

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

March 10, 2010

[Cite as *03/10/2010 Case Announcements, 2010-Ohio-799.*]

MERIT DECISIONS WITHOUT OPINIONS

2009-2350. State ex rel. Thompson v. Ross Cty. Court of Common Pleas.

In Procedendo. 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.

2010-0051. State ex rel. Singleton v. Clancy.

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.

MOTION AND PROCEDURAL RULINGS

2010-0076. State v. Gray.

Hamilton App. No. C-081257, 2009-Ohio-5844. On motion for leave to file delayed appeal. Motion granted.

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

2010-0128. State v. Readnour.

Hamilton App. No. C-090253. On motion for leave to file delayed appeal. Motion denied.

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

2010-0136. State v. Campaign.

Richland App. Nos. 09CA35 and 09CA36, 2009-Ohio-4571 and 2009-Ohio-4573.
On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2010-0137. State v. Banks.

Franklin App. No. 09AP-224, 2009-Ohio-5582. On motion for leave to file
delayed appeal. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

2010-0138. State v. Valentin.

Portage App. No. 2009-P-0010, 2009-Ohio-6038. On motion for leave to file
delayed appeal. Motion granted.

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

**2010-0173. In re Jefferson Cty. Sheriff v. Fraternal Order of Police, Ohio
Labor Council, Inc.**

Jefferson App. No. 09-JE-2, 2009-Ohio-6758. On motion for stay of judgment.
Motion denied.

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

2010-0225. Dukes v. Ohio Dept. of Job & Family Servs.

Franklin App. No. 09AP-515, 2009-Ohio-6781. On motion for stay of court of
appeals' judgment. Motion granted.

Pfeifer and O'Connor, JJ., dissent.

2010-0276. In re Mullen.

Hamilton App. Nos. C-090285 and C-090407, 2009-Ohio-6934. On motion for
stay of court of appeals' decision vacating stay of order terminating interim
visitation. Motion granted.

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

APPEALS ACCEPTED FOR REVIEW

2009-1807. State v. Little.

Miami App. No. 2008 CA 18, 183 Ohio App.3d 680, 2009-Ohio-4403.
Discretionary appeal accepted.

Pfeifer and O'Donnell, JJ., dissent.

Discretionary cross-appeal not accepted.

2009-2030. Pollis v. State.

Trumbull App. No. 2008-T-0055, 2009-Ohio-5058. Discretionary appeal accepted; 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.

2009-2280. Cleveland v. State.

Cuyahoga App. No. 92663, 2009-Ohio-5968.

2009-2307. Fed. Ins. Co. v. Executive Coach Luxury Travel.

Allen App. Nos. 1-09-17 and 1-09-18, 2009-Ohio-5910.

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

Cupp, J., not participating.

2009-2314. State v. Blackburn.

Hancock App. No. 5-09-18, 2009-Ohio-5902. Discretionary appeal accepted; cause held for the decision in 2009-1997, *State v. Hodge*, Hamilton App. No. C-080968; and briefing schedule stayed.

Lundberg Stratton and Lanzinger, JJ., dissent.

2009-2324. State v. Calhoun.

Cuyahoga App. No. 92103, 2009-Ohio-6097.

Pfeifer and Lanzinger, JJ., dissent.

2009-2342. State v. Winters.

Lucas App. Nos. L-08-1195, L-08-1263, and L-08-1264, 2009-Ohio-5992. Discretionary appeal accepted; cause held for the decision in 2009-1997, *State v. Hodge*, Hamilton App. No. C-080968; and briefing schedule stayed.

Lundberg Stratton, J., dissents.

2009-2358. Allstate Ins. Co. v. Campbell.

Franklin App. Nos. 09AP-306, 09AP-307, 09AP-308, 09AP-309, 09AP-318, 09AP-319, 09AP-320, and 09AP-321, 2009-Ohio-6055.

Appeal of Allstate Insurance Company accepted on Proposition of Law Nos. II and III.

Moyer, C.J., and Lanzinger and Cupp, JJ., would also accept the appeal on Proposition of Law No. I.

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

Appeal of Erie Insurance Exchange accepted on Proposition of Law No. II.

Moyer, C.J., and Lanzinger and Cupp, JJ., would also accept the appeal on Proposition of Law No. I.

Pfeifer, Lundberg Stratton, and O'Donnell, JJ., dissent.
Appeal of American Southern Insurance Company accepted on Proposition of Law No. II.

Moyer, C.J., and Lanzinger and Cupp, JJ., would also accept the appeal on Proposition of Law No. I.

O'Connor, J., would accept the appeal on Proposition of Law Nos. III and IV.

Pfeifer, Lundberg Stratton, and O'Donnell, JJ., dissent.
Appeal of Grange Mutual Casualty Company accepted on Proposition of Law Nos. II and III.

Moyer, C.J., and Lanzinger and Cupp, JJ., would also accept the appeal on Proposition of Law No. I.

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

2010-0004. State v. Sprauer.

Ross App. No. 09CA3121, 2009-Ohio-6698. Discretionary appeal accepted; cause held for the decisions in 2008-2502, *State v. Bodyke*, Huron App. Nos. H-07-040, H-07-041, and H-07-042, 2008-Ohio-6387, and 2008-0991 and 2008-0992, *Chojnacki v. Cordray*, Warren App. No. CA2008-03-040; and briefing schedule stayed.

2010-0027. In re D.P.

Lake App. No. 2008-L-186, 2009-Ohio-6149. Discretionary appeal accepted; cause held for the decisions in 2008-1624, *In re Smith*, Allen App. No. 1-07-58, 2008-Ohio-3234, 2008-2502, *State v. Bodyke*, Huron App. Nos. H-07-040, H-07-041, and H-07-042, 2008-Ohio-6387, and 2009-0189, *In re Adrian R.*, Licking App. No. 08CA17, 2008-Ohio-6581; and briefing schedule stayed.

Cupp, J., would not accept the appeal on Proposition of Law No. IV.

Lanzinger, J., not participating.

2010-0029. In re R.J.G.

Lake App. No. 2008-L-187, 2009-Ohio-6150. Discretionary appeal accepted; cause held for the decision in 2008-1624, *In re Smith*, Allen App. No. 1-07-58, 2008-Ohio-3234, 2008-2502, *State v. Bodyke*, Huron App. Nos. H-07-040, H-07-041, and H-07-042, 2008-Ohio-6387, and 2009-0189, *In re Adrian R.*, Licking App. No. 08CA17, 2008-Ohio-6581; and briefing schedule stayed.

Cupp, J., would not accept the appeal on Proposition of Law No. IV.

Lanzinger, J., not participating.

2010-0047. State v. Gingell.

Hamilton App. No. C-081167.

O'Donnell and Cupp, JJ., would also hold the cause 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.

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

2010-0118. Tobacco Use Prevention & Control Found. v. Boyce.

Franklin App. Nos. 09AP-768, 09AP-769, 09AP-785, 09AP-786, 09AP-832, and 09AP-833, 2009-Ohio-6993.

APPEALS NOT ACCEPTED FOR REVIEW

2009-1748. State v. Williams.

Cuyahoga App. No. 93607.

2009-1796. State v. Holmes.

Cuyahoga App. No. 91948, 2009-Ohio-3736.

2009-1833. State v. Luna.

Butler App. No. CA2008-04-115, 2009-Ohio-3421.

2009-1911. State v. Nicholson.

Cuyahoga App. No. 91652, 2009-Ohio-3592.

2009-2164. State v. Nickel.

Ottawa App. No. OT-09-001, 2009-Ohio-5996.

2009-2232. State v. Owens.

Richland App. No. 09 CA 94, 2009-Ohio-6185.

2009-2240. DaimlerChrysler Fin. Servs. N. Am., L.L.C. v. Hursell Unlimited, Inc.

Summit App. No. 24815.

2009-2241. State v. Smith.

Hamilton App. No. C-081158.

2009-2251. Steele v. Mara Ents., Inc.

Franklin App. No. 09AP-102, 2009-Ohio-5716.
O'Donnell, J., dissents.

2009-2258. Cincinnati v. State Emp. Relations Bd.

Franklin App. No. 09AP-261, 2009-Ohio-5782.

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

2009-2259. State v. DiPietro.

Franklin App. No. 09AP-202, 2009-Ohio-5854.

2009-2261. State v. Reese.

Montgomery App. No. 23410, 2009-Ohio-5874.

2009-2265. Barr v. Lauer.

Cuyahoga App. No. 92497, 2009-Ohio-5563.

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

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

2009-2266. State v. Chaney.

Stark App. No. 2007CA00332, 2009-Ohio-6118.

2009-2268. King v. Sinon.

Stark App. No. 2009CA00039, 2009-Ohio-5792.

2009-2269. State v. Wachtel.

Stark App. No. 2008CA00274, 2009-Ohio-5788.

2009-2270. State v. Starner.

Marion App. No. 9-09-01, 2009-Ohio-5770.

2009-2272. A & Q Market, Inc. v. Liquor Control Comm.

Franklin App. No. 09AP-283, 2009-Ohio-5783.

2009-2273. State v. Heft.

Logan App. No. 8-09-08, 2009-Ohio-5908.

2009-2279. State v. Freeman.

Cuyahoga App. No. 91842, 2009-Ohio-5218.

O'Donnell, J., dissents and would accept the appeal and remand the cause for en banc consideration.

2009-2291. Croskey v. Universal Health Servs., Inc.

Richland App. No. 09 CA 37, 2009-Ohio-5951.

O'Donnell, J., dissents.

2009-2292. State v. Moulder.

Greene App. No. 08-CA-108, 2009-Ohio-5871. Discretionary appeal not accepted.

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

Motion for appointment of counsel denied as moot.

2009-2294. State v. Clinton.

Erie App. No. E-09-047.

Lundberg Stratton, J., dissents.

2009-2296. State v. Harris.

Hamilton App. No. C-081065.

2009-2300. State v. Abouelhana.

Cuyahoga App. No. 92903, 2009-Ohio-5838.

Cupp, J., dissents and would accept the appeal and hold the cause for the decision in 2009-1987, *State v. Feldman*, Lake App. No. 2009-L-052, 2009-Ohio-5765.

2009-2303. Fields Excavating, Inc. v. McWane, Inc.

Clermont App. No. CA2008-12-114, 2009-Ohio-5925.

2009-2304. FirstMerit Bank, N.A. v. Wood.

Lorain App. No. 09CA009586, 2009-Ohio-5889.

2009-2305. State v. Rodriquez.

Cuyahoga App. No. 92231, 2009-Ohio-6101.

O'Donnell, J., dissents.

2009-2306. Hope v. Lake Cty. Bd. of Commrs.

Lake App. No. 2008-L-173, 2009-Ohio-5895.

O'Donnell, J., dissents.

2009-2308. State v. Singfield.

Summit App. No. 24576, 2009-Ohio-5945.

2009-2311. Hawkins v. Integrity House, Inc.

Lake App. No. 2008-L-120, 2009-Ohio-5893.

2009-2313. State v. Jackson.

Union App. No. 14-09-24, 2009-Ohio-5906.

Cupp, J., not participating.

2009-2320. State v. Carlisle.

Montgomery App. No. 22970, 2009-Ohio-6004.

2009-2321. State v. Colbert.

Cuyahoga App. No. 94123.

2009-2322. State v. Weaver.

Butler App. No. CA2009-01-022, 2009-Ohio-5923.

2009-2323. State v. Bell.

Cuyahoga App. No. 92442, 2009-Ohio-5693.

Moyer, C.J., dissents.

2009-2326. State v. Grosse.

Summit App. No. 24678, 2009-Ohio-5942.

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

2009-2327. Bowman v. Butler Twp. Bd. of Trustees.

Montgomery App. No. 23240, 2009-Ohio-6128.

2009-2328. Ratkosky v. CSX Transp., Inc.

Cuyahoga App. No. 92061, 2009-Ohio-5690.

O'Donnell, J., dissents.

2009-2329. Solomon v. Harwood.

Cuyahoga App. No. 93832.

2009-2331. State v. Kaeding.

Hamilton App. No. C-080803.

2009-2333. White v. Ohio Fair Plan.

Franklin App. No. 09AP-857.

2009-2334. State v. Goldsberry.

Union App. No. 14-07-06, 2009-Ohio-6026.

2009-2338. U.S. Bank Natl. Assn. v. Bayless.

Delaware App. No. 09 CAE 01 004, 2009-Ohio-6115.

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

2009-2343. Wertz v. Wertz.

Montgomery App. No. 23180, 2009-Ohio-6001.

O'Donnell, J., dissents.

2009-2347. State v. Devine.

Cuyahoga App. No. 92590, 2009-Ohio-5825.

2009-2351. State v. Stevens.

Butler App. No. CA2009-01-031, 2009-Ohio-6045.

2009-2352. State v. Campbell.

Butler App. No. CA2009-01-002, 2009-Ohio-6044.

2009-2353. Bank of New York v. Miller.

Knox App. No. 09-CA-20, 2009-Ohio-6117. Discretionary appeal not accepted. Motion to dismiss appeal and motion for an order enjoining the unauthorized practice of law denied as moot.

2009-2356. State v. Chavez-Juarez.

Clark App. No. 2009-CA-33, 2009-Ohio-6130.

2009-2357. HPSC, Inc. v. Estate of Scarso.

Lake App. No. 2009-L-110, 2009-Ohio-6032.

O'Donnell, J., dissents.

2009-2360. White v. Allstate Ins. Co.

Cuyahoga App. No. 92648, 2009-Ohio-5829.

2009-2361. State v. Bates.

Cuyahoga App. No. 92323, 2009-Ohio-5819.

2010-0002. Syrianoudis v. Ellsworth Twp. Bd. of Zoning Appeals.

Mahoning App. No. 08 MA 191, 2009-Ohio-6247.

2010-0010. State v. Leonard.

Athens App. No. 08CA24, 2009-Ohio-6191.

2010-0012. State v. Felder.

Franklin App. Nos. 09AP-459, 09AP-460, and 09AP-461, 2009-Ohio-6124.

2010-0018. State v. Moore.

Cuyahoga App. No. 93839.

2010-0021. Magda v. Greater Cleveland Regional Transit Auth.

Cuyahoga App. No. 92570, 2009-Ohio-6219.

O'Connor, J., dissents and would accept the appeal on Proposition of Law No. I and hold the cause for the decisions in 2008-0857, *Kaminski v. Metal & Wire Prods. Co.*, Columbiana App. No. 07-CO-15, 175 Ohio App.3d 227, 2008-Ohio-1521, and 2008-0972, *Stetter v. R.J. Corman Derailment Servs., L.L.C.*, Certified Question of State Law, United States District Court, Northern District of Ohio, Western Division, No. 3:07 CV 866.

2010-0048. State v. Molen.

Hamilton App. No. C-080969.

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

2010-0058. State v. Cravens.

Hamilton App. No. C-090078.

2010-0065. State v. McGee.

Mahoning App. No. 07 MA 137, 2009-Ohio-6397.

2010-0066. State v. Russell.

Franklin App. Nos. 09AP-428, 09AP-429, 09AP-430, and 09AP-431, 2009-Ohio-6420.

Moyer, C.J., and O'Donnell, J., dissent and would accept the appeal and hold the cause for the decision in 2009-1997, *State v. Hodge*, Hamilton App. No. C-080968.

2010-0071. State v. Dew.

Mahoning App. No. 08 MA 62, 2009-Ohio-6537.

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

2010-0074. State v. Johnson.

Hamilton App. No. C-090210.

2010-0075. State v. Simonson.

Hamilton App. No. C-080780.

2010-0078. State v. Beshara.

Mahoning App. No. 07 MA 37, 2009-Ohio-6529.

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

2010-0082. State v. James.

Franklin App. No. 09AP-368, 2009-Ohio-6274.

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

2010-0085. State v. Howard.

Mahoning App. No. 08-MA-121, 2009-Ohio-6398.

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

2010-0093. State v. DeNoma.

Ross App. No. 09CA3089, 2009-Ohio-6547.

Lundberg Stratton and Lanzinger, JJ., dissent and would accept the appeal and hold the cause 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.

2010-0111. State v. Stewart.

Franklin App. No. 09AP-817, 2009-Ohio-6423. Discretionary appeal not accepted. Motion for stay of jurisdictional consideration denied as moot.