

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

March 4, 2009

[Cite as *03/04/2009 Case Announcements, 2009-Ohio-805.*]

MERIT DECISIONS WITH OPINIONS

2007-0268. State v. Smith, Slip Opinion No. 2009-Ohio-787.

Reported at 117 Ohio St.3d 447, 2008-Ohio-1260, 884 N.E.2d 595. On motion for reconsideration. Prior judgment affirmed. See opinion.

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

Pfeifer and Lanzinger, JJ., dissent.

2007-0754. State v. Nucklos, Slip Opinion No. 2009-Ohio-792.

Clark App. No. 06CA0023, 171 Ohio App.3d 38, 2007-Ohio-1025. Judgment affirmed.

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

Cupp, J., concurs in judgment only.

2008-0782. State ex rel. Estate of Miles v. Piketon, Slip Opinion No. 2009-Ohio-786.

In Mandamus. Writ denied.

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

MERIT DECISIONS WITHOUT OPINIONS

2009-0032. [State ex rel.] Williams v. Butler Cty. Court of Common Pleas.

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.

2009-0065. [State ex rel.] Cook v. Sheeran.

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.

2009-0067. State ex rel. Ealy v. Gorman.

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

Motion for a determination that relator is a vexatious litigator pursuant to S.Ct.Prac.R. XIV(5)(B) denied as moot.

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

2009-0111. Claudio v. Ganshemier.

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

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

MOTION AND PROCEDURAL RULINGS

2007-2420. State ex rel. Glenn v. Indus. Comm.

Franklin App. No. 07AP-89, 2007-Ohio-6535. On request for oral argument. Request denied.

Pfeifer, J., dissents.

2008-1126. King v. Ricerca Biosciences, L.L.C.

Lake App. No. 2007-L-115, 2008-Ohio-2001. On motion for clarification. Motion denied.

2008-1599. Sexton 1987 Hillside Ltd. Partnership IX v. Montgomery Cty. Bd. of Revision.

Board of Tax Appeals, No. 2007-V-1056. On motion to vacate Board of Tax Appeals' decision and order and motion to remand the cause to the Montgomery County Board of Revision. Motions granted.

2009-0075. State v. Stone.

Warren App. No. CA2007-11-132, 2008-Ohio-5671. On motion for leave to file delayed appeal. Motion denied.

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

2009-0081. State v. N.D.C.

Franklin App. No. 08AP-217, 2008-Ohio-6120. On motion for leave to file delayed appeal. Motion granted.

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

2009-0096. State v. Hennis.

Clark App. No. 2007 CA 128, 2008-Ohio-5645. On motion for leave for leave to file delayed appeal. Motion granted.

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

2009-0101. State v. Williams.

Wood App. No. WD-07-044, 2008-Ohio-5636. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

2009-0121. In re Guardianship of Spangler.

Geauga App. Nos. 2007-G-2800 and 2007-G-2802, 2008-Ohio-6978. On motion of appellee John Spangler to vacate stay of court of appeals' decision. Motion denied.

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

2009-0125. State v. Crawford.

Hamilton App. No. C-070816, 2008-Ohio-5764. On motion for leave to file delayed appeal. Motion granted.

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

2009-0139. State v. Griesser.

Lorain App. No. 07CA009254. On motion for leave to file delayed appeal. Motion denied.

2009-0143. State v. Reed.

Lucas App. No. L-07-1298, 2008-Ohio-5290. On motion for leave to file delayed appeal. Motion denied.

Cupp, J., dissents.

2009-0144. State v. Muhammad.

Franklin App. No. 07AP-609, 2008-Ohio-2839. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2009-0145. State v. Chaney.

Stark App. No. 2007CA00332, 2008-Ohio-5559. On motion for leave to file delayed appeal. Motion denied.

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

2009-0151. State v. Penn.

Hamilton App. No. C-081130. On motion for leave to file delayed appeal. Motion granted.

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

2009-0318. In re M.M.

Montgomery App. Nos. 22872 and 22873, 2008-Ohio-6236. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated at page 2 of the court of appeals' Decision and Entry filed February 2, 2009:

“Must a court specifically determine whether granting permanent custody is the *only* way a child's need for a legally secure placement can be achieved in order to satisfy its duty under R.C. 2151.414(D)(4)?”

The conflict case is *In re G.N.*, 176 Ohio App.3d 236, 2008-Ohio-1796.

Sua sponte, cause consolidated with 2009-0090, *In re M.M.*, Montgomery App. Nos. 22872 and 22873, 2008-Ohio-6236.

APPEALS ACCEPTED FOR REVIEW

2008-2230. Cleveland v. Destiny Ventures, L.L.C.

Cuyahoga App. No. 91018, 2008-Ohio-4587. Discretionary appeal accepted on Proposition of Law No. I.

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

Pfeifer, J., dissents.

2008-2251. State v. Chambliss.

Cuyahoga App. No. 91272, 2008-Ohio-3800 and 2008-Ohio-5285. Discretionary appeal accepted; cause held for the decision in 2008-0991 and 2008-0992,

Chojnacki v. Cordray, Warren App. No. CA2008-03-040; and briefing schedule stayed.

Lanzinger, J., would accept the appeal without holding.

Pfeifer, J., dissents.

2009-0090. In re M.M.

Montgomery App. Nos. 22872 and 22873, 2008-Ohio-6236. Discretionary appeal accepted and cause consolidated with 2009-0318, *In re M.M.*, Montgomery App. Nos. 22872 and 22873, 2008-Ohio-6236.

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

APPEALS NOT ACCEPTED FOR REVIEW

2008-1795. State v. Darrington.

Wood App. No. WD-07-019, 2008-Ohio-3269.

2008-1979. Sprowl v. Green Acres Lawn & Landscape, Inc.

Tuscarawas App. No. 2007AP120077, 2008-Ohio-4470.

2008-2152. State v. Stribling.

Cuyahoga App. No. 90262, 2008-Ohio-4577.

2008-2160. State v. Kay.

Cuyahoga App. No. 90360, 2008-Ohio-4580.

2008-2169. Greene v. Cincinnati.

Hamilton App. No. C-070830, 2008-Ohio-4908.

2008-2171. State v. Shepherd.

Scioto App. No. 07CA3143, 2008-Ohio-5355.

2008-2179. State ex rel. Karwowski v. Granger Twp. Trustees.

Medina App. No. 08CA0017-M, 2008-Ohio-4946.

2008-2184. State v. Finley.

Hamilton App. No. C-061052, 2008-Ohio-4904.

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

2008-2187. State v. Knight.

Clark App. No. 04-CA-35, 2008-Ohio-4926.

2008-2188. Hamby v. Ohio Pub. Emps. Retirement Sys.

Franklin App. No. 08AP-298, 2008-Ohio-5068.

2008-2193. State v. Wells.

Montgomery App. No. 22389, 2008-Ohio-4932.

2008-2194. State v. Hohvart.

Mahoning App. No. 07 MA 95, 2008-Ohio-5047.

2008-2195. State v. Ross.

Crawford App. Nos. 3-08-25 and 3-08-26.

2008-2197. Countrywide Home Loans, Inc. v. Huff.

Trumbull App. No. 2007-T-0121, 2008-Ohio-4974.

O'Donnell, J., dissents.

2008-2199. Geico Gen. Ins. Co. v. Van Meter.

Ross App. No. 07CA3002, 2008-Ohio-5110.

Pfeifer, J., dissents.

2008-2204. Bricker v. Preble Shawnee Local School Dist. Bd. of Edn.

Preble App. No. CA2007-10-020, 2008-Ohio-4964.

2008-2207. Robinson v. Stark Cty. Bd. of Commrs.

Stark App. No. 2007 CA 00154, 2008-Ohio-5010.

O'Connor and Lanzinger, JJ., dissent and would accept the appeal on Proposition of Law No. I.

2008-2211. Shampine v. JP Morgan Chase Bank.

Cuyahoga App. No. 91288.

2008-2212. State v. Cutlip.

Lorain App. No. 08A009353, 2008-Ohio-4999.

2008-2214. State v. Beatty.

Franklin App. No. 08AP-52, 2008-Ohio-5063.

Moyer, C.J., dissents and would accept the appeal and reverse the judgment of the court of appeals on the authority of *State v. Kalish*, 120 Ohio St.3d 23, 2008-Ohio-4912, 896 N.E.2d 124.

2008-2215. Hout v. Jess Howard Elec. Co.

Franklin App. No. 07AP-971, 2008-Ohio-5061.

2008-2218. State v. Fortner.

Franklin App. No. 08AP-191, 2008-Ohio-5067.

O'Donnell, J., dissents.

2008-2219. State v. Perkins.

Franklin App. No. 07AP-924, 2008-Ohio-5060.

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

2008-2221. State v. Salaam.

Hamilton App. Nos. C-070385 and C-070413, 2008-Ohio-4982.

2008-2226. State v. Spears.

Montgomery App. No. 22443, 178 Ohio App.3d 580, 2008-Ohio-5181.

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

2008-2227. Snodgrass v. Mayfield Hts.

Cuyahoga App. No. 90643, 2008-Ohio-5095.

2008-2229. State v. Shilling.

Wayne App. No. 08CA0002, 2008-Ohio-4951.

Lanzinger, J., dissents.

2008-2241. State v. Martin.

Franklin App. No. 08AP-384, 2008-Ohio-5259.

2008-2242. State v. Martin.

Franklin App. No. 08AP-383, 2008-Ohio-5259.

2008-2244. Wilson v. AIG.

Butler App. No. CA2007-11-278, 2008-Ohio-5211.

Pfeifer, J., dissents.

2008-2247. State v. Babu.

Athens App. No. 07CA36, 2008-Ohio-5287.

2008-2252. State v. Axson.

Cuyahoga App. No. 90666, 2008-Ohio-4863.

2008-2255. State v. Clark.

Warren App. No. CA2007-03-037, 2008-Ohio-5208.

2008-2259. Corrington v. Healthcare & Retirement Corp. of Am.

Preble App. No. CA2008-08-016.

2008-2263. Williams v. Continental Express Co.

Shelby App. No. 17-08-10, 2008-Ohio-5312.

Pfeifer, J., dissents.

2008-2265. State v. Stokes.

Franklin App. No. 07AP-960.

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

2008-2280. Hill v. Greater Cincinnati Transp. Co., Inc.

Hamilton App. No. C-070856.

2008-2282. Egbert v. Ohio Dept. of Agriculture.

Shelby App. No. 17-08-15, 2008-Ohio-5309.

O'Donnell, J., dissents.

2008-2284. Brunke v. Ohio State Home Servs., Inc.

Lorain App. No. 08CA009320, 2008-Ohio-5394.

Lundberg Stratton, O'Donnell, and Cupp, JJ., dissent and would accept the appeal and hold the cause for the decision in 2008-0784, *Hayes v. Oakridge Home*, Cuyahoga App. No. 89400, 175 Ohio App.3d 334, 2008-Ohio-787.

2008-2285. State v. Kirkpatrick.

Fayette App. No. CA2008-01-001.

2008-2287. State v. Loyer.

Stark App. No. 2008CA00058, 2008-Ohio-5570.

2008-2290. Aleshire v. Shamansky.

Licking App. No. 08 CA 41, 2008-Ohio-5414.

2008-2293. Cappellino v. Marcheskie.

Trumbull App. No. 2008-T-0016, 2008-Ohio-5322.

2008-2294. State v. Brogan.

Hamilton App. No. C-070835, 2008-Ohio-5382.

2008-2297. State v. Potts.

Hamilton App. No. C-070520.

2008-2298. State v. Marquez.

Ashtabula App. No. 2007-A-0085, 2008-Ohio-5324.

2008-2300. Buchholz v. W. Chester Dental Group.

Butler App. No. CA2007-11-292, 2008-Ohio-5299.

Moyer, C.J., dissents.

2008-2303. Gates v. Speedway Superamerica, L.L.C.

Cuyahoga App. No. 90563, 2008-Ohio-5131.

2008-2305. State v. Nelson.

Franklin App. No. 08AP-834.

2008-2312. Adams v. Disbennett.

Marion App. No. 9-08-14, 2008-Ohio-5398.

2008-2313. State v. Pringle.

Butler App. No. CA2007-08-193, 2008-Ohio-5421.

2008-2316. Troxel v. Ryan.

Clermont App. No. CA2008-02-018, 2008-Ohio-5420.

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

2008-2317. Huntington Natl. Bank v. Dixon.

Cuyahoga App. No. 90414, 2008-Ohio-5250.

2008-2318. United Family Farm Mut. Ins. Co. v. Pearce.

Auglaize App. No. 2-08-07, 2008-Ohio-5405.

Pfeifer, J., dissents.
Cupp, J., not participating.

2008-2324. Blomquist v. Ohio Elections Comm.

Franklin App. No. 08AP-485, 2008-Ohio-5438.
O'Donnell and Lanzinger, JJ., dissent.

2008-2325. Simeone v. Schwebel Baking Co.

Cuyahoga App. No. 90668, 2008-Ohio-5254.
Lundberg Stratton, J., dissents and would accept the appeal and hold the cause for the decision in 2007-1222 and 2007-1370, *Lang v. Holly Hill Motel, Inc.*, Jackson App. No. 06CA18, 2007-Ohio-3898.

2008-2328. State v. Hancock.

Warren App. No. CA2007-03-042, 2008-Ohio-5419.

2008-2330. State v. Glenn.

Butler App. No. CA2008-04-104.

2008-2339. State v. Birk.

Fairfield App. No. 2007-CA-63, 2008-Ohio-5571.

2008-2344. State v. Smith.

Montgomery App. No. 22434, 2008-Ohio-5523. Discretionary appeal not accepted. Motion for limited remand to the court of appeals to resolve intra-district conflict en banc denied as moot.

2008-2351. State v. Fernbach.

Warren App. Nos. CA2006-11-130 and CA2006-11-131, 2008-Ohio-5670.

2008-2352. Corte v. Hooks.

Erie App. No. E-08-050, 2008-Ohio-5631.

2008-2354. State v. Blue.

Lucas App. No. L-08-1365.

2008-2356. State v. Sharpe.

Franklin App. No. 08AP-641, 2008-Ohio-5700.

2008-2358. State v. Tran.

Franklin App. No. 08AP-532, 2008-Ohio-5897.

2008-2373. State v. Marsh.

Ashtabula App. No. 2008-A-0045, 2008-Ohio-5865.

2008-2380. State v. Rutan.

Franklin App. No. 97AP-389.

2008-2390. State v. Elliott.

Tuscarawas App. No. 2007AP070044, 2008-Ohio-5673.

2008-2398. State v. Henderson.

Ashland App. No. 07COA031, 2008-Ohio-5007. Discretionary appeal not accepted. Motion to dismiss denied as moot.

2008-2453. State v. Stone.

Mahoning App. No. 08 MA 64, 2008-Ohio-6296.

2008-2464. State v. DeVaughns.

Montgomery App. No. 22349, 2008-Ohio-4010.

2008-2499. State v. Davis.

Hamilton App. No. C-040665, 2006-Ohio-3171.

Lundberg Stratton, J., dissents.

RECONSIDERATION OF PRIOR DECISIONS

2008-0095. Wagenknecht v. Levin.

Board of Tax Appeals, No. 2006-T-1007. Reported at ___ Ohio St.3d ___, 2008-Ohio-6812, ___ N.E.2d ___. On Tax Commissioner's motion for reconsideration or clarification and Carl Wagenknecht's motion for reconsideration.

Tax Commissioner's motion is granted to the following extent: ¶ 16 appearing in Slip Opinion No. 2008-Ohio-6812 will be deleted from the version of the opinion published in the Ohio Official Reports.

Wagenknecht's motion is denied.

2008-1616. Goodrich Corp. v. Commercial Union Ins. Co.

Summit App. Nos. 23585 and 23586, 2008-Ohio-3200. Reported at 120 Ohio St.3d 1453, 2008-Ohio-6813, 898 N.E.2d 968. On motion for reconsideration. Motion denied.

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

2008-1673. Cleveland Bluffs Dev., L.L.C. v. A.J. Hai & Sons, L.L.C.

Cuyahoga App. Nos. 89635 and 89674, 2008-Ohio-5148. On motion for reconsideration. Motion denied.

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

2008-1722. Creasey v. Cuyahoga Cty. Veterans Serv. Comm.

Cuyahoga App. No. 89994, 2008-Ohio-3021. Reported at 120 Ohio St.3d 1455, 2008-Ohio-6813, 898 N.E.2d 969. On motion for reconsideration. Motion denied.

2008-1730. State ex rel. Cordray v. Philip Morris, Inc.

Franklin App. No. 06AP-1012, 2008-Ohio-3690. Reported at 120 Ohio St.3d 1455, 2008-Ohio-6813, 898 N.E.2d 969. On motion for reconsideration. Motion denied.

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

2008-1756. Ganley v. Subaru of Am.

Medina App. No. 07CA0092-M, 2008-Ohio-3588. On motion for reconsideration. Motion denied.

Pfeifer, J., dissents.

O'Donnell, J., dissents and would grant the motion as to Proposition of Law No. III.

O'Connor, J., not participating.

2008-1802. State v. Garrett.

Cuyahoga App. No. 90428, 2008-Ohio-3549. Reported at 120 Ohio St.3d 1457, 2008-Ohio-6813, 898 N.E.2d 970. On motion for reconsideration. Motion denied.

2008-2088. State v. Lampkin.

Lucas App. No. L-07-1005, 2008-Ohio-2378. Reported at 120 Ohio St.3d 1458, 2008-Ohio-6813, 898 N.E.2d 971. On motion for reconsideration. Motion denied.

2008-2239. Macias v. Sheldon.

In Habeas Corpus. Reported at 120 Ohio St.3d 1450, 2008-Ohio-6813, 898 N.E.2d 965. On motion for reconsideration. Motion denied. Motion objecting to the dismissal of the habeas corpus claim and to certify the record from the court of appeals denied as moot.

MISCELLANEOUS ORDERS

In re Continuing Legal Education
Suspension
John Phillip Kellogg (0033459)
Respondent.

March 3, 2009

:
:
:
:
:
:

**ORDER OF
REINSTATEMENT**

On January 9, 2009, respondent was suspended from the practice of law pursuant to Gov.Bar R. X(5). On February 26, 2009, respondent applied for reinstatement to the practice of law and complied with the requirements for reinstatement set forth in Gov.Bar R. X(7)(A).

Upon consideration thereof and pursuant to Gov.Bar R. X(7)(B), respondent is reinstated to the practice of law.