No. 90619, 179 Ohio App.3d 385, 2008-Ohio-5991. On motions for admission pro hac vice of Rebecca L. Ross, Kathleen M. Sullivan, and Jane M. Byrne by Timothy J. Fitzgerald and of Laura A. Foggan and Gregory J. Langlois by Stephen F. Gladstone. Motions granted.

2009-0121. In re Guardianship of Spangler.

Geauga App. Nos. 2007-G-2800 and 2007-G-2802, 2008-Ohio-6978. On motion for admission pro hac vice of David M. Lieberman by Benjamin C. Mizer. Motion granted.

2009-1111. State v. Coleman.

Cuyahoga App. No. 91058, 2009-Ohio-1611. On motion for appeal bond. Motion denied.

2009-1326. State v. Hines.

Cuyahoga App. No. 90871, 2009-Ohio-2118. On motion for leave to file delayed appeal. Motion granted.

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

2009-1330. State v. Gray.

Cuyahoga App. No. 90981, 2009-Ohio-1782. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

2009-1349. State v. Carmen.

Clinton App. No. CA2007-06-030, 2008-Ohio-5842. On motion for leave to file delayed appeal. Motion granted.

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

2009-1354. State v. Candidate.

Butler App. No. CA2008-07-169. On motion for leave to file delayed appeal. Motion granted.

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

2009-1387. State v. Jewell.

Warren App. No. CA2007-09-111. On motion for leave to file delayed appeal. Motion denied.

2009-1401. State v. Parker.

Stark App. No. 2008CA00223. On motion for stay of sentencing. Motion denied.

2009-1403. State v. Rice.

Lucas App. No. L-06-1343, 2007-Ohio-6529. On motion for leave to file delayed appeal. Motion denied.

2009-1516. State v. Brooks.

Cuyahoga App. No. 91730, 2009-Ohio-3286. On motion for immediate stay of judgment. Motion granted.

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

APPEALS ACCEPTED FOR REVIEW

2009-0826. In re J.C.

Summit App. No. 24354, 2009-Ohio-1213. Discretionary appeal accepted; cause held for the decision in 2008-1624, *In re Smith*, Allen App. No. 1-07-58, 2008-Ohio-3234; and briefing schedule stayed.

2009-0840. State v. Hartman.

Cuyahoga App. No. 91040, 2009-Ohio-1069. Discretionary appeal accepted on Proposition of Law Nos. II and III; cause held for the decision in 2008-2502, *State v. Bodyke*, Huron App. Nos. H-07-040, H-07-041, and H-07-042, 2008-Ohio-6387; and briefing schedule stayed.

2009-0845. In re Thrower.

Geauga App. No. 2008-G-2813, 2009-Ohio-1314. Discretionary appeal accepted on Proposition of Law No. I; cause held for the decision in 2008-1624, *In re Smith*, Allen App. No. 1-07-58, 2008-Ohio-3234; and briefing schedule stayed.

Moyer, C.J., and Pfeifer and Lundberg Stratton, JJ., would also accept the appeal on Proposition of Law No. II.

2009-0886. State v. Downour.

Lucas App. No. L-08-1029, 2009-Ohio-1812.

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

2009-1049. Toney v. State.

Cuyahoga App. Nos. 91582, 91583, 91584, 91585, 91588, 91589, 91590, 91591, 91592, 91593, 91594, 91595, 91596, 91870, 91871, and 91872, 2009-Ohio-1881. Discretionary appeal accepted. Cause held for the decision in 2008-2502, *State v. Bodyke*, Huron App. Nos. H-07-040, H-07-041, and H-07-042, 2008-Ohio-6387; and briefing schedule stayed.

2009-1058. Sigler v. State.

Richland App. No. 08-CA-79, 2009-Ohio-2010. Discretionary appeal accepted on Proposition of Law Nos. I and II; cause held for the decision in 2008-2502, *State v. Bodyke*, Huron App. Nos. H-07-040, H-07-041, and H-07-042, 2008-Ohio-6387; and briefing schedule stayed.

Pfeifer, J., would also accept the appeal on Proposition of Law No. III.

2009-1070. Riedel v. Consol. Rail Corp.

Cuyahoga App. Nos. 91237, 91238, and 91239, 2009-Ohio-1242. Discretionary appeal accepted.

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

Motions for admission pro hac vice of Michael L. Torcello by Christopher M. Murphy and of Ira L. Podheiser by David A. Damico granted.

APPEALS NOT ACCEPTED FOR REVIEW

2009-0431. State v. Stiles.

Allen App. No. 1-08-12, 2009-Ohio-89.

Pfeifer, J., dissents.

2009-0515. State v. Johnson.

Lucas App. No. L-08-1022, 2009-Ohio-271.

2009-0536. State v. Hanni.

Cuyahoga App. No. 91014, 2009-Ohio-139.

2009-0671. State v. Fisher.

Cuyahoga App. No. 90997, 2009-Ohio-476.

2009-0742. Clouse v. Clouse.

Seneca App. No. 13-08-40, 2009-Ohio-1301.

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

2009-0751. State v. Kestranek.

Cuyahoga App. No. 90917, 2009-Ohio-473.

2009-0752. State v. Lewis.

Hamilton App. Nos. C-080465 and C-080494.

2009-0754. Bryan v. DiBella.

Franklin App. No. 08AP-418, 2009-Ohio-1101.

2009-0758. State v. Lenoir.

Montgomery App. No. 22893, 2009-Ohio-1275.

2009-0763. State v. Vasquez.

Franklin App. No. 08AP-758, 2009-Ohio-1189.

2009-0767. State v. Bohannon.

Hamilton App. No. C-070859.

2009-0769. Etter v. Am. Family Life Ins. Co.

Erie App. No. E-08-051, 2009-Ohio-1120.

2009-0776. State v. Edwards.

Mahoning App. No. 07 MA 235, 2009-Ohio-1205.

2009-0778. State v. McBride.

Hamilton App. No. C-090119.

2009-0782. State v. Graves.

Lorain App. No. 08CA009397, 2009-Ohio-1133.

2009-0785. State v. Coleman.

Allen App. No.1-07-82.

2009-0786. Jefferson v. Beightler.

Marion App. No. 9-08-39.

2009-0792. State v. Canyon.

Hamilton App. Nos. C-070729, C-070730, and C-070731, 2009-Ohio-1263.

2009-0800. Leto v. Ohio Dept. of Adm. Servs.

Seneca App. No. 13-09-12.

Lanzinger, J., not participating.

2009-0801. State v. Barcus.

Licking App. No. 09 CA 23.

2009-0812. McPhillips v. Travelers Indemn. Co.

Cuyahoga App. Nos. 91286 and 91561, 2009-Ohio-1262. Discretionary appeal not accepted.

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

Motion for admission pro hac vice of William T. Corbett Jr., Laura A. Brady, and Frederick P. Marczyk by Harold Reader granted.

2009-0821. State v. Gordon.

Franklin App. No. 08AP-791, 2009-Ohio-1330.

2009-0823. State v. Pierce.

Montgomery App. No. 23322.

2009-0824. State v. Johnson.

Cuyahoga App. No. 91763, 2009-Ohio-1254.

2009-0837. State v. Ries.

Portage App. No. 2008-P-0064, 2009-Ohio-1316.

2009-0838. State v. Kelly.

Columbiana App. No. 08 CO 23, 2009-Ohio-1509.

2009-0843. Kavlich v. Hildebrand.

Cuyahoga App. No. 91489, 2009-Ohio-1090.

Lundberg Stratton, J., dissents.

2009-0847. State v. Candidate.

Butler App. No. CA2008-07-159.

2009-0850. Knox v. Hetrick.

Cuyahoga App. No. 91102, 2009-Ohio-1359. Discretionary appeal and cross-appeal not accepted. Motion to strike denied as moot.

Moyer, C.J., would accept the cross-appeal.

2009-0855. State v. Beckwith.

Cuyahoga App. No. 91399, 2009-Ohio-1244.

2009-0870. State v. Thomas.

Lucas App. No. L-06-1331, 2009-Ohio-1748.

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

2009-0877. State v. Stribling.

Allen App. No. 1-08-59, 2009-Ohio-1444.

2009-0888. State v. Kern.

Wood App. No. WD-08-056, 2009-Ohio-1535. Discretionary appeal not accepted. Motion to stay proceedings in light of newly discovered evidence denied as moot.

2009-0895. State v. Smith.

Summit App. No. 24382, 2009-Ohio-1497.

2009-0909. Beverly v. Roberts.

Clark App. No. 2008 CA 95, 2009-Ohio-1628.

2009-0911. State v. Chavers.

Wayne App. No. 09CA0012.

2009-0914. State v. Perez.

Cuyahoga App. No. 91227, 2009-Ohio-959.

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

2009-0924. Kessler v. Totus Tuus, L.L.C.

Ashtabula App. No. 2008-A-0011, 2009-Ohio-1147.

O'Donnell, J., dissents.

2009-0937. State v. Samuels.

Summit App. No. 24671.

2009-0938. State v. Gyekye.

Butler App. No. CA2007-08-198, 2008-Ohio-4427.

2009-0940. Gabriel v. Gabriel.

Lucas App. No. L-08-1303, 2009-Ohio-1814.

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

2009-0945. State v. Hughes.

Tuscarawas App. No. 2008 AP 12 0075, 2009-Ohio-2238.

O'Donnell, J., dissents.

2009-0968. State v. Hupp.

Allen App. No. 1-08-21, 2009-Ohio-1912.

2009-0969. State v. Conley.

Pike App. No. 08CA784, 2009-Ohio-1848.

2009-0983. State v. Brown.

Hancock App. No. 5-08-43.

2009-0984. State v. Carr.

Montgomery App. No. 22603, 2009-Ohio-1942.

2009-0985. State v. Bishop.

Cuyahoga App. No. 91885, 2009-Ohio-1797.

2009-0992. State v. Cicerchi.

Cuyahoga App. No. 91118, 2009-Ohio-2249.

2009-0993. O'Brien v. Whalen.

Franklin App. No. 08AP-918, 2009-Ohio-1807.

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

2009-1019. State v. Driskill.

Mercer App. Nos. 10-08-10 and 10-08-11, 2009-Ohio-2100.

2009-1026. Hartley v. Miller.

Logan App. No. 8-08-33, 2009-Ohio-1923.

2009-1031. State v. Cooper.

Marion App. No. 9-08-42, 2009-Ohio-1922.

2009-1051. Howick v. Lakewood Village Ltd. Partnership.

Mercer App. No. 10-08-20, 2009-Ohio-1921.

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

2009-1053. FIA Card Servs., N.A. v. Young.

Knox App. No. 08 CA 22, 2009-Ohio-2008. Discretionary appeal not accepted. Motions for stay and post-judgment relief and to strike memorandum in response denied as moot.

2009-1063. Bldg. Industry Consultants, Inc. v. 3M Parkway, Inc.

Lorain App. No. 08CA009433, 2009-Ohio-1910.

2009-1066. Stipe v. Barach.

Hamilton App. No. C-080544.

2009-1073. Darrow v. Zigan.

Hocking App. No. 07CA25, 2009-Ohio-2205.

Lundberg Stratton, J., dissents.

2009-1083. State v. Howard.

Hamilton App. No. C-080165.

Pfeifer, J., dissents.

2009-1087. Citibank (S. Dakota), N.A. v. Gieseke.

Franklin App. No. 08AP-915, 2009-Ohio-2050.

2009-1092. State v. Reuschling.

Ashtabula App. No. 2008-A-0055, 2009-Ohio-2091.

2009-1101. Trumbull Mem. Hosp. v. Karnofel.

Trumbull App. No. 2008-T-0115, 2009-Ohio-1488.

2009-1102. State v. Moore.

Union App. No. 14-08-43, 2009-Ohio-2106.

2009-1105. State v. Lester.

Auglaize App. No. 2-08-24.

2009-1108. State v. Hazel.

Franklin App. Nos. 08AP-1002 and 08AP-1003, 2009-Ohio-2144. Discretionary appeal not accepted. Motion to amend memorandum in support of jurisdiction denied as moot.

2009-1109. State v. Johnson.

Hamilton App. No. C-090241.

2009-1112. Peoples v. Lang.

Stark App. No. 2008 CA 00128, 2009-Ohio-2693.

2009-1134. State v. Joy.

Hocking App. No. 08CA10, 2009-Ohio-2211.

2009-1135. State v. Griffis.

Muskingum App. No. CA2001-0026.

2009-1150. State v. Allen.

Cuyahoga App. No. 91750, 2009-Ohio-2036.

2009-1161. State v. Johns.

Stark App. No. 2006CA00368.

2009-1166. State v. Smith.

Williams App. No. WM-08-016, 2009-Ohio-2292.
Pfeifer, J., dissents.

2009-1177. State v. Perry.

Cuyahoga App. No. 90497, 2009-Ohio-2245.

2009-1184. Lagrange Dev. Corp. v. Toledo.

Lucas App. No. L-08-1226, 2009-Ohio-2286.
Pfeifer, J., dissents.

2009-1187. State v. Fugate.

Greene App. No. 2006 CA 111.

2009-1211. State v. Jackson.

Stark App. No. 2007CA00342, 2008-Ohio-5456.

2009-1257. State v. Hughley.

Cuyahoga App. No. 90323, 2009-Ohio-3274.

2009-1258. State v. Crim.

Cuyahoga App. No. 90222, 2009-Ohio-2701.

2009-1295. State v. Ganaway.

Cuyahoga App. No. 89722, 2009-Ohio-2575.

RECONSIDERATION OF PRIOR DECISIONS

2008-1396 and 2008-1489. W. Broad Chiropractic v. Am. Family Ins.

Franklin App. No. 07AP-721, 2008-Ohio-2647. Reported at ___ Ohio St.3d ___, 2009-Ohio-3506, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

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

2009-0642. State v. Crawley.

Hamilton App. No. C-090079. Reported at 122 Ohio St.3d 1478, 2009-Ohio-3625, 910 N.E.2d 477. On motion for reconsideration. Motion denied.

2009-0878. State v. Clay.

Cuyahoga App. No. 90453, 2009-Ohio-1235. Reported at 122 Ohio St.3d 1482, 2009-Ohio-3625, 910 N.E.2d 480. On motion for reconsideration. Motion denied.