

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

November 18, 2009

[Cite as *11/18/2009 Case Announcements*, 2009-Ohio-6015.]

MERIT DECISIONS WITH OPINIONS

2008-1942 and 2008-2170. State v. Robinson, Slip Opinion No. 2009-Ohio-5937.

Union App. No. 14-07-20, 177 Ohio App.3d 560, 2008-Ohio-4160. Certified question answered in the affirmative, judgment of the court of appeals reversed, and judgment of the trial court reinstated.

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

2008-2462. Church of God in N. Ohio, Inc. v. Levin, Slip Opinion No. 2009-Ohio-5939.

Board of Tax Appeals, No. 2007-N-102. Decision affirmed.

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

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

2009-0054. Mynes v. Brooks, Slip Opinion No. 2009-Ohio-5946.

Scioto App. No. 07CA3185, 2008-Ohio-5613. Certified question answered in the affirmative, judgment reversed, and cause remanded.

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

Pfeifer and Lanzinger, JJ., dissent.

O'Donnell, J., dissents and would affirm the judgment of the court of appeals.

2009-0696. State ex rel. Cincinnati Enquirer v. Ronan, Slip Opinion No. 2009-Ohio-5947.

Hamilton App. No. C-090155. Judgment affirmed in part and reversed in part, and cause remanded.

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

Pfeifer, Lundberg Stratton, and O'Donnell, JJ., concur in part and dissent in part.

2009-1233. Disciplinary Counsel v. Siehl, Slip Opinion No. 2009-Ohio-5936.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 08-089. Andrew Fraser Siehl, Attorney Registration No. 0065173, is indefinitely suspended from the practice of law in Ohio.

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

MERIT DECISIONS WITHOUT OPINIONS

2009-0833. State v. Simmons.

Summit App. No. 24218, 2009-Ohio-1495. On application to dismiss appeal and vacate judgment and sentence. Application granted. The judgments of the court of appeals and the court of common pleas are vacated, and the cause is remanded to the trial court for resentencing. This cause is dismissed.

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

Lanzinger, J., dissents.

2009-1617. State ex rel. Holloman v. Holbrook.

In Mandamus. On amended 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.

2009-1702. State ex rel. Jordan v. Deters.

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.

2009-1771. Griesser v. State.

In Habeas Corpus. On petition for writ of habeas corpus of William R. Griesser. Sua sponte. Cause dismissed.

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

MOTION AND PROCEDURAL RULINGS

2009-1330. State v. Gray.

Cuyahoga App. No. 90981, 2009-Ohio-4360. On appellant's motion to reopen appeal pursuant to App.R. 26(B). Motion denied.

2009-1748. State v. Williams.

Cuyahoga App. 93607. On motion for leave to file delayed appeal. Motion granted.

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

2009-1759. State v. King.

Muskingum App. No. 09-CA-22, 2009-Ohio-3854. On motion for leave to file delayed appeal and motion to certify a conflict. Motion for leave to file delayed appeal granted.

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

Motion to certify a conflict denied.

2009-1770. State v. Lawson.

Cuyahoga App. No. 90589, 2008-Ohio-5590. On motion for leave to file delayed appeal. Motion denied.

2009-1779. State v. Pryor.

Hamilton App. No. C-070108. On motion for leave to file delayed appeal. Motion denied.

2009-1780. State v. Lawson.

Hamilton App. No. C-080877. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2009-1796. State v. Holmes.

Cuyahoga App. No. 91948, 2009-Ohio-3736. On motion for leave to file delayed appeal. Motion granted.

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

2009-1815. Rodgers v. Pahoundis.

Coshocton App. No. 08CA0018, 2009-Ohio-4468. On motion to stay proceedings. Motion denied.

2009-1824. Griffin v. State Med. Bd. of Ohio.

Franklin App. No. 09AP-276, 2009-Ohio-4849. On motion for stay of court of appeals' judgment. Motion granted.

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

2009-1850. State v. Jackson.

Summit App. Nos. 24463 and 24501, 2009-Ohio-4336. On motion for stay of court of appeals' judgment. Motion denied.

2009-1851. State v. Hill.

Hamilton App. No. C-080222. On motion for appeal bond. Motion denied.

Pfeifer, J., dissents.

2009-1855. State ex rel. Jackim v. Court of Appeals, Eighth Appellate Dist.

In Mandamus. On motion to stay proceedings in the court of appeals. Motion denied.

2009-1980. In re Adoption of J.A.S.

Lorain App. Nos. 08CA009518 and 08CA009519, 2009-Ohio-3927. 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 October 9, 2009:

“Does R.C. 5103.16(D) require pre-adoptive placement where the prospective adoptive parents have been awarded legal custody of the child pursuant to a final dispositional order out of the juvenile court, and the child has been living with the prospective adoptive parents since the award of legal custody?”

The conflict case is *In re Adoption of A.W.K.*, Montgomery App. No. 22248, 2007-Ohio-6341.

Sua sponte, cause consolidated with 2009-1695, *In re Adoption of J.A.S.*, Lorain App. Nos. 08CA009518 and 08CA009519, 2009-Ohio-3927.

APPEALS ACCEPTED FOR REVIEW

2009-1149. State v. Dye.

Lake App. No. 2008-L-106, 2009-Ohio-2949. Discretionary appeal accepted on Proposition of Law No. I.

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

O'Donnell, J., would also accept the appeal on Proposition of Law Nos. II and III.

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

2009-1363. Griffith v. State.

Franklin App. No. 08AP-964, 2009-Ohio-2854.

Lanzinger, J., dissents.

2009-1419. State v. Irvin.

Ross App. No. 08CA3057, 2009-Ohio-3128. 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.

2009-1423. State v. Richey.

Franklin App. No. 08AP-923, 2009-Ohio-2988. Discretionary appeal accepted on Proposition of Law No. IV.

Pfeifer, J., would also accept the appeal on Proposition of Law Nos. I, II, and III.

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

2009-1433. Culgan v. State.

Richland App. No. 08-CA-217, 2009-Ohio-3570. 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.

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

Pfeifer and O'Donnell, JJ., dissent.

2009-1469. State v. Johnson.

Cuyahoga App. No. 91701, 2009-Ohio-3101.

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

2009-1480. In re C.A.

Montgomery App. No. 23022, 2009-Ohio-3303. 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.

Pfeifer, J., dissents.

2009-1483. Biggs v. State.

Richland App. No. 08-CA-224, 2009-Ohio-3404. 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.

2009-1484. Whitley v. River’s Bend Health Care.

Lawrence App. No. 08CA30, 2009-Ohio-3366. Discretionary appeal accepted on Proposition of Law Nos. I and II.

Pfeifer and Lanzinger, JJ., would also accept the appeal on Proposition of Law No. III.

O’Donnell and Cupp, JJ., dissent.

2009-1493. State v. Gresham.

Montgomery App. No. 22766, 2009-Ohio-3305. Discretionary appeal accepted on Proposition of Law No. 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 and O’Connor, JJ., dissent.

2009-1507. Berry v. Javitch, Block & Rathbone, L.L.P.

Cuyahoga App. No. 91723, 2009-Ohio-3067.

Lundberg Stratton and Cupp, JJ., dissent.

O’Connor, J., not participating.

2009-1545. Webster v. State.

Richland App. No. 2008 CA 0163, 2009-Ohio-3568. 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.

O’Connor, O’Donnell, and Cupp, JJ., would accept the appeal on Proposition of Law Nos. II and III only.

2009-1552. State v. Johnson.

Franklin App. No. 08AP-990, 2009-Ohio-3436.

Pfeifer, O’Connor, and O’Donnell, JJ., dissent.

2009-1554. Harrison v. State.

Cuyahoga App. No. 92095, 2009-Ohio-3467. 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.

2009-1695. In re Adoption of J.A.S.

Lorain App. Nos. 08CA009518 and 08CA009519, 2009-Ohio-3927. Discretionary appeal accepted and cause consolidated with 2009-1980, *In re Adoption of J.A.S.*, Lorain App. Nos. 08CA009518 and 08CA009519, 2009-Ohio-3927.

APPEALS NOT ACCEPTED FOR REVIEW

2009-0808. State v. Mendoza.

Franklin App. No. 08AP-645, 2009-Ohio-1182.

2009-0853. State v. Fox.

Franklin App. No. 08AP-704, 2009-Ohio-1327. Discretionary appeal not accepted. Motion to stay jurisdictional determination denied as moot.

2009-0979. State v. Rosas.

Montgomery App. No. 22424, 2009-1404.

2009-0980. State v. Carter.

Hamilton App. Nos. C-080254 and C-080337.

2009-0995. Lasson v. Coleman.

Montgomery App. No. 22213, 2009-Ohio-1958.

2009-1023. State v. Berry.

Franklin App. No. 08AP-762, 2009-Ohio-1557.

2009-1033. State v. McCain.

Montgomery App. No. 22716, 2009-Ohio-1959.

2009-1054. State v. Combs.

Stark App. No. 2009 CA 00080.

2009-1162. State v. Huber.

Miami App. No. 2008 CA 15, 2009-Ohio-2541.

2009-1170. Jewell v. Victorian Village Internal Medicine, Inc.

Franklin App. No. 08AP-919, 2009-Ohio-2233.

2009-1201. Integrated Payment Sys., Inc. v. A&M 87th Inc.

Cuyahoga App. No. 91454, 2009-Ohio-2715.

Moyer, C.J., and Lanzinger, J., dissent and would accept the appeal on Proposition of Law No. II.

2009-1287. Luz v. Grim.

Warren App. No. CA2009-06-086.

2009-1364. State v. Graham.

Warren App. No. CA2008-07-095, 2009-Ohio-2814.

2009-1373. State v. Thompson.

Hamilton App. No. C-090368.

2009-1379. State v. Baer.

Harrison App. No. 07 HA 8, 2009-Ohio-3248.

2009-1382. Schooler v. Blersch.

Clermont App. No. CA2008-09-082.

Moyer, C.J., dissents and would accept the appeal on Proposition of Law No. II.

Pfeifer, J., dissents.

2009-1386. Bowman v. Bowman.

Brown App. No. CA2009-05-020.

2009-1392. Allen v. Binckett.

Muskingum App. No. CT2008-0027, 2009-Ohio-2969.

Pfeifer, J., dissents.

2009-1394. State v. Helser.

Allen App. No. 1-09-04, 2009-Ohio-3155.

2009-1395. Grimm v. Grimm.

Cuyahoga App. No. 91437, 2009-Ohio-2714.

2009-1406. State v. Paythress.

Cuyahoga App. No. 91554, 2009-Ohio-2717.

2009-1412. Ferron v. Video Professor, Inc.

Delaware App. No. 08-CAE-09-0055, 2009-Ohio-3133.

O'Donnell, J., dissents.

2009-1415. First Fed. Bank of Ohio v. Angelini.

Crawford App. No. 3-09-03.

2009-1416. Hanes v. Jones.

Lorain App. No. 08CA009469, 2009-Ohio-2944.

2009-1420. ComDoc v. Advance Print Copy Ship Ctr.

Summit App. No. 24212, 2009-Ohio-2998.

2009-1425. State v. Knapke.

Franklin App. No. 08AP-933, 2009-Ohio-2989.

Pfeifer, J., dissents.

2009-1427. State v. Smith.

Hamilton App. No. C-080770.

2009-1428. State v. McLaurin.

Muskingum App. No. CT2008-0052, 2009-Ohio-2979.

2009-1434. Pataskala Banking Co. v. Etna Twp. Bd. of Zoning Appeals.

Licking App. Nos. 08 CA 128, 08 CA 129, and 08 CA 130, 2009-Ohio-3108.

2009-1440. State v. Howell.

Cuyahoga App. No. 91569, 2009-Ohio-3092

2009-1441. State v. Smith.

Lucas App. Nos. L-08-1311, L-08-1312, and L-08-1313, 2009-Ohio-3192.

2009-1443. State v. Dillon.

Muskingum App. No. 2008-CA-37, 2009-Ohio-3134.

2009-1445. State v. Nichols.

Richland App. No. 2009-CA-0032, 2009-Ohio-3160.

2009-1449. Rucker v. Gerald D. Piszczek Co., L.P.A.

Hamilton App. No. C-081058. Discretionary appeal not accepted. Motion for leave to file supplemental joint appendix denied as moot.

2009-1454. State v. Gonzalez.

Franklin App. No. 08AP-716, 2009-Ohio-3236.
Cupp, J., dissents.

2009-1461. In re S.R.

Warren App. No. CA2009-01-005, 2009-Ohio-3156.
Moyer, C.J., and Lundberg Stratton and O'Donnell, JJ., dissent.

2009-1464. Cwik v. Corry.

Hamilton App. No. C-081052.

2009-1468. Rardin v. Estate of Bain.

Carroll App. No. 08 CA 853, 2009-Ohio-3332.
O'Connor, J., not participating.

2009-1472. In re Guardianship of Bombrys.

Lucas App. No. L-08-1451, 2009-Ohio-3203.

2009-1473. Ruckstuhl v. Ohio Dept. of Commerce.

Geauga App. No. 2008-G-2873, 2009-Ohio-3146.

2009-1475. State v. Nardecchia.

Shelby App. No. 17-09-04.

2009-1476. State v. Ryan.

Franklin App. Nos. 08AP-481 and 08AP-482, 2009-Ohio-3235.

2009-1479. Rosen v. Chesler.

Lorain App. No. 08CA009419, 2009-Ohio-3163.

2009-1482. Paxson v. Dayton.

Montgomery App. No. 22888, 2009-Ohio-3306.
Moyer, C.J., and O'Donnell, J., dissent.

2009-1485. State v. Bocanegra.

Sandusky App. No. S-08-022, 2009-Ohio-3202.

2009-1486. Brown v. Columbus City Schools Bd. of Edn.

Franklin App. No. 08AP-1067, 2009-Ohio-3230.
Pfeifer, J., dissents.

2009-1487. Macon v. Ohio Dept. of Job & Family Servs.
Franklin App. No. 08AP-1036, 2009-Ohio-3229.

2009-1504. State v. Girts.
Guernsey App. No. 08-CA-31, 2009-Ohio-3422.

2009-1506. Roeser v. State Farm Ins. Cos.
Erie App. No. E-09-003, 2009-Ohio-3395.
Lanzinger, J., dissents.

2009-1511. State v. Ricks.
Hamilton App. No. C-080362.

2009-1523. Huber v. Cardiff.
Miami App. No. 08-CA-24, 2009-Ohio-3433.

2009-1561. State v. Boyd.
Lucas App. No. L-07-1095, 2009-Ohio-3803.
Lundberg Stratton, J., dissents.

2009-1563. State v. Jones.
Cuyahoga App. No. 90903, 2009-Ohio-3371.

2009-1564. State v. Richard.
Montgomery App. No. 23119, 2009-Ohio-3771.
Pfeifer, J., dissents.

2009-1594. State v. Lynch.
Cuyahoga App. No. 90630, 2009-Ohio-3730.
Pfeifer, J., dissents.

2009-1595. State v. Brown.
Montgomery App. No. 22645, 2009-Ohio-1274.

2009-1597. Miller v. Cordray.
Franklin App. No. 08AP-1016, 2009-Ohio-3617.

2009-1598. State v. Wilson.
Montgomery App. No. 22581.

2009-1603. State v. Miller.

Franklin App. No. 09AP-148, 2009-Ohio-3621.

2009-1606. State v. Miller.

Cuyahoga App. No. 91543, 2009-Ohio-3307.

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

2009-1607. State v. McGee.

Cuyahoga App. No. 91638, 2009-Ohio-3374.

O'Connor, J., dissents and would accept the appeal, reverse the judgment of the court of appeals, and remand the cause to the trial court to apply *State v. Boswell*, 121 Ohio St.3d 575, 2009-Ohio-1577, 906 N.E.2d 422.

Lanzinger, J., dissents.

2009-1610. George v. Miracle Solutions, Inc.

Stark App. No. 2009-CA-00088, 2009-Ohio-3659.

2009-1615. State v. Petaway.

Logan App. No. 8-08-22.

2009-1642. State v. Morris.

Franklin App. No. 05AP-1139.

2009-1676. State v. Vinson.

Franklin App. No. 09AP-163, 2009-Ohio-3751.

2009-1724. State v. White.

Cuyahoga App. No. 90839, 2009-Ohio-4034.

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

RECONSIDERATION OF PRIOR DECISIONS

2006-0294 and 2006-0298. State v. Crager.

Marion App. No. 9-04-54, 164 Ohio App.3d 816, 2005-Ohio-6868. Reported at 123 Ohio St.3d 1210, 2009-Ohio-4760, 914 N.E.2d 1055. On motion for reconsideration. The parties are to brief the issue of the impact of *Melendez-Diaz v. Massachusetts* (2009), ___ U.S. ___, 129 S.Ct. 2527, 174 L.Ed.2d 314, on this court's holding in paragraph two of the syllabus in *State v. Crager*, 116 Ohio St.3d 369, 2007-Ohio-6840, 879 N.E.2d 745. The parties shall simultaneously file their

briefs within 20 days of the date of this entry, and reply briefs shall be filed ten days thereafter.

Pfeifer and Kline, JJ., dissent.

Roger L. Kline, J., of the Fourth Appellate District, sitting for Cupp, J.

2008-1012. State v. Clinkscale.

Franklin App. No. 06AP-1109, 177 Ohio App.3d 294, 2008-Ohio-1677. Reported at 122 Ohio St.3d 351, 2009-Ohio-2746, 911 N.E.2d 862. On review of supplemental briefs submitted pursuant to the court's order of September 1, 2009. The court declines to modify the court's opinion issued in this cause on June 17, 2009. Accordingly, the motion to reconsider is denied.

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

2009-0751. State v. Kestranek.

Cuyahoga App. No. 90917, 2009-Ohio-473. Reported at 122 Ohio St.3d 1521, 2009-Ohio-4776, 913 N.E.2d 457. On motion for reconsideration. Motion denied.

Lundberg Stratton, J., dissents.

2009-0863. State v. Omiecinski.

Cuyahoga App. No. 90510, 2009-Ohio-1066. Reported at 123 Ohio St.3d 1405, 2009-Ohio-5031, 914 N.E.2d 203. On motion for reconsideration. Motion denied.

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

2009-0909. Beverly v. Roberts.

Clark App. No. 2008 CA 95, 2009-Ohio-1628. Reported at 122 Ohio St.3d 1522, 2009-Ohio-4776, 913 N.E.2d 458. On motion for reconsideration. Motion denied.

2009-0911. State v. Chavers.

Wayne App. No. 09CA0012. Reported at 122 Ohio St.3d 1522, 2009-Ohio-4776, 913 N.E.2d 458. On motion for reconsideration. Motion denied.

2009-1108. State v. Hazel.

Franklin App. Nos. 08AP-1002 and 08AP-1003, 2009-Ohio-2144. Reported at 122 Ohio St.3d 1524, 2009-Ohio-4776, 913 N.E.2d 459. On motion for reconsideration. Motion denied.

2009-1135. State v. Griffis.

Muskingum App. No. CT2001-0026. Reported at 122 Ohio St.3d 1524, 2009-Ohio-4776, 913 N.E.2d 459. On motion for reconsideration. Motion denied.

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

In Mandamus and Procedendo. Reported at 122 Ohio St.3d 1518, 2009-Ohio-4776, 913 N.E.2d 455. On motion for reconsideration. Motion denied.

2009-1288. [State ex rel.] Looper v. Ohio State Univ.

In Mandamus. Reported at 123 Ohio St.3d 1403, 2009-Ohio-5031, 914 N.E.2d 202. On motion for reconsideration. Motion denied.