

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

March 27, 2013

[Cite as *03/27/2013 Case Announcements*, 2013-Ohio-1123.]

MERIT DECISIONS WITHOUT OPINIONS

2013-0051. State ex rel. Zilberbrand v. Court of Common Pleas of Hamilton Cty.

In Prohibition. On motion to dismiss, motion for leave to intervene and answer, or in the alternative to treat its answer and motion for judgment on the pleadings as an amicus brief, motion for judgment on the pleadings, and motion for leave to amend complaint. Motions granted. Cause dismissed.

O'Connor, C.J., and Pfeifer, O'Donnell, Lanzinger, Kennedy, French, and O'Neill, JJ., concur.

2013-0082. State ex rel. Jackson v. Bunting.

In Mandamus. On answer of respondent. On S.Ct.Prac.R. 12.04 determination, cause dismissed. Motion for leave to amend and motion to strike denied as moot.

O'Connor, C.J., and Pfeifer, Lanzinger, Kennedy, French, and O'Neill, JJ., concur.

O'Donnell, J., dissents and would grant an alternative writ and appoint counsel.

2013-0090. State ex rel. Evans v. Marshall.

In Mandamus and Procedendo. On complaint in mandamus and procedendo of William H. Evans Jr. On S.Ct.Prac.R. 12.04 determination, cause dismissed. Amended motion for default judgment denied as moot.

O'Connor, C.J., and Pfeifer, O'Donnell, Lanzinger, Kennedy, and French, JJ., concur.

O'Neill, J., dissents and would grant an alternative writ.

2013-0116. Forman v. Routson.

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

O'Connor, C.J., and Pfeifer, O'Donnell, Lanzinger, Kennedy, French, and O'Neill, JJ., concur.

2013-0136. State ex rel. Gilcreast v. Ninth Dist. Court of Appeals Judges.

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

Pfeifer, Acting C.J., and O'Donnell, Lanzinger, Kennedy, French, and O'Neill, JJ., concur.

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

2013-0270. State v. Blair.

In Habeas Corpus. On petition for writ of habeas corpus of Delfon Blair. Sua sponte, cause dismissed.

O'Connor, C.J., and Pfeifer, O'Donnell, Lanzinger, Kennedy, French, and O'Neill, JJ., concur.

MOTION AND PROCEDURAL RULINGS

2013-0013. State v. Solomon.

Hamilton App. No. C-120044, 2012-Ohio-5755. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause held for the decision in 2012-2136, *State v. Taylor*, 9th Dist. No. 26279, 2012-Ohio-5403; cause consolidated with 2013-0027, *State v. Solomon*, 1st Dist. No. C-120044, 2012-Ohio-5755; and briefing schedule stayed.

O'Connor, C.J., would hold only Proposition of Law No. I for *State v. Taylor* and would order briefing on Proposition of Law No. II.

2012-0900. In re Application of Black Fork Wind Energy, L.L.C.

Power Siting Board, No. 10-2865-EL-BGN. Upon consideration of intervening-appellee's motion to dismiss the appeal of appellants, it is ordered by the court that the motion is granted in part and denied in part. The motion is granted with respect to appellants' first and second propositions of law, and they are dismissed. With respect to appellants' third proposition of law, the motion to dismiss is denied as to the first and second due process arguments, but granted as to the third due process argument regarding appellants' alleged deprivation of the opportunity to cross-examine the engineer. The case shall proceed for consideration on the remaining due process arguments.

French, J., concurs in part and dissents in part with respect to the second proposition of law and would not dismiss the issue of whether the order was

unreasonable and unlawful because it did not require Black Fork Wind Energy, L.L.C. to post a bond before the commencement of construction.

Pfeifer, J., not participating.

2012-1509. Abraitis v. Testa.

Board of Tax Appeals, Nos. 2011-A-3870 and 2011-A-3974. On motion to strike merit brief of appellee. Motion denied.

2013-0200. State v. Shepherd.

Scioto App. No. 12CA3469, 2012-Ohio-5631. On motion for delayed appeal. Motion granted.

O'Connor, C.J., dissents.

2013-0201. State v. Perry.

Lake App. No. 2011-L-125, 2012-Ohio-4888. On motion for delayed appeal. Motion granted.

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

2013-0208. State v. Mejias.

Muskingum App. No. CT2012-0026, 2012-Ohio-5447. On motion for delayed appeal. Motion denied.

Pfeifer and O'Neill, JJ., dissent.

2013-0216. State v. Andrews.

Hamilton App. No. C-110735, 2012-Ohio-4664. On motion for delayed appeal. Motion denied.

O'Neill, J., dissents.

2013-0255. State v. York.

Seneca App. No. 13-12-30. On motion for delayed appeal. Motion granted. O'Connor, C.J., and O'Donnell and French, JJ., dissent.

2013-0268. Anderson v. Smith.

Franklin App. No. 12AP-108, 2012-Ohio-6159. On motion for delayed appeal. Motion denied.

Pfeifer, J., dissents.

2013-0285. State v. Kinstle.

Allen App. No. 1-11-45, 2012-Ohio-5952. On motion for delayed appeal. Motion denied.

Pfeifer, Lanzinger, and Kennedy, JJ., dissent.

2013-0286. State v. Yates.

Cuyahoga App. No. 86631, 2006-Ohio-3004. On motion for delayed appeal. Motion denied.

2013-0307. State v. Allen.

Lake App. No. 2011-L-157, 2013-Ohio-434. On motion for stay of the court of appeals' judgment. Motion denied.

Lanzinger and Kennedy, JJ., dissent.

APPEALS ACCEPTED FOR REVIEW

2013-0021. Hayward v. Summa Health Sys.

Summit App. No. 25938, 2012-Ohio-5396. Discretionary appeal accepted on Proposition of Law No. I.

O'Neill, J., would also accept Proposition of Law Nos. II and III.

Pfeifer, J., dissents.

2013-0027. State v. Solomon.

Hamilton App. No. C-120044, 2012-Ohio-5755. Discretionary appeal accepted and cause held for the decision in 2012-2136, *State v. Taylor*, 9th Dist. No. 26279, 2012-Ohio-5403; cause consolidated with 2013-0013, *State v. Solomon*, 1st Dist. No. C-120044, 2012-Ohio-5755; and briefing schedule stayed.

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

2013-0096. Cleveland v. McCardle.

Cuyahoga App. Nos. 98230 and 98231, 2012-Ohio-5749.

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

2013-0148. Transtar Elec., Inc. v. A.E.M. Elec. Servs. Corp.

Lucas App. No. L-12-1100, 2012-Ohio-5986.

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

APPEALS NOT ACCEPTED FOR REVIEW

2012-2011. State v. Crews.

Montgomery App. No. 24834, 2012-Ohio-4854. Discretionary appeal and cross-appeal not accepted.

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

O'Neill, J., dissents and would accept the discretionary appeal and cross-appeal.

2012-2095. Smith v. Barclay.

Franklin App. No. 11AP-798, 2012-Ohio-5086.

2012-2137. State v. Unsworth.

Lucas App. Nos. L-11-1267 and L-11-1268, 2012-Ohio-5267.

2012-2172. State v. Onunwor.

Cuyahoga App. No. 97895, 2012-Ohio-4818.

O'Neill, J., dissents.

2012-2173. King v. King.

Medina App. Nos. 11CA0006-M, 11CA0023-M, and 11CA0069-M, 2012-Ohio-5219.

2012-2174. In re Estate of Collins.

Allen App. No. 1-11-63, 2012-Ohio-5234.

2012-2175. In re C.P.

Tuscarawas App. No. 2012 AP 02 0016, 2012-Ohio-5453.

2012-2178. Williams v. Ohio Dept. of Job & Family Servs.

Logan App. No. 8-11-18, 2012-Ohio-4659.

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

2012-2179. State v. Dutiel.

Perry App. No. 2012-CA-11, 2012-Ohio-5349.

2012-2180. State v. Bevins.

Hamilton App. No. C-050754.

2012-2183. Teamsters Local Union No. 436 v. Cuyahoga Cty.

Cuyahoga App. No. 98121, 2012-Ohio-5289.

2012-2186. Lewis v. Cashland Fin. Servs., Inc.

Hamilton App. No. C-120223.

O'Neill, J., dissents.

2012-2188. Bank One Trust Co., N.A. v. Scherer.

Franklin App. No. 11AP-1140, 2012-Ohio-5302.

Pfeifer, J., dissents.

2013-0003. Fuerst v. Bradley.

Van Wert App. No. 15-12-08.

2013-0005. Art's Rental Equip., Inc. v. Bear Creek Constr., L.L.C.

Hamilton App. Nos. C-110544, C-110555, C-110558, C-110559, C-110564, C-110785, C-110792, C-110797, C-110798, C-110799, C-110800, C-110801, C-110808, and C-120309, 2012-Ohio-5371.

Kennedy and French, JJ., dissent.

2013-0008. State v. Fornore.

Columbiana App. No. 11 CO 36, 2012-Ohio-5339.

2013-0009. Greene v. Cincinnati.

Hamilton App. No. C-120079, 2012-Ohio-5393.

2013-0010. State v. Jackson.

Richland App. No. 2012-CA-20, 2012-Ohio-5548.

Kennedy and French, JJ., dissent.

2013-0025. State v. Spears.

Cuyahoga App. No. 99180.

2013-0029. State v. Aslinger.

Preble App. No. CA2011-11-014, 2012-Ohio-5436.

2013-0030. Litchfield Twp. Bd. of Trustees v. Nimer.

Medina App. No. 11CA0037-M, 2012-Ohio-5431.

2013-0031. State v. Haller.

Allen App. No. 1-11-34, 2012-Ohio-5233.

2013-0032. State v. Wilson.

Montgomery App. Nos. 24461, 24496, and 24501, 2012-Ohio-1660.

2013-0039. State v. Keeley.

Washington App. No. 11CA5, 2012-Ohio-3564.

2013-0040. Cireddu v. Clough.

Lake App. No. 2012-L-048, 2012-Ohio-4338.

2013-0044. State v. Tvaroch.

Trumbull App. No. 2012-T-0008, 2012-Ohio-5836.

2013-0046. Rhode v. Mkt. Ready Real Estate.

Franklin App. No. 12AP-160, 2012-Ohio-5475.

2013-0056. State v. Moore.

Hamilton App. No. C-120209.

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

2013-0057. State v. Gilbert.

Franklin App. No. 12AP-142, 2012-Ohio-5521.

2013-0063. State v. Henry.

Lucas App. No. L-11-1157, 2012-Ohio-5552.

O'Neill, J., dissents.

2013-0066. State v. Hopkins.

Montgomery App. No. 24940, 2012-Ohio-5536.

O'Neill, J., dissents.

2013-0067. State v. Brown.

Cuyahoga App. No. 77572, 2012-Ohio-5703.

2013-0077. State v. Brown.

Summit App. No. 26427, 2012-Ohio-5484.

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

2013-0080. State v. Johnson.

Stark App. No. 2012 CA 00054, 2012-Ohio-5621.

2013-0120. State v. McCann.

Lawrence App. No. 12CA17.

2013-0122. State v. Paige.

Cuyahoga App. No. 97939, 2012-Ohio-5727.

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

O'Neill, J., dissents.

2013-0123. State v. Ingles.

Hamilton App. No. C-120052.

O'Neill, J., dissents.

2013-0124. State v. Higgins.

Summit App. No. 26120, 2012-Ohio-5650.

2013-0127. State v. Caraballo.

Cuyahoga App. No. 97915, 2012-Ohio-5725.

2013-0132. State v. Bushner.

Summit App. No. 26532, 2012-Ohio-5996.

2013-0138. State v. Williams.

Scioto App. No. 10CA3381, 2012-Ohio-6083.

2013-0139. State v. Shepherd.

Cuyahoga App. No. 97962, 2012-Ohio-5415.

2013-0145. State v. Agee.

Butler App. No. CA2012-11-232.

2013-0150. State v. Smith.

Hamilton App. No. C-120181.

2013-0158. State v. Adams.

Mahoning App. No. 12 MA 9, 2012-Ohio-5979.

2013-0160. State v. Salsgiver.

Cuyahoga App. No. 98168.

2013-0165. State v. Holston.

Hamilton App. No. C-120219.

2013-0169. Sobin v. Lim.

Cuyahoga App. No. 97952, 2012-Ohio-5544.

2013-0172. State v. Huber.

Clark App. No. 2010 CA 100, 2012-Ohio-6044.

2013-0174. State v. Owens.

Cuyahoga App. No. 98165, 2012-Ohio-5887.

2013-0189. State v. Fields.

Muskingum App. No. CT 12-0028, 2012-Ohio-6086.

2013-0193. State v. Foose.

Mahoning App. No. 11 MA 206, 2012-Ohio-6273.

2013-0219. State v. Howell.

Mahoning App. No. 10-MA-148, 2012-Ohio-4349.

RECONSIDERATION OF PRIOR DECISIONS

2012-1617. State v. Westley.

Cuyahoga App. No. 97650, 2012-Ohio-3571. Reported at ___ Ohio St.3d ___, 2013-Ohio-158, 981 N.E.2d 885. On motion for reconsideration. Motion denied.

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

Franklin App. No. 12AP-68. Reported at ___ Ohio St.3d ___, 2013-Ohio-347, 982 N.E.2d 727. On motion for reconsideration. Motion denied.

2012-1749. State v. Little.

Hamilton App. No. C-120556. Reported at 134 Ohio St.3d 1421, 2013-Ohio-158, 981 N.E.2d 886. On motion for reconsideration. Motion denied.

2012-1764. State v. Just.

Wayne App. No. 12CA0002, 2012-Ohio-4094. Reported at ___ Ohio St.3d ___, 2013-Ohio-347, 982 N.E.2d 728. On motion for reconsideration. Motion denied.

Kennedy, French, and O'Neill, JJ., dissent.

2012-2013. State v. Ali.

Summit App. No. 26223, 2012-Ohio-4025. Reported at ___ Ohio St.3d___, 2013-Ohio-158, 981 N.E.2d 883. On motion for reconsideration. Motion denied.

2012-2027. Buess v. Suffolk Cty. Dept. of Soc. Servs.

In Habeas Corpus. Reported at 134 Ohio St.3d 1414, 2013-Ohio-158, 981 N.E.2d 882. On motion for reconsideration. Motion denied.