

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS

December 29, 2010

[Cite as *12/29/2010 Case Announcements*, 2010-Ohio-6371.]

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## MERIT DECISIONS WITH OPINIONS

**2009-1481. State v. Johnson, Slip Opinion No. 2010-Ohio-6314.**

Hamilton App. Nos. C-080156 and C-080158, 2009-Ohio-2568. Certified question answered in the affirmative, judgment of the court of appeals reversed, and cause remanded to the trial court.

Brown, C.J., and Pfeifer and Lundberg Stratton, JJ., concur.

O'Connor, O'Donnell, Lanzinger, and Cupp, JJ., concur in the syllabus and judgment.

**2009-1997. State v. Hodge, Slip Opinion No. 2010-Ohio-6320.**

Hamilton App. No. C-080968. Judgment of the court of appeals affirmed.

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

Brown, C.J., dissents.

**2009-2280. Cleveland v. State, Slip Opinion No. 2010-Ohio-6318.**

Cuyahoga App. No. 92663, 185 Ohio App.3d 59, 2009-Ohio-5968. Judgment of the court of appeals reversed, and cause remanded to the court of appeals.

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

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

**2010-0529. State v. Craycraft, Slip Opinion No. 2010-Ohio-6332.**

Clermont App. Nos. CA2009-02-013 and CA2009-02-014, 2010-Ohio-596. Judgment of the court of appeals reversed, and cause remanded to the court of appeals.

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

**2010-1532. State v. Riggensbach, Slip Opinion No. 2010-Ohio-6336.**

Richland App. No. 09CA121, 2010-Ohio-3392. Judgment of the court of appeals affirmed.

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

Lanzinger, J., dissents.

**2010-1679. State v. Faraj, Slip Opinion No. 2010-Ohio-6333.**

Cuyahoga App. No. 93491, 2010-Ohio-3719. Discretionary appeal accepted, and judgment of the court of appeals affirmed.

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

Brown, C.J., dissents for the reasons stated in his dissenting opinion in *State v. Hodge*, \_\_\_ Ohio St.3d \_\_\_, 2010-Ohio-6320.

## **MERIT DECISIONS WITHOUT OPINIONS**

**2010-1592. State ex rel. Striker v. Cline.**

Richland App. No. 09CA107, 2010-Ohio-3592. 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.

**2010-1774. [State ex rel.] Hubaker v. Culotta.**

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.

**2010-1808. State ex rel. Bruggeman v. Willamowski.**

In Mandamus and Prohibition. On motion to dismiss. Motion to dismiss granted. Motion to strike motion to dismiss denied as moot. Cause dismissed.

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

**2010-1820. [State ex rel.] Mathis v. Cuyahoga Cty. Jail.**

In Mandamus. On respondent's answer and motion for judgment on the pleadings. Motion granted. Cause dismissed.

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

**2010-1830. State ex rel. McGrath v. Gallagher.**

In Mandamus and Prohibition. On 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.

## **MOTION AND PROCEDURAL RULINGS**

**2009-2028. State v. Davis.**

Licking App. No. 09-CA-0019, 2009-Ohio-5175. It is ordered by the court, sua sponte, that the parties shall brief the following issue:

“Whether the court of appeals had jurisdiction to consider the trial court's denial of Davis' motion for a new trial based on newly discovered evidence under Section 2(B)(2)(c) and Section 3(B)(2), Article IV of the Ohio Constitution.”

The following briefing schedule is set for the filing of briefs: Appellant's brief is due within 20 days from the date of this entry, and appellee's brief is due within 15 days after the filing of appellant's brief. No reply briefs or extensions shall be permitted.

**2010-1483. State v. Scott.**

Cuyahoga App. No. 91890, 2010-Ohio-3057. On motion for bail pending appeal. Motion denied.

**2010-1938. State v. Carey.**

Licking App. No. 2008-CA-20, 2009-Ohio-103. On motion for leave to file delayed appeal. Motion denied.

**2010-1943. State v. Diaz.**

Montgomery App. No. 22604, 2009-Ohio-2738. On motion for leave to file delayed appeal. Motion denied.

Brown, C.J., dissents.

**2010-1965. Harrison v. Doerner.**

Cuyahoga App. No. 94270, 2010-Ohio-4682. On motion for stay of proceedings. Motion denied. Motion to strike the motion for stay is denied as moot.

Pfeifer, J., dissents.

**2010-1984. State v. Allen.**

Cuyahoga App. No. 93372, 2010-Ohio-3999. On motion for leave to file delayed appeal. Motion granted.

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

**2010-1985. Mubashshir v. Sheldon.**

Marion App. No. 9-10-39, 2010-Ohio-4808. On motion for stay of court of appeals' judgment. Motion denied.

**2010-1994. State v. Jones.**

Hamilton App. No. C-090790. On motion for leave to file delayed appeal. Motion granted.

Pfeifer, J., dissents.

**2010-2015. State v. Crosby.**

Cuyahoga App. No. 95308. On motion for leave to file delayed appeal. Motion granted.

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

**2010-2032. State v. Warner.**

Portage App. No. 2008-P-0052, 2010-Ohio-4940. On motion for stay of court of appeals' judgment. Motion denied.

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

**2010-2044. State ex rel. Ohio Dept. of Edn. v. Ministerial Day Care Assn.**

Cuyahoga App. No. 94062, 2010-Ohio-5009. On motion for stay of execution of court of appeals' judgment. Motion denied.

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

**2010-2061. State v. Loop.**

Brown App. No. CA2009-10-040. On motion for a continued stay. Motion denied.

**2010-2091. State v. Murphy.**

Ashland App. No. 10-COA-001, 2010-Ohio-4523. On motion for stay of execution. Motion denied.

Pfeifer, J., dissents.

## **APPEALS NOT ACCEPTED FOR REVIEW**

**2010-1013. Hartford Fire Ins. Co. v. Seifert.**

Cuyahoga App. No. 93291, 2010-Ohio-2346. Discretionary appeal not accepted.  
Motion for stay denied as moot.

**2010-1177. State v. Britta.**

Lake App. No. 2009-L-017, 2010-Ohio-971.

Brown, C.J., dissents.

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

**2010-1582. State v. Coomer.**

Clinton App. No. CA2009-09-016, 2010-Ohio-3474.

**2010-1595. Deutsch v. Birk.**

Clermont App. No. CA2010-01-003, 2010-Ohio-3564.

Brown, C.J., dissents.

**2010-1597. State v. Eaton.**

Champaign App. No. 2009 CA 41, 2010-Ohio-3767.

**2010-1604. State v. Boynton.**

Cuyahoga App. No. 93463, 2010-Ohio-3506.

**2010-1611. State v. Branco.**

Stark App. No. 2010 CA 00098, 2010-Ohio-3856.

**2010-1615. State v. Burnside.**

Mahoning App. No. 09 MA 179, 2010-Ohio-3158.

**2010-1616. State v. Harris.**

Cuyahoga App. No. 94186, 2010-Ohio-3617.

Lundberg Stratton and Lanzinger, JJ., dissent.

**2010-1617. State v. Shiflett.**

Licking App. No. 09 CA 134, 2010-Ohio-3587.

**2010-1622. Pensco Trust Co. v. H & J Properties, L.L.C.**

Cuyahoga App. No. 93826, 2010-Ohio-3610.

**2010-1623. State v. Roberson.**

Stark App. No. 2009CA00316, 2010-Ohio-3702.

**2010-1625. State v. Daniels.**

Cuyahoga App. No. 93545, 2010-Ohio-3871.

**2010-1630. State v. Zimmerman.**

Franklin App. No. 09AP-866, 2010-Ohio-4087.

O'Connor, J., dissents.

**2010-1632. Pruszynski v. Reeves.**

Geauga App. No. 2009-G-2908, 188 Ohio App.3d 677, 2010-Ohio-3677.

Brown, C.J., dissents.

**2010-1638. Smith v. Gill.**

Cuyahoga App. No. 93985, 2010-Ohio-4012.

Pfeifer, J., dissents.

**2010-1639. State v. Burke.**

Cuyahoga App. No. 93258, 188 Ohio App.3d 777, 2010-Ohio-3597.

**2010-1645. Nolde v. State.**

Warren App. No. CA2009-06-088, 2010-Ohio-1097.

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

Montgomery App. No. 23766, 2010-Ohio-3773.

O'Donnell, J., dissents.

**2010-1656. State v. Isa.**

Champaign App. Nos. 10-CA-1 and 10-CA-2, 2010-Ohio-3770.

**2010-1658. Letson v. McCardle.**

Trumbull App. No. 2009-T-0122, 2010-Ohio-3681.

**2010-1659. O'Brien v. Smith.**

Franklin App. No. 10AP-52, 2010-Ohio-3748.

Brown, C.J., dissents and would accept the appeal on Proposition of Law Nos. II and III.

Pfeifer and Lanzinger, JJ., dissent.

**2010-1661. Troutman v. Estate of Troutman.**

Montgomery App. No. 23699, 2010-Ohio-3778.

**2010-1663. Yeater v. LaBrae School Dist. Bd. of Edn.**

Trumbull App. No. 2009-T-0107, 2010-Ohio-3684.

**2010-1665. Yeager v. Carpenter.**

Union App. No. 14-09-19, 2010-Ohio-3675.

O'Donnell, J., dissents.

**2010-1672. Pavelish v. Cincinnati.**

Hamilton App. No. C-090812.

**2010-1678. State v. Muniz.**

Cuyahoga App. No. 93528, 2010-Ohio-3720.

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

**2010-1680. Nagel v. Nagel.**

Lorain App. No. 09CA009704, 2010-Ohio-3942.

**2010-1683. Machlup v. Cleveland Hts.**

Cuyahoga App. No. 94120, 2010-Ohio-3730.

**2010-1688. State v. Knox.**

Cuyahoga App. No. 93257, 2010-Ohio-2889.

**2010-1692. State v. Tucker.**

Clark App. No. 2009 CA 82, 2010-Ohio-3920.

**2010-1698. State v. Von Mincy.**

Hamilton App. No. C-080369.

**2010-1718. State v. Jackson.**

Hamilton App. No. C-090414, 2010-Ohio-4312.

**2010-1719. State v. Smith.**

Cuyahoga App. No. 93593, 2010-Ohio-4006.

**2010-1728. State v. Walker.**

Cuyahoga App. No. 93749, 2010-Ohio-4008.

**2010-1729. State v. Osborne.**

Richland App. No. 2009 CA 0119, 2010-Ohio-4100.

**2010-1740. State v. Goldick.**

Montgomery App. No. 23690, 2010-Ohio-4394.

**2010-1776. State v. Willis.**

Franklin App. No. 08AP-536, 2009-Ohio-325.

**2010-1815. State v. Wilson.**

Lucas App. No. L-08-1380.

**2010-1906. State v. Hamilton.**

Hamilton App. Nos. C-090298, C-090299, and C-090300.

**2010-1973. In re S.F.**

Ross App. No. 10CA3163, 2010-Ohio-4865.

Brown, C.J., dissents.

## **RECONSIDERATION OF PRIOR DECISIONS**

**2009-2310. Dialysis Clinic, Inc. v. Levin.**

Board of Tax Appeals, No. 2006-V-2389. Reported at \_\_\_ Ohio St.3d \_\_\_, 2010-Ohio-5071, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied. Motion to strike denied as moot.

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

**2010-0931. State ex rel. Clutter v. Wiseman.**

Crawford App. No. 3-10-07. Reported at \_\_\_ Ohio St.3d \_\_\_, 2010-Ohio-4987, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.

**2010-1069. State ex rel. Barr v. Pittman.**

Portage App. No. 2010-P-0006, 2010-Ohio-2293. Reported at 127 Ohio St.3d 32, 2010-Ohio-4989, 936 N.E.2d 43. On motion for reconsideration. Motion denied.

**2010-1241. State ex rel. Thomas v. DeWine.**

Hamilton App. No. C-100352. Reported at \_\_\_ Ohio St.3d \_\_\_, 2010-Ohio-4984, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.



**2010-1265. State v. Moore.**

Cuyahoga App. No. 85828, 2010-Ohio-1569. Reported at 126 Ohio St.3d 1616, 2010-Ohio-5101, 935 N.E.2d 854. On motion for reconsideration. Motion denied.

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.

O'Donnell, J., dissents.

Cupp, J., dissents and would accept the appeal and hold the cause for the decision of the United States Supreme Court in *Bullcoming v. New Mexico*.

**2010-1502. Means v. State.**

Cuyahoga App. Nos. 92937, 92943, and 92944. Reported at 126 Ohio St.3d 1619, 2010-Ohio-5101, 935 N.E.2d 856. On motion for reconsideration. Motion denied.

O'Donnell and Cupp, JJ., dissent.

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

In Mandamus. Reported at 126 Ohio St.3d 1614, 2010-Ohio-5101, 935 N.E.2d 853. On motion for reconsideration. Motion denied.