

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

February 20, 2013

[Cite as *02/20/2013 Case Announcements, 2013-Ohio-553.*]

MERIT DECISIONS WITHOUT OPINIONS

2012-2092. State ex rel. Akemon v. First Appellate Dist. Court of Appeals.

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

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

2012-2106. State ex rel. Allison v. Blackmon.

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.

2012-2111. Johnson v. Ohio Court of Claims.

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.

MOTION AND PROCEDURAL RULINGS

1989-0454. State v. Landrum.

Ross App. No. 1330. On motion to set execution date and renewed motion to set execution date. Motions denied.

O'Donnell, J., dissents.

2012-0216. State v. Willan.

Summit App. No. 24894, 2011-Ohio-6603. On motion to suspend execution of sentence and set bond pending appeal. Motion denied.

O’Neill, J., dissents.

O’Connor, C.J., not participating.

2012-1509. *Abraitis v. Testa.*

Board of Tax Appeals, Nos. 2011-A-3870 and 2011-A-3974. On motion to dismiss. Motion denied.

2012-1958. *State v. Romage.*

Franklin App. No. 11AP-822, 2012-Ohio-3381. 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 October 23, 2012:

“Is R.C. 2905.05(A) unconstitutionally overbroad?”

The conflict case is *State v. Clark*, 1st Dist. No. C-040329, 2005-Ohio-1324.

Cause consolidated with 2012-2042, *State v. Romage*, 10th Dist. No. 11AP-822, 2012-Ohio-3381.

2012-2136. *State v. Taylor.*

Summit App. No. 26279, 2012-Ohio-5403. 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 December 17, 2012:

“A defendant [may] benefit from a decrease in a classification and penalty of an offense by the General Assembly [that becomes effective] between the time the defendant committed the offense and the time of his sentencing on that offense[.]”

The conflict cases are *State v. Gillespie*, 5th Dist. No. 2012-CA-6, 2012-Ohio-3485, and *State v. David*, 5th Dist. No. 11-CA-110, 2012-Ohio-3984.

O’Donnell, J., dissents.

O’Connor, C.J., not participating.

2012-2181. *State v. Bell.*

Greene App. No. 2012 CA 15, 2012-Ohio-4853. On motion for delayed appeal. Motion denied.

Pfeifer, Kennedy, and O’Neill, JJ., dissent.

2013-0001. *State v. Barrow.*

Cuyahoga App. No. 97920, 2012-Ohio-5058. On motion for delayed appeal. Motion granted.

O’Connor, C.J., and Lanzinger and French, JJ., dissent.

2013-0004. State v. Radcliff.

Franklin App. No. 11AP-652, 2012-Ohio-4732. On review of order certifying a conflict. The court determines that a conflict exists. Cause held for the decision in 2012-0808 and 2012-1216, *State v. Boykin*, 9th Dist. Nos. 25752 and 25845, 2012-Ohio-1381; cause consolidated with 2012-1985, *State v. Radcliff*, 10th Dist. No. 11AP-652, 2012-Ohio-4732; and briefing schedule stayed.

2013-0011. State v. Farmer.

Montgomery App. No. 22852, 2009-Ohio-6013. On motion for delayed appeal. Motion denied.

2013-0020. State v. Deal.

Putnam App. No. 12-12-04, 2012-Ohio-3903. On motion for delayed appeal. Motion denied.

Pfeifer, J., dissents.

2013-0052. Pietrick v. Westlake Civ. Serv. Comm.

Cuyahoga App. No. 98258, 2012-Ohio-6009. On motion for stay of Eighth District Court of Appeals decision. Motion denied.

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

APPEALS ACCEPTED FOR REVIEW

2011-0451. State v. Herring.

Mahoning App. No. 08-MA-213, 2011-Ohio-662.

Kennedy, J., would accept the appeal on Proposition of Law Nos. I and III only.

Pfeifer and French, JJ., dissent.

2012-1861. State v. Tate.

Cuyahoga App. No. 97697, 2012-Ohio-4276.

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

2012-1866. Spaeth v. State Auto. Mut. Ins. Co.

Cuyahoga App. No. 97715, 2012-Ohio-3813. Discretionary appeal accepted on Proposition of Law No. I only.

O'Donnell and O'Neill, JJ., would also accept Proposition of Law No. II.

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

2012-1985. State v. Radcliff.

Franklin App. No. 11AP-652, 2012-Ohio-4732. Discretionary appeal accepted; cause held for the decision in 2012-0808 and 2012-1216, *State v. Boykin*, 9th Dist. Nos. 25752 and 25845, 2012-Ohio-1381; cause consolidated with 2013-0004, *State v. Radcliff*, 10th Dist. No. 11AP-652, 2012-Ohio-4732; and briefing schedule stayed.

Pfeifer, J., dissents.

2012-2003. State v. Bondurant.

Highland App. No. 11CA27, 2012-Ohio-4912.

Pfeifer, O'Donnell, and Lanzinger, JJ., dissent. Discretionary appeal accepted. This case shall be orally argued on the same day as 2012-2006, *State v. Bondurant*, 4th Dist. No. 11CA25, 2012-Ohio-4912.

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

2012-2006. State v. Bondurant.

Highland App. No. 11CA25, 2012-Ohio-4912. Discretionary appeal accepted. This case shall be orally argued on the same day as 2012-2003, *State v. Bondurant*, 4th Dist. No. 11CA27, 2012-Ohio-4912.

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

2012-2042. State v. Romage.

Franklin App. No. 11AP-822, 2012-Ohio-3381. Discretionary appeal accepted and cause consolidated with 2012-1958, *State v. Romage*, 10th Dist. No. 11AP-822, 2012-Ohio-3381.

Pfeifer and O'Donnell, JJ., dissent.

2012-2097. In re A.G.

Ottawa App. No. OT-11-003, 2012-Ohio-5109.

Kennedy and French, JJ., dissent.

APPEALS NOT ACCEPTED FOR REVIEW

2012-1729. MA Equip. Leasing I, L.L.C. v. Tilton.

Franklin App. Nos. 12AP-564 and 12AP-586, 2012-Ohio-4668.

Lanzinger, J., dissents.

French, J., not participating.

2012-1810. State v. Burns.

Lucas App. Nos. L-11-1192 and L-11-1198, 2012-Ohio-4191. Discretionary appeal and cross-appeal not accepted.

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

Lanzinger, J., dissents.

French, J., dissents and would accept the discretionary appeal and hold the cause for the decision in 2012-0302, *State v. Lalain*, 8th Dist. No. 95857, 2011-Ohio-4813.

2012-1828. State v. Fluharty.

Stark App. No. 2011CA00231, 2012-Ohio-4258.

O'Neill, J., dissents.

2012-1831. Dickerson v. Cuyahoga Metro. Hous. Auth.

Cuyahoga App. No. 97961, 2012-Ohio-4286.

2012-1832. State v. Anderson.

Geauga App. No. 2011-G-3044, 2012-Ohio-4203.

2012-1833. State v. Billiter.

Monroe App. No. 10 MO 5, 2012-Ohio-4551.

2012-1835. Bank of New York Mellon v. Smith.

Cuyahoga App. No. 98825.

2012-1838. State v. Robinson.

Sandusky App. No. S-12-025.

O'Neill, J., dissents.

2012-1839. State v. Tensley.

Hamilton App. No. C-110452, 2012-Ohio-4265.

2012-1852. Jones v. Cochran.

Lawrence App. No. 12CA14.

2012-1853. Anderson v. Brunsman.

Warren App. No. CA2012-09-084.

2012-1854. State v. Walker.

Cuyahoga App. No. 97648, 2012-Ohio-4274. Discretionary appeal and cross-appeal not accepted.

French and O’Neill, JJ., dissent and would accept the appeal on Proposition of Law No. I.

2012-1856. State v. Ragle.

Summit App. No. 25706, 2012-Ohio-4253.

2012-1857. Patel v. Bellaire.

Belmont App. No. 10 BE 27, 2012-Ohio-4348.

2012-1862. State v. Vertock.

Cuyahoga App. No. 97888, 2012-Ohio-4283.

O’Connor, C.J., and Kennedy, J., dissent and would accept the discretionary appeal on Proposition of Law No. II.

2012-1863. Accelerated Sys. Integration, Inc. v. Ritzler, Coughlin & Swansinger, Ltd.

Cuyahoga App. No. 97481, 2012-Ohio-3803.

2012-1868. State v. Miller.

Trumbull App. No. 2012-T-0007, 2012-Ohio-4895.

2012-1869. State v. Elqatto.

Franklin App. No. 11AP-914, 2012-Ohio-4303.

2012-1871. State v. Wilcox.

Tuscarawas App. No. 12AP040028, 2012-Ohio-4582.

2012-1877. Lucas v. P&L Paris Corp.

Mahoning App. No. 11 MA 104, 2012-Ohio-4357.

2012-1880. State v. Carter.

Allen App. No. 1-12-06.

2012-1884. LSF6 Mercury REO Invests. v. Garrabrant.

Delaware App. No. 11CAE040037, 2012-Ohio-4883.

Pfeifer and O’Neill, JJ., dissent and would accept the appeal and remand the cause for application of *Fed. Home Loan Mtge. Corp. v. Schwartzwald*, 134 Ohio St.3d 13, 2012-Ohio-5017, 979 N.E.2d 1214.

2012-1887. State v. Widmer.

Warren App. No. CA2011-03-027, 2012-Ohio-4342.

O'Connor, C.J., dissents and would accept the appeal on Proposition of Law Nos. I and III.

Pfeifer, J., dissents.

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

2012-1889. Sky Bank v. Colley.

Franklin App. No. 11AP-1075, 2012-Ohio-4374.

French, J., not participating.

2012-1890. Bellamy v. Montgomery.

Franklin App. No. 11AP-1059, 2012-Ohio-4304.

O'Donnell and Kennedy, JJ., dissent.

French, J., not participating.

2012-1892. In re Estate of Stevens.

Champaign App. No. 2012 CA 1, 2012-Ohio-4754.

2012-1895. State v. Muncy.

Scioto App. No. 11CA3434, 2012-Ohio-4563.

2012-1896. State v. Knox.

Cuyahoga App. No. 98027, 2012-Ohio-3821.

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

O'Donnell, J., dissents.

2012-1900. State v. Hill.

Hamilton App. No. C-120193.

O'Donnell, J., dissents.

2012-1903. Andrew v. Power Marketing Direct, Inc.

Franklin App. No. 11AP-603, 2012-Ohio-4371.

2012-1906. Schiavoni v. Roy.

Medina App. No. 11CA0108-M, 2012-Ohio-4435.

2012-1908. In re Guardianship of Money.

Montgomery App. No. 24956, 2012-Ohio-4450.

O'Neill, J., dissents.

2012-1909. Hanko v. Nestor.

Erie App. No. E-11-055, 2012-Ohio-4488.

2012-1910. Lambert v. Sack 'N Save, Inc.

Ross App. No. 12CA3319, 2012-Ohio-4686.

O'Neill, J., dissents.

2012-1911. Knight v. Proctor & Gamble Co.

Hamilton App. No. C-110593.

Motion to consolidate with case Nos. 2011-1076 and 2011-2013 denied.

O'Neill, J., dissents.

2012-1913. Columbus Steel Castings Co. v. Nally.

Franklin App. No. 11AP-932, 2012-Ohio-4417.

Lanzinger and O'Neill, JJ., dissent.

French, J., not participating.

2012-1914. Brooks Capital Servs., L.L.C. v. 5151 Trabue Ltd.

Franklin App. No. 12AP-30, 2012-Ohio-4539.

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

2012-1915. Bank of New York Mellon v. Watkins.

Franklin App. No. 11AP-539, 2012-Ohio-4410.

French, J., not participating.

2012-1916. State ex rel. E. Ohio Gas Co. v. Stark Cty. Bd. of Commrs.

Stark App. No. 2012 CA 00019, 2012-Ohio-4533.

O'Neill, J., dissents.

2012-1917. State v. Mowery.

Fairfield App. No. 11 CA 61, 2012-Ohio-4532.

2012-1919. Bio Energy (Ohio), L.L.C. v. Phoenix Golf Links, Ltd.

Franklin App. No. 12AP-171, 2012-Ohio-4421.

O'Donnell, J., dissents.

2012-1923. Gammarino v. Sycamore Twp.

Hamilton App. No. C-110758.

2012-1925. State v. Hughes.

Franklin App. No. 12AP-165, 2012-Ohio-4513.

French, J., not participating.

2012-1926. LSF6 Mercury REO Invests. Trust Series 2008-1 v. Locke.

Franklin App. No. 11AP-757, 2012-Ohio-4499.

O'Neill, J., dissents and would accept the appeal and remand the cause for application of *Fed. Home Loan Mtge. Corp. v. Schwartzwald*, 134 Ohio St.3d 13, 2012-Ohio-5017, 979 N.E.2d 1214.

French, J., not participating.

2012-1928. State v. Byrd.

Montgomery App. No. 24964, 2012-Ohio-4616.

2012-1930. Hutcheson v. Ohio Auto. Dealers Assn.

Cuyahoga App. No. 97394, 2012-Ohio-3685.

2012-1933. State v. Larios.

Preble App. No. CA2009-07-019, 2012-Ohio-4525.

2012-1934. Internatl. Bhd. of Elec. Workers, Loc. Union No. 575 v. Settle-Muter Elec., Ltd.

Fayette App. No. CA2012-02-003, 2012-Ohio-4524.

Lanzinger, J., dissents and would accept the appeal on Proposition of Law Nos. I and II.

O'Neill, JJ., dissents.

2012-1935. State v. Dominguez.

Preble App. No. CA2011-09-010, 2012-Ohio-4542.

2012-1938. Cleveland v. Mojsoski.

Cuyahoga App. No. 97762, 2012-Ohio-4589.

2012-1939. State v. Finch.

Licking App. No. 11-CA-114, 2012-Ohio-4727.

2012-1943. State v. Ford.

Summit App. No. 26260, 2012-Ohio-4028.

2012-1945. Wagner v. A.C. Strip, Esq.
Licking App. No. 11-CA-82, 2012-Ohio-4954.

2012-1948. Carr v. Acacia Country Club Co.
Cuyahoga App. No. 97989, 2012-Ohio-4723.

2012-1949. State v. Cassano.
Cuyahoga App. No. 97228, 2012-Ohio-4047.

2012-1950. Boyd v. Lourexis, Inc.
Cuyahoga App. No. 98028, 2012-Ohio-4595. Motion to consolidate with 2011-1076 and 2011-2013 denied.
O'Neill, J., dissents.

2012-1952. State v. Nicholson.
Cuyahoga App. No. 97873, 2012-Ohio-4591.

2012-1954. State v. Matter.
Erie App. No. E-12-062.

2012-1961. State v. Ghee.
Scioto App. No. 08CA3266.

2012-1963. State v. Hartman.
Summit App. No. 26250, 2012-Ohio-4694.
O'Donnell, J., dissents.

2012-1964. Sheet Metal Works Internatl. Assn. Local Union No. 33 v. Courtad, Inc.
Stark App. No. 2012CA00080, 2012-Ohio-4812.
O'Neill, J., dissents.

2012-1965. State v. Hess.
Morrow App. No. 11-CA-11, 2012-Ohio-3090.

2012-1975. State v. Moore.
Lucas App. No. L-11-1151, 2012-Ohio-4736.
O'Neill, J., dissents.

2012-1980. State v. Roberts.

Cuyahoga App. No. 97709, 2012-Ohio-4715.

2012-1981. State v. Fields.

Richland App. No. 2012-CA-0011, 2012-Ohio-4808.

2012-1982. State v. Parker.

Cuyahoga App. No. 97841, 2012-Ohio-4741.

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

2012-1983. State v. Harkins.

Clark App. No. 2012 CA 2, 2012-Ohio-4746.

2012-1989. Cullinan v. Ohio Dept. of Job & Family Servs.

Franklin App. No. 12AP-208, 2012-Ohio-4836.

O'Neill, J., dissents.

2012-2004. Jefferson v. Univ. of Toledo.

Franklin App. No. 12AP-236, 2012-Ohio-4793.

2012-2007. State v. Thompson.

Montgomery App. No. 25016, 2012-Ohio-4862.

2012-2010. In re R.J.G.

Cuyahoga App. No. 97427, 2012-Ohio-3802.

2012-2012. State v. Clay.

Madison App. No. CA2011-12-016, 2012-Ohio-5011.

O'Neill, J., dissents.

2012-2014. State v. Calise.

Summit App. No. 26027, 2012-Ohio-4797.

Pfeifer and O'Neill, JJ., dissent.

2012-2015. State v. Rucker.

Montgomery App. No. 24340, 2012-Ohio-4860.

2012-2019. State v. Gresham.

Cuyahoga App. No. 98425, 2012-Ohio-5079.

2012-2032. State v. Dowey.

Summit App. No. 25963, 2012-Ohio-4915.
O'Neill, J., dissents.

2012-2038. State v. Withrow.

Ashtabula App. No. 2011-A-0067, 2012-Ohio-4887.

2012-2046. State v. Gordon.

Cuyahoga App. No. 97336, 2012-Ohio-4930.

2012-2048. State v. Hudson.

Cuyahoga App. No. 96986, 2012-Ohio-4928.

2012-2051. State v. Hall.

Pickaway App. No. 91CA26. Discretionary appeal not accepted and motion for delayed appeal denied.

2013-0007. State v. Smith.

Hamilton App. No. C-090645.
Pfeifer and O'Neill, JJ., dissent.

2013-0015. State v. Cunningham.

Clark App. No. 10-CA-57, 2012-Ohio-2794.