

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

April 20, 2011

[Cite as *04/20/2011 Case Announcements*, 2011-Ohio-1829.]

MERIT DECISIONS WITH OPINIONS

2009-2214 and 2010-0024. Westfield Ins. Co. v. Hunter, Slip Opinion No. 2011-Ohio-1818.

Butler App. Nos. CA2009-05-134 and CA2009-06-157, 2009-Ohio-5642. Certified question answered, judgment of the court of appeals reversed, and cause remanded to the trial court.

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

Cupp, J., concurs in syllabus and judgment.

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

2010-0297. Loudin v. Radiology & Imaging Servs., Inc., Slip Opinion No. 2011-Ohio-1817.

Summit App. No. 24783, 185 Ohio App.3d 438, 2009-Ohio-6947. Judgment of the court of appeals affirmed, and cause remanded to the trial court.

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

O'Donnell, J., concurs separately.

2010-2169. Disciplinary Counsel v. Hallquist, Slip Opinion No. 2011-Ohio-1819.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 10-046. Kevin Paul Hallquist, Attorney Registration No. 0034385, is suspended from the practice of law in Ohio for two years, with six months stayed on conditions.

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

MERIT DECISIONS WITHOUT OPINIONS

2010-2141. [State ex rel.] Wolfe v. Ross Corr. Inst.

In Mandamus. On motion to dismiss. Motion to dismiss granted. Relator must obtain the sentencing entry which he seeks from the Montgomery County Clerk of Courts, not from the respondents in this case. Cause dismissed.

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

2011-0117. [State ex rel.] Rashada v. Nation of Islam.

In Prohibition. On complaint in prohibition of Hanan S. Rashada. On S.Ct.Prac.R. 10.5 determination, cause dismissed.

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

2011-0152. [State ex rel.] Rowser v. Gwin.

In Procedendo. On motions to dismiss and to determine relator to be a vexatious litigator. Motion to dismiss granted. Motion to determine relator to be a vexatious litigator denied. Cause dismissed.

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

2011-0190. State ex rel. Rinaldi v. Sinclair.

In Mandamus. On complaint in mandamus of John Joseph Rinaldi. On S.Ct.Prac.R. 10.5 determination, cause dismissed.

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

2011-0208. State ex rel. Wells v. Court of Appeals, Seventh Appellate Dist.

In Mandamus. On respondents' motion to dismiss and relator's motion to determine action on the merits. Motion to dismiss granted. Motion to determine action on the merits denied as moot. Cause dismissed.

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

2011-0263. State ex rel. Rittner v. Fulton Cty.

In Prohibition. On respondents' motion to dismiss and relator's motion to file out of rule and for other relief. Motion to dismiss granted. Motion to file out of rule denied. Cause dismissed.

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

2011-0290. State ex rel. Bolden v. Clancy.

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

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

2011-0315. In re M.N.

Muskingum App. No. CT10-0025, 2010-Ohio-6465. On review of order certifying a conflict. The court determines that no conflict exists. This cause is therefore dismissed.

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

2011-0333. Sudberry v. Morgan.

In Habeas Corpus. On petition for writ of habeas corpus of James Darnell Sudberry. Sua sponte, cause dismissed.

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

MOTION AND PROCEDURAL RULINGS

2009-2058. State ex rel. Daimler Chrysler Corp. v. Indus. Comm.

Franklin App. No. 08AP-1017, 2009-Ohio-5778. On request for oral argument. Request denied.

McGee Brown, J., dissents.

2010-0439. State ex rel. Aaron Rents, Inc. v. Ohio Bur. of Workers' Comp.

Franklin App. No. 09AP-232, 2010-Ohio-218. On request for oral argument. Request denied.

McGee Brown, J., dissents.

2010-1091. Barbee v. Allstate Ins. Co.

Lorain App. Nos. 09CA009594 and 09CA009596, 2010-Ohio-2016. On motion to strike appellant's merit brief and supplement. Motion granted.

2010-1536. State ex rel. O'Shea & Assoc. Co., L.P.A. v. Cuyahoga Metro. Hous. Auth.

Cuyahoga App. No. 93275, 190 Ohio App.3d 218, 2010-Ohio-3416. On supplemental motion for admission pro hac vice of Daniel J. Lenerz. Motion granted.

2010-1907. State ex rel. Gambill v. Opperman.

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.

2011-0250. B.J. Alan Co. v. Congress Twp. Bd. of Zoning Appeals.

Wayne App. No. 07CA0051, 2010-Ohio-6449. On motion for stay of court of appeals' judgment. Motion denied.

O'Connor, C.J., and Cupp and McGee Brown, JJ., dissent.

2011-0329. State v. Burst.

Cuyahoga App. No. 94080, 2010-Ohio-5773. On motion for leave to file delayed appeal. Motion granted.

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

2011-0335. State v. Martin.

Franklin App. No. 10AP-295, 2010-Ohio-5968. On motion for leave to file delayed appeal. Motion granted.

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

2011-0336. State v. Clay.

Miami App. No. 2009-CA-40, 2010-Ohio-5748. On motion for leave to file delayed appeal. Motion granted.

O'Connor, C.J., and O'Donnell and McGee Brown, JJ., dissent.

2011-0338. State v. Haddon.

Cuyahoga App. No. 96178. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and McGee Brown, JJ., dissent.

2011-0366. State v. Bleigh.

Delaware App. No. 09-CAA-03-0031, 2010-Ohio-1182. On motion for leave to file delayed appeal. Motion denied.

2011-0375. State v. Ector.

Lucas App. No. L-10-1002, 2010-Ohio-6515. On motion for leave to file delayed appeal. Motion granted.

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

2011-0376. State v. Carpenter.

Cuyahoga App. No. 94709, 2011-Ohio-211. On motion for leave to file delayed appeal. Motion granted.

O'Connor, C.J., and O'Donnell and Lanzinger, JJ., dissent.

2011-0453. Credit Based Asset Servicing v. Vecchio.

Summit App. No. 25663. On emergency motion for stay of sheriff's sale scheduled for May 20, 2011. Motion denied.

APPEALS ACCEPTED FOR REVIEW

2011-0122. State v. Hardin.

Pike App. No. 10CA803, 2010-Ohio-6304. Discretionary appeal accepted; cause held for the decision in 2006-1806, *State v. Craig*, Summit C.P. No. CR 2006-01-0340; and briefing schedule stayed.

Pfeifer, J., dissents.

2011-0163. Acordia of Ohio, L.L.C. v. Fishel.

Hamilton App. No. C-100071, 2010-Ohio-6235.

Pfeifer, J., dissents.

2011-0199. Coleman v. Portage Cty. Engineer.

Portage App. No. 2010-P-0016, 2010-Ohio-6255. Discretionary appeal accepted; cause held for the decision in 2010-1970 and 2010-2253, *Essman v. Portsmouth*, Scioto App. No. 09CA3325, 2010-Ohio-4837; and briefing schedule stayed.

Pfeifer, J., dissents.

2011-0213. State v. Dunn.

Montgomery App. No. 23884, 2010-Ohio-6340.

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

2011-0325. In re Antwon C.

Hamilton App. No. C-100136. Discretionary appeal accepted; cause held for the decision in 2008-1624, *In re Smith*, Allen App. No. 1-07-58, 2008-Ohio-3234; and briefing schedule stayed.

Cupp and McGee Brown, JJ., would accept the appeal on Proposition of Law No. I only.

APPEALS NOT ACCEPTED FOR REVIEW

2010-1673. Wells Fargo Bank, N.A. v. Walker.

Franklin App. No. 09AP-947, 2010-Ohio-3698.

O'Donnell, J., dissents.

2010-2194. State v. Rice.

Lucas App. No. L-10-1182, 2010-Ohio-5511.

2011-0012. State v. Okundaye.

Cuyahoga App. No. 94796, 2010-Ohio-6363.

O'Donnell and McGee Brown, JJ., dissent.

2011-0096. In re C.T.

Montgomery App. No. 24036, 2010-Ohio-5887.

O'Connor, C.J., and Lanzinger, J., dissent.

2011-0097. In re C.D.

Erie App. No. E-09-066, 2010-Ohio-5889.

O'Connor, C.J., dissents.

2011-0098. Gohman v. Atlas Roofing Corp.

Warren App. No. CA2010-07-063, 2010-Ohio-5956.

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

Cupp and McGee Brown, JJ., dissent.

2011-0101. State v. Gilbert.

Cuyahoga App. No. 94252, 2010-Ohio-6157.

2011-0102. State v. Wilson.

Cuyahoga App. No. 93772, 2010-Ohio-6015.

2011-0105. State v. Burkett.

Portage App. No. 2009-P-0069, 2010-Ohio-6250.

2011-0108. Cincinnati v. Su.

Hamilton App. No. C-100609. Discretionary appeal not accepted. Appellant's motions denied as moot.

2011-0111. Doe v. Canton Regency.

Stark App. No. 2010 CA 00048, 2010-Ohio-5976.

2011-0113. State v. Kendricks.

Franklin App. Nos. 10AP-114 and 10AP-115, 2010-Ohio-6041.

2011-0114. IA Technologies, Inc. v. Bay Technologies, L.L.C.

Hamilton App. No. C-100203.

2011-0115. State v. Turks.

Allen App. No. 1-10-26, 2010-Ohio-5944.

2011-0116. State v. Lopez.

Lorain App. No. 10CA009771, 2010-Ohio-5926.

2011-0118. Keynote Property v. Chibinda.

Butler App. No. CA2010-09-251.

2011-0123. Enquip Technologies Group, Inc. v. Tycon Technoglass, S.r.l.

Greene App. No. 2010-CA-23, 2010-Ohio-6100. Discretionary appeal not accepted. Motion to strike notice of appeal and dismiss appeal denied as moot.

O'Donnell, J., dissents.

2011-0124. State v. Crowell.

Wayne App. No. 10CA0005, 2010-Ohio-6245.

2011-0126. State v. Woods.

Hamilton App. No. C-100469.

2011-0130. State v. Phoenix.

Hamilton App. No. C-100103, 2010-Ohio-6009.

2011-0133. State v. Biro.

Cuyahoga App. No. 93737, 2010-Ohio-5763.

2011-0134. Drummond v. Drummond.

Fairfield App. No. 10-CA-20, 2010-Ohio-6139.

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

2011-0141. Mayer v. Medancic.

Geauga App. Nos. 2010-G-2956, 2010-G-2958, and 2010-G-2959, 2010-Ohio-6252.

2011-0142. N. Royalton v. Semenchuk.

Cuyahoga App. No. 95357, 2010-Ohio-6197.

O'Donnell, J., dissents.

2011-0143. Friedland v. Djukic.

Cuyahoga App. Nos. 94319 and 94470, 2010-Ohio-5777.

O'Donnell, J., dissents.

2011-0146. State v. Huber.

Clark App. No. 07-CA-88, 2009-Ohio-1636. Discretionary appeal not accepted. Motions to dismiss and to strike motion to dismiss denied as moot.

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

2011-0148. State v. Puckett.

Licking App. No. 2010 CA 0029, 2010-Ohio-6232.

2011-0149. State v. Fields.

Muskingum App. No. CT2009-0057, 2010-Ohio-6233.

2011-0151. State v. Toles.

Franklin App. No. 08AP-821, 2010-Ohio-2772.

2011-0155. State v. Dunn.

Lorain App. No. 09CA009662, 2010-Ohio-6053.

2011-0156. State v. Wheatley.

Logan App. No. 8-10-06.

McGee Brown, J., dissents.

2011-0157. State v. Thomas.

Wood App. No. WD-10-022, 2010-Ohio-6522. Discretionary appeal not accepted.
Motion to strike and replace denied as moot.

O'Donnell, J., dissents.

2011-0159. State v. Moton.

Summit App. No. 25188, 2011-Ohio-58.

2011-0161. State v. Smith.

Greene App. No. 2009-CA-81, 2010-Ohio-6229.

2011-0162. State v. Pigge.

Ross App. No. 09CA3136, 2010-Ohio-6541.

O'Connor, C.J., and Lanzinger, J., dissent and would accept the appeal on Proposition of Law No. II and remand the cause for application of *State v. Johnson*, 128 Ohio St.3d 153, 2010-Ohio-6314, 942 N.E.2d 1061.

2011-0165. Ward v. Cent. Invest., L.L.C.

Hamilton App. No. C-100080, 2010-Ohio-6114.

2011-0166. Hoyt v. Heindell.

Lake App. Nos. 2009-L-151 and 2009-L-152, 2010-Ohio-6058.

2011-0168. Estate of Lieb v. Sunset Inn Restaurant, Inc.

Licking App. No. 10-CA-79.

2011-0169. Swiger v. Kohl's Dept. Store, Inc.

Montgomery App. No. 23713, 2010-Ohio-6230.

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

2011-0172. Summers & Vargas Co. v. Abboud.

Cuyahoga App. No. 94310, 2010-Ohio-5595.

2011-0173. Middleton v. Meijer, Inc.

Montgomery App. No. 23789, 2010-Ohio-3244.

2011-0175. Dornal v. Cincinnati Metro. Hous. Auth.

Hamilton App. No. C-100172, 2010-Ohio-6236.

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

Lanzinger, J., dissents and would accept the appeal on all Propositions of Law.

Cupp, J., dissents and would accept the appeal on Proposition of Law Nos. III, IV, and V.

2011-0177. Williams v. State Farm Mut. Auto. Ins. Co.

Hamilton App. No. C-090834.

Pfeifer, J., dissents.

2011-0178. Collins v. Bergman.

Montgomery App. No. 23961.

Cupp, J., dissents.

2011-0179. State v. Krupa.

Mahoning App. No. 09-MA-135, 2010-Ohio-6268.

2011-0180. Strauss v. Strass.

Cuyahoga App. No. 94129, 2010-Ohio-6166.

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

2011-0181. Rumpke Sanitary Landfill, Inc. v. Colerain Twp.

Hamilton App. No. C-090223.

Pfeifer, Cupp, and McGee Brown, JJ., dissent.

2011-0182. State v. Jones.

Licking App. No. 10-CA-46.

2011-0192. State v. Bradford.

Warren App. No. CA2010-04-032, 2010-Ohio-6429.

2011-0196. State v. Ambartsoumov.

Franklin App. No. 09AP-1054, 2010-Ohio-6293.

2011-0197. State v. Veliev.

Franklin App. Nos. 09AP-1059 and 09AP-1060, 2010-Ohio-6348.

2011-0198. Tatman v. Kaiser Aluminum Corp.

Licking App. No. 10-CA-66, 2010-Ohio-6402.

2011-0203. State v. Haas.

Portage App. No. 2009-P-0068, 2010-Ohio-6249.

2011-0210. State v. Lanier.

Mahoning App. No. 09 MA 97, 2010-Ohio-6382.

2011-0216. Thornton v. Delatore.

Mahoning App. No. 09 MA 192, 2010-Ohio-6391.

2011-0227. In re M.N.

Muskingum App. Nos. CT10-0025 and CT10-0031, 2010-Ohio-6465.
Lundberg Stratton, O'Donnell, and Cupp, JJ., dissent.

2011-0236. State v. Austin.

Mahoning App. No. 09 MA 167, 2010-Ohio-6583.
O'Donnell, J., dissents.

2011-0239. State v. Dyson.

Wayne App. No. 09CA0055, 2010-Ohio-6452.

2011-0242. State v. Dolman.

Williams App. No. WM-10-007.

2011-0243. State v. McCauley.

Trumbull App. No. 2010-T-0015, 2010-Ohio-6446.

2011-0251. State v. Taylor.

Scioto App. No. 10CA3339, 2010-Ohio-6580.

2011-0259. Ross v. Ohio Dept. of Job & Family Servs.

Franklin App. No. 10AP-887.

2011-0267. State v. Christinger.

Cuyahoga App. No. 95109, 2010-Ohio-6192.

2011-0268. State v. Herrington.

Summit App. No. 25150, 2010-Ohio-6455.

2011-0269. State v. Smith.

Cuyahoga App. No. 94493, 2011-Ohio-90.

2011-0274. Wassenaar v. Ohio Dept. of Rehab. & Corr.
Franklin App. No. 10AP-395, 2010-Ohio-6125.

2011-0276. State v. Dickerson.
Cuyahoga App. No. 94567, 2010-Ohio-5787.

2011-0287. State v. Taylor.
Cuyahoga App. No. 94569, 2010-Ohio-5607.

2011-0298. State v. Huber.
Cuyahoga App. No. 93923, 2011-Ohio-62.

McGee Brown, J., dissents and would accept the appeal on Proposition of Law No. XII and remand the cause for application of *State v. Johnson*, 128 Ohio St.3d 153, 2010-Ohio-6314, 942 N.E.2d 1061.

2011-0310. State v. Brown.
Cuyahoga App. No. 92814, 2011-Ohio-65.

2011-0311. State v. Hill.
Stark App. No. 2010CA00263.

2011-0330. State v. Worthy.
Summit App. No. 25753.

RECONSIDERATION OF PRIOR DECISIONS

2010-1870. Cincinnati Ins. Co. v. Oblates of St. Francis de Sales, Inc.
Lucas App. No. L-09-1146, 2010-Ohio-4382. Reported at 127 Ohio St.3d 1546, 2011-Ohio-647, 941 N.E.2d 803. On motion for reconsideration. Motion denied.
Pfeifer, J., dissents.
Lanzinger, J., not participating.

2010-1921. State v. Murphy.
Scioto App. No. 09CA3311, 2010-Ohio-5031. Reported at 127 Ohio St.3d 1546, 2011-Ohio-647, 941 N.E.2d 803. On motion for reconsideration. Motion denied.

2010-1936. State v. Moulton.
Cuyahoga App. No. 93726, 2010-Ohio-4484. Reported at 127 Ohio St.3d 1547, 2011-Ohio-647, 941 N.E.2d 803. On motion for reconsideration. Motion denied.

Lanzinger and Cupp, JJ., dissent.

2010-1952. Stewart v. Forum Health.

Mahoning App. No. 09-MA-129, 2010-Ohio-4885. Reported at 127 Ohio St.3d 1547, 2011-Ohio-647, 941 N.E.2d 803. On motion for reconsideration. Motion denied.

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

2010-1992. State v. Moon.

Cuyahoga App. No. 93673, 2010-Ohio-4483. Reported at 128 Ohio St.3d 1412, 2011-Ohio-828, 942 N.E.2d 384. On motion for reconsideration. Motion denied.

2010-2055. Lima v. Bowersock.

Allen App. No. 1-10-53. Reported at 127 Ohio St.3d 1549, 2011-Ohio-647, 941 N.E.2d 805. On motion for reconsideration. Motion denied.

2010-2106. State v. Watkins.

Franklin App. No. 09AP-669, 2010-Ohio-4187. Reported at 128 Ohio St.3d 1413, 2011-Ohio-828, 942 N.E.2d 385. On motion for reconsideration. Motion denied.

O'Donnell and Cupp, JJ., dissent.

Lundberg Stratton, J., dissents and would accept the appeal and hold the cause for the decision in 2010-1660, *State v. Palmer*, Franklin App. Nos. 09AP-956 and 09AP-957, 2010-Ohio-2421.

2010-2149. Huber v. State.

Montgomery App. No. 23890, 2010-Ohio-5284. Reported at 127 Ohio St.3d 1550, 2011-Ohio-647, 941 N.E.2d 805. On motion for reconsideration. Motion denied.