

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

November 30, 2011

[Cite as *11/30/2011 Case Announcements*, 2011-Ohio-6124.]

MERIT DECISIONS WITH OPINIONS

2010-1841. State ex rel. George v. Indus. Comm., Slip Opinion No. 2011-Ohio-6036.

Franklin App. No. 09AP-1099, 2010-Ohio-4320. Judgment reversed.

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

2011-1151. State ex rel. Akemon v. Luebbers, Slip Opinion No. 2011-Ohio-6037.

Hamilton App. No. C-110189. Judgment affirmed.

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

2011-1351. State ex rel. Foster v. DeWeese, Slip Opinion No. 2011-Ohio-6038.

Richland App. No. 11CA1, 2011-Ohio-3511. Judgment affirmed.

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

MERIT DECISIONS WITHOUT OPINIONS

2011-0996. State ex rel. Gregley v. Friedman.

Cuyahoga App. No. 96255, 2011-Ohio-2293. On motion to dismiss and notice of judicial action. Motion to dismiss granted. Cause dismissed.

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

2011-1497. First Premier Property Mgt. v. Guernsey Cty. Bd. of Revision.

Board of Tax Appeals, No. 2011-A-109. On amended motion to dismiss. Amended motion to dismiss granted. Cause dismissed.

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

2011-1385. Huelsman v. Lindeman.

In Madamus. 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.

2011-1562. Richardson v. Pfeiffer.

In Madamus. On complaint in mandamus of Donald Richardson. 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.

2011-1575. State ex rel. D.B. v. Oswalt.

In Mandamus and Prohibition. On motion for leave to file amended complaint. Motion granted. On motion for judgment on the pleadings and motion to dismiss. Motions granted. Cause dismissed.

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

2011-1583. State ex rel. Ulery v. Clark Cty. Court of Appeals.

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.

2011-1612. Rashada v. LeBarron.

In Mandamus. On motions to dismiss. Motions to dismiss granted. Cause dismissed.

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

2011-1655. Damra v. Strickland-Saffold.

In Procedendo. On motion to dismiss and notice of judicial action. Motion to dismiss granted. Cause dismissed.

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

2011-1657. State ex rel. Carter v. Astrab.

In Prohibition. 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.

2011-1691. Slager v. Lynch.

In Mandamus. On answer of respondent and motion for judgment on the pleadings. Motion for judgment on the pleadings granted and cause dismissed.

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

MOTION AND PROCEDURAL RULINGS

2011-0818. State v. Griffin.

Coshocton App. No. 09-CA-21, 2011-Ohio-1638. On motion to dismiss the appeal as improvidently allowed, or in the alternative, to summarily affirm or to vacate briefing stay and receive briefs, motion to dismiss denied in part. On motions to reverse and reinstate appellee's conviction, and to reverse and remand with instructions to dismiss the appeals, motion denied. Briefing stay vacated. The clerk shall issue an order for the transmittal of the record from the Court of Appeals for Coshocton County, and the parties shall brief this case in accordance with the Rules of Practice of the Supreme Court of Ohio.

2011-1664. State v. Moore.

Cuyahoga App. Nos. 96111 and 96112, 2011-Ohio-4246. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the following issue, as certified in the court of appeals' entry filed September 26, 2011:

“Whether a trial court's failure to impose the statutorily mandated fine required by R.C. 2925.11(E) and 2929.18(B)(1) when no affidavit of indigency is filed with the clerk of court prior to the filing of the trial court's journal entry of sentencing renders that part of the sentence waiving the fine void.”

Cupp, J., would accept the appeal but would hold the cause for the decision in 2011-0008 and 2011-0010, *State v. Harris*, Cuyahoga App. No. 95128, 2010-Ohio-5374.

Pfeifer and O'Donnell, JJ., dissent.

The conflict case is *State v. DeLoach*, Lorain App. No. 05CA008858, 2006-Ohio-4409.

2011-1716. State v. Thomas.

Licking App. No. 10-CA-125, 2011-Ohio-3932. On motion for delayed appeal. Motion granted.

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

2011-1726. State v. Wolfe.

Athens App. No. 10CA38. On motion for delayed appeal. Motion denied.

2011-1737. State v. Lampley.

Richland App. No. 10CA30, 2011-Ohio-3814. On motion for delayed appeal. Motion granted.

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

2011-1762. State v. Horne.

Summit App. No. 25238, 2011-Ohio-1901. On motion for delayed appeal. Motion denied.

Pfeifer and Cupp, JJ., dissent.

2011-1766. State v. Pettyjohn.

Lorain App. Nos. 10CA009777 and 10CA009894, 2011-Ohio-4461. On motion for stay. Motion denied.

2011-1778. State v. Kelley.

Ross App. No. 10CA3182, 2011-Ohio-3545. On motion for delayed appeal. Motion denied.

Cupp, J., dissents.

2011-1786. State v. Marrero.

Lorain App. No. 10CA009867, 2011-Ohio-3745. On motion for delayed appeal. Motion denied.

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

2011-1788. State v. Stout.

Hardin App. No. 6-10-16, 2011-Ohio-3522. On motion for delayed appeal. Motion denied.

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

2011-1792. State v. Mitchell.

Cuyahoga App. No. 87057, 2006-Ohio-3597. On motion for delayed appeal. Motion denied.

2011-1856. In re C.W.

Hamilton App. No. C-110342, 2011-Ohio-4756. On motion for stay. Motion denied.

APPEALS ACCEPTED FOR REVIEW

2011-1392. JNT Properties, L.L.C. v. Keybank, Natl. Assn.

Cuyahoga App. No. 95822, 2011-Ohio-3260.

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

2011-1473. State v. Hampton.

Franklin App. No. 10AP-1109, 2011-Ohio-3486.

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

APPEALS NOT ACCEPTED FOR REVIEW

2011-0989. State v. Blevins.

Scioto App. No. 10CA3353, 2011-Ohio-3367.

2011-1228. Mataraza v. Euclid.

Cuyahoga App. No. 95830, 193 Ohio App.3d 479, 2011-Ohio-2795.

O'Donnell J., dissents.

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

2011-1247. Ohio Farmers Ins. Co. v. Akron.

Summit App. Nos. 25642 and 25725, 2011-Ohio-3569.

O'Donnell and Cupp, JJ., dissent.

2011-1388. State v. Smith.

Montgomery App. Nos. 24264 and 24265, 2011-Ohio-3288.

2011-1389. Meyers v. Goodrich Corp.

Cuyahoga App. No. 95996, 2011-Ohio-3261.

2011-1391. In re S.C.W.

Summit App. No. 25421, 2011-Ohio-3193.

2011-1394. Haynal v. Nordonia Hills City School Dist. Bd. of Edn.

Summit App. No. 25242, 2011-Ohio-3191.

2011-1395. In re L.M.

Greene App. No. 2010-CA-76, 2011-Ohio-3285.

Lundberg Stratton, J., dissents.

2011-1396. State ex rel. Hensley v. Columbus.

Franklin App. No. 10AP-840, 2011-Ohio-3311.

Pfeifer, J., dissents.

2011-1398. Everhome Mtge. Co. v. Baker.

Franklin App. No. 10AP-534, 2011-Ohio-3303.

Lundberg Stratton and Cupp, JJ., dissent and would accept the appeal and hold the cause for the decision in 2011-1201 and 2011-1362, *Fed. Home Loan Mtge. Corp. v. Schwartzwald*, Greene App. No. 2010 CA 41, 2011-Ohio-2681.

2011-1399. Boylen v. Ohio Dept. of Rehab. & Corr.

Richland App. No. 11CA16, 2011-Ohio-2987.

2011-1408. State v. Welch.

Cuyahoga App. No. 95577, 2011-Ohio-3243.

2011-1415. State v. Foster.

Cuyahoga App. No. 95586, 2011-Ohio-3582.

2011-1416. State v. Hlavsa.

Cuyahoga App. No. 93810, 2011-Ohio-3379.

2011-1427. State v. Alexander.

Montgomery App. No. 24119, 2011-Ohio-4015.

O'Donnell, J., dissents.

2011-1431. Longo v. Longo.

Geauga App. No. 2010-G-2998, 2011-Ohio-1297.

2011-1432. Centro Midway, L.L.C. v. Xanadu Group, Inc.

Lorain App. No. 10CA009857, 2011-Ohio-3338.

O'Donnell, J., dissents.

2011-1434. State v. Buennagel.

Greene App. No. 2010 CA 74, 2011-Ohio-3413.

2011-1435. Gary R. Gorby & Assoc., L.L.C. v. McCarty.

Clark App. No. 2010 CA 71, 2011-Ohio-1983.

2011-1436. State v. Carter.

Allen App. No. 1-10-77.

2011-1442. Grimm v. Wickman.

Cuyahoga App. No. 96508, 2011-Ohio-3991.

2011-1443. Bentley v. Cleveland Browns Football Co., L.L.C.

Cuyahoga App. No. 95921, 2011-Ohio-3390.

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

2011-1444. Try Auto Sales Inc. v. Danal.

Cuyahoga App. No. 95927, 2011-Ohio-3391.

O'Donnell, J., dissents.

2011-1446. State v. McKinney.

Defiance App. No. 4-11-01, 2011-Ohio-3521.

2011-1448. State v. Montague.

Hamilton App. No. C-100665.

2011-1449. State v. Wheeler.

Montgomery App. No. 24112, 2011-Ohio-3423.

2011-1456. Bob Rhodes Co. v. Polychronopoulos.

Allen App. No. 1-11-10, 2011-Ohio-3434.

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

Cupp, J., not participating.

2011-1462. State v. Vonalt.

Medina App. No. 10CA0103-M, 2011-Ohio-3883.

2011-1467. State v. Whites Landing Fisheries.

Erie App. Nos. E-10-035 and E-10-036, 2011-Ohio-3497.

2011-1468. State v. Simpson.

Hamilton App. No. C-100523.

2011-1470. Lewanski Dev., L.L.C., v. HD Strongsville Portfolio, L.P.

Cuyahoga App. No. 95453, 194 Ohio App.3d 372, 2011-Ohio-3055.

O'Donnell, J., dissents.

2011-1474. State v. Worley.

Cuyahoga App. No. 94590, 2011-Ohio-2779.

2011-1475. Johnson v. State.

Cuyahoga App. No. 95848, 2011-Ohio-3470.

Cupp, J., dissents.

2011-1476. Buckley v. Solon.

Cuyahoga App. No. 95805, 2011-Ohio-3468.

O'Donnell, J., dissents.

2011-1478. State v. McGrath.

Cuyahoga App. No. 96993.

2011-1484. State v. Smith.

Cuyahoga App. No. 95243, 2011-Ohio-3051.

2011-1487. State v. Carmichael.

Cuyahoga App. No. 95618, 2011-Ohio-2921.

2011-1488. State v. Plastow.

Stark App. No. 2011 CA 00083, 2011-Ohio-3557.

2011-1489. Ihenacho v. Ohio Inst. of Photography & Technology.

Montgomery App. No. 24191, 2011-Ohio-3730.

2011-1492. Chenault v. Ohio Dept. of Job & Family Servs.
Franklin App. No. 10AP-1113, 2011-Ohio-3554.

2011-1494. Reif v. Wagenbrenner.
Franklin App. No. 10AP-948, 2011-Ohio-3597.

2011-1498. State v. Howard.
Marion App. No. 9-10-50, 2011-Ohio-3524.

2011-1499. State v. Ballou.
Cuyahoga App. No. 95733, 2011-Ohio-2925.

2011-1503. Brown v. Lincoln Hts.
Hamilton App. Nos. C-100699 and C-100721, 2011-Ohio-3551.
Lanzinger and Cupp, JJ., dissent.

2011-1509. State v. Boles.
Montgomery App. No. 23037, 2011-Ohio-3720.
O'Connor, C.J., and Lundberg Stratton, J., dissent and would accept the appeal on Proposition of Law No. 2 and remand the cause for application of *State v. Williams*, 129 Ohio St.3d 344, 2011-Ohio-3374, 952 N.E.2d 1108.

2011-1510. State v. Pruett.
Knox App. No. 11-CA-13.

2011-1513. State v. Soueidi.
Cuyahoga App. No. 95366, 2011-Ohio-3580.

2011-1516. Boyd v. Ohio Dept. of Mental Health.
Franklin App. No. 10AP-906, 2011-Ohio-3596.

2011-1518. Thornton v. Conrad.
Cuyahoga App. No. 95982, 194 Ohio App.3d 34, 2011-Ohio-3590.

2011-1521. State v. Strutz.
Hamilton App. Nos. C-100334 and C-100335, 2011-Ohio-3660.

2011-1527. State v. Yacchari.
Clermont App. No. CA2010-12-098, 2011-Ohio-3911.
Pfeifer and Lanzinger, JJ., dissent.

2011-1528. Wyatt v. State.

Franklin App. No. 10AP-883, 2011-Ohio-2874.

O'Donnell, J., dissents.

Cupp, J., dissent 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.

2011-1532. State v. Hunter.

Franklin App. No. 10AP-1005, 2011-Ohio-3654.

2011-1537. State v. Hicks.

Cuyahoga App. No. 95133, 2011-Ohio-3578.

2011-1547. State v. Druktenis.

Ashtabula App. No. 2010-A-0049, 2011-Ohio-4020.

2011-1552. State v. Glenn.

Cuyahoga App. No. 94425, 2011-Ohio-3684.

2011-1559. State v. Holnapy.

Lake App. No. 2010-L-072, 2011-Ohio-2995.

2011-1563. State v. Bradley.

Van Wert App. No. 15-11-02.

2011-1564. State v. Rice.

Ashtabula App. No. 2010-A-0046, 2011-Ohio-3746.

2011-1567. State v. Gibson.

Cuyahoga App. No. 96117, 2011-Ohio-3074.

2011-1574. State v. Johnson.

Hamilton App. No. C-100604.

2011-1578. State v. Terrion.

Summit App. No. 25368, 2011-Ohio-3800.

2011-1582. State v. Hendricks.

Summit App. No. 25133, 2011-Ohio-3796.

2011-1585. State v. Hairston.

Cuyahoga App. No. 96437, 2011-Ohio-3844.

2011-1591. State v. Mabrey.

Cuyahoga App. No. 96048, 2011-Ohio-3849.

O'Donnell, J., dissents.

2011-1592. State v. Mills.

Cuyahoga App. No. 95837, 2011-Ohio-3837.

2011-1597. State v. Lewis.

Sandusky App. No. S-10-029, 2011-Ohio-4137.

2011-1598. State v. Turner.

Summit App. No. 25545, 2011-Ohio-3794.

2011-1610. State v. Dickerson.

Lucas App. No. L-08-1322, 2011-Ohio-4050.

2011-1615. State v. Harvey.

Richland App. No. 10-CA-45, 2011-Ohio-1201.

2011-1621. State v. Curley.

Summit App. No. 26057.

2011-1638. State v. Smith.

Cuyahoga App. No. 95541, 2011-Ohio-3581.

2011-1679. State v. McCrary.

Hamilton App. No. C-100300.

2011-1682. State v. Cumberbatch.

Trumbull App. No. 2009-T-0127, 2011-Ohio-1584.

2011-1684. State v. Spencer.

Franklin App. No. 03AP-579.

2011-1746. State v. Character.

Cuyahoga App. No. 93765, 2011-Ohio-3972.

2011-1763. State v. Shabazz.

Cuyahoga App. No. 95021, 2011-Ohio-4631.

RECONSIDERATION OF PRIOR DECISIONS

2010-0857. Huff v. First Energy Corp.

Trumbull App. No. 2009-T-0080, 2010-Ohio-1456. Reported at __ Ohio St.3d __, 2011-Ohio-5083, __ N.E.2d __. On motion for reconsideration. Motion denied.

2011-0931. State ex rel. Dayton Tea Party v. Ohio Mun. League.

In Mandamus. Reported at 129 Ohio St.3d 1471, 2011-Ohio-4751, 953 N.E.2d 839. On motion for reconsideration. Motion denied.

Cupp, J., dissents.

2011-0986. Tomko v. Cuyahoga Cty. Bd. of Commrs.

Cuyahoga App. No. 95725, 2011-Ohio-1575. Reported at 129 Ohio St.3d 1490, 2011-Ohio-5129, 954 N.E.2d 663. On motion for reconsideration. Motion denied.

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

2011-1031. State v. Sohrabi.

Cuyahoga App. No. 95358, 2011-Ohio-1935. Reported at 129 Ohio St.3d 1483, 2011-Ohio-4916, 954 N.E.2d 128. On motion for reconsideration. Motion denied.

Cupp, J., dissents.

2011-1050. Vacha v. N. Ridgeville.

Lorain App. No. 10CA009750, 2011-Ohio-2446. Reported at 129 Ohio St.3d 1488, 2011-Ohio-5129, 954 N.E.2d 661. On motion for reconsideration. Motion denied.

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

2011-1061. State v. Campbell.

Cuyahoga App. No. 95348, 2011-Ohio-2281. Reported at 129 Ohio St.3d 1492, 2011-Ohio-5129, 954 N.E.2d 663. On motion for reconsideration. Motion granted and the appeal is accepted. The Clerk shall issue an order for the transmittal of the record from the Court of Appeals for Cuyahoga County, and the parties shall brief this case in accordance with the Rules of Practice of the Supreme Court of Ohio.

O'Donnell and Lanzinger JJ., would grant reconsideration, accept the appeal and hold the cause of the decision in 2011-1066, *State v. Brunning*, Cuyahoga App. No. 95376, 2011-Ohio-1936.

Pfeifer and Lundberg Stratton, J., dissent.

2011-1062. State v. Gilbert.

Cuyahoga App. Nos. 95083 and 95084, 2011-Ohio-1928. Reported at 129 Ohio St.3d 1492, 2011-Ohio-5129, 954 N.E.2d 664. On motion for reconsideration. Motion granted and the appeal is accepted. The Clerk shall issue an order for the transmittal of the record from the Court of Appeals for Cuyahoga County, and the parties shall brief this case in accordance with the Rules of Practice of the Supreme Court of Ohio.

O'Donnell and Lanzinger JJ., would grant reconsideration, accept the appeal and hold the cause of the decision in 2011-1066, *State v. Brunning*, Cuyahoga App. No. 95376, 2011-Ohio-1936.

Pfeifer and Lundberg Stratton, J., dissent.

2011-1315. State ex rel. Lundeen v. Whitehouse.

In Habeas Corpus. Reported at 129 Ohio St.3d 1472, 2011 -Ohio- 4751, 953 N.E.2d 840. On motion for reconsideration. Motion denied.

MISCELLANEOUS DISMISSALS

2011-1429. Kitrick, Lewis & Harris, Co., L.P.A. v. Porrello.

In Mandamus. This cause originated in this court on the filing of a complaint for a writ of mandamus.

Upon consideration of relator's application for dismissal, it is ordered by the court that the application for dismissal is granted. Accordingly, this cause is dismissed.