

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

December 30, 2009

[Cite as *12/30/2009 Case Announcements*, 2009-Ohio-6816.]

MERIT DECISIONS WITH OPINIONS

2009-0211. Natl. Solid Wastes Mgt. Assn. v. Stark-Tuscarawas-Wayne Joint Solid Waste Mgt. Dist., Slip Opinion No. 2009-Ohio-6765.

Stark App. No. 2008CA00011, 2008-Ohio-6585. Judgment reversed and cause remanded.

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

2009-1267. Cincinnati Bar Assn. v. Larson, Slip Opinion No. 2009-Ohio-6766.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 07-088. Robert K. Larson Jr., Attorney Registration No. 0042368, is suspended from the practice of law in Ohio for two years, with one year stayed on conditions.

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

Moyer, C.J., dissents.

MERIT DECISIONS WITHOUT OPINIONS

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

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.

2009-1939. State ex rel. Runyon v. Sage.

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.

2009-2081. Effinger v. State.

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

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

2009-2088. Johnson v. Knab.

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

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

2009-2089. Mubashshir v. Sheldon.

In Habeas Corpus. On petition for writ of habeas corpus of Mujtabaa L. Mubashshir. Sua sponte, cause dismissed.

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

2009-2093. DeDonno v. Bradshaw.

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

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

MOTION AND PROCEDURAL RULINGS

2009-1543. Global Knowledge Training, L.L.C. v. Levin.

Board of Tax Appeals, No. 2006-V-471. On motions for admission pro hac vice of Michael P. Robotti and William I. Sussman by Nicholas M.J. Ray. Motions granted.

2009-1958. State v. Hamilton.

Montgomery App. No. 22895, 2009-Ohio-4602. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the

issue stated at page 3 of the court of appeals' Decision and Entry filed October 18, 2009:

“May an indictment which does not contain all the elements of an offense be amended to include an omitted mens rea element that was not presented to the grand jury?”

The conflict case is *State v. Rice*, Hamilton App. No. C-080444, 2009-Ohio-1080.

Sua sponte, cause consolidated with 2009-1878, *State v. Hamilton*, Montgomery App. No. 22895, 2009-Ohio-4602.

2009-2020. State v. Davis.

Cuyahoga App. No. 93008. On motion for leave to file delayed appeal. Motion denied.

2009-2026. Naples v. State.

Trumbull App. No. 2008-T-0092, 2009-Ohio-3938. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, 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; cause consolidated with 2009-1682, *Naples v. State*, Trumbull App. No. 2008-T-0092, 2009-Ohio-3938; and briefing schedule stayed.

2009-2027. State v. Grate.

Trumbull App. No. 2008-T-0058, 2009-Ohio-4452. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, 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; cause consolidated with 2009-1827, *State v. Grate*, Trumbull App. No. 2008-T-0058, 2009-Ohio-4452; and briefing schedule stayed.

2009-2053. Fischbach v. Mercuri.

Montgomery App. No. 23188, 2009-Ohio-4790. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated at page 8 of the court of appeals' Decision and Entry filed November 3, 2009:

“May a constructive trust be imposed on survivorship funds that a beneficiary receives from a public retirement system account, where the beneficiary's receipt of the funds inequitably results from the decedent's wrongful failure to designate an ex-spouse as a beneficiary for survivorship funds on the account?”

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

The conflict case is *Schrader v. Schrader*, Hocking App. No. 03CA20, 2004-Ohio-4104.

Sua sponte, cause consolidated with 2009-1953, *Fischbach v. Mercuri*, Montgomery App. No. 23188, 2009-Ohio-4790.

2009-2059. State v. Sosnoskie.

Montgomery App. No. 22713, 2009-Ohio-2327. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2009-2073. State v. Griffin.

Cuyahoga App. No. 91845, 2009-Ohio-4366. On motion for leave to file delayed appeal. Motion granted.

O'Connor, J., dissents.

2009-2095. State v. Sheffield.

Cuyahoga App. No. 93833. On motion for leave to file delayed appeal. Motion granted.

O'Connor and Lanzinger, JJ., dissent.

2009-2131. State v. Chappell.

Cuyahoga App. No. 92455, 2009-Ohio-5371. On motion for stay of court of appeals' judgment. Motion granted.

Pfeifer and O'Donnell, JJ., dissent.

2009-2140. State ex rel. Bardwell v. Cuyahoga Cty. Bd. of Commrs.

Cuyahoga App. No. 93058, 2009-Ohio-5573. On motion to stay judgment pending appeal. Motion denied.

O'Donnell, J., dissents.

APPEALS ACCEPTED FOR REVIEW

2009-1682. Naples v. State.

Trumbull App. No. 2008-T-0092, 2009-Ohio-3938. 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; cause consolidated with 2009-2026, *Naples v. State*, Trumbull App. No. 2008-T-0092, 2009-Ohio-3938; and briefing schedule stayed.

Pfeifer, J., dissents.

2009-1716. State v. Irvin.

Ross App. No. 08CA3056, 2009-Ohio-4181. 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.

Moyer, C.J., would accept the appeal only on Proposition of Law No. II.
O'Connor and Lanzinger, JJ., dissent.

2009-1797. Bertram v. State.

Lake App. No. 2008-L-037, 2009-Ohio-5210. 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.

2009-1798. Thomas v. State.

Lake App. No. 2008-L-026, 2009-Ohio-5209. 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.

2009-1799. State v. Bache.

Lake App. No. 2008-L-061, 2009-Ohio-5211. 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.

2009-1816. Hudson v. Petrosurance, Inc.

Franklin App. No. 08AP-1030, 2009-Ohio-4307.

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

2009-1827. State v. Grate.

Trumbull App. No. 2008-T-0058, 2009-Ohio-4452. 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; cause consolidated with 2009-2027, *State v. Grate*, Trumbull App. No. 2008-T-0058, 2009-Ohio-4452; and briefing schedule stayed.

Pfeifer, J., dissents.

2009-1878. State v. Hamilton.

Montgomery App. No. 22895, 2009-Ohio-4602. Discretionary appeal accepted and cause consolidated with 2009-1958, *State v. Hamilton*, Montgomery App. No. 22895, 2009-Ohio-4602.

Pfeifer, J., dissents.

2009-1953. Fischbach v. Mercuri.

Montgomery App. No. 23188, 2009-Ohio-4790. Discretionary appeal accepted and cause consolidated with 2009-2053, *Fischbach v. Mercuri*, Montgomery App. No. 23188, 2009-Ohio-4790.

Pfeifer and O'Donnell, JJ., dissent.

APPEALS NOT ACCEPTED FOR REVIEW

2009-1432. State v. McCradic.

Richland App. No. 08-CA-058, 2009-Ohio-2592.

2009-1556. State v. J.G.

Franklin App. Nos. 08AP-921 and 08AP-972, 2009-Ohio-2857.

2009-1653. Hidy Motors, Inc. v. Sheaffer.

Greene App. No. 08-CA-33, 2009-Ohio-3763.

2009-1655. State v. Krug.

Lake App. No. 2008-L-085, 2009-Ohio-3815.

2009-1718. Hitchcock v. Segedy.

Geauga App. No. 2009-G-2907, 2009-Ohio-3941.

2009-1719. State v. Aleman.

Cuyahoga App. No. 93660.

2009-1730. Univ. of Cincinnati v. Tuttle.

Hamilton App. No. C-080357, 2009-Ohio-4493.

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

2009-1736. State v. Norman.

Cuyahoga App. No. 91302, 2009-Ohio-4044.

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

2009-1742. State v. Phillips.

Hamilton App. No. C-080662.

2009-1752. State v. Christopher.

Cuyahoga App. No. 91732, 2009-Ohio-3897.

2009-1753. Cleveland Hts. v. Aziz.

Cuyahoga App. No. 92538, 2009-Ohio-3885.

2009-1754. State v. Little.

Greene App. No. 2008-CA-76, 2009-Ohio-4328.

2009-1758. State v. Johnson.

Butler App. No. CA2008-06-153, 2009-Ohio-4129.

2009-1762. Hanna v. Keszei.

Clermont App. No. CA2009-04-027, 2009-Ohio-4136.

Pfeifer and O'Donnell, JJ., dissent.

2009-1766. State v. McNeal.

Cuyahoga App. No. 91507, 2009-Ohio-3888.

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

2009-1768. State v. Strickland.

Cuyahoga App. No. 91982, 2009-Ohio-3906.

2009-1772. State v. Hendrickson.

Athens App. No. 08CA12, 2009-Ohio-4406.

2009-1773. State v. Baker.

Hamilton App. Nos. C-080157 and C-080159, 2009-Ohio-4188.

O'Donnell, J., dissents.

2009-1775. Poneris v. A&L Painting, L.L.C.

Butler App. No. CA2008-05-133, 2009-Ohio-4128.

Pfeifer, J., dissents.

2009-1778. Estep v. State.

Ross App. No. 09CA3088, 2009-Ohio-4349.

2009-1782. State v. Singfield.

Summit App. No. 24576, 2009-Ohio-4172.

2009-1783. Rozakis v. Kanieski.

Cuyahoga App. No. 92902.

2009-1787. C&W Asset Acquisition, L.L.C. v. Forster.

Delaware App. No. 09 CAE 01 0003, 2009-Ohio-4247.

2009-1790. Kenko Corp. v. Cincinnati.

Hamilton App. No. C-080246, 2009-Ohio-4189.

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

2009-1792. State v. Crosky.

Franklin App. No. 09AP-57, 2009-Ohio-4216.

2009-1794. Ackerman v. Fortis Benefits Ins. Co.

Montgomery App. No. 23443.

2009-1795. In re Poole.

Cuyahoga App. No. 92715.

2009-1801. State v. White.

Hamilton App. Nos. C-090379 and C-090380.

2009-1803. Cincinnati Ins. Co. v. Cleveland.

Cuyahoga App. No. 92305, 2009-Ohio-4043.

Pfeifer, J., dissents.

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

2009-1804. Lofino's, Inc. v. Beavercreek City Council.

Greene App. No. 2008 CA 61, 2009-Ohio-4404.

Pfeifer and O'Donnell, JJ., dissent.

2009-1805. State v. Rodriguez.

Wood App. No. WD-08-013, 2009-Ohio-4280.

2009-1813. In re Miller.

Trumbull App. No. 2008-T-0105, 2009-Ohio-4258.

2009-1814. State v. Accord.

Fayette App. No. CA2009-01-001, 2009-Ohio-4263.

2009-1815. Rodgers v. Pahoundis.

Coshocton App. No. 08CA0018, 2009-Ohio-4468.

2009-1817. Wallace v. Halder.

Cuyahoga App. No. 92046, 2009-Ohio-3738.
Pfeifer and O'Donnell, JJ., dissent.

2009-1820. State v. Fryerson.

Cuyahoga App. No. 91960, 2009-Ohio-4227.

2009-1822. TJX Cos., Inc. v. Hall.

Cuyahoga App. Nos. 91415 and 91421, 183 Ohio App.3d 236, 2009-Ohio-3372.

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

Franklin App. No. 09AP-276, 2009-Ohio-4849.

2009-1825. State v. Thomas.

Cuyahoga App. No. 91891, 2009-Ohio-3461.
Moyer, C.J., and Lundberg Stratton and O'Connor, JJ., dissent.

2009-1828. In re M.W.

Summit App. No. 24837.

2009-1829. State v. McGhee.

Seneca App. No. 13-08-12, 2009-Ohio-4259.

2009-1830. Deutsche Bank Natl. Trust Co. v. Ingle.

Cuyahoga App. No. 92487, 2009-Ohio-3886.

2009-1831. State v. Parks.

Carroll App. No. 08 CA 857, 2009-Ohio-4817.

2009-1834. State v. Lightner.

Hardin App. No. 6-09-02, 2009-Ohio-4443.

2009-1837. State v. Henson.

Hamilton App. No. C-080261.

2009-1839. State v. Lee.

Lorain App. No. 08CA009504, 2009-Ohio-4617.

2009-1841. State v. Tate.

Lake App. No. 2009-L-085, 2009-Ohio-4453.

2009-1842. Klamfoth v. Advanced Founds. Solutions.

Franklin App. No. 08AP-934, 2009-Ohio-4547.

2009-1852. Maguire v. Natl. City Bank.

Montgomery App. No. 23140, 2009-Ohio-4405.

2009-1853. Bishop v. Bishop.

Washington App. No. 08CA44, 2009-Ohio-4537.

O'Donnell, J., dissents.

2009-1857. Messer v. Butler Cty. Bd. of Commrs.

Butler App. No. CA2008-12-290, 2009-Ohio-4462.

Pfeifer and Lanzinger, JJ., dissent.

2009-1867. State v. Carte.

Cuyahoga App. No. 91534, 2009-Ohio-4193.

O'Donnell, J., dissents.

2009-1870. State v. Crawford.

Richland App. No. 09-CA-16, 2009-Ohio-5176.

2009-1872. State v. Valentine.

Fairfield App. No. 08 CA 24, 2009-Ohio-4738.

2009-1875. State v. Reed.

Cuyahoga App. No. 93546.

2009-1891. State v. Little.

Butler App. No. CA2009-04-108.

2009-1898. State v. Miller.

Montgomery App. No. 22433, 2009-Ohio-4607.

2009-1909. State v. Engle.

Montgomery App. No. 22934, 2009-Ohio-4787.

2009-1910. State v. Haynes.

Hamilton App. No. C-020685.

2009-1912. State v. McGhee.

Hamilton App. No. C-080801, 2009-Ohio-4887.

2009-1919. State v. Cecil.

Lake App. No. 2009-L-018, 2009-Ohio-4931.

2009-1920. State v. Bounds.

Richland App. No. 2009-CA-0063, 2009-Ohio-4767.

2009-1921. State v. Benjamin.

Scioto App. No. 08CA3249, 2009-Ohio-4774. Discretionary appeal not accepted.
Motion for stay and abeyance denied as moot.

2009-1940. State v. Rodriguez.

Lucas App. No. L-07-1303.

2009-1941. Karnofel v. DWYCO Xerox Office Ctr.

Mahoning App. No. 09 MA 106.

2009-1952. State v. Clemmons.

Montgomery App. No. 22749.

2009-1965. State v. Stalnaker.

Lake App. No. 2009-L-039, 2009-Ohio-5215.

2009-1966. State v. Archibald.

Lake App. No. 2008-L-123, 2009-Ohio-5425.

2009-1990. Neinast v. Ohio Expositions Comm.

Franklin App. No. 09AP-349, 2009-Ohio-4850.

2009-2012. State v. Rogers.

Hamilton App. No. C-070237.

O'Donnell, J., dissents.

2009-2014. State v. Foster.

Franklin App. No. 09AP-227, 2009-Ohio-5202.

RECONSIDERATION OF PRIOR DECISIONS

2009-0958. State ex rel. Jones v. Bradshaw.

Lorain App. No. 09CA009545. Reported at 123 Ohio St.3d 444, 2009-Ohio-5586, 917 N.E.2d 268. On motion for reconsideration. Motion denied.

Pfeifer, J., dissents.

2009-1341. Morrow v. Reminger & Reminger Co., L.P.A.

Franklin App. No. 08AP-925, 2009-Ohio-2665. Reported at 123 Ohio St.3d 1472, 2009-Ohio-5704, 915 N.E.2d 1254. On motion for reconsideration. Motion denied.

2009-1451. Trumbull Mem. Hosp. v. Karnofel.

Trumbull App. No. 2008-T-0115, 2009-Ohio-1488. Reported at 123 Ohio St.3d 1473, 2009-Ohio-5704, 915 N.E.2d 1255. On motion for reconsideration. Motion denied.