

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS

March 24, 2010

[Cite as *03/24/2010 Case Announcements*, 2010-Ohio-1075.]

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## MERIT DECISIONS WITH OPINIONS

**2008-1822. Stammco, L.L.C. v. United Tel. Co. of Ohio, Slip Opinion No. 2010-Ohio-1042.**

Fulton App. No. F-07-024, 2008-Ohio-3845. Judgment of the court of appeals reversed, and cause remanded to the trial court.

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

Moyer, C.J., and Cupp, J., concur in part and dissent in part.

Pfeifer, J., dissents and would affirm the judgment of the court of appeals.

**2008-1980. Estate of Hall v. Akron Gen. Med. Ctr., Slip Opinion No. 2010-Ohio-1041.**

Summit App. No. 24066, 2008-Ohio-4332. Judgment of the court of appeals reversed, and cause remanded to the court of appeals.

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

Lanzinger, J., concurs in judgment only.

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

**2009-0320. Olentangy Local Schools Bd. of Edn. v. Delaware Cty. Bd. of Revision, Slip Opinion No. 2010-Ohio-1040.**

Board of Tax Appeals, No. 2006-H-1361. Decision affirmed.

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

Pfeifer, O'Connor, and Lanzinger, JJ., concur in part and dissent in part.

**2009-0321. Elevators Mut. Ins. Co. v. J. Patrick O'Flaherty's, Inc., Slip Opinion No. 2010-Ohio-1043.**

Sandusky App. No. S-08-006, 180 Ohio App.3d 315, 2008-Ohio-6946. Judgment of the court of appeals affirmed.

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

O'Donnell, J., concurs in judgment only.

Lundberg Stratton, J., concurs in part and dissents in part.

**2009-1961. Cleveland Metro. Bar Assn. v. Thomas, Slip Opinion No. 2010-Ohio-1031.**

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 09-007. Sam Thomas III, Attorney Registration No. 0067848, is suspended from the practice of law in Ohio for six months, stayed on conditions.

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

### **MERIT DECISIONS WITHOUT OPINIONS**

**2009-2362. State ex rel. Griffin v. Stewart.**

In Mandamus. On answer of respondent. On S.Ct.Prac.R. 10.5 determination, cause dismissed.

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

**2010-0158. State ex rel. King v. Moore.**

In Mandamus and Procedendo. On motion to dismiss. Motion to dismiss granted. Request for immediate issuance of writs denied as moot. Cause dismissed.

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

### **MOTION AND PROCEDURAL RULINGS**

**1991-0963. State v. Carter.**

Hamilton App. No. C-890513. The motion to strike motion to set execution date is denied, but appellant may file a memorandum in opposition to the motion to set execution date within ten days from the date of this order.

**2009-1757. In re Adoption of P.A.C.**

Hamilton App. No. C-081149, 184 Ohio App.3d 88, 2009-Ohio-4492. On motion for admission pro hac vice of Mary Beck by Susan Garner Eisenman. Motion granted.

**2009-1866. State v. Harmon.**

Summit App. No. 24495, 2009-Ohio-4512. On motion for stay of briefing schedule and to hold cause for the decision in 2009-0897, *State v. Fischer*, Summit App. No. 24406, 2009-Ohio-1491. Motion granted. Cause held for the decision in 2009-0897, *State v. Fischer*, and briefing schedule stayed.

Pfeifer, J., dissents.

**2009-2355. In re Adoption of G.V.**

Lucas App. No. L-09-1160, 2009-Ohio-6338. On motion to dismiss. Motion to dismiss denied.

**2010-0089. Wells Fargo Bank, N.A. v. Smith.**

Franklin App. No. 09AP-559, 2009-Ohio-6576. On motion for continued stay of execution on summary judgment of foreclosure. Motion denied.

Lundberg Stratton and O'Donnell, JJ., dissent and would defer ruling on the motion pending consideration of the jurisdictional memoranda.

**2010-0182. State v. Williams.**

Warren App. No. CA2009-03-032, 2009-Ohio-6240. On motion for leave to file delayed appeal. Motion granted.

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

**2010-0215. State v. Conway.**

Clark App. No. 07CA0034. On motion for leave to file delayed appeal. Motion denied.

O'Donnell, J., dissents.

**2010-0235. State v. Ford.**

Licking App. No. 2008 CA 158, 2009-Ohio-6724. 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' Judgment Entry filed January 22, 2010:

“Whether discharging a firearm at or into a habitation (R.C. 2923.161) and a firearm specification (R.C. 2929.14(D), R.C. 2941.145) are allied offenses of similar import as defined by R.C. 2941.25(A).”

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

The conflict case is *State v. Elko*, Cuyahoga App. No. 83641, 2004-Ohio-5209.

Motion for appointment of counsel is granted. Christopher Shook of Newark, Ohio, is appointed as counsel for appellant.

**2010-0246. State v. Hawkins.**

Hamilton App. No. C-090124. On motion for leave to file delayed appeal. Motion granted.

O'Connor, J., dissents.

Motion for stay of execution of sentence denied.

**2010-0247. State v. Straley.**

Highland App. No. 09CA4, 2009-Ohio-6170. On motion for leave to file delayed appeal. Motion granted.

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

**2010-0279. Pahoundis v. Beamer.**

Coshocton App. No. 09CA017, 2009-Ohio-6881. On motion for stay. Motion denied.

**2010-0303. State v. Phillips.**

Highland App. No. 09CA13, 2009-Ohio-7069. On motion for stay of court of appeals' judgment. Motion denied.

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

**APPEALS ACCEPTED FOR REVIEW**

**2010-0096. Gentry v. State.**

Hamilton App. No. C-081311. Discretionary appeal accepted on Proposition of Law Nos. I, II, III, IV, VI, VII, and VIII; 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, Lundberg Stratton, and O'Donnell, JJ., also voted to accept the appeal on Proposition of Law No. V.

Motion for stay of jurisdictional consideration denied as moot.

**2010-0097. Dunn v. State.**

Hamilton App. No. C-081310. Discretionary appeal accepted on Proposition of Law Nos. I, II, III, IV, and VI; 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, Lundberg Stratton, and O'Donnell, JJ., also voted to accept the appeal on Proposition of Law No. V.

Motion for stay of jurisdictional consideration denied as moot.

**2010-0098. Hill v. State.**

Hamilton App. No. C-081289. Discretionary appeal accepted on Proposition of Law Nos. I, II, III, IV, and VI; 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, Lundberg Stratton, and O'Donnell, JJ., also voted to accept the appeal on Proposition of Law No. V.

Motion for stay of jurisdictional consideration denied as moot.

**2010-0100. Robinson v. State.**

Hamilton App. No. C-090002. Discretionary appeal accepted on Proposition of Law Nos. I, II, III, IV, and VI; 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, Lundberg Stratton, and O'Donnell, JJ., also voted to accept the appeal on Proposition of Law No. V.

Motion for stay of jurisdictional consideration denied as moot.

**2010-0101. Moore v. State.**

Hamilton App. No. C-081290. Discretionary appeal accepted on Proposition of Law Nos. I, II, III, IV, and VI; 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, Lundberg Stratton, and O'Donnell, JJ., also voted to accept the appeal on Proposition of Law No. V.

Motion for stay of jurisdictional consideration denied as moot.

**2010-0102. Scheuermann v. State.**

Hamilton App. No. C-081291. Discretionary appeal accepted on Proposition of Law Nos. I, II, III, IV, VI, VII, and VIII; 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, Lundberg Stratton, and O'Donnell, JJ., also voted to accept the appeal on Proposition of Law No. V.

Motion for stay of jurisdictional consideration denied as moot.

**2010-0103. Springer v. State.**

Hamilton App. No. C-081305. Discretionary appeal accepted on Proposition of Law Nos. I, II, III, IV, VI, VII, and VIII; 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, Lundberg Stratton, and O'Donnell, JJ., also voted to accept the appeal on Proposition of Law No. V.

Motion for stay of jurisdictional consideration denied as moot.

**2010-0104. Stafford v. State.**

Hamilton App. No. C-081270. Discretionary appeal accepted on Proposition of Law Nos. I, II, III, IV, and VI; 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, Lundberg Stratton, and O'Donnell, JJ., also voted to accept the appeal on Proposition of Law No. V.

Motion for stay of jurisdictional consideration denied as moot.

**2010-0105. Gibson v. State.**

Hamilton App. No. C-081269. Discretionary appeal accepted on Proposition of Law Nos. I, II, III, IV, VI, VII, and VIII; 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, Lundberg Stratton, and O'Donnell, JJ., also voted to accept the appeal on Proposition of Law No. V.

Motion for stay of jurisdictional consideration denied as moot.

**2010-0106. Ajamu v. State.**

Hamilton App. No. C-081271. Discretionary appeal accepted on Proposition of Law Nos. I, II, III, IV, and VI; 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, Lundberg Stratton, and O'Donnell, JJ., also voted to accept the appeal on Proposition of Law No. V.

Motion for stay of jurisdictional consideration denied as moot.

**2010-0107. French v. State.**

Hamilton App. No. C-081308. Discretionary appeal accepted on Proposition of Law Nos. I, II, III, IV, VI, VII, and VIII; 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, Lundberg Stratton, and O'Donnell, JJ., also voted to accept the appeal on Proposition of Law No. V.

Motion for stay of jurisdictional consideration denied as moot.

**APPEALS NOT ACCEPTED FOR REVIEW**

**2009-2202. State v. Haslam.**

Monroe App. No. 09 MO 4.

**2009-2363. Dawson v. Dawson.**

Union App. Nos. 14-09-08, 14-09-10, 14-09-11, and 14-09-12, 2009-Ohio-6029.  
Cupp, J., not participating.

**2010-0006. Taylor v. Freedom Arms, Inc.**

Muskingum App. No. CT2008-0071, 2009-Ohio-6091. Discretionary appeal not accepted. Motion for admission pro hac vice of Tyson E. Logan by Anne M. Valentine granted.

**2010-0007. State v. Riffe.**

Lawrence App. No. 09CA6, 2009-Ohio-6202.

**2010-0008. Pahoundis v. Beamer.**

Coshocton App. No. 08CA0027, 2009-Ohio-6206.

**2010-0011. State v. Balderson.**

Richland App. No. 2009 CA 0043, 2009-Ohio-6183.

**2010-0013. Thornhill v. Thornhill.**

Cuyahoga App. No. 92913, 2009-Ohio-5569.  
O'Donnell, J., dissents.

**2010-0014. Trumbull Mem. Hosp. v. Karnofel.**

Trumbull App. No. 2009-T-0101.

**2010-0016. Karnofel v. Beck.**

Trumbull App. No. 2009-T-0083.

**2010-0019. King v. Aultman Health Found.**

Stark App. No. 2009 CA 00116, 2009-Ohio-6277.

**2010-0020. Schaffer v. First Merit Bank, N.A.**

Lorain App. Nos. 09CA009530 and 09CA009531, 2009-Ohio-6146.

**2010-0026. State v. Jordan.**

Lake App. No. 2009-L-006, 2009-Ohio-6152.

Lanzinger, J., not participating.

**2010-0028. Smith Evergreen Nursery, Inc. v. Magnolia.**

Stark App. No. 2009 CA 00003, 2009-Ohio-6560.

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

**2010-0030. State v. Stephens.**

Cuyahoga App. No. 92430, 2009-Ohio-6305.

**2010-0031. Effective Shareholder Solutions, Inc. v. Natl. City Bank.**

Hamilton App. Nos. C-080451 and C-090117, 2009-Ohio-6200.

**2010-0038. State v. Waters.**

Trumbull App. No. 2008-T-0121, 2009-Ohio-6151.

Lanzinger, J., not participating.

**2010-0040. State v. Jenkins.**

Stark App. No. 2008 CA 00191, 2009-Ohio-6254.

**2010-0053. State v. Girts.**

Guernsey App. No. 08-CA-31.

**2010-0054. Pheils v. Palmer.**

Lucas App. Nos. L-98-1053 and L-98-1333, 2009-Ohio-6342.

Pfeifer, Acting C.J.

Eve V. Belfance, J., of the Ninth Appellate District, sitting for Moyer, C.J.

Robert P. Ringland, J., of the Twelfth Appellate District, sitting for  
Lundberg Stratton, J.

Colleen Conway Cooney, J., of the Eighth Appellate District, sitting for  
O'Connor, J.

Gene Donofrio, J., of the Seventh Appellate District, sitting for O'Donnell,  
J.

Thomas J. Grady, J., of the Second Appellate District, sitting for Lanzinger,  
J.

**2010-0087. Tran v. State.**

Franklin App. No. 09AP-587, 2009-Ohio-6784.

**2010-0088. State v. Bates.**

Franklin App. No. 09AP-583, 2009-Ohio-6422.

**2010-0094. State v. Fanaro.**

Licking App. No. 2009 CA 00066, 2009-Ohio-6450.

**2010-0110. State v. Haugh.**

Franklin App. No. 09AP-686.

**2010-0119. State v. Kelley.**

Stark App. No. 2008CA00294, 2009-Ohio-6441.

**2010-0120. In re Hollingsworth Media Group, Inc.**

Franklin App. No. 09AP-724, 2009-Ohio-6484.

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

**2010-0122. State v. Fields.**

Brown App. No. CA2009-05-018, 2009-Ohio-6921.

**2010-0145. State v. Nickelson.**

Lawrence App. No. 09CA8, 2009-Ohio-7006.

**2010-0146. State v. Smith.**

Clark App. No. 2008-CA-104, 2009-Ohio-6597.

**2010-0155. State v. Johnson.**

Mahoning App. No. 08-MA-144, 2009-Ohio-6760.

**2010-0163. State v. Wilson.**

Montgomery App. No. 23247, 2009-Ohio-7035.

**2010-0258. State v. Wolff.**

Mahoning App. No. 07 MA 166, 2009-Ohio-7085.

**RECONSIDERATION OF PRIOR DECISIONS**

**2009-1935. State v. Fletcher.**

Licking App. No. 2009-CA-0055, 2009-Ohio-5650. Reported at 124 Ohio St.3d 1444, 2010-Ohio-188, 920 N.E.2d 374. On motion for reconsideration. Motion denied.

Cupp, J., dissents and would grant the motion as to Proposition of Law No. I and hold the cause for the decision in 2009-2028, *State v. Davis*, Licking App. No. 09-CA-0019, 2009-Ohio-5175.

Motion for stay of consideration of motion for reconsideration denied.

**2009-2001. State v. Askew.**

Stark App. No. 2009CA00020, 2009-Ohio-5293. Reported at 124 Ohio St.3d 1445, 2010-Ohio-188, 920 N.E.2d 375. On motion for reconsideration. Motion denied.

Lanzinger, J., dissents.

Motion for leave to submit judicial notice denied as moot.

**2009-2002. Bunting v. Hauritz.**

In Mandamus. Reported at 124 Ohio St.3d 1437, 2010-Ohio-188, 920 N.E.2d 369. On motion for reconsideration. Motion denied.

**2009-2151. Lopez v. Sheets.**

In Habeas Corpus. Reported at 124 Ohio St.3d 1439, 2010-Ohio-188, 920 N.E.2d 370. On motion to submit exhibit and motion for reconsideration. Motion to submit exhibit granted. Motion for reconsideration denied.