

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

October 27, 2010

[Cite as *10/27/2010 Case Announcements, 2010-Ohio-5101.*]

MERIT DECISIONS WITHOUT OPINIONS

2010-1457. [State ex rel.] Garcia v. Dinkelacker.

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.

2010-1466. State ex rel. Muhammad v. O'Shaughnessy.

In Mandamus. On answer of respondent. 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.

2010-1474. State ex rel. Billiter v. O'Farrell.

In Mandamus. On complaint in mandamus of Fred Billiter Jr. and respondent's request for judicial notice. 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.

2010-1500. [State ex rel.] Smith v. Gaul.

In Procedendo. 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.

2010-1501. [State ex rel.] Jackson v. Kimbler.

In Procedendo. 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.

2010-1505. State ex rel. Chambers v. Marcelain.

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.

2010-1509. [State ex rel.] Williams v. Williams.

In Procedendo. On relator's complaint, amended complaint, and second amended complaint and respondents' motions to dismiss. Motions to dismiss granted. Cause dismissed.

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

2010-1526. State ex rel. North v. Hendon.

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.

2010-1606. Hollins v. Pineda.

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

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

2010-1628. Lenard v. Cuyahoga Cty. Sheriff's Dept.

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

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

MOTION AND PROCEDURAL RULINGS

2010-1150. State ex rel. Tempesta v. Warren.

In Mandamus. On answer of respondent. 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.

2010-1540. State v. Ferrell.

Cuyahoga App. No. 93003, 2010-Ohio-2882. On motion for leave to file delayed appeal. Motion denied.

Brown, C.J., and Pfeifer, J., dissent.

2010-1553. State v. Weakley.

Cuyahoga App. No. 93282, 2010-Ohio-2464. On motion for leave to file delayed appeal. Motion denied.

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

2010-1596. State v. Willis.

Franklin App. No. 08AP-536, 2009-Ohio-325. On motion for leave to file delayed appeal. Motion denied.

2010-1598. State v. Hill.

Franklin App. No. 09AP-398, 2010-Ohio-1687. On motion for leave to file delayed appeal. Motion denied.

Brown, C.J., and Pfeifer, J., dissent.

2010-1602. State v. Lumpkin.

Licking App. No. 2009 CA 00109, 2010-Ohio-3124. On motion for leave to file delayed appeal. Motion denied.

Brown, C.J., and Pfeifer, J., dissent.

2010-1626. State v. Gibson.

Allen App. No. 1-10-35. On motion for leave to file delayed appeal. Motion denied.

Brown, C.J., dissents.

2010-1629. State v. Draper.

Jefferson App. No. 07 JE 45, 2009-Ohio-1023. On motion for leave to file delayed appeal. Motion denied.

2010-1636. State v. Gunnell.

Clark App. No. 09-CA-0013, 2010-Ohio-4415. On motion to vacate stay of execution of court of appeals' judgment. Motion denied.

Brown, C.J., and Pfeifer, J., dissent and would grant the motion and release the appellee subject to bail.

2010-1648. LaSalle Bank Natl. Assn. v. Belle Meadows Suites, L.P.

Montgomery App. No. 23766, 2010-Ohio-3773. On motion for stay of court of appeals' judgment. Motion denied.

Lanzinger, J., dissents.

APPEALS ACCEPTED FOR REVIEW

2010-1324. Hudson v. Ernst & Young, L.L.P.

Franklin App. No. 09AP-949, 2010-Ohio-2731.

O'Connor, J., would accept the appeal on Proposition of Law No. I only.

Lundberg Stratton, J., dissents.

Brown, C.J., not participating.

2010-1335. Am. Chem. Soc. v. Leadscope, Inc.

Franklin App. No. 08AP-1026, 2010-Ohio-2725.

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

2010-1342. State v. Allen.

Lorain App. No. 09CA009636, 2010-Ohio-2990. Discretionary appeal accepted; cause held for the decision in 2010-1216, *State ex rel. Cordray v. Burge*, Lorain App. Nos. 09CA009723 and 09CA009724, 2010-Ohio-3009; and briefing schedule stayed.

Pfeifer, J., dissents.

2010-1345. State v. Smith.

Lorain App. Nos. 09CA009634 and 09CA009635, 2010-Ohio-3007. Discretionary appeal accepted; cause held for the decision in 2010-1216, *State ex rel. Cordray v. Burge*, Lorain App. Nos. 09CA009723 and 09CA009724, 2010-Ohio-3009; and briefing schedule stayed.

Pfeifer, J., dissents.

2010-1363. Moore v. Middletown.

Butler App. No. CA2009-08-205, 2010-Ohio-2962. Discretionary appeal accepted. Cause to be argued the same day as 2010-1196, *Clifton v. Blanchester*, Clinton App. No. CA2009-07-009, 2010-Ohio-2309.

O'Connor, J., would accept the appeal on Proposition of Law Nos. I and II only and hold the cause for the decision in 2010-1196, *Clifton v. Blanchester*.

Lanzinger and Cupp, JJ., would hold the cause for the decision in 2010-1196, *Clifton v. Blanchester*.

Lundberg Stratton, J., dissents.

2010-1430. PNH v. Alfa Laval Flow, Inc.

Mahoning App. No. 09 MA 41, 2010-Ohio-3280.

Lundberg Stratton, Lanzinger, and Cupp, JJ., dissent.

APPEALS NOT ACCEPTED FOR REVIEW

2010-0895. State v. Campbell.

Cuyahoga App. No. 93034, 2010-Ohio-261.

2010-1012. State v. Jones.

Wood App. No. WD-09-011, 187 Ohio App.3d 478, 2010-Ohio-1600.

O'Donnell, J., dissents.

2010-1074. Westbrook v. Swiatek.

Delaware App. No. 2009 CAE 05 0048, 2010-Ohio-2868.

Pfeifer and O'Donnell, JJ., dissent.

2010-1198. State v. Tinsley.

Cuyahoga App. Nos. 92335 and 92339, 2010-Ohio-2083.

2010-1255. Dalrymple v. Purdum.

Ross App. No. 09CA3119, 2010-Ohio-2750.

O'Donnell, J., dissents.

2010-1261. State v. Brewster.

Coshocton App. No. 09CA0018, 2010-Ohio-2497. Discretionary appeal not accepted. Motion to strike notice of appeal and memorandum in support of jurisdiction denied as moot.

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

2010-1263. Rieger v. Podeweltz.

Montgomery App. No. 23520, 2010-Ohio-2509.

2010-1265. State v. Moore.

Cuyahoga App. No. 85828, 2010-Ohio-1569.

Brown, C.J., dissents and would accept the appeal on Proposition of Law No. II and hold the cause for the decision in 2010-0659, *State v. Estrada-Lopez*, Butler App. No. CA2008-12-291, 186 Ohio App.3d 328, 2010-Ohio-732.

Pfeifer and Cupp, JJ., dissent.

2010-1268. State v. Harris.

Champaign App. No. 07-CA-32.

2010-1269. State v. Green.

Franklin App. No. 10AP-347.

2010-1279. State v. Pollard.

Cuyahoga App. No. 93002, 2010-Ohio-908.

2010-1284. Geiger v. Morgan Stanley DW, Inc.

Franklin App. No. 09AP-608, 2010-Ohio-2850. Discretionary appeal not accepted. Motion for admission pro hac vice of Miles D. Hart by Peter A. Rosato granted.

2010-1297. Dickens v. J&E Custom Homes, Inc.

Montgomery App. No. 22968, 187 Ohio App.3d 627, 2010-Ohio-2634.

Pfeifer and Lanzinger, JJ., dissent.

2010-1298. State v. Jones.

Jefferson App. Nos. 08 JE 20 and 08 JE 29, 2010-Ohio-2704.

2010-1302. State v. Burnham.

Mahoning App. No. 09 MA 82, 2010-Ohio-3275.

2010-1310. State v. Chappell.

Cuyahoga App. No. 93298, 2010-Ohio-2465.

2010-1317. State v. Cochran.

Clark App. No. 09-CA-49, 2010-Ohio-2917.

2010-1321. Oko v. Lake Erie Corr. Inst.

Ashtabula App. No. 2010-A-0002, 2010-Ohio-2821.

2010-1326. State v. Winters.

Geauga App. No. 2009-G-2919, 2010-Ohio-2678.

Lanzinger, J., not participating.

2010-1327. Hildebrant Family Partnership v. Provident Bank.

Warren App. Nos. CA2009-06-077 and CA2009-06-084, 2010-Ohio-2712.

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

Lanzinger, J., dissents.

2010-1329. State v. Runyon.

Butler App. No. CA2010-05-103.

2010-1330. State v. Shazor.

Cuyahoga App. No. 93609, 2010-Ohio-2605.

2010-1331. State v. Smith.

Hamilton App. Nos. C-100191 and C-100185.

2010-1334. Columbus v. Aleshire.

Franklin App. No. 09AP-104, 187 Ohio App.3d 660, 2010-Ohio-2773.

Brown, C.J., dissents.

2010-1336. Yanik v. Silverton.

Hamilton App. No. C-090707.

O'Connor, J., dissents.

2010-1341. Bowling v. Stafford & Stafford Co., L.P.A.

Hamilton App. No. C-090565, 2010-Ohio-2769.

2010-1343. Cincinnati ex rel. Smitherman v. Cincinnati.

Hamilton App. No. C-090502, 2010-Ohio-2768. Discretionary appeal not accepted. Motion to dismiss denied as moot.

2010-1344. State v. Morgan.

Shelby App. No. 17-10-05.

2010-1349. State v. Sullivan.

Hamilton App. No. C-090661.

2010-1351. State v. Mays.

Franklin App. No. 09AP-942, 2010-Ohio-3289.

2010-1354. Gonzales v. Dickson.

Wood App. No. WD-09-071, 2010-Ohio-2792.

2010-1355. State v. VanNoy.

Clark App. No. 2009 CA 46, 2010-Ohio-2845.

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

2010-1356. State v. Woodard.

Ashtabula App. No. 2009-A-0047, 2010-Ohio-2949.

2010-1361. State v. Moore.

Hamilton App. No. C-090631.

2010-1364. State v. Robertson.

Hamilton App. No. C-090376.

2010-1365. State v. Hicks.

Delaware App. No. 09CAA090088, 2010-Ohio-2985.

Brown, C.J., and Lundberg Stratton, J., dissent.

O'Connor, J., dissents and would accept the appeal on Proposition of Law No. II.

2010-1366. State v. Hendrex.

Trumbull App. No. 2009-T-0091, 2010-Ohio-2820.

2010-1367. State v. Feliciano.

Lorain App. No. 09CA009595, 2010-Ohio-2809.

2010-1370. Barcosh, Ltd. v. Dumas.

Lucas App. No. L-10-1001, 2010-Ohio-3066.

2010-1371. State v. Sharp.

Hamilton App. No. C-090882.

2010-1374. Cocca Dev., Ltd. v. Mahoning Cty. Bd. of Commrs.

Mahoning App. No. 08 MA 163, 2010-Ohio-3166.

Lundberg Stratton, J., dissents.

2010-1377. Krause v. Simons.

Hamilton App. No. C-090703.

O'Donnell, J., dissents.

2010-1381. Starks v. Greater Cincinnati Water Works.

Hamilton App. No. C-090813.

2010-1390. Harig v. Hall.

Summit App. Nos. 24936, 25329, and 25330. Discretionary appeal not accepted. Motion to consolidate denied as moot. Application for leave to file dismissed as moot.

2010-1391. State v. Blake.

Delaware App. No. 09-CA-67, 2010-Ohio-2932.

2010-1395. State v. Johnson.

Greene App. No. 2009-CA-38, 2010-Ohio-2920.

2010-1396. Wells Fargo Bank, N.A. v. Sessley.

Franklin App. No. 09AP-178, 2010-Ohio-2902.

2010-1403. State v. Evankovich.

Mahoning App. No. 09 MA 168, 2010-Ohio-3157.

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

2010-1404. Nucklos v. State Med. Bd. of Ohio.

Franklin App. No. 09AP-406, 2010-Ohio-2973.

Brown, C.J., not participating.

2010-1408. State v. Pope.

Hamilton App. No. C-090801.

2010-1413. State v. Patterson.

Stark App. No. 2009CA00142, 2010-Ohio-2988.

2010-1425. State v. Bowles.

Montgomery App. No. 23037. Discretionary appeal not accepted. Motion to exceed page limitation denied as moot.

2010-1426. State v. Gabriel.

Mahoning App. No. 09 MA 108, 2010-Ohio-3151.

O'Donnell, J., dissents.

2010-1427. State v. Wilcox.

Cuyahoga App. No. 95230.

2010-1428. Sliwinski v. St. Edward.

Summit App. No. 24967, 2010-Ohio-3006.

O'Connor, J., dissents and would accept the appeal on Proposition of Law No. I.

O'Donnell and Lanzinger, JJ., dissent.

2010-1442. State v. Hardy.

Cuyahoga App. No. 93677, 2010-Ohio-3419.

2010-1444. State v. Fox.

Franklin App. No. 09AP-1106, 2010-Ohio-3030.

2010-1446. Just Like Home 2 v. Ohio Dept. of Health.

Trumbull App. No. 2010-T-0007, 2010-Ohio-3358.

2010-1447. Just Like Home 1 v. Ohio Dept. of Health.

Trumbull App. No. 2010-T-0006, 2010-Ohio-3362.

2010-1451. State v. Clemmons.

Montgomery App. No. 23237, 2010-Ohio-3109.

2010-1452. State v. Point.

Franklin App. No. 09AP-1162, 2010-Ohio-3032.

2010-1458. State v. Dudley.

Montgomery App. No. 22931, 2010-Ohio-3240. Discretionary appeal and cross-appeal not accepted.

O'Donnell, J., dissents.

2010-1467. Polk v. Polk.

Montgomery App. No. 23584, 2010-Ohio-3355.

2010-1502. Means v. State.

Cuyahoga App. Nos. 92937, 92943, and 92944.
O'Donnell and Cupp, JJ., dissent.

2010-1527. State v. Jones.

Summit App. No. 24469.

2010-1577. State v. Winston.

Summit App. No. 24761.
Brown, C.J., dissents.

RECONSIDERATION OF PRIOR DECISIONS

2007-1261 and 2007-2425. State v. Ketterer.

Butler C.P. No. CR-2003-03-0309. Reported at ___ Ohio St.3d ___, 2010-Ohio-3831, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

2010-0829. Planey v. Planey.

Mahoning App. No. 08-MA-203, 2010-Ohio-1295. Reported at 126 Ohio St.3d 1546, 2010-Ohio-3855, 932 N.E.2d 340. On motion for reconsideration. Motion denied.

2010-0857. Huff v. First Energy Corp.

Trumbull App. No. 2009-T-0080, 2010-Ohio-1456. Reported at 126 Ohio St.3d 1546, 2010-Ohio-3855, 932 N.E.2d 340. On motions for reconsideration of Ohio Edison Company and Asplundh Tree Expert Company. Motions granted. The discretionary appeals are accepted. The parties shall brief this case in accordance with the Rules of Practice of the Supreme Court of Ohio.

Brown, C.J., and Pfeifer, J., dissent.

Lanzinger, J., not participating.

2010-0859. State ex rel. Fatur v. Eastlake.

Lake App. No. 2009-L-037, 2010-Ohio-1448. Reported at 126 Ohio St.3d 1546, 2010-Ohio-3855, 932 N.E.2d 340. On motion for reconsideration. Motion denied. Motion to strike motion for reconsideration denied as moot.

Lanzinger and Cupp, JJ., dissent.

2010-0862. State v. O'Neal.

Medina App. No. 09CA0045-M, 2010-Ohio-1252. Reported at 126 Ohio St.3d 1546, 2010-Ohio-3855, 932 N.E.2d 340. On motion for reconsideration. Motion denied.

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

2010-0923. State v. Heft.

Logan App. No. 8-10-02. Reported at 126 Ohio St.3d 1548, 2010-Ohio-3855, 932 N.E.2d 341. On motion for reconsideration. Motion denied.

2010-0948. Chovan v. DeHoff Agency, Inc.

Stark App. No. 2009CA00114, 2010-Ohio-1646. Reported at 126 Ohio St.3d 1549, 2010-Ohio-3855, 932 N.E.2d 341. On motion for reconsideration. Motion denied.

2010-1085. Crotts v. Smith.

In Habeas Corpus. Reported at 126 Ohio St.3d 1540, 2010-Ohio-3855, 932 N.E.2d 336. On motion for reconsideration. Motion denied.