

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

July 25, 2012

[Cite as *07/25/2012 Case Announcements, 2012-Ohio-3334.*]

MERIT DECISIONS WITH OPINIONS

2011-0132. State ex rel. Vindicator Printing Co. v. Wolff, Slip Opinion No. 2012-Ohio-3328.

In Mandamus and Prohibition. Writs granted.

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

2011-1724. State ex rel. Barley v. Ohio Dept. of Job & Family Servs., Slip Opinion No. 2012-Ohio-3329.

Franklin App. No. 10AP-186, 2011-Ohio-4205. Judgment reversed and cause remanded.

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

Lanzinger, J., dissents.

2012-0206. State ex rel. Bridge v. Franklin Cty. Court of Common Pleas, Slip Opinion No. 2012-Ohio-3327.

Franklin App. No. 11AP-140, 2011-Ohio-6561. Judgment affirmed.

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

MERIT DECISIONS WITHOUT OPINIONS

2011-1743. State ex rel. Quinn v. Husted.

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.

2012-0352. State ex rel. Spagnuolo v. Ohio Dept. of Transp.

In Mandamus. On motion to dismiss. Motion to dismiss granted. Motion for leave to file first amended complaint for writ of mandamus granted. Cause dismissed.

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

Pfeifer, J., dissents and would deny the motion to dismiss, grant an alternative writ, and grant the motion for leave to file first amended complaint.

2012-0783. State ex rel. Patterson v. Ohio Adult Parole Auth.

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.

2012-0787. State ex rel. Bunting v. Potter.

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.

2012-0794. Cleveland Police Dept. v. Howard.

In Mandamus. On motion to dismiss. Motion to dismiss granted. Motion for availability, motion for discovery, and motion to strike the motion for availability are denied as moot. Cause dismissed.

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

2012-0844. State ex rel. Sevilla v. Cocroft.

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.

2012-0880. State ex rel. Starks v. Ninth Dist. 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.

2012-0886. Montgomery v. Franklin Cty. Common Pleas Court.

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.

2012-0895. State ex rel. Searles v. Favreau.

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.

2012-0974. Nedea v. Tambi.

In Habeas Corpus. On amended petition for writ of habeas corpus of Romulus Louis Nedea. Sua sponte, cause dismissed.

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

2012-0984. State ex rel. Rowe v. Patterson.

In Habeas Corpus. On petition for writ of habeas corpus of Ronnie L. Rowe. 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

2011-0432. State ex rel. Guthrie v. Indus. Comm.

Franklin App. No. 10AP-171, 2011-Ohio-833.

Request for oral argument. Request denied.

2011-1933. Rayess v. Educational Comm. for Foreign Med. Graduates.

Montgomery App. No. 24125. On motion to strike appellant's appendix and motion for sanctions. Motion denied.

2012-0302. State v. Lalain.

Cuyahoga App. No. 95857. It is ordered by the court, sua sponte, that this cause is consolidated with Supreme Court case No. 2012-0408, *State of Ohio v. Daniel Lalain*, and that the briefing in case Nos. 2012-0302 and 2012-0408 shall be 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.

2012-0401. Gaston v. Medina Cty. Bd. of Revision.

Board of Tax Appeals, No. 2011-Q-1163. On motion to dismiss. Motion to dismiss granted. Cause dismissed.

2012-0887. Crockett Homes, Inc. v. Hamilton.

Stark App. No. 2011-CA-00222, 2012-Ohio-2162. On motion for immediate stay of court of appeals' judgment. Motion granted.

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

2012-0901. State v. Ross.

Summit App. No. 26350. On motion to stay trial. Motion denied.

Pfeifer, Acting C.J.

O'Connor, C.J., not participating.

2012-0912. State v. Martin.

Hamilton App. No. C-110204. On motion for leave to file delayed appeal. Motion granted.

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

2012-0942. Akron City School Dist. Bd. of Edn. v. Civ. Serv. Comm.

Summit App. No. 26026, 2012-Ohio-1618. On motion for immediate stay of court of appeals' judgment. Motion granted.

O'Donnell and Cupp, JJ., dissent.

Pfeifer, Acting C.J.

O'Connor, C.J., not participating.

2012-0947. State v. Heisler.

Defiance App. No. 4-11-14, 2012-Ohio-1277. On review of order certifying a conflict. The court determines that no conflict exists. Cause dismissed.

Lanzinger and McGee Brown, JJ., dissent.

2012-0957. State v. Hall.

Hamilton App. No. C-100359. On motion for leave to file delayed appeal. Motion denied.

2012-0962. State v. Simpson.

Montgomery App. No. 24266, 2011-Ohio-6181. On motion for leave to file delayed appeal. Motion denied.

2012-0977. State v. Delossantos.

Lorain App. No. 11CA009951, 2012-Ohio-1383. On motion for leave to file delayed appeal. Motion granted.

2012-0978. State v. Williams.

Jefferson App. No. 11 JE 3, 2012-Ohio-1692. On motion for leave to file delayed appeal. Motion denied.

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

2012-0981. State v. Donald.

Hamilton App. No. C-110597. On motion for leave to file delayed appeal. Motion granted.

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

APPEALS ACCEPTED FOR REVIEW

2012-0665. CSAHA/UHHS-Canton, Inc. v. Aultman Health Found.

Stark App. No. 2010CA00303, 2012-Ohio-897. Discretionary appeal accepted on Propositions of Law Nos. I, II, III, IV, VI, and VII.

Lundberg Stratton, O'Donnell, and McGee Brown, JJ., would also accept Proposition of Law No. V.

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

2012-0717. Bernard v. Unemp. Comp. Rev. Comm.

Miami App. No. 2011-CA-16, 2012-Ohio-958.

Pfeifer and O'Donnell, JJ., dissent.

2012-0744. State v. Jones.

Montgomery App. No. 24610, 2012-Ohio-1231. Discretionary appeal accepted and cause held for the decision in case No. 2011-2126, *State v. Howard*, Montgomery App. No. 24680, 2011-Ohio-5693.

Pfeifer and O'Donnell, JJ., dissent.

2012-0782. In re E.S.

Hamilton App. No. C-110163, 2012-Ohio-1363. Discretionary appeal accepted and cause held for the decision in case No. 2012-0059, *In re Bruce S.*, Hamilton App. No. C-110042, 2011-Ohio-6634.

Pfeifer and O'Donnell, JJ., dissent.

2012-0790. Supportive Solutions Training Academy, L.L.C. v. Electronic Classroom of Tomorrow.

Cuyahoga App. Nos. 95022 and 95287, 2012-Ohio-1185. Discretionary appeal accepted on Proposition of Law No. I.

Lundberg Stratton, O'Donnell, and Lanzinger, JJ., would also accept Proposition of Law No. II.

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

2012-0797. Moretz v. Muakkassa.

Summit App. No. 25602, 2012-Ohio-1177. Discretionary appeal accepted on Proposition of Law No. IV.

Lundberg Stratton and O'Donnell, JJ., would also accept Propositions of Law Nos. I, II, and III.

Pfeifer, J., dissents.

APPEALS NOT ACCEPTED FOR REVIEW

2012-0291. State v. Glass.

Franklin App. No. 10AP-558, 2011-Ohio-6287.

2012-0512. State v. Barker.

Portage App. No. 2010-P-0044, 2012-Ohio-522. Discretionary appeal and cross-appeal not accepted.

Pfeifer, J., dissents.

2012-0599. State v. Seay.

Hamilton App. No. C-110347.

2012-0660. Johnson v. Cleveland City School Dist.
Cuyahoga App. No. 97125, 2012-Ohio-159.

2012-0669. Everbank Mtge. Co. v. Sparks.
Warren App. No. CA2011-03-021, 2012-Ohio-886.

2012-0680. State v. Davic.
Franklin App. No. 11AP-555, 2012-Ohio-952.
Lundberg Stratton, J., dissents.

2012-0682. Parma v. Parma Fire Fighters Assn. Local 639.
Cuyahoga App. No. 97342, 2012-Ohio-932.

2012-0685. Ohio Farmers Ins. Co. v. Ohio School Facilities Comm.
Franklin App. No. 11AP-547, 2012-Ohio-951.
O'Donnell, J., dissents.

2012-0695. State v. Floyd.
Lorain App. No. 11CA010033, 2012-Ohio-990.

2012-0698. O'Brath v. Konicov.
Hamilton App. No. C-110522.

2012-0700. Kademian v. Marger.
Montgomery App. No. 24256, 2012-Ohio-962.

2012-0702. Miller v. Ohio State Bd. of Pharmacy.
Coshocton App. No. 11-CA-9, 2012-Ohio-1002.
O'Donnell, J., dissents.

2012-0710. In re Suitability of Henneke to be Licensed as an Ins. Agent in the State.
Clermont App. No. CA2011-05-039, 2012-Ohio-996.
O'Donnell and Lanzinger, JJ., dissent.

2012-0716. State v. Chattams.
Butler App. No. CA2011-05-082.

2012-0720. Young v. Eich.
Mahoning App. No. 10 MA 191, 2012-Ohio-1687.

O'Donnell, J., dissents.

2012-0722. Judd v. Bergant.

Geauga App. No. 2011-G-3020, 2012-Ohio-979.

2012-0724. State v. Bonness.

Cuyahoga App. No. 96557, 2012-Ohio-474.

McGee Brown, J., dissents.

2012-0729. State v. Worth.

Franklin App. No. 10AP-1125, 2012-Ohio-1661.

2012-0730. State v. Jordan.

Franklin App. No. 11AP-679, 2012-Ohio-954.

2012-0731. State v. Vrapic.

Franklin App. No. 11AP-700, 2012-Ohio-1018.

2012-0732. State v. Hoop.

Brown App. No. CA2011-07-015, 2012-Ohio-992.

2012-0733. Chen v. Ohio Dept. of Job & Family Servs.

Clermont App. No. CA2011-04-026, 2012-Ohio-994.

2012-0735. State v. Cline.

Portage App. No. 2010-P-0073, 2012-Ohio-1130.

O'Donnell, J., dissents.

2012-0739. State v. Napper.

Delaware App. No. 11CAA080073, 2012-Ohio-1028.

2012-0743. State v. Martin.

Hamilton App. No. C-110262.

2012-0747. State v. Caldwell.

Montgomery App. No. 24333, 2012-Ohio-1091.

Lanzinger and McGee Brown, JJ., dissent and would accept the appeal and hold the cause for case No. 2011-2126, *State v. Howard*, Montgomery App. No. 24680, 2011-Ohio-5693.

2012-0750. State v. Moffett.

Sandusky App. No. S-10-056, 2012-Ohio-1107.

2012-0756. State v. Guade.

Franklin App. No. 11AP-718, 2012-Ohio-1423.

O'Donnell, J., dissents.

2012-0757. Brittingham v. Gen. Motors Corp.

Montgomery App. No. 24517, 2011-Ohio-6488.

2012-0758. State v. Ridley.

Cuyahoga App. No. 97015.

2012-0759. State v. Thomas.

Wyandot App. No. 16-12-04.

2012-0761. Ohio Civ. Rights Comm. v. Triangle Invest. Co.

Franklin App. No. 10AP-1117, 2012-Ohio-1069.

O'Donnell, J., dissents.

2012-0762. Pittman v. Chase Home Financing, L.L.C.

Cuyahoga App. No. 97321, 2012-Ohio-1060.

2012-0767. State v. Nixon.

Warren App. No. CA2011-11-116, 2012-Ohio-1292.

2012-0768. Cruz v. Kettering Health Network.

Meigs App. No. 24465.

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

Pfeifer and Lanzinger, JJ., dissent.

2012-0770. State v. McShepard.

Lorain App. No. 11-CA-010000.

2012-0772. State v. White.

Muskingum App. No. CT11-0051, 2012-Ohio-1490.

2012-0773. Kell v. Russo.

Stark App. No. 2011 CA 00082, 2012-Ohio-1286.

2012-0775. Raichyk v. Sabir.

Brown App. No. CA2011-11-025. Discretionary appeal not accepted. Motions to strike denied as moot.

2012-0776. State v. Kergan.

Mahoning App. No. 11 MA 72, 2012-Ohio-1407.

2012-0777. State v. Barr.

Cuyahoga App. No. 96907.

O'Donnell, J., dissents.

2012-0778. State v. Newman.

Hamilton App. No. C-090735.

2012-0784. State v. Estep.

Madison App. No. 9-12-16.

2012-0785. State v. Stoutamire.

Trumbull App. No. 2011-T-0089, 2012-Ohio-1677.

2012-0789. Toth v. United States Steel Corp.

Lorain App. No. 10CA009895, 2012-Ohio-1390. Discretionary appeal not accepted. Motion to strike denied as moot.

2012-0791. Raiser v. Netcare Access.

Franklin App. No. 11AP-494.

2012-0792. Davet v. Mikhli.

Cuyahoga App. No. 97291, 2012-Ohio-1200.

O'Donnell, J., dissents 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.

2012-0793. State v. Richardson.

Greene App. No. 2011 CA 2, 2012-Ohio-1232.

O'Donnell, J., dissents.

2012-0796. Carr v. Hamilton Cty.

Hamilton App. No. C-110704.

2012-0798. State v. Davis.

Washington App. Nos. 05CA50 and 10CA9.

2012-0800. BAC Home Loans Servicing, L.P. v. Komorowski.

Cuyahoga App. No. 96631, 2012-Ohio-1341.

McGee Brown, J., not participating.

2012-0805. State v. Rhodes.

Lake App. No. 2011-L-072, 2012-Ohio-1269.

2012-0806. State v. Miller.

Lorain App. Nos. 10CA009915 and 10CA009922, 2012-Ohio-1263.

2012-0807. State v. Johnson.

Ottawa App. No. OT-11-010, 2012-Ohio-1400.

2012-0813. State v. Payne.

Summit App. No. 25825, 2012-Ohio-1334.

Pfeifer, Acting C.J.

O'Connor, C.J., not participating.

2012-0829. State v. Heisler.

Defiance App. No. 4-11-14, 2012-Ohio-1277.

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

2012-0833. State v. Hamilton.

Portage App. No. 2011-P-0044, 2012-Ohio-1457.

2012-0839. State v. Scott.

Madison App. No. CA2011-02-003.

2012-0847. Moran v. Radtke.

Franklin App. No. 11AP-604, 2012-Ohio-1379.

2012-0857. State v. Jones.

Montgomery App. No. 24409.

2012-0859. State v. Yates.

Montgomery App. No. 24823, 2012-Ohio-1781.

2012-0860. State v. Davis.

Cuyahoga App. No. 96908, 2012-Ohio-1635.

2012-0863. State v. Evans.

Jackson App. No. 10CA1, 2012-Ohio-1562.

2012-0865. State v. Colwell.

Hamilton App. No. C-110543.

2012-0868. State v. Nicholson.

Cuyahoga App. No. 97567, 2012-Ohio-1550.

2012-0869. State v. Slagle.

Montgomery App. No. 23934, 2012-Ohio-1575.

Lundberg Stratton, J., dissents and would accept the appeal on Propositions of Law Nos. I and II.

2012-0877. State v. Priest.

Montgomery App. No. 24225.

2012-0878. State v. Alford.

Cuyahoga App. No. 98130.

2012-0881. State v. Allen.

Hamilton App. No. C-110493.

2012-0890. State v. Gunnell.

Franklin App. Nos. 11AP-811, 11AP-812, 11AP-813, 11AP-814, and 11AP-815, 2012-Ohio-1614.

2012-0905. State v. Gordon.

Summit App. No. 26379.

Pfeifer, Acting C.J.

O'Connor, C.J., not participating.

2012-0906. State v. Reed.

Franklin App. No. 11AP-792, 2012-Ohio-1612.

2012-0913. State v. Cockroft.

Franklin App. No. 06AP-752.

2012-0918. Alexander v. Cleveland Clinic Found.

Cuyahoga App. No. 95727, 2012-Ohio-1737.

O'Donnell, J., dissents.

2012-0948. State v. Coleman.

Summit App. No. 26008, 2012-Ohio-1712.

2012-0953. State v. Morris.

Franklin App. No. 10AP-512.

RECONSIDERATION OF PRIOR DECISIONS

2011-0019. Wymyslo v. Bartec, Inc.

Franklin App. No. 10AP-173, 2010-Ohio-5558. Reported at __ Ohio St.3d __, 2012-Ohio-2187, __ N.E.2d __. On motion for reconsideration. Motion denied.

O'Donnell, J., dissents.

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

Hamilton App. No. C-100071, 2010-Ohio-6235. Reported at __ Ohio St.3d __, 2012-Ohio-2297, __ N.E.2d __. On motion for reconsideration. Motion granted. The parties shall not file additional briefs at this time.

Pfeifer, J., dissents.

2011-1722. Disciplinary Counsel v. Engel.

Board of Commissioners on Grievances and Discipline, No. 11-004. Reported at __ Ohio St.3d __, 2012-Ohio-2168, __ N.E.2d __. On motion for reconsideration. Motion denied. Request for oral argument and motion to strike denied.

Lundberg Stratton, J., dissents and would grant reconsideration and grant oral argument.

McGee Brown, J., not participating.

2012-0093. State ex rel. Harsh v. Sheets.

Butler App. No. CA2011-10-203. Reported at __ Ohio St.3d __, 2012-Ohio-2368, __ N.E.2d __. On motion for reconsideration. Motion denied.

2012-0216. State v. Willan.

Summit App. No. 24894, 2011-Ohio-6603. Reported at __ Ohio St.3d __, 2012-Ohio-2263, __ N.E.2d __. On motion for reconsideration. Motion granted; cross-appeal accepted on Proposition of Law No. I.

Pfeifer and Lanzinger, JJ., dissent.

Pfeifer, Acting C.J.

O'Connor, C.J., not participating.

2012-0323. State v. Small.

Licking App. No. 10-CA-138, 2012-Ohio-149. Reported at __ Ohio St.3d __, 2012-Ohio-2263, __ N.E.2d __. On motion for reconsideration. Motion denied.

2012-0350. Mickey v. Rokakis.

Cuyahoga App. No. 97053, 2012-Ohio-273. Reported at __ Ohio St.3d __, 2012-Ohio-2263, __ N.E.2d __. On motion for reconsideration. Motion denied.

2012-0358. Loop v. Plumbers, Pipe Fitters & MES Local Union No. 392.

Hamilton App. No. C-110105. Reported at __ Ohio St.3d __, 2012-Ohio-2263, __ N.E.2d __. On motion for reconsideration. Motion denied.

2012-0408. State v. Lalain.

Cuyahoga App. No. 95857, 2011-Ohio-4813. Reported at __ Ohio St.3d __, 2012-Ohio-2263, __ N.E.2d __. On motion for reconsideration. Motion granted and discretionary appeal allowed; cause consolidated with case No. 2012-0302, *State v. Lalain*, and the briefing in case Nos. 2012-0302 and 2012-0408 shall be consolidated. The parties shall file two originals of each of the briefs permitted under S.Ct.Prac.R. 6.2 through 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 through 6.4. Appellant's brief will be due 40 days from the date of this entry. The record from case No. 2012-0302 shall be filed in this case.

Cupp, J., would accept Proposition of Law No. I only.

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

2012-0462. Ford Motor Credit Co. v. Agrawal.

Cuyahoga App. No. 96413, 2011-Ohio-6474. Reported at 132 Ohio St.3d 1410, 2012-Ohio-2454, 968 N.E.2d 492. On motion for reconsideration. Motion granted and discretionary appeal allowed; cause held for decision in case No. 2012-0535, *Cullen v. State Farm Mut. Auto. Ins. Co.*, Cuyahoga App. No. 95925, 2011-Ohio-6621.

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

2012-0497. Wolfe v. Grange Indemn. Ins. Co.

Stark App. No. 2010CA00339, 2012-Ohio-598. Reported at 132 Ohio St.3d 1411, 2012-Ohio-2454, 968 N.E.2d 492. On motion for reconsideration. Motion granted to the following extent: The discretionary appeal is accepted on Proposition of Law No. I; the cause is held for the decision in case No. 2012-0535, *Cullen v. State Farm Mut. Auto. Ins. Co.*, Cuyahoga App. No. 95925, 2011-Ohio-6621.

Lundberg Stratton, Lanzinger, and McGee Brown, JJ., would grant reconsideration, accept all Propositions of Law, and hold for *Cullen*.

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

2012-0501. State ex rel. Simpson v. Cooper.

In Mandamus. Reported at ___ Ohio St.3d ___, 2012-Ohio-2263, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

2012-0558. State v. Berry.

In Habeas Corpus. Reported at ___ Ohio St.3d ___, 2012-Ohio-2263, ___ N.E.2d ___. On motion for reconsideration. Motion denied.