

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS

May 4, 2011

[Cite as *05/04/2011 Case Announcements, 2011-Ohio-2055.*]

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## MERIT DECISIONS WITHOUT OPINIONS

**2010-2125. State ex rel. Whitaker v. Timmerman-Cooper.**

Madison App. No. CA2010-08-016. The appeal is dismissed as moot because appellant has been discharged from prison. *Cruse v. Bradshaw*, 108 Ohio St.3d 212, 2006-Ohio-663, 842 N.E.2d 513, ¶ 5; *State ex rel. Gordon v. Murphy*, 112 Ohio St.3d 329, 2006-Ohio-6572, 859 N.E.2d 928, ¶ 6. Cause dismissed.

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

**2011-0235. State ex rel. Christoff v. Turner.**

In Mandamus and Prohibition. On motion to dismiss. Motion to dismiss granted. Motion for class certification denied. Request for oral argument denied. Cause dismissed.

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

O'Donnell, J., not participating.

**2011-0275. State ex rel. Turner v. Brown.**

In Mandamus and Prohibition. On motion to dismiss. Motion to dismiss granted. Motion for class certification denied. Request for oral argument denied. Cause dismissed.

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

O'Donnell, J., not participating.

**2011-0279. [State ex rel.] Johnson v. Sheeran.**

In Mandamus. On answer of respondent. 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.

**2011-0280. State ex rel. Kelly v. Bressler.**

In Procedendo. 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.

**2011-0317. [State ex rel.] Ezell v. Fuerst.**

In Procedendo. On motion to dismiss. Motion to dismiss granted. Motion to take judicial notice and petition for judgment denied as moot.

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

**2011-0349. [State ex rel.] Logan v. Hunter.**

In Procedendo. On motion to dismiss. Motion to dismiss granted. Petition for judgment denied as moot. Cause dismissed.

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

**2011-0487. State v. Pace.**

Franklin App. No. 10AP-547, 2011-Ohio-1335. 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, O'Donnell, Lanzinger, Cupp, and McGee Brown, JJ., concur.

Lundberg Stratton, J., dissents.

**MOTION AND PROCEDURAL RULINGS**

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

Hamilton App. No. C-090812. On motion for clarification. Motion denied.

**2011-0145. State ex rel. Dawson v. Bloom-Carroll Local School Dist.**

In Mandamus. Respondent's 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. Relator's motion for in camera review is granted, and respondent is ordered to submit as part of its evidence for in camera review unredacted copies of the records for which it claims exemptions.

O'Donnell, J., dissents and would grant the motion for judgment on the pleadings.

**2011-0405. State v. McDowall.**

Franklin App. No. 09AP-443, 2009-Ohio-6902. On motion for leave to file delayed appeal. Motion denied.

**2011-0416. State v. Caskey.**

Lake App. No. 2010-L-014, 2010-Ohio-4697. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and McGee Brown, JJ., dissent.

**2011-0471. In re O.J.**

Hamilton App. No. C-100044. On motion for leave to file delayed appeal. Motion granted.

Lundberg Stratton, J., dissents.

**2011-0475. King v. King.**

Medina App. No. 10CA0009-M, 2011-Ohio-513. On motion for stay of execution of trial court order and decision and journal entry of court of appeals. Motion denied.

Cupp, J., dissents.

**2011-0491. State v. Brooks.**

Montgomery App. No. 23784, 2010-Ohio-5886. On motion for leave to file delayed appeal. Motion granted.

O'Donnell, J., dissents.

**APPEALS ACCEPTED FOR REVIEW**

**2011-0212. State v. Lloyd.**

Holmes App. No. 09 CA 12, 2010-Ohio-6562. Discretionary appeal accepted on Proposition of Law No. II.

Pfeifer and Lundberg Stratton, JJ., would also accept the appeal on Proposition of Law Nos. I, III, IV, and V.

McGee Brown, J., would also accept the appeal on Proposition of Law Nos. III, IV, and V.

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

**2011-0215. In re M.W.**

Cuyahoga App. No. 94737, 2010-Ohio-6362. Discretionary appeal accepted on Proposition of Law No. I.

Lundberg Stratton, Lanzinger, and McGee Brown, JJ., would also accept the appeal on Proposition of Law No. II.

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

**2011-0226. State v. Wade.**

Franklin App. No. 10AP-159, 2010-Ohio-6395. Discretionary appeal accepted; cause held for the decision in 2009-0088, *State v. Williams*, Warren App. No. CA2008-02-029, 2008-Ohio-6195; and briefing schedule stayed.

**2011-0244. State v. Swidas.**

Lake App. No. 2009-L-104, 2010-Ohio-6436. Discretionary appeal accepted on Proposition of Law No. I.

Lundberg Stratton, J., would also accept the appeal on Proposition of Law No. II.

Pfeifer, J., dissents.

**2011-0252. State ex rel. Ohio Attorney Gen. v. Shelly Holding Co.**

Franklin App. No. 09AP-938, 2010-Ohio-6526.

McGee Brown, J., dissents.

**2011-0257. In re J.B.A.**

Licking App. No. 10-CA-30, 2010-Ohio-6564. Discretionary appeal accepted on Proposition of Law Nos. II and III; cause held for the decision in 2008-1624, *In re Smith*, Allen App. No. 1-07-58, 2008-Ohio-3234; and briefing schedule stayed.

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

Pfeifer, Lundberg Stratton, and McGee Brown, JJ., would also accept the appeal on Proposition of Law No. I.

**2011-0258. Buck v. Reminderville.**

Summit App. No. 25272, 2010-Ohio-6497. Discretionary appeal accepted; cause held for the decision in 2010-1561, *Sampson v. Cuyahoga Metro. Hous. Auth.*, Cuyahoga App. No. 93441, 188 Ohio App.3d 250, 2010-Ohio-3415; and briefing schedule stayed.

Pfeifer, J., dissents.

**APPEALS NOT ACCEPTED FOR REVIEW**

**2010-2151. State v. Holman.**

Cuyahoga App. Nos. 93869 and 93870, 2010-Ohio-4886.

**2010-2190. State v. Cottrell.**

Cuyahoga App. No. 95053, 2010-Ohio-5254.

**2011-0021. State v. McCrary.**

Hamilton App. No. C-100300.

**2011-0088. Wadsworth Twp. Bd. of Trustees v. Medina Cty. Bd. of Commrs.**

Medina App. No. 09CA0036-M, 2010-Ohio-5921. Discretionary appeal and cross-appeal not accepted.

O'Connor, C.J., dissents.

**2011-0201. State v. Picard.**

Richland App. No. 2009 CA 0108, 2010-Ohio-6358.

**2011-0204. Ruble v. M & L Properties, Ltd.**

Ashland App. No. 10-COA-006, 2010-Ohio-6356.

**2011-0207. Mull v. Madkins.**

Cuyahoga App. No. 94554, 2010-Ohio-6360.

**2011-0211. Syphard v. Moore Peterson/Accordia.**

Mahoning App. No. 09 MA 151, 2010-Ohio-6501.

**2011-0214. Estate of Ramun v. Ramun.**

Mahoning App. No. 08 MA 124, 2010-Ohio-6405.

**2011-0219. Hubble v. Haviland Plastic Prods. Co.**

Paulding App. No. 11-10-07, 2010-Ohio-6379.

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

McGee Brown, J., dissents.

**2011-0220. State v. Hempfield.**

Licking App. No. 10-CA-87, 2010-Ohio-6570.

**2011-0222. In re Guardianship of Soltesz.**

Erie App. No. E-10-063.

**2011-0224. State v. Page.**

Licking App. No. 10-CA-80, 2010-Ohio-6569.

**2011-0225. Withers v. Mercy Hosp. of Fairfield.**

Butler App. No. CA2010-02-033, 2010-Ohio-6431. Discretionary appeal and cross-appeal not accepted.

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

**2011-0228. State v. Dudas.**

Lake App. No. 2010-L-003, 2010-Ohio-6576.

**2011-0232. State v. Bever.**

Lake App. No. 2010-L-022, 2010-Ohio-6443.

**2011-0233. Giannini-Baur v. Schwab Retirement Plan Servs., Inc.**

Summit App. No. 25172, 2010-Ohio-6453.

**2011-0234. Reed v. Multi-Cty. Juvenile Attention Sys.**

Columbiana App. No. 09 CO 27, 2010-Ohio-6602.

Lundberg Stratton, J., dissents.

**2011-0237. Parrish v. State.**

Licking App. No. 10-CA-64, 2010-Ohio-6415.

Pfeifer, O'Donnell, and Cupp, JJ., dissent and would accept the appeal and hold the cause for the decision in 2009-0088, *State v. Williams*, Warren App. No. CA2008-02-029, 2008-Ohio-6195.

**2011-0241. In re Estate of Miller.**

Logan App. No. 8-10-12, 2010-Ohio-6381.

**2011-0245. Edgell v. Edgell.**

Lake App. No. 2009-L-065, 2010-Ohio-6435.

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

**2011-0246. Oaktree Condominium Assn., Inc. v. Hallmark Bldg. Co.**

Lake App. No. 2009-L-112, 2010-Ohio-6437.

Lanzinger and McGee Brown, JJ., dissent.

**2011-0247. State v. Cope.**

Butler App. No. CA2009-11-285, 2010-Ohio-6430.

**2011-0248. State v. Griffey.**

Portage App. No. 2009-P-0077, 2010-Ohio-6573.

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

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

Wayne App. No. 07CA0051, 2010-Ohio-6449.

Cupp, J., dissents.

**2011-0254. State v. Minear.**

Portage App. No. 2010-P-0025, 2010-Ohio-6577.

O'Donnell, J., dissents.

**2011-0255. State v. Helms.**

Lucas App. No. L-10-1079, 2010-Ohio-6520.

**2011-0256. State v. Hutchinson.**

Hamilton App. No. C-100115.

**2011-0261. Natl./RS, Inc. v. Huff.**

Franklin App. No. 10AP-306, 2010-Ohio-6530.

**2011-0262. State v. Hamlett.**

Mahoning App. No. 09 MA 165, 2010-Ohio-6605.

Lundberg Stratton and Lanzinger, JJ., dissent.

**2011-0264. State v. Justice.**

Montgomery App. No. 23744, 2010-Ohio-6484.

**2011-0265. State v. Rolling.**

Cuyahoga App. No. 95473, 2011-Ohio-121.

**2011-0266. State v. Shaffer.**

Geauga App. No. 2009-G-2929, 2010-Ohio-6565.

**2011-0270. State v. Harper.**

Sandusky App. No. S-10-005, 2010-Ohio-6518.

**2011-0272. Striff v. Luke Med. Practitioners, Inc.**

Allen App. No. 1-10-15, 2010-Ohio-6261.

**2011-0277. State v. Roy.**

Butler App. No. CA2009-12-305, 2010-Ohio-5528.

O'Donnell, J., dissents.

**2011-0285. State v. Dorsey.**

Cuyahoga App. No. 93466, 2010-Ohio-6152.

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

**2011-0286. Thomas v. Columbia Sussex Corp.**

Franklin App. No. 10AP-93, 2011-Ohio-17.

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

**2011-0288. Cardinal Partners, Ltd. v. Fernandez Discipline, L.L.C.**

Lucas App. No. L-09-1165.

**2011-0293. State v. Siber.**

Cuyahoga App. No. 94882, 2011-Ohio-109.

**2011-0296. State v. Scott.**

Montgomery App. No. 22745.

**2011-0297. State v. Blanton.**

Franklin App. Nos. 10AP-449 and 10AP-450, 2011-Ohio-82.

Pfeifer and Lundberg Stratton, JJ., dissent.

**2011-0302. State v. Zeune.**

Knox App. No. 10 CA 06, 2011-Ohio-93.



**2011-0306. State ex rel. Andwan v. Greenhills.**

Hamilton App. Nos. C-100011 and C-100051, 2010-Ohio-5962.

**2011-0316. State v. Ushery.**

Hamilton App. No. C-100527.

O'Donnell, J., dissents.

**2011-0323. State v. Lewis.**

Ashland App. No. 10-COA-023, 2011-Ohio-187.

Pfeifer and O'Donnell, JJ., dissent.

**2011-0331. State v. Demus.**

Montgomery App. No. 23801, 2011-Ohio-124.

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

**2011-0355. State v. Rossbach.**

Lucas App. No. L-09-1300, 2011-Ohio-281.

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

Cupp, J., dissents and would accept the appeal on Proposition of Law No. III and hold the cause for the decision in 2009-0477, *State v. Dunlap*, Cuyahoga App. No. 91165, 2009-Ohio-134.

**2011-0357. State v. Thomas.**

Cuyahoga App. No. 94788, 2011-Ohio-214.

**2011-0364. State v. Bryant.**

Hamilton App. No. C-100067.

**2011-0368. State v. Perry.**

Stark App. No. 2010-CA-00185, 2011-Ohio-274.

**2011-0370. State ex rel. Boswell v. Ohio Adult Parole Auth.**

Warren App. No. CA2010-08-081.

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

**2011-0373. State v. Tucker.**

Hamilton App. No. C-090913.

**2011-0377. State v. Baldwin.**

Stark App. No. 2010-CA-00223, 2011-Ohio-495.

**2011-0378. State v. Davis.**

Mahoning App. No. 08 MA 236, 2011-Ohio-292.

**2011-0383. State v. Harris.**

Franklin App. Nos. 09AP-578 and 09AP-579.

**2011-0384. State v. Alsip.**

Cuyahoga App. No. 93105, 2011-Ohio-303.

**2011-0388. State v. Robertson.**

Cuyahoga App. No. 94527, 2011-Ohio-325.

**2011-0389. State v. Primm.**

Cuyahoga App. No. 94630, 2011-Ohio-328.

O'Donnell, J., dissents.

**2011-0392. State v. England.**

Hamilton App. No. C-100159.

**2011-0396. State v. Green.**

Cuyahoga App. No. 94634, 2011-Ohio-329.

**2011-0407. State v. Waugh.**

Cuyahoga App. No. 92896, 2011-Ohio-589.

**2011-0409. State v. Williams.**

Cuyahoga App. Nos. 94321, 94322, and 94323, 2011-Ohio-316.

**2011-0428. State v. Jackson.**

Hamilton App. No. C-090435.

**2011-0431. State v. Glenn.**

Mahoning App. No. 09 MA 54, 2011-Ohio-543.

**RECONSIDERATION OF PRIOR DECISIONS**

**2010-2011. Columbus v. Flowers.**

Franklin App. No. 10AP-32, 2010-Ohio-5081. Reported at 128 Ohio St.3d 1412, 2011-Ohio-828, 942 N.E.2d 385. On motion for reconsideration. Motion denied.

**2010-2123. Cireddu v. Clough.**

Lake App. No. 2010-L-008, 2010-Ohio-5401. Reported at 128 Ohio St.3d 1413, 2011-Ohio-828, 942 N.E.2d 385. On motion for reconsideration. Motion denied.

**2010-2124. Taylor Bros., L.L.C. v. Mandel.**

Hamilton App. No. C-100032, 2010-Ohio-5204. Reported at 128 Ohio St.3d 1413, 2011-Ohio-828, 942 N.E.2d 385. On motion for reconsideration. Motion denied.  
O'Donnell, J., dissents.

**2010-2143. Columbus v. Cooper.**

Franklin App. No. 10AP-325, 2010-Ohio-5210. Reported at 128 Ohio St.3d 1414, 2011-Ohio-828, 942 N.E.2d 385. On motion for reconsideration. Motion denied.  
O'Donnell, J., dissents.

**2010-2154. Wilson v. Whitmore.**

Cuyahoga App. No. 94720, 2010-Ohio-5489. Reported at 128 Ohio St.3d 1425, 2011-Ohio-1049, 943 N.E.2d 572. On motion for reconsideration. Motion denied.

**2010-2207. State v. Arnold.**

Franklin App. No. 07AP-789, 2010-Ohio-5622. Reported at 128 Ohio St.3d 1426, 2011-Ohio-1049, 943 N.E.2d 573. On motion for reconsideration. Motion denied.  
Pfeifer and O'Donnell, JJ., dissent.  
McGee Brown, J., not participating.

**2010-2215. State v. Gates.**

Cuyahoga App. No. 93789, 2010-Ohio-5348. Reported at 128 Ohio St.3d 1414, 2011-Ohio-828, 942 N.E.2d 386. On motion for reconsideration. Motion denied.  
Lundberg Stratton and McGee Brown, JJ., dissent.

**2010-2269. [State ex rel.] Henderson v. Gallagher.**

In Procedendo. Reported at 128 Ohio St.3d 1409, 2011-Ohio-828, 942 N.E.2d 383. On motion for reconsideration. Motion denied. Motion to strike denied as moot.

**2010-2292. Melton v. GER Taylor Gardens, L.L.C.**

Cuyahoga App. No. 95070. Reported at 128 Ohio St.3d 1428, 2011-Ohio-1049, 943 N.E.2d 574. On motion for reconsideration. Motion denied.

**2011-0027. [State ex rel.] Henderson v. Finnegan.**

In Procedendo. Reported at 128 Ohio St.3d 1409, 2011-Ohio-828, 942 N.E.2d 383. On motion for reconsideration. Motion denied. Motions for preliminary injunction, for judgment, and to strike denied as moot.