

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

May 9, 2012

[Cite as *05/09/2012 Case Announcements*, 2012-Ohio-2025.]

MERIT DECISIONS WITHOUT OPINIONS

2012-0357. Lenard v. Russo.

In Prohibition. On motions to dismiss. Motions to dismiss granted. Motion for leave for an alternative writ and request for determination in prohibition denied. Cause dismissed.

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

2012-0364. Collins v. Cuyahoga Cty. Court Reporter.

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.

2012-0373. Cotton v. Davidson.

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.

2012-0392. Davis v. Hunter.

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.

2012-0394. Rowe v. Javitch, Block & Rathbone.

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.

2012-0402. In re Jackson v. Franklin Cty. Courts of Common Pleas.

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.

2012-0403. Moffett v. Sandusky Cty. Sheriff.

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

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

McGee Brown, J., dissents and would grant an alternative writ.

2012-0404. Pruitt v. Ohio Dept. of Rehab. & Corr.

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.

2012-0463. State ex rel. Lundsford v. Spaeth.

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.

2012-0469. Hopper v. State.

In Habeas Corpus. On petition for writ of habeas corpus of David S. Hopper and respondent's 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.

2012-0483. Steele v. Robinson.

In Habeas Corpus. On petition for writ of habeas corpus of Charles M. Steele. Sua sponte, cause dismissed.

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

2012-0528. State v. Malone.

Lorain App. No. 11CA010120. On review of order certifying a conflict. The court determines that no conflict exists. This cause is therefore dismissed.

Pfeifer, O'Donnell, Lanzinger, Cupp, and McGee Brown, JJ., concur.

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

MOTION AND PROCEDURAL RULINGS

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 motion for protective order. Motion denied.

2011-1050. Vacha v. N. Ridgeville

Lorain App. No. 10CA009750, 2011-Ohio-2446. It is ordered by the court that this cause is no longer held for the decision in 2010-1561, *Sampson v. Cuyahoga Metro. Hous. Auth.*, Cuyahoga App. No. 94311, 188 Ohio App.3d 250, 2010-Ohio-3415, and the stay of briefing in this case is lifted.

It is further ordered by the court that the clerk shall issue an order for the transmittal of the record from the Court of Appeals for Lorain County. Because case Nos. 2011-1050 and 2011-1327 have previously been consolidated, the parties shall file two originals of each of the briefs permitted under S.Ct.Prac.R. 6.2-6.4 and include both case numbers on the cover page of the briefs. The parties shall otherwise comply with the requirements of S.Ct.Prac.R. 6.1-6.4.

Pfeifer and Lanzinger, JJ., dissent and would affirm the judgment of the court of appeals.

2011-1327. Vacha v. N. Ridgeville.

Lorain App. No. 10CA009750, 2011-Ohio-2446. It is ordered by the court that this cause is no longer held for the decision in 2010-1561, *Sampson v. Cuyahoga Metro. Hous. Auth.*, Cuyahoga App. No. 94311, 188 Ohio App.3d 250, 2010-Ohio-3415, and the stay of briefing in this case is lifted.

The parties are to brief the issue stated at page 2 of the court of appeals' journal entry filed July 27, 2011, as follows:

“Does R.C. 2744.09 create an exception to Political Subdivision Immunity for intentional tort claims alleged by a public employee?”

The conflict cases are *Zieber v. Heffelfinger*, Richland App. No. 08CA0042, 2009-Ohio-1227; *Williams v. McFarland Properties, L.L.C.*, Butler App. No. CA2007-08-200, 177 Ohio App.3d 490, 2008-Ohio-3594; *Coats v. Columbus*, Franklin App. No. 06AP-681, 2007-Ohio-761; and *Villa v. Elmore*, Lucas App. No. L-05-1058, 2005-Ohio-6649. It is ordered by the court that the clerk shall issue an order for the transmittal of the record from the Court of Appeals for Lorain County. Because case Nos. 2011-1050 and 2011-1327 have previously been consolidated, the parties shall file two originals of each of the briefs permitted under S.Ct.Prac.R. 6.2-6.4 and include both case numbers on the cover page of the briefs. The parties shall otherwise comply with the requirements of S.Ct.Prac.R. 6.1-6.4.

Pfeifer and Lanzinger, JJ., dissent and would affirm the judgment of the court of appeals.

2011-2104. Bank of Am., Natl. Assn. v. Jimenez.

Delaware App. No. 2011CAE050046, 2011-Ohio-5606. On motion to stay sheriff's sale set for March 21 and any subsequent foreclosure proceedings and/or collection activity pending outcome of instant matter. Motion denied.

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

2012-0421. State v. Johnson.

Cuyahoga App. No. 97584. On motion for leave to file delayed appeal. Motion granted.

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

2012-0423. State v. Irvin.

Ross App. No. 08CA3057, 2009-Ohio-3128. On motion for leave to file delayed appeal. Motion denied.

2012-0442. State v. Coleman.

Montgomery App. No. 24824. On motion for leave to file delayed appeal. Motion denied.

2012-0443. State v. Quillen.

Butler App. No. CA2011-09-184. On motion for leave to file delayed appeal. Motion denied.

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

2012-0445. State v. Hawkins.

Franklin App. No. 10AP-907, 2011-Ohio-6658. On motion for leave to file delayed appeal. Motion denied.

2012-0451. State v. Gabriel.

Montgomery App. No. 24144, 2011-Ohio-4664. On motion for leave to file delayed appeal. Motion denied.

2012-0455. State v. Boiner.

Cuyahoga App. No. 97163. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2012-0456. State v. Taylor.

Richland App. No. 10CA57, 2011-Ohio-1627. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2012-0489. In re C.M.

Licking App. Nos. 2011CA00013 and 2011CA00036, 2012-Ohio-342. On motion for leave to file delayed appeal. Motion granted.

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

2012-0490. State v. Vanculin.

Miami App. No. 2011-CA-8, 2012-Ohio-292. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and McGee Brown, JJ., dissent.

2012-0494. State v. Perry.

Cuyahoga App. No. 97834. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Cupp, JJ., dissent.

2012-0510. State v. Glenn.

Allen App. No. 1-10-71. On motion for leave to file delayed appeal. Motion denied.

Cupp, J., dissents.

2012-0512. State v. Barker.

Portage App. No. 2010-P-0044, 2012-Ohio-522. On motion for stay of court of appeals' judgment. Motion denied.

O'Donnell, J., dissents.

2012-0513. State v. Monk.

Licking App. No. 11-CA-28, 2011-Ohio-5751. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2012-0522. State v. Benning.

Hamilton App. No. C-110415. On motion for leave to file delayed appeal. Motion denied.

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

2012-0526. State v. Whipple.

Hamilton App. No. C-100700. On motion for leave to file delayed appeal. Motion granted.

O'Donnell and Lanzinger, JJ., dissent.

APPEALS ACCEPTED FOR REVIEW

2012-0194. State v. Williams.

Cuyahoga App. No. 97005, 2011-Ohio-6763. Discretionary appeal accepted and cause held for the decision in 2011-1066, *State v. Brunning*, Cuyahoga App. No. 95376, 2011-Ohio-1936.

Pfeifer, J., dissents.

2012-0215. State v. Clark.

Cuyahoga App. No. 96207, 2011-Ohio-6623.

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

2012-0236. State v. Harrison.

Montgomery App. No. 24471, 2011-Ohio-6803. Discretionary appeal accepted and cause held for the decision in 2011-1066, *State v. Brunning*, Cuyahoga App. No. 95376, 2011-Ohio-1936.

Pfeifer, J., dissents.

2012-0239. State v. Smith.

Franklin App. No. 11AP-512, 2011-Ohio-6730.

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

2012-0244. Armstrong v. John R. Jurgenson Co.

Clark App. No. 2011-CA-6, 2011-Ohio-6708.

O'Donnell, J., dissents.

2012-0250. In re M.M.

Cuyahoga App. No. 96776, 2011-Ohio-6758.

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

2012-0252. State v. Lindstrom.

Cuyahoga App. No. 96653, 2011-Ohio-6755.

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

2012-0332. State v. Scott.

Cuyahoga App. No. 91890, 2011-Ohio-6255. Discretionary appeal accepted and cause held for the decision in 2012-0059, *In re Bruce S.*, Hamilton App. No. C-110042, 2011-Ohio-6634.

Pfeifer, J., dissents.

2012-0338. State v. Graham.

Brown App. Nos. CA2010-10-016, CA2010-10-017, CA2010-10-018, CA2010-10-019, and CA2010-10-020, 2012-Ohio-138.

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

APPEALS NOT ACCEPTED FOR REVIEW

2011-2007. State v. Bray.

Clark App. No. 2010 CA 14, 2011-Ohio-4660.

2011-2135. State v. Hernandez.

Franklin App. No. 11AP-202, 2011-Ohio-5407.

2012-0134. Sandusky v. Nuesse.

Erie App. No. E-10-039, 2011-Ohio-6497. Discretionary appeal and cross-appeal not accepted.

Pfeifer, J., dissents.

2012-0174. Norris v. Philander Chase Corp.

Knox App. No. 11-CA-10, 2011-Ohio-6545. Discretionary appeal not accepted. Motion to consolidate denied.

Pfeifer, J., dissents.

2012-0200. State v. Elliott.

Licking App. No. 2011 CA 00060, 2011-Ohio-6723.

2012-0204. State v. Carter.

Allen App. No. 1-11-65.

2012-0209. Hassinger v. Hassinger.

Ashland App. No. 11-COA-034.

2012-0210. State v. Parnell.

Franklin App. No. 11AP-257, 2011-Ohio-6564.

2012-0217. In re Estate of Greer.

Hamilton App. No. C-110255, 2011-Ohio-6721.

Lundberg Stratton, J., dissents.

2012-0219. State v. Jones.

Hamilton App. No. C-100786, 2011-Ohio-6554.

2012-0221. State v. Dobbins.

Washington App. No. 11CA6, 2011-Ohio-6777.

2012-0223. Chrysler Fin. Servs. Americas, L.L.C. v. Henderson.

Athens App. No. 11CA4, 2011-Ohio-6813.

2012-0224. State v. Roulette.

Scioto App. No. 10CA3364, 2011-Ohio-6993.

2012-0225. Best v. Best.

Franklin App. No. 11AP-239, 2011-Ohio-6668.

2012-0229. State v. Whitaker.

Scioto App. No. 10CA3349, 2011-Ohio-6923.

2012-0230. State v. Beal.

Clark App. No. 2010-CA-103, 2011-Ohio-6699.

2012-0233. State v. Childers.

Fairfield App. No. 10-CA-61, 2011-Ohio-6742.

2012-0235. State v. Thornton.

Allen App. No. 1-11-47.

O'Donnell, J., dissents.

2012-0237. Guliano v. Guliano.

Trumbull App. No. 2010-T-0031, 2011-Ohio-6853.

2012-0240. Beasley v. Watkins-Alum Creek Co.

Fayette App. Nos. CA2010-09-021 and CA2010-09-027, 2011-Ohio-6792.

Pfeifer and O'Donnell, JJ., dissent.

2012-0243. Rieger v. Marsh.

Montgomery App. No. 24581, 2011-Ohio-6808.

2012-0245. Rude v. NUCO Edn. Corp.

Summit App. No. 25549, 2011-Ohio-6789. Discretionary appeal not accepted.

Motion for immediate stay denied.

2012-0247. Lawton v. Hawley.

Franklin App. No. 11AP-521.

2012-0249. State v. Rachel.

Trumbull App. No. 2011-T-0068, 2011-Ohio-6694.

Pfeifer, J., dissents.

2012-0253. State v. Tibbs.

Hamilton App. No. C-100378, 2011-Ohio-6716.

2012-0257. Pandey v. Banachowski.

Franklin App. No. 11AP-459, 2011-Ohio-6830.

2012-0258. Parkview Fed. Sav. Bank v. Grimm.

Cuyahoga App. No. 97704.

2012-0259. State v. Snider.

Stark App. No. 2011CA00158, 2011-Ohio-6873.

2012-0262. Ganzhorn v. R & T Fence Co., Inc.

Portage App. No. 2010-P-0059, 2011-Ohio-6851.

Lundberg Stratton, O'Donnell, and Cupp, JJ., dissent and would accept the appeal on Proposition of Law No. I and hold the cause for the decision in 2011-1588, *Hawsman v. Cuyahoga Falls*, Summit App. No. 25582, 2011-Ohio-3795.

2012-0263. State v. Rodriguez.

Wood App. No. WD-11-011, 2011-Ohio-6812.

2012-0269. State v. Dukes.

Portage App. No. 2010-P-0027, 2011-Ohio-6849.

2012-0270. State v. Cleland.

Medina App. No. 09CA0070-M, 2011-Ohio-6786. Discretionary appeal not accepted. Motion to dismiss denied as moot.

2012-0274. McGrath v. Basset.

Cuyahoga App. No. 96360.

2012-0275. State v. Carter.

Allen App. No. 1-11-36, 2011-Ohio-6104.

2012-0281. State v. Rivera.

Lucas App. No. L-11-1243.

2012-0282. State ex rel. Jackson v. Warden of Marion Cty. Corr. Inst.

Marion App. No. 9-11-37.

2012-0283. State v. Alredge.

Montgomery App. No. 24755, 2012-Ohio-414.

2012-0285. State v. Cook.

Montgomery App. No. 24524, 2012-Ohio-111.

2012-0288. Columbus Bookkeeping & Business Servs., Inc. v. Ohio State Bookkeeping, L.L.C.

Franklin App. No. 11AP-227, 2011-Ohio-6877.

2012-0292. Norris v. Philander Chase Corp.

Knox App. No. 11-CA-12, 2012-Ohio-5. Discretionary appeal not accepted.
Motion to consolidate denied.

Pfeifer, J., dissents.

Motion to strike memo in support of jurisdiction denied.

2012-0294. State v. Freeman.

Cuyahoga App. No. 95608, 2011-Ohio-5651.

2012-0295. Maeder v. Hale.

Lorain App. No. 10CA009925, 2012-Ohio-2.

2012-0299. Alexander v. Good Samaritan Hosp.

Hamilton App. No. C-110218.

Pfeifer, J., dissents.

2012-0303. Boring v. Fowler Elec. Co.

Cuyahoga App. No. 97598. Discretionary appeal not accepted.

Pfeifer, J., dissents.

Motion for sanctions denied.

2012-0308. Sheely v. Sheely.

Auglaize App. No. 2-10-38, 2012-Ohio-43.

Pfeifer, J., dissents.

2012-0310. State v. Underwood.

Franklin App. No. 11AP-11, 2012-Ohio-61.

2012-0313. McGrath v. State.

Franklin App. No. 11AP-482, 2011-Ohio-6391.

2012-0317. State v. Warner.

Cuyahoga App. No. 95750, 2012-Ohio-256.

2012-0319. State v. Neely.

Montgomery App. No. 24317, 2012-Ohio-212.

2012-0320. State v. Pierce.

Richland App. No. 10 CA 52.

2012-0321. Butler v. Wyndtree Hous. Ltd. Partnership.

Butler App. No. CA2011-03-056, 2012-Ohio-49.

2012-0322. State v. Tinney.

Richland App. No. 2011 CA 41, 2012-Ohio-72. Discretionary appeal not accepted.

Lundberg Stratton, J., dissents.

Motion to strike portions of appellee's memorandum in opposition denied.

2012-0330. State v. McCoy.

Hamilton App. No. C-090599.

2012-0334. State v. Griffin.

Summit App. No. 26267.

2012-0335. State v. Pope.

Cuyahoga App. No. 96291, 2012-Ohio-101.

2012-0337. State v. Hazel.

Franklin App. Nos. 10AP-1013 and 10AP-1014, 2011-Ohio-4427.

2012-0345. State v. Garfield.

Lorain App. No. 09CA009741.

2012-0361. State v. Nobel.

Hamilton App. No. C-100049.

2012-0367. State v. Levingston.

Hamilton App. No. C-090235.

2012-0372. State v. Veliev.

Franklin App. Nos. 09AP-1059 and 09AP-1060.

2012-0374. Hercutt v. Hercutt.

Montgomery App. No. 24778, 2012-Ohio-206.

2012-0377. State v. Whitby.

Cuyahoga App. No. 96828, 2012-Ohio-166.

2012-0390. State v. Wilson.

Cuyahoga App. No. 96380, 2012-Ohio-102.

2012-0406. State v. Doan.

Hamilton App. No. C-110278.

2012-0407. MacConnell v. Ohio Dept. of Rehab. & Corr.

Franklin App. No. 11AP-572, 2012-Ohio-283.

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

2012-0411. State v. Almashni.

Cuyahoga App. No. 92237, 2012-Ohio-349.

2012-0412. State v. Spears.

Hamilton App. Nos. C-110182 and C-110183.

2012-0444. State v. Lintz.

Lake App. No. 2010-L-067, 2011-Ohio-6511.

2012-0446. State v. Lynch.

Stark App. No. 2012CA00026.

2012-0458. State v. Maddox.

Cuyahoga App. No. 96885, 2012-Ohio-478.

2012-0459. State v. Richmond.

Cuyahoga App. No. 96155, 2011-Ohio-6450.

RECONSIDERATION OF PRIOR DECISIONS

2011-0756. Disciplinary Counsel v. Gallo.

Board of Commissioners on Grievances and Discipline, No. 09-087. Reported at ___ Ohio St.3d ___, 2012-Ohio-758, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

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

2011-1506. State ex rel. Davet v. Sutula.

Cuyahoga App. No. 96548, 2011-Ohio-2803. Reported at 131 Ohio St.3d 220, 2012-Ohio-759, 963 N.E.2d 811. On motion for reconsideration. Motion denied.

2011-2066. Fehrenbach v. O'Malley.

Hamilton App. No. C-100730, 2011-Ohio-5481. Reported at 131 Ohio St.3d 1473, 2012-Ohio-896, 926 N.E.2d 804. On motion for reconsideration. Motion denied.

2012-0014. Johnson v. Randall Smith, Inc.

Portage App. No. 2010-P-0050, 2011-Ohio-6000. Reported at 131 Ohio St.3d 1485, 2012-Ohio-1143, 963 N.E.2d 825. On motion for reconsideration. Motion granted. The discretionary appeal is accepted.

Pfeifer and O'Donnell, JJ., dissent.

2012-0026. State v. Reed.

Clark App. No. 2011 CA 3, 2011-Ohio-6304. Reported at 131 Ohio St.3d 1476, 2012-Ohio-896, 962 N.E.2d 805. On motion for reconsideration. Motion denied.

2012-0183. In re Adoption of M.C.

Jackson App. Nos. 11CA5 and 11CA6. Reported at 131 Ohio St.3d 1476, 2012-Ohio-896, 962 N.E.2d 805. On motion for reconsideration. Motion denied.