

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

June 23, 2010

[Cite as *06/23/2010 Case Announcements*, 2010-Ohio-2753.]

MERIT DECISIONS WITHOUT OPINIONS

2009-1807. State v. Little.

Miami App. No. 2008 CA 18, 183 Ohio App.3d 680, 2009-Ohio-4403. On March 10, 2010, the discretionary appeal was accepted in this case. On March 18, 2010, the Ohio Public Defender filed a motion to dismiss the appeal for failure of the prosecuting attorney to serve the Ohio Public Defender with a copy of the notice of appeal as required by S.Ct.Prac.R. 14.2(A)(3). The motion to dismiss was denied, but the Ohio Public Defender was granted 30 days in which to file a jurisdictional memorandum, and briefing was stayed. The jurisdictional memorandum of amicus curiae Ohio Public Defender was filed on May 11, 2010.

Upon further consideration, the March 10, 2010 order accepting the discretionary appeal is vacated, and the cause is dismissed.

Brown, C.J., and Pfeifer, O'Connor, O'Donnell, and Lanzinger, JJ., concur.

Lundberg Stratton, J., dissents and would retain the appeal on Proposition of Law No. II.

Cupp, J., dissents and would retain the appeal.

2009-2287. State ex rel. Layshock v. Moorehead.

Trumbull App. No. 2009-T-0076, 185 Ohio App.3d 94, 2009-Ohio-6039. On motion to dismiss. Motion to dismiss granted. Cause dismissed.

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

2010-0618. State ex rel. Combs v. Sinclair.

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

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

2010-0621. State ex rel. Craig v. Kirschman.

In Mandamus and Prohibition. Relator's motions to consolidate, for settlement conference, to enter new evidence and exhibits, and to amend complaint are denied. Respondent's motion to dismiss is granted. Cause dismissed.

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

2010-0630. State ex rel. Gorrasi v. Hildebrandt.

In Mandamus. On complaint in mandamus of Carmen Gorrasi. On S.Ct.Prac.R. 10.5 determination, cause dismissed.

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

2010-0679. State ex rel. Smith v. Gill.

In Prohibition. Motion for leave to intervene is granted. Motions to dismiss are granted. Cause dismissed.

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

2010-0683. State ex rel. McCuller v. Mausser.

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

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

2010-0685. [State ex rel.] Ricks v. Montgomery Cty. Court of Common Pleas.

In Mandamus. On motions to dismiss. Motions to dismiss granted. Cause dismissed.

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

Lundberg Stratton, J., dissents and would grant the writ.

2010-0688. State ex rel. Goins v. Nastoff.

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

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

Lanzinger, J., dissents.

2010-0705. State ex rel. Gorrasi v. O'Connor.

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

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

2010-0708. [State ex rel.] Kemp v. State.

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

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

2010-0712. [State ex rel.] Schurowliew v. Mason.

In Prohibition. Relator's motion for stay denied. Respondent's motion to dismiss granted. Cause dismissed.

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

2010-0789. State ex rel. Thomas v. Davis.

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

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

2010-0884. Hazel v. Knab.

In Habeas Corpus. On petition for writ of habeas corpus of Corey Hazel and petitioner's motions to set bond and to expedite consideration. Sua sponte, cause dismissed. Petitioner's motions for bond and to expedite consideration are denied as moot.

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

MOTION AND PROCEDURAL RULINGS

2009-0866. State ex rel. Kobly v. Youngstown City Council.

In Mandamus. Relators' motions to strike are denied. Respondents' motion for judgment on the pleadings is denied. Sua sponte, an alternative writ is granted, and

the following briefing schedule is set for presentation of evidence and filing of briefs pursuant to S.Ct.Prac.R. 10.6:

The parties shall file any evidence they intend to present within 20 days of the date of this entry; relator shall file a brief within ten days of the filing of the evidence; respondent shall file a brief within 20 days after the filing of relator's brief; and relator may file a reply brief within seven days after filing of respondent's brief.

2009-2280. Cleveland v. State.

Cuyahoga App. No. 92663, 185 Ohio App.3d 59, 2009-Ohio-5968. On motions for admission pro hac vice of James B. Vogts and Lawrence G. Keane by David W. Hardyman. Motions granted.

2010-0531. Henderson v. Shaffer.

In Habeas Corpus. On motion for judgment. Motion denied.

2010-0582. State ex rel. Am. Greetings Corp. v. Fuerst.

In Mandamus and Prohibition. Motion of Electrical Workers Pension Fund Local 103 I.B.E.W. to intervene as respondent is granted. Motions to dismiss are denied. Sua sponte, an alternative writ is granted, and the following briefing schedule is set for presentation of evidence and filing of briefs pursuant to S.Ct.Prac.R. 10.6:

The parties shall file any evidence they intend to present within 20 days of the date of this entry; relator shall file a brief within ten days of the filing of the evidence; respondent shall file a brief within 20 days after the filing of relator's brief; and relator may file a reply brief within seven days after filing of respondent's brief.

Pfeifer, J., dissents and would dismiss the cause.

2010-0784. State v. Sappington.

Franklin App. No. 09AP-996. On motion for leave to file delayed appeal. Motion denied.

2010-0845. State v. Williams.

Cuyahoga App. No. 92769, 2010-Ohio-659. On motion for leave to file delayed appeal. Motion granted.

2010-0850. State v. Thompson.

Meigs App. No. 09CA4. On motion for leave to file delayed appeal. Motion denied.

2010-0858. Welsh Dev. Co., Inc. v. Warren Cty. Regional Planning Comm.

Warren App. No. CA2009-07-101, 186 Ohio App.3d 56, 2010-Ohio-592. 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' Entry filed May 7, 2010:

“Is a service of summons by a clerk of courts upon an administrative agency, together with a copy of a notice of appeal filed in the common pleas court, sufficient to perfect an administrative appeal pursuant to R.C. 2505.04 as long as the agency receives the notice within the time prescribed by R.C. 2505.07?”

O'Donnell, J., dissents.

The conflict cases are *Evans v. Greenview Local School Dist.* (Jan. 4, 1989), Greene App. No. 88 CA 40, and *Price v. Margaretta Twp. Bd. of Zoning Appeals*, Erie App. No. E-02-029, 2003-Ohio-221.

Sua sponte, cause consolidated with 2010-0611, *Welsh Dev. Co., Inc. v. Warren Cty. Regional Planning Comm.*, Warren App. No. CA2009-07-101, 186 Ohio App.3d 56, 2010-Ohio-592.

2010-0867. State v. Luckett.

Ross App. No. 09CA3109, 2010-Ohio-1444. On motion for stay of sentence. Motion denied.

Brown, C.J., dissents.

2010-0874. State v. Williams.

Lawrence App. No. 08CA3, 2009-Ohio-657. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2010-0882. Bankers Trust Co. of California v. Wright.

Fulton App. No. F-09-009, 2010-Ohio-1697. On motion for stay of court of appeals' judgment. Motion granted subject to the posting of an appeal bond in the amount of \$26,907.72. The bond shall be posted with the Clerk of the Fulton County Court of Appeals.

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

2010-0923. State v. Heft.

Logan App. No. 8-10-02. On motion for stay of court of appeals' judgment. Motion denied.

2010-0992. Wilhelm-Kissinger v. Kissinger.

Summit App. No. 25105. 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' Journal Entry filed May 21, 2010:

“Whether the denial of a motion to disqualify counsel in a divorce proceeding affects a substantial right and is a final and appealable order.”

Pfeifer and O'Donnell, JJ., dissent.

The conflict case is *Crockett v. Crockett*, Franklin App. No. 02AP-482, 2003-Ohio-585.

The motion to consolidate is denied as moot.

APPEALS ACCEPTED FOR REVIEW

2010-0180. In re Bartok.

Cuyahoga App. No. 92775.

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

2010-0529. State v. Craycraft.

Clermont App. Nos. CA2009-02-013 and CA2009-02-014, 2010-Ohio-596. Discretionary appeal accepted on Proposition of Law No. IV; cause held for the decision in 2009-1481, *State v. Johnson*, Hamilton App. Nos. C-080156 and C-080158, 2009-Ohio-2568; and briefing schedule stayed.

O'Connor, J., would also accept the appeal on Proposition of Law No. II without holding.

Pfeifer and O'Donnell, JJ., dissent.

2010-0597. In re Estate of Centorbi.

Cuyahoga App. No. 93501, 2010-Ohio-442.

Pfeifer and Lundberg Stratton, JJ., dissent.

2010-0611. Welsh Dev. Co., Inc. v. Warren Cty. Regional Planning Comm.

Warren App. No. CA2009-07-101, 186 Ohio App.3d 56, 2010-Ohio-592. Discretionary appeal accepted and cause consolidated with 2010-0858, *Welsh Dev. Co., Inc. v. Warren Cty. Regional Planning Comm.*, Warren App. No. CA2009-07-101, 186 Ohio App.3d 56, 2010-Ohio-592.

O'Donnell, J., dissents.

APPEALS NOT ACCEPTED FOR REVIEW

2010-0015. State v. Notestine.

Ottawa App. No. OT-08-038, 2009-Ohio-3220.

2010-0022. State v. Canty.

Mahoning App. No. 08-MA-156, 2009-Ohio-6161.

2010-0076. State v. Gray.

Hamilton App. No. C-081257, 2009-Ohio-5844.

2010-0095. State v. Shaw.

Richland App. No. 09CA52, 2009-Ohio-5469.

2010-0138. State v. Valentin.

Portage App. No. 2009-P-0010, 2009-Ohio-6038.

2010-0182. State v. Williams.

Warren App. No. CA2009-03-032, 2009-Ohio-6240.

2010-0247. State v. Straley.

Highland App. No. 09CA4, 2009-Ohio-6170.

2010-0493. Wilhelm-Kissinger v. Kissinger.

Summit App. No. 25105. Discretionary appeal not accepted. Motion for stay of jurisdictional consideration denied as moot.

Brown, C.J., and Lanzinger, J., dissent.

2010-0518. All Children Matter v. Brunner.

Franklin App. No. 09AP-322, 2010-Ohio-371. Discretionary appeal not accepted. Motion for admission pro hac vice of James Bopp Jr. and Randy Elf by Joe La Rue granted.

2010-0530. State v. Patterson.

Stark App. No. 2009-CA-00198, 2010-Ohio-645.

2010-0532. SCP, Inc. v. Ohio State Bd. of Pharmacy.

Tuscarawas App. Nos. 2008 AP 10 0063, 2008 AP 10 0064, and 2008 AP 10 0065, 2010-Ohio-701.

Pfeifer, J., dissents.

2010-0534. 425 Beecher, L.L.C. v. Unizan Bank, N.A.

Franklin App. No. 08AP-1045, 2010-Ohio-412.

2010-0535. Bikkani v. Lee.

Cuyahoga App. No. 93458. Discretionary appeal not accepted. Motion to dismiss appeal denied as moot.

2010-0537. State v. Harris.

Cuyahoga App. No. 92892, 2010-Ohio-362.

2010-0540. State v. Richardson.

Lucas App. No. L-07-1214, 2010-Ohio-471. Discretionary appeal not accepted. Motions for stay of jurisdictional consideration and for preparation of complete transcripts of proceedings at state expense denied as moot.

2010-0542. State v. Bogan.

Cuyahoga App. No. 94299.

2010-0544. D & M Painting Corp. v. Perrysburg.

Wood App. No. WD-09-033, 2010-Ohio-465.

2010-0545. State v. Hatten.

Champaign App. No. 2009 CA 15, 2010-Ohio-499.
Pfeifer, J., dissents.

2010-0550. Combs v. State.

Hamilton App. No. C-090143. Discretionary appeal not accepted. Motion for stay of jurisdictional consideration denied as moot.

2010-0552. State v. King.

Cuyahoga App. No. 94522.

2010-0559. Selective Ins. Co. of Am. v. Arrowood Indemn. Co.

Montgomery App. No. 23400, 2010-Ohio-557.
Brown, C.J., dissents.

2010-0561. State v. Davis.

Hamilton App. Nos. C-090319 and C-090320.

2010-0566. Humility of Mary Health Partners v. Sheet Metal Workers' Local Union No. 33.

Mahoning App. No. 09 MA 91, 2010-Ohio-868.

2010-0571. State v. Napier.

Darke App. No. 09CA0002, 2010-Ohio-563.

O'Donnell, J., dissents.

2010-0572. State v. Robinson.

Hamilton App. No. C-081141, 2010-Ohio-543.

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

2010-0573. State v. Hall.

Cuyahoga App. No. 94019.

2010-0574. State v. Stevens.

Montgomery App. Nos. 23236 and 23315, 2010-Ohio-556.

2010-0577. Ackley v. Ryan.

Lake App. No. 2009-L-143, 2010-Ohio-477.

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

Lanzinger, J., not participating.

2010-0578. State v. Howard.

Cuyahoga App. No. 91649, 2010-Ohio-358.

O'Donnell, J., dissents.

2010-0579. State v. Cappadonia.

Warren App. No. CA2008-11-138, 2010-Ohio-494.

Pfeifer, J., dissents.

2010-0580. State v. Wallen.

Marion App. No. 9-09-22, 2010-Ohio-480.

O'Donnell, J., dissents.

2010-0584. Abubaker v. Zukowski.

Franklin App. No. 10AP-148.

2010-0585. State v. McKoy.

Cuyahoga App. No. 93363, 2010-Ohio-522.

Lundberg Stratton, J., dissents.

2010-0587. Ellinger v. Ho.

Franklin App. No. 08AP-1079, 2010-Ohio-553.

2010-0591. State v. DeLaine.

Mahoning App. No. 08 MA 257, 2010-Ohio-609.

O'Donnell, J., dissents.

2010-0594. WesBanco Bank, Inc. v. Cheviot Bldg. & Loan Co.

Hamilton App. No. C-090148.

Pfeifer, J., dissents.

2010-0595. Spears v. Akron Police Dept.

Summit App. No. 24847, 2010-Ohio-632.

2010-0598. State v. Hobbs.

Lake App. No. 2008-L-155, 2010-Ohio-589.

Lanzinger, J., not participating.

2010-0599. Hale v. Armacost.

Brown App. No. CA2010-02-003.

2010-0600. State v. Arthurs.

Franklin App. No. 09AP-409, 2010-Ohio-624.

2010-0601. State v. Hawley.

Montgomery App. Nos. 22019 and 22053, 2010-Ohio-838.

2010-0603. McLaughlin v. McLaughlin.

Athens App. No. 09CA28, 2010-Ohio-694.

2010-0620. State v. Anderson.

Franklin App. Nos. 09AP-631 and 09AP-632, 2010-Ohio-626.

Cupp, J., dissents and would accept the appeal and hold the cause for the decision in 2009-1997, *State v. Hodge*, Hamilton App. No. C-080968.

2010-0624. Carrelli v. Dept. of Natural Resources.

Brown App. No. CA2009-11-041, 2010-Ohio-1516.

O'Donnell, J., dissents.

2010-0628. State v. Zander.

Summit App. No. 24706, 2010-Ohio-631.

2010-0634. Countrywide Home Loans, Inc. v. Montgomery.

Lucas App. No. L-09-1169, 2010-Ohio-693.

Pfeifer, J., dissents.

2010-0644. State v. Draper.

Clermont App. No. CA2010-01-011.

2010-0652. State v. Krug.

Lake App. No. 2008-L-085. Discretionary appeal not accepted. Motion for transmittal of supplemental record denied as moot.

Lanzinger, J., not participating.

2010-0656. State v. Ross.

Montgomery App. No. 22958, 2010-Ohio-843.

2010-0664. State v. Barber.

Montgomery App. No. 22929, 2010-Ohio-831.

2010-0666. State v. Godfrey.

Licking App. No. 97CA155A.

2010-0680. State v. Mack.

Cuyahoga App. No. 94638.

2010-0698. State v. Spears.

Hamilton App. No. C-090509.

2010-0711. State v. Hardy.

Montgomery App. No. 22933.

2010-0714. State v. Owens.

Mahoning App. No. 09 MA 116, 2010-Ohio-1003.

Brown, C.J., and Lanzinger, J., dissent.

2010-0743. State v. Heft.

Logan App. No. 8-09-08.

2010-0764. Harris v. State.

Hamilton App. No. C-090007. Discretionary appeal not accepted. Motion for stay of jurisdictional consideration denied as moot.

Lundberg Stratton, J., dissents and would accept the appeal, reverse the judgment of the court of appeals, and remand the cause to the court of appeals for application of *State v. Bodyke*, ___ Ohio St.3d ___, 2010-Ohio-2424.

2010-0771. State v. Winston.

Summit App. No. 24761, 2010-Ohio-1354.

2010-0776. State v. Smith.

Hamilton App. Nos. C-090335 and C-090342.

RECONSIDERATION OF PRIOR DECISIONS

2010-0166. Bahr v. Progressive Cas. Ins. Co.

Cuyahoga App. No. 92620, 2009-Ohio-6641. Reported at 125 Ohio St.3d 1413, 2010-Ohio-1893, 925 N.E.2d 1002. On motion for reconsideration. Motion denied.

Lundberg Stratton, J., dissents.

2010-0230. Gossard v. Gossard.

Hardin App. No. 6-09-09, 2009-Ohio-6716. Reported at 125 Ohio St.3d 1415, 2010-Ohio-1893, 925 N.E.2d 1003. On motion for reconsideration. Motion denied.

2010-0234. State v. Wright.

Franklin App. No. 09AP-207, 2009-Ohio-6773. Reported at 125 Ohio St.3d 1415, 2010-Ohio-1893, 925 N.E.2d 1003. On motion for reconsideration. Motion denied.

Brown, C.J., not participating.

2010-0282. State ex rel. Rittner v. Williams.

In Mandamus. Reported at 125 Ohio St.3d 1409, 2010-Ohio-1893, 925 N.E.2d 998. On motion for reconsideration and to order the Clerk to file relator's objection to S.Ct.Prac.R. 10.5. Motions denied.

2010-0492. State v. Garcia.

Butler App. No. CA2008-01-015. Reported at 125 Ohio St.3d 1411, 2010-Ohio-1893, 925 N.E.2d 999. On motion for reconsideration. Motion denied.

DISCIPLINARY CASES

2010-0693. Cleveland Metro. Bar Assn. v. Johnson.

This cause is pending before the court upon the filing of a report of the Board of Commissioners on Grievances and Discipline recommending the court to impose discipline against the respondent. On June 18, 2010, respondent's counsel filed a motion to withdraw as counsel. Upon consideration thereof,

It is ordered by the court that the motion to withdraw as counsel is granted.