

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS

November 7, 2012

[Cite as *11/07/2012 Case Announcements*, 2012-Ohio-5149.]

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## MERIT DECISIONS WITH OPINIONS

**2011-1501. State v. Billiter, Slip Opinion No. 2012-Ohio-5144.**

Stark App. No. 2010C400292, 2011-Ohio-2230. Judgment reversed.

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

Lanzinger, J., concurs in part and dissents in part.

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

## MERIT DECISIONS WITHOUT OPINIONS

**2012-1471. Downey v. Hancock Cty. Common Pleas Judge Presiding Over Case No. 93-42-CR.**

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.

**2012-1473. Howard v. Mohr.**

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.

**2012-1474. Bronston v. Baker.**

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.

**2012-1477. Glenn v. Spencer.**

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.

**2012-1478. State ex rel. Bloodworth v. Lucas Cty. Court of Appeals.**

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.

**2012-1480. State ex rel. Ferrell v. Haas.**

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.

**2012-1496. Ellenwood v. Sheeran.**

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.

**2012-1523. State v. Porter.**

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.

**2012-1590. State ex rel. Saracino v. Williams.**

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.

## MOTION AND PROCEDURAL RULINGS

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

Butler App. No. CA2011-10-203. On motion for relief from void judgment, judicial notice of facts on constitutional violations and decisional law, and motion for relief from judgment, recall mandate. Motions denied.

### **2012-1260. Longbottom v. Huber.**

Clermont App. Nos. CA2011-01-005 and CA2011-01-006, 2012-Ohio-2148. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated at page 3 of the court of appeals' entry filed July 12, 2012:

“Whether the version of the prejudgment interest statute, R.C. 1343.03(C), as amended effective June 2, 2004, can be applied retroactively to claims accruing before June 2, 2004?”

Pfeifer and Cupp, JJ., dissent.

The conflict case is *Barnes v. Univ. Hosp. of Cleveland*, Cuyahoga App. Nos. 87247, 87285, 87710, 87903, and 87946, 2006-Ohio-6266.

### **2012-1572. State v. Wilson.**

Mahoning App. No. 11 MA 92, 2012-Ohio-1505. On motion for delayed appeal. Motion denied.

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

### **2012-1573. State v. Pagan.**

Cuyahoga App. No. 97268, 2012-Ohio-2197. On motion for delayed appeal. Motion denied.

Pfeifer and Cupp, JJ., dissent.

### **2012-1575. State v. Love.**

Lake App. No. 2011-L-159, 2012-Ohio-3029. On motion for delayed appeal. Motion denied.

Pfeifer and Cupp, JJ., dissent.

### **2012-1581. State v. Rios.**

Cuyahoga App. No. 95364, 2011-Ohio-3053. On motion for delayed appeal. Motion denied.

Cupp, J., dissents.

### **2012-1584. State v. Wagers.**

Preble App. No. CA2009-06-018, 2010-Ohio-2311. On motion for delayed appeal. Motion denied.

**2012-1595. State v. McMichael.**

Franklin App. Nos. 11AP-1042, 11AP-1043, and 11AP-1044, 2012-Ohio-3166. On motion for delayed appeal. Motion denied.

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

**2012-1600. Mann v. Northgate Investors, L.L.C.**

Franklin App. No. 11AP-684, 2012-Ohio-2871. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated at page 2 of the court of appeals' entry filed August 30, 2012:

“Whether landlord owes the statutory duties of R.C. 5321.04(A)(3) to a tenant’s guest properly on the premises but on the common area stairs at the time of injury?”

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

The conflict case is *Shumaker v. Park Lane Manor of Akron*, Summit App. Nos. 25212, 2011-Ohio-1052.

On consideration of motion to consider supplemental case law. Motion granted.

O’Connor, C.J., dissents.

**2012-1603. State v. Lambert.**

Summit App. No. 13846. On motion for delayed appeal. Motion denied.

Pfeifer, J., dissents.

On consideration of motion for preparation of complete transcript of proceedings at state expense. Motion denied.

**2012-1604. State v. Banks.**

Cuyahoga App. No. 97084, 2012-Ohio-2495. On motion for delayed appeal. Motion denied.

Pfeifer and Cupp, JJ., dissent.

**2012-1605. State v. Hamrick.**

Stark App. No. 2011CA00041, 2012-Ohio-1214. On motion for delayed appeal. Motion denied.

Pfeifer, J., dissents.

**2012-1615. McDonald’s Corp. v. Union Cty. Bd. of Revision.**

Union App. No. 14-12-14, 2012-Ohio-3751. On motion for stay pending disposition of 2012-1648, *Marysville Exempted Village School Dist. Bd. of Edn. v. Union Cty. Bd. of Revision*, Bd. of Tax Appeals Nos. 2011-K-4087, 2011-K-4088, and 2011-K-4090 through 2011-K-4096. Motion denied.

Pfeifer and O'Donnell, JJ., dissent.

**2012-1621. State v. Conway.**

Clark App. Nos. 2011 CA 2 and 2012 CA 9, 2012-Ohio-3102. On motion for delayed appeal. Motion denied.

Pfeifer, Lanzinger, and Cupp, JJ., dissent.

**2012-1628. State v. Washington.**

Hamilton App. No. C-090883. On motion for delayed appeal. Motion denied.

**2012-1632. Leal v. Ohio Secy. of State.**

Franklin App. No. 12AP-68. On motion to stay court of appeals judgment. Motion denied.

**2012-1642. Fahey Banking Co. v. Squire.**

Mahoning App. No. 11 MA 178, 2012-Ohio-4211. On motion for continuation of stay pending appeal. Motion denied.

Lanzinger and Cupp, JJ., dissent and would grant the motion with an increase in bond.

McGee Brown, J., not participating.

## **APPEALS ACCEPTED FOR REVIEW**

**2012-1100. State v. Topping.**

Warren App. No. CA2011-07-067, 2012-Ohio-2259. Discretionary appeal accepted on Proposition of Law Nos. I and II; cause held for 2011-1066, *State v. Brunning*, Cuyahoga App. No. 95376, 2011-Ohio-1936; and briefing schedule stayed.

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

**2012-1302. State v. Ranzy.**

Cuyahoga App. No. 97275, 2012-Ohio-2763. Discretionary appeal accepted and cause held for the decision in 2011-0619, *State v. Williams*, Cuyahoga App. No. 94616, 2011-Ohio-925; and briefing schedule stayed.

Pfeifer, J., dissents.

**2012-1303. State v. Vanderhorst.**

Cuyahoga App. No. 97242, 2012-Ohio-2762. Discretionary appeal accepted and cause held for the decision in 2011-0619, *State v. Williams*, Cuyahoga App. No. 94616, 2011-Ohio-925; and briefing schedule stayed.

Pfeifer, J., dissents.

**2012-1307. Riscatti v. Prime Properties, L.P.**

Cuyahoga App. No. 97270, 2012-Ohio-2921.

Pfeifer and Lanzinger, JJ., dissent.

**2012-1361. State v. Lynch.**

Lorain App. No. 11CA010031, 2012-Ohio-2975. Discretionary appeal accepted; cause held for the decision in 2011-1501, *State v. Billiter*, Stark App. No. 2010CA00292, 2011-Ohio-2230.

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

**2012-1378. Mahoning Edn. Assn. of Dev. Disabilities v. State Emp. Relations Bd.**

Mahoning App. No. 11 MA 52, 2012-Ohio-3000.

Pfeifer and O'Donnell, JJ., dissent.

**APPEALS NOT ACCEPTED FOR REVIEW**

**2012-0977. State v. Delossantos.**

Lorain App. No. 11CA009951, 2012-Ohio-1383.

**2012-1271. State v. Meisenhelder.**

Licking App. No. 11CA0092, 2012-Ohio-2857.

**2012-1276. Ohio Edison Co v. Wilkes.**

Mahoning App. No. 10 MA 174.

**2012-1277. State v. McMullen.**

Cuyahoga App. Nos. 97475 and 97476, 2012-Ohio-2629. Discretionary appeal and cross-appeal not accepted.

O'Connor, C.J., dissents and would accept the cross-appeal.

Lundberg Stratton, J., dissents and would accept the appeal and the cross-appeal.

Cupp, J., dissents and would accept the appeal.

**2012-1279. State v. Bell.**

Cuyahoga App. No. 97123, 2012-Ohio-2624.

O'Donnell, J., dissents.

**2012-1282. State ex rel. DeWine v. A & L Salvage, L.L.C.**

Columbiana App. No. 11 CO 39.

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

**2012-1301. State v. Jackson.**

Hamilton App. No. C-110570, 2012-Ohio-2727.

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

**2012-1304. Arnett v. Precision Strip, Inc.**

Auglaize App. No. 2-11-25, 2012-Ohio-2693.

O'Connor, C.J., dissents.

**2012-1310. Robinson v. Spurlock.**

Jackson App. No. 11CA4, 2012-Ohio-1510.

O'Donnell, J., dissents.

**2012-1311. State v. Hull.**

Hamilton App. No. C-110332.

**2012-1313. State v. Compton.**

Cuyahoga App. No. 97959, 2012-Ohio-2936.

**2012-1314. Groen v. Children's Hosp. Med. Ctr.**

Hamilton App. No. C-100835, 2012-Ohio-2815.

Pfeifer, J., dissents.

**2012-1315. Conkin v. CHS-Ohio Valley, Inc.**

Hamilton App. No. C-110660, 2012-Ohio-2816.

Lundberg Stratton, J., dissents.

**2012-1316. State v. Chukes.**

Franklin App. No. 12AP-126.

O'Donnell, J., dissents.

**2012-1317. State v. McGhee.**

Montgomery App. No. 24719, 2012-Ohio-2799.

**2012-1318. Maggiore v. Barenfeld.**

Stark App. No. 2011CA00180, 2012-Ohio-2909.

O'Donnell, J., dissents.

**2012-1320. State v. Richey.**

Franklin App. No. 11AP-618, 2012-Ohio-2652.

**2012-1321. Baker v. Coast to Coast Manpower, L.L.C.**

Hancock App. No. 5-11-36, 2012-Ohio-2840.

**2012-1322. FV 1, Inc. v. Goodspeed.**

Mahoning App. No. 10 MA 170, 2012-Ohio-3001.

**2012-1326. Citibank, N.A. v. Valentine.**

Delaware App. No. 11 CAE 10 0087, 2012-Ohio-2786.

**2012-1327. State v. Richardson.**

Cuyahoga App. No. 97407, 2012-Ohio-2771.

**2012-1329. State v. Richmond.**

Cuyahoga App. No. 97616, 2012-Ohio-2511.

**2012-1334. State v. Patterson.**

Hancock App. No. 5-11-15, 2012-Ohio-2839.

O'Donnell, J., dissents.

**2012-1335. Miller v. Miller.**

Holmes App. No. 11CA020, 2012-Ohio-2905.

**2012-1336. State v. Glauser.**

Tuscarawas App. No. 2011AP100039, 2012-Ohio-3230.

O'Donnell, J., dissents.

**2012-1337. State v. Clinkscale.**

Franklin App. No. 11AP-980, 2012-Ohio-2868.



**2012-1343. Adams v. Pitorak & Coenen Invests., Ltd.**

Geauga App. No. 2011-G-3019, 2012-Ohio-3015.

Pfeifer, J., dissents.

**2012-1349. Yeager v. Mansfield.**

Richland App. No. 2011 CA 0085, 2012-Ohio-2908.

Pfeifer and O'Donnell, JJ., dissent.

**2012-1350. Commonwealth Land Title Ins. Co. v. Choice Title Agency, Inc.**

Lorain App. No. 11CA009981, 2012-Ohio-2824.

**2012-1352. Marks v. Reliable Title Agency, Inc.**

Mahoning App. No. 11 MA 22, 2012-Ohio-3006. Discretionary appeal not accepted. Motion to dismiss denied.

**2012-1353. State v. Werber.**

Cuyahoga App. No. 90888.

**2012-1354. State v. Renfro.**

Butler App. No. CA2011-07-142, 2012-Ohio-2848.

**2012-1362. State v. Glasser.**

Athens App. No. 11CA11, 2012-Ohio-3265.

**2012-1363. State v. Petty.**

Franklin App. No. 11AP-716, 2012-Ohio-2989. Discretionary appeal not accepted. Motion to consolidate denied.

**2012-1364. State v. Petty.**

Franklin App. No. 11AP-766, 2012-Ohio-2989. Discretionary appeal not accepted. Motion to consolidate denied.

**2012-1365. Leasure v. Adena Local School Dist.**

Ross App. No. 11CA3249, 2012-Ohio-3071.

**2012-1367. State v. Waskelis.**

Portage App. No. 2011-P-0035, 2012-Ohio-3030.

**2012-1368. State v. Murphy.**

Cuyahoga App. No. 97459, 2012-Ohio-2924.

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

**2012-1369. Mallory v. Cincinnati.**

Hamilton App. No. C-110563, 2012-Ohio-2861.

**2012-1370. Kirkwood v. FSD Dev. Corp.**

Cuyahoga App. No. 97371, 2012-Ohio-2922.

**2012-1371. In re C.S.**

Summit App. No. 26178, 2012-Ohio-2884.

Lanzinger, J., dissents.

**2012-1372. State v. Webb.**

Montgomery App. No. 24866, 2012-Ohio-2962.

**2012-1373. State v. Whitterson.**

Hamilton App. No. C-110207, 2012-Ohio-2940.

**2012-1374. Matthews v. Mark Heflin Ents., Inc.**

Hamilton App. No. C-110612, 2012-Ohio-2862.

O'Donnell, J., dissents.

**2012-1375. State v. Dukes.**

Portage App. Nos. 2011-P-0098 and 2011-P-0099, 2012-Ohio-3033.

**2012-1376. Whitacre v. Crowe.**

Medina App. No. 11CA0019-M, 2012-Ohio-2981.

Lanzinger and Cupp, JJ., dissent.

**2012-1377. Van Ligten v. Emergency Servs., Inc.**

Franklin App. No. 11AP-901, 2012-Ohio-2994.

Pfeifer, J., dissents.

**2012-1379. State v. Maynard.**

Franklin App. No. 11AP-697, 2012-Ohio-2946.

**2012-1380. State v. Gillispie.**

Montgomery App. No. 24456, 2012-Ohio-2942.

**2012-1381. State v. Davidson.**

Franklin App. No. 11AP-1084, 2012-Ohio-2998.  
Pfeifer and Lanzinger, JJ., dissent.

**2012-1382. State v. Smith.**

Richland App. No. 2011-CA-0110, 2012-Ohio-2956.

**2012-1384. State v. Whipple.**

Hamilton App. No. C-110184, 2012-Ohio-2938.

**2012-1385. Alsfelder v. Alsfelder.**

Hamilton App. No. C-110681.

**2012-1391. State v. Howard.**

Lake App. No. 2011-L-109, 2012-Ohio-3023.

**2012-1392. State v. Hailes.**

Wood App. No. WD-11-001, 2012-Ohio-3111.

Cupp, J., dissents and would accept the discretionary appeal on Proposition of Law No. III and hold the cause for the decision in 2011-1066, *State v. Brunning*, Cuyahoga App. No. 95376, 2011-Ohio-1936.

**2012-1393. State v. Luecke.**

Portage App. Nos. 2011-P-0085 and 2011-P-0104, 2012-Ohio-3032.

**2012-1395. State v. Whitt.**

Coshocton App. No. 12-CA-3, 2012-Ohio-3094.

**2012-1396. State v. Dyson.**

Wayne App. No. 11CA0063, 2012-Ohio-3193.

**2012-1399. Kime Design, L.L.C. v. Aouthmany.**

Lucas App. No. L-11-1162, 2012-Ohio-3183.

**2012-1401. State v. Yee.**

Erie App. No. E-93-072.

**2012-1402. State v. Barner.**

Meigs App. No. 10CA9, 2012-Ohio-4584.

**2012-1403. State v. Wharton.**

Ross App. No. 12CA3322.

**2012-1405. In re C.S.**

Franklin App. No. 11AP-667, 2012-Ohio-2988.  
McGee Brown, J., not participating.

**2012-1406. State v. Markwell.**

Muskingum App. No. CT2011-0056, 2012-Ohio-3096.

**2012-1408. State v. Austin.**

Hamilton App. No. C-110359, 2012-Ohio-4232.

**2012-1410. State v. Long.**

Hamilton App. No. C-110160, 2012-Ohio-3052.  
Lanzinger and Cupp, JJ., dissent.

**2012-1411. State v. Glenn.**

Cuyahoga App. No. 97314, 2012-Ohio-3075.

**2012-1412. Young v. Cuyahoga Cty. Bd. of Mental Retardation.**

Cuyahoga App. No. 97671, 2012-Ohio-3082.  
O'Connor, C.J., and Lundberg Stratton, J., dissent.

**2012-1420. State v. McGraw.**

Cuyahoga App. No. 96606, 2012-Ohio-3247.

**2012-1449. Longbottom v. Huber.**

Clermont App. Nos. CA2011-01-005 and CA2011-01-006, 2012-Ohio-2148.  
Lundberg Stratton, O'Donnell, and Lanzinger, JJ., dissent.

**2012-1468. State v. McClain.**

Guernsey App. No. 10CA0010.  
Pfeifer and O'Donnell, JJ., dissent.

**2012-1479. State v. Bohannon.**

Hamilton App. No. C-110025.

## RECONSIDERATION OF PRIOR DECISIONS

**2012-0850. State v. Eal.**

Franklin App. No. 11AP-460, 2012-Ohio-1373. Reported at 132 Ohio St.3d 1515, 2012-Ohio-4021, 974 N.E.2d 113. On motion for reconsideration. Motion denied.

**2012-0872. State v. Graham.**

Guernsey App. No. 11 CA 15, 2012-Ohio-1600. Reported at 132 Ohio St.3d 1515, 2012-Ohio-4021, 974 N.E.2d 113. On motion for reconsideration. Motion denied.

**2012-0931. State v. Henderson.**

Cuyahoga App. No. 95655, 2012-Ohio-1040. Reported at 132 Ohio St.3d 1516, 2012-Ohio-4021, 974 N.E.2d 113. On motion for reconsideration. Motion denied. Application for en banc review and request for emergency hearing denied.

**2012-1125. Bank of New York Mellon v. Ackerman.**

Montgomery App. No. 24390, 2012-Ohio-956. Reported at 132 Ohio St.3d 1534, 2012-Ohio-4381, 974 N.E.2d 1210. On motion for reconsideration. Motion denied. Motion to vacate entry denying appellants' motion to stay and motion for leave denied.

**2012-1181. Disciplinary Counsel v. Antony.**

On certified order of the Supreme Court of Florida, No. SC11-2109. Reported at 132 Ohio St.3d 1519, 2012-Ohio-4042, 974 N.E.2d 11. On motion for reconsideration. Motion denied.