

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS

November 2, 2011

[Cite as *11/02/2011 Case Announcements*, 2011-Ohio-5605.]

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## MERIT DECISIONS WITHOUT OPINIONS

**2011-1239. State ex rel. Russell v. DeWeese.**

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

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

**2011-1493. State ex rel. Stokes v. Cuyahoga Cty. Sheriff Dept.**

In Procedendo. On motion to dismiss. Motion to dismiss granted.

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

**2011-1561. State ex rel. Norris v. Milligan.**

In Habeas Corpus. On petition for writ of habeas corpus of Robert Lee Norris.

Sua sponte, cause dismissed.

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

**2011-1577. Sudberry v. Morgan.**

In Quo Warranto. On motion to dismiss. Motion to dismiss granted.

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

**2011-1601. Wright v. Leis.**

In Habeas Corpus. On petition for writ of habeas corpus of Christopher J. Wright.

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

**2011-0572. State ex rel. Harsh v. Knab.**

In Habeas Corpus. On motion for findings of fact and conclusions of law. Motion denied.

**2011-1119. Pegg v. Mausser.**

In Habeas Corpus. On motion for release from custody. Motion denied.

**2011-1226. State ex rel. Roland v. Roland.**

In Habeas Corpus. On request for final appealable order. Request denied.

**2011-1364. Roberts v. Knab.**

Ross App. No. 11CA3235. On motion for copy of index of record. Motion granted. On motion to supplement the record. Motion denied.

**2011-1486. Westfield Ins. Co. v. Custom Agri Sys., Inc.**

Certified Question of State Law, United States Court of Appeals for the Sixth Circuit, No. 11-3213. On review of preliminary memorandum pursuant to Sup.Ct.Prac.R. 18.6. The court will answer the following questions:

(1) Are claims of defective construction/workmanship brought by a property owner claims for "property damage" caused by an "occurrence" under a commercial general liability policy?

(2) If such claims are considered "property damage" caused by an "occurrence," does the contractual liability exclusion in the commercial general liability policy preclude coverage for claims for defective construction/workmanship?

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

**2011-1568. State v. Harrison.**

Cuyahoga App. No. 95666, 2011-Ohio-3258. On motion for delayed appeal. Motion denied.

Cupp and McGee Brown, JJ., dissent.

**2011-1617. In re Feaster.**

Summit App. No. 25395, 2011-Ohio-4222. On motion for stay. Motion granted.

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

**2011-1620. State v. Dawson.**

Mahoning App. No. 09 MA 209, 2011-Ohio-2773. On motion for delayed appeal. Motion granted.

O'Connor, CJ., and Lundberg Stratton, J., dissent.

### **APPEALS ACCEPTED FOR REVIEW**

#### **2011-1053. Rowell v. Smith.**

Franklin App. Nos. 10AP-675 and 10AP-708, 2011-Ohio-2809. Discretionary appeal accepted on Proposition of Law No. 1 only.

Pfeifer, Lundberg Stratton, and McGee Brown JJ., would also accept the appeal on Proposition of Law 2.

O'Donnell, Lanzinger, and Cupp, JJ., dissent and would not accept the appeal.

#### **2011-1172. Miller v. Miller.**

Delaware App. No. 10 CAF 09 0074, 2011-Ohio-2649. Discretionary appeal not accepted. Discretionary cross-appeal accepted on Proposition of Law No. 2 only.

O'Donnell and Cupp, JJ., would also accept the cross-appeal on Proposition of Law No. 1.

McGee Brown, J., would also accept the appeal and the cross-appeal on Proposition of Law No. 1

O'Connor, CJ., and Pfeifer and Stratton, JJ., dissent and would not accept the appeal or the cross-appeal.

#### **2011-1182. In re Ronald A.**

Hamilton App. No. C-100635. Discretionary appeal accepted; cause held for the decision in 2011-0215, *In re M.W.*, Cuyahoga App. No. 94737, 2010-Ohio-6362; and briefing schedule stayed.

O'Connor, CJ., would accept the appeal but hold only Proposition of Law No. 1 for 2011-0215, *In re M.W.*, Cuyahoga App. No. 94737, 2010-Ohio-6362.

Lanzinger, J., would not accept Proposition of Law No. 2.

#### **2011-1194. State v. Griffis.**

Muskingum App. No. CT2010-57, 2011-Ohio-2955. Discretionary appeal accepted on Proposition of Law No. 1; cause held for the decision in 2011-0202, *State v. Qualls*, Meigs App. No. 10CA8, 2010-Ohio-5316; and briefing schedule stayed.

O'Connor, CJ., would also accept Proposition of Law No. 2 but would not hold that proposition for the decision in 2011-0202, *State v. Qualls*, Meigs App. No. 10CA8, 2010-Ohio-5316.

Pfeifer and McGee Brown, JJ., dissent and would not accept the appeal.

**2011-1261. State v. Turner.**

Cuyahoga App. No. 95438, 2011-Ohio-2785. Discretionary appeal accepted; cause held for the decision in 2011-0202, *State v. Qualls*, Meigs App. No. 10CA8, 2010-Ohio-5316; and briefing schedule stayed.

McGee Brown, J., dissents.

**APPEALS NOT ACCEPTED FOR REVIEW**

**2011-1146. State v. Miller.**

Cuyahoga App. No. 94662, 2011-Ohio-2388.

O'Donnell, J., dissents and would accept the appeal on Proposition of Law No. 2.

**2011-1159. Sanders v. Nationwide Mut. Ins. Co.**

Cuyahoga App. No. 95228, 2011-Ohio-1933.

Lundberg Stratton and O'Donnell, JJ., dissent and would accept the appeal and the cross-appeal.

**2011-1176. State v. Young.**

Mahoning App. No. 09 MA 100, 2011-Ohio-2646.

**2011-1178. State v. Gardner.**

Mahoning App. No. 10 MA 52, 2011-Ohio-2644.

**2011-1179. Wulfekuhl v. Columbus Sav. Bank.**

Hamilton App. No. C-100617.

**2011-1180. Gowdy v. Cuyahoga Cty. Dept. of Children & Family Servs.**

Cuyahoga App. No. 95956, 2011-Ohio-2156.

**2011-1181. State v. Essa.**

Cuyahoga App. No. 94826, 2011-Ohio-2513.

**2011-1183. Merchants Bank & Trust Co. v. Five Star Fin. Corp.**

Hamilton App. No. C-100037, 2011-Ohio-2476.

**2011-1189. State v. Zechar.**

Mahoning App. No. 09-MA-110, 2011-Ohio-2630.

**2011-1198. State v. Johnson.**

Richland App. No. 10 CA 98, 2011-Ohio-2653.

**2011-1202. State v. Shoulders.**

Cuyahoga App. No. 95224, 2011-Ohio-2659.

Lundberg Stratton, J., dissents.

**2011-1206. State v. Dixon.**

Montgomery App. No. 24434.

**2011-1208. B.W. v. D.B.-B.**

Lucas App. No. L-10-1212, 193 Ohio App.3d 637, 2011-Ohio-2813.

**2011-1210. State v. McCoy.**

Hamilton App. No. C-100737.

**2011-1211. Am. Assn. of Univ. Professors-Kent State Chapter v. Kent State Univ.**

Portage App. No. 2010-P-0054, 2011-Ohio-2592.

O'Donnell, J., not participating.

**2011-1212. Pflanz v. Pilkington LOF.**

Hamilton App. No. C-100574, 2011-Ohio-2670.

**2011-1214. State v. Thomas.**

Summit App. No. 25244, 2011-Ohio-912.

**2011-1215. Rough Bros., Inc. v. Bischel.**

Hamilton App. No. C-100373, 2011-Ohio-2005. Discretionary appeal not accepted. Motion to strike denied as moot.

Pfeifer, J., dissents.

**2011-1216. State v. Lewis.**

Summit App. No. 25080, 2011-Ohio-2014.

**2011-1217. State v. Dyson.**

Wayne App. No. 11CA0018.

O'Donnell, J., dissents.

**2011-1220. Pevets v. Crain Communications, Inc.**

Ottawa App. No. OT-10-023, 2011-Ohio-2700. Discretionary appeal not accepted.  
Motion to dismiss denied as moot.

**2011-1221. State v. Chapman.**

Sandusky App. No. S-10-001, 2011-Ohio-5419.  
Pfeifer, J., dissents.

**2011-1222. State v. Pez.**

Hamilton App. No. C-100521.

**2011-1224. State v. Phelps.**

Hamilton App. No. C-100096, 2011-Ohio-3144.

**2011-1229. State v. Starks.**

Summit App. No. 25617, 2011-Ohio-2772.

**2011-1230. State v. Jones.**

Mahoning App. No. 09 MA 50, 2011-Ohio-2903.

**2011-1231. State v. Bays.**

Ashland App. No. 10-CA-42, 2011-Ohio-3021.

**2011-1234. Monus v. Day.**

Mahoning App. No. 10 MA 35, 2011-Ohio-3170.

**2011-1236. State v. Whitt.**

Coshocton App. No. 10-CA-10, 2011-Ohio-3022.

**2011-1237. Arnholt v. Carlisle.**

Licking App. No. 10 CA 91, 2011-Ohio-2948.  
McGee Brown, J., dissents.

**2011-1240. Stowers v. Ohio Dept. of Agriculture.**

Lorain App. No. 10CA009782, 2011-Ohio-2710.

Lanzinger, J., dissents and would accept the appeal on Proposition of Law  
No. 2.

**2011-1241. Harper v. Harper.**

Ashland App. No. 10-COA-028, 2011-Ohio-2837.

**2011-1246. State v. Lowe.**

Summit App. No. 25475, 2011-Ohio-3355.

**2011-1248. State v. DeJoy.**

Franklin App. No. 10AP-919, 2011-Ohio-2745.

O'Donnell, J., dissents

**2011-1249. New Albany Park Condominium Assn. v. Lifestyle Communities, Ltd.**

Franklin App. No. 10AP-118, 2011-Ohio-2806.

O'Connor, CJ., dissents.

McGee Brown, J., not participating.

**2011-1253. States Resources Corp. v. Cincinnati Dev. Fund.**

Hamilton App. No. C-100645.

**2011-1255. Austin v. Ohio FAIR Plan Underwriting Assn.**

Franklin App. No. 10AP-895, 2011-Ohio-2050.

**2011-1256. State v. Petty.**

Richland App. No. 10CA9, 2011-Ohio-2985.

**2011-1257. Barnes v. Columbus.**

Franklin App. No. 10AP-637, 2011-Ohio-2808.

Pfeifer and McGee Brown, JJ., dissent.

**2011-1260. State v. Foster.**

Cuyahoga App. No. 95209, 2011-Ohio-2781.

**2011-1270. State v. Alvarez.**

Clermont App. No. CA2011-05-037.

**2011-1271. State v. Ingles.**

Hamilton App. No. C-100297, 2011-Ohio-2901.

O'Donnell, J., dissents.

**2011-1272. State v. Stewart.**

Cuyahoga App. No. 95130, 193 Ohio App.3d 716, 2011-Ohio-2910.

Lundberg Stratton, J., dissents.

**2011-1275. State v. Nelson.**

Hamilton App. No. C-100755.

**2011-1276. State v. Snyder.**

Tuscarawas App. No. 10AP060021, 2011-Ohio-3334.

**2011-1278. State v. Meredith.**

Summit App. No. 25198, 2011-Ohio-1517.

**2011-1290. State v. Harris.**

Hamilton App. No. C-100470, 2011-Ohio-2729.

**2011-1296. State v. Gilcreast.**

Summit App. No. 25509, 2011-Ohio-2883.

Lundberg Stratton and O'Donnell, J., dissent  
O'Connor, CJ., not participating.

**2011-1297. State v. Shabazz.**

Cuyahoga App. Nos. 95567 and 95588, 2011-Ohio-2919.

**2011-1301. State v. Jones.**

Cuyahoga App. No. 95284, 2011-Ohio-2914.

O'Connor, CJ., dissents and would accept the appeal on Proposition of Law  
No. 2.

McGee Brown, J., dissents and would accept the appeal on Proposition of  
Law No. 1.

**2011-1303. State v. Howard.**

Hamilton App. No. C-100240, 2011-Ohio-2862.

O'Donnell, J., dissents and would accept the appeal on Proposition of Law  
No. 1.

**2011-1304. Speight v. State.**

Cuyahoga App. Nos. 96044 and 96045, 2011-Ohio-2933.

O'Donnell and Cupp, JJ., dissent.

**2011-1305. Hannah v. State.**

Cuyahoga App. Nos. 95886 and 95889, 2011-Ohio-2930.

O'Donnell and Cupp, JJ., dissent.

**2011-1311. State v. Santiago.**

Cuyahoga App. No. 95516, 2011-Ohio-3058.

**2011-1312. State v. Johnson.**

Butler App. Nos. CA2010-12-327 and CA2011-02-019, 2011-Ohio-3015.

**2011-1314. State v. Collins.**

Cuyahoga App. No. 95415, 2011-Ohio-3241.

**2011-1321. State v. Rittner.**

Fulton App. No. F-11-001.

**2011-1332. State v. Yoder.**

Franklin App. No. 10AP-653, 2011-Ohio-3308.

**2011-1337. State v. Cummings.**

Geauga App. No. 2010-G-2991, 2011-Ohio-3119.

**2011-1341. Leahy v. Richardson.**

Delaware App. No. 10CAE080065, 2011-Ohio-3214.

**2011-1343. State v. Eppinger.**

Cuyahoga App. No. 95685, 2011-Ohio-2404.

O'Donnell, J., dissents and would accept the appeal on Proposition of Law No. 1.

**2011-1354. State v. Santiago.**

Cuyahoga App. No. 95564, 2011-Ohio-3059.

O'Donnell, J., dissents.

**2011-1356. State v. Schuler.**

Hamilton App. No. C-100155.

Lanzinger, J., dissents and would accept the appeal on Proposition of Law No. 2 and reverse and remand the cause on the authority of *State v. Davis*, \_\_\_ Ohio St.3d \_\_\_, 2011-Ohio-5028, \_\_\_ N.E.2d, \_\_\_.

**2011-1358. State v. Isaacs.**

Summit App. No. 25301, 2011-Ohio-3194.

O'Connor, CJ., not participating.

**2011-1373. State v. Dovala.**

Lorain App. No. 10CA009896, 2011-Ohio-3110.

**2011-1375. State v. Gorospe.**

Summit App. Nos. 25551 and 25552, 2011-Ohio-3291.

**2011-1402. State v. Walker.**

Cuyahoga App. No. 47616.

**2011-1424. Kandel v. Kandel.**

Tuscarawas App. No. 10AP100039, 2011-Ohio-3031.

**RECONSIDERATION OF PRIOR DECISIONS**

**2007-1741. State v. Lang.**

Stark App. No. 2006-CR-1824A. Reported at 129 Ohio St.3d 512, 2011-Ohio-4215, \_\_ N.E.2d \_\_. On motion for reconsideration. Motion denied.

**2011-0520. State ex rel. Pruitt v. Donnelly.**

Cuyahoga App. No. 95518, 2011-Ohio-1252. Reported at 129 Ohio St.3d 498, 2011-Ohio-4203, 954 N.E.2d 117. On motion for reconsideration. Motion denied.

**2011-1114. State ex rel. Parker v. Russo.**

Cuyahoga App. No. 96722, 2011-Ohio-2667. Reported at 129 Ohio St.3d 1458, 2011-Ohio-4228, 951 N.E.2d 1053. On motion for reconsideration. Motion granted; dismissal for want of prosecution is vacated and the cause is reinstated for briefing on the merits. Appellant's brief is due within ten days of this entry, and further briefing will proceed in accordance with the Rules of Practice of the Supreme Court of Ohio.

O'Connor, CJ., and Pfeifer, J., dissent.