

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

October 22, 2014

[Cite as *10/22/2014 Case Announcements*, 2014-Ohio-4629.]

MERIT DECISIONS WITH OPINIONS

2013-0870 and 2013-0876. State v. Aguirre, Slip Opinion No. 2014-Ohio-4603. Franklin App. No. 12AP-415, 2013-Ohio-768. Certified question answered in the negative. Judgment reversed and cause remanded.

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

Pfeifer, J., dissents and would affirm the judgment of the court of appeals.

O'Neill, J., dissents.

2013-1981. Disciplinary Counsel v. Owen, Slip Opinion No. 2014-Ohio-4597.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 2012-019. James David Owen, Attorney Registration No. 0003525, is suspended from the practice of law for two years, with one year stayed on conditions.

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

O'Connor, C.J., dissents and would impose an indefinite suspension.

2013-1983. Disciplinary Counsel v. Harmon, Slip Opinion No. 2014-Ohio-4598.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 2012-081. Paul Dare Harmon, Attorney Registration No. 0023923, is suspended from the practice of law for two years, with one year stayed on conditions.

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

Pfeifer, French, and O'Neill, JJ., dissent, and would impose a one-year suspension with six months stayed.

MERIT DECISIONS WITHOUT OPINIONS

2014-0711. State ex rel. Indus. Energy Users-Ohio v. Pub. Util. Comm.

In Mandamus and Prohibition. Upon consideration of respondents' and intervening respondent's motions to dismiss, it is ordered by the court that the motions to dismiss are granted. Relator has an adequate remedy by way of appeal, R.C. 4903.13, and through the filing of a motion for stay, R.C. 4903.16. Accordingly, this cause is dismissed.

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

Pfeifer, J., dissents.

2014-1184. State ex rel. Smith v. Sundermann.

In Mandamus and Prohibition. On complaint in mandamus and prohibition of Courtney Smith. On S.Ct.Prac.R. 12.04 determination, cause dismissed.

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

2014-1321. Harper v. Tuscarawas Cty. Court of Common Pleas.

In Mandamus. On respondents' motions to dismiss and motion to declare petitioner a vexatious litigator. Motions to dismiss granted. Motion to declare petitioner a vexatious litigator denied. Cause dismissed.

Pfeifer, Lanzinger, Kennedy, and O'Neill, JJ., concur.

O'Connor, C.J., and O'Donnell and French, JJ., concur as to the motions to dismiss but dissent as to the motion to declare petitioner a vexatious litigator.

2014-1361. Frazier v. Deavers.

Miscellaneous case. On complaint and motion for violation of civil-protection order. On S.Ct.Prac.R. 12.04 determination, cause dismissed.

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

2014-1410. State ex rel. Coleman v. Rowlands.

In Procedendo. On complaint in procedendo of Troy Coleman. On S.Ct.Prac.R. 12.04 determination, cause dismissed.

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

MOTION AND PROCEDURAL RULINGS

2010-2198. State v. McKelton.

Butler C.P. No. CR2010020189. The cause is pending before the court as a death-penalty appeal from the Court of Common Pleas of Butler County. Upon consideration of appellee's motion to strike proposition of law XV(A) as contained in appellant's reply brief, the motion is denied. Appellee's request for additional briefing is granted. Appellee may file a surreply brief addressing the arguments in Proposition of Law No. XV(A) within fifteen days of the date of this entry. The surreply brief shall not exceed ten pages.

2013-0521. In re Application of Columbus S. Power Co.

Public Utilities Commission, No. 11-326-EL-SSO. Upon consideration of appellants' joint motion for stay, it is ordered by the court that the motion is denied for failure to comply with the bond requirement set forth in R.C. 4903.16. *See In re Application of Duke Energy Ohio, Inc.*, 139 Ohio St.3d 1490, 2014-Ohio-3298, 12 N.E.3d 1234.

Pfeifer and O'Neill, JJ., dissent.

2014-1107. State v. Gibson.

Stark App. No. 2013CA00175, 2014-Ohio-1169. On motion to review dismissal of petition for postconviction relief. Motion denied.

2014-1411. State v. Mercier.

Franklin App. No. 13AP-906, 2014-Ohio-2910. On review of order certifying a conflict. The court determines that a conflict exists. Cause held for the decision in 2014-0563, *State v. South*, 9th Dist. Summit No. 26967, 2014-Ohio-374; cause consolidated with 2014-1409, *State v. Mercier*, Franklin App. No. 13AP-906, 2014-Ohio-2910; and briefing schedule stayed.

2014-1457. Hodge v. Prater.

Franklin App. No. 13AP-838, 2014-Ohio-3152. On motion to stay court of appeals' judgment. Motion granted and bond continued.

Pfeifer, Lanzinger, and French, JJ., dissent.

2014-1510. State v. Litten.

Summit App. No. 26812, 2014-Ohio-577. On motion for delayed appeal. Motion denied.

2014-1511. State v. Tate.

Richland App. No. 13 CA 5, 2013-Ohio-5150. On motion for delayed appeal. Motion denied.

2014-1522. State v. Shepherd.

Summit App. No. 26748, 2014-Ohio-686. On motion for delayed appeal. Motion denied.

2014-1523. State v. Picard.

Richland App. No. 13CA95, 2014-Ohio-2924. On motion for delayed appeal. Motion denied.

Pfeifer and O'Neill, JJ., dissent.

2014-1524. State v. Shoulders.

Hancock App. No. 5-13-12, 2014-Ohio-435. On motion for delayed appeal. Motion denied.

2014-1530. State v. Jones.

Allen App. No. 1-13-62. On motion for delayed appeal. Motion denied.

O'Neill, J., dissents.

2014-1537. State v. Young.

Cuyahoga App. No. 99752, 2014-Ohio-1055. On motion for delayed appeal. Motion denied.

2014-1544. State v. McCallister.

Scioto App. No. 13CA3558, 2014-Ohio-2041. On motion for delayed appeal. Motion denied.

O'Neill, J., dissents.

2014-1554. State v. Christian.

Montgomery App. No. 25256, 2014-Ohio-2672. On review of order certifying a conflict. The court determines that a conflict exists. Cause held for the decision in 2013-0827, *State v. Beverly*, 2d Dist. Clark No. 2011 CA 64, 2013-Ohio-1365; cause consolidated with 2014-1318, *State v. Christian*, 2d Dist. Montgomery No. 25256, 2014-Ohio-2672; and briefing schedule stayed.

O'Connor, C.J., dissents.

2014-1558. State v. Sales.

Stark App. No. 2014CA0052. On motion for delayed appeal. Motion denied.

2014-1574. State v. Gonzalez.

Lucas App. Nos. L-13-1206 and L-13-1207, 2014-Ohio-3272. On motion for delayed appeal. Motion denied.

Pfeifer and O’Neill, JJ., dissent.

2014-1577. State v. Jones.

Mahoning App. No. 12 MA 181, 2013-Ohio-5915. On motion for delayed appeal. Motion denied.

O’Neill, J., dissents.

2014-1578. State v. Zonars.

Franklin App. No. 13AP-735, 2014-Ohio-2023. On motion for delayed appeal. Motion denied.

APPEALS ACCEPTED FOR REVIEW

2014-1126. Radatz v. Fed. Natl. Mtge. Assn.

Cuyahoga App. No. 100205, 2014-Ohio-2179.

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

2014-1241. Haight v. Cheap Escape Co.

Montgomery App. No. 25983, 2014-Ohio-2447.

Pfeifer, J., dissents.

2014-1318. State v. Christian.

Montgomery App. No. 25256, 2014-Ohio-2672. Discretionary appeal accepted; cause held for the decision in 2013-0827, *State v. Beverly*, 2d Dist. Clark No. 2011 CA 64, 2013-Ohio-1365; cause consolidated with 2014-1554, *State v. Christian*, 2d Dist. Montgomery No. 25256, 2014-Ohio-2672; and briefing schedule stayed.

Pfeifer, J., dissents.

2014-1409. State v. Mercier.

Franklin App. No. 13AP-906, 2014-Ohio-2910. Discretionary appeal accepted; cause held for the decision in 2014-0563, *State v. South*, 9th Dist. Summit No. 26967, 2014-Ohio-374; cause consolidated with 2014-1411, *State v. Mercier*, 10th Dist. Franklin No. 13AP-906, 2014-Ohio-2910; and briefing schedule stayed.

Pfeifer, J., dissents.

APPEALS NOT ACCEPTED FOR REVIEW

2014-1012. Dolan v. Glouster.

Athens App. Nos. 11CA18, 11CA19, 11CA33, 12CA1, and 12CA6, 2014-Ohio-2017.

Kennedy, J., dissents and would accept the discretionary appeal on Proposition of Law No. I and would accept the cross-appeal on Proposition of Law Nos. I and II.

2014-1071. Randall v. Randall.

Hamilton App. No. C-130527.

Kennedy, J., dissents.

2014-1129. Rayess v. McNamee.

Montgomery App. No. 25915, 2014-Ohio-2210.

2014-1131. State v. Long.

Hamilton App. Nos. C-130566 and C-130605.

2014-1135. Elhanise, Inc. v. Ohio Liquor Control Comm.

Franklin App. No. 13AP-937, 2014-Ohio-2243.

2014-1139. State v. Thompson.

Allen App. No. 1-13-61.

2014-1143. State ex rel. DeWine v. Shadyside Party Ctr.

Belmont App. No. 13 BE 26, 2014-Ohio-2357.

2014-1144. State ex rel. DeWine v. Fred's Party Ctr., Inc.

Belmont App. No. 13 BE 29, 2014-Ohio-2358.

2014-1147. State v. Morgan.

Marion App. No. 9-13-38.

2014-1155. State v. Dye.

Holmes App. No. 13CA010, 2014-Ohio-2547.

2014-1156. Maddox v. Greene Cty. Children Servs. Bd. of Directors.

Greene App. No. 2013-CA-38, 2014-Ohio-2312.

2014-1160. Caiazza v. Mercy Med. Ctr.
Stark App. No. 2013CA00181, 2014-Ohio-2290.

2014-1162. State v. Hartman.
Medina App. No. 13CA0018-M, 2014-Ohio-2226.

2014-1171. State v. Rittner.
Fulton App. No. F-13-011.

2014-1183. Zappola v. Rock Capital Sound Corp.
Cuyahoga App. No. 100055, 2014-Ohio-2261.

2014-1188. State v. Sanders.
Pickaway App. No. 13CA29, 2014-Ohio-2521.

2014-1248. Johnson v. Clark Cty. Bd. of Revision.
Clark App. No. 2013 CA 32, 2014-Ohio-329.
Pfeifer, J., dissents.

2014-1263. State v. Alls.
Franklin App. No. 14AP-469.

2014-1270. State v. Kendrick.
Montgomery App. No. 26042, 2014-Ohio-2816.

2014-1282. McFarland v. Nelson Stark Co.
Hamilton App. No. C-130756.

2014-1283. Ohio State Dental Bd. v. HealthCare Venture Partners, L.L.C.
Franklin App. No. 14AP-165, 2014-Ohio-2508.
French, J., dissents.

2014-1289. State v. Agbohla.
Franklin App. No. 13AP-839, 2014-Ohio-2659.

2014-1298. State v. Farmer.
Montgomery App. No. 25956, 2014-Ohio-2812.

2014-1314. State v. Smith.
Auglaize App. No. 2-06-37.

2014-1316. State v. Akram.
Fairfield App. No. 13CA22.

2014-1317. State v. Jones.
Hamilton App. No. C-130804.

2014-1458. State v. Andrews.
Summit App. No. 25114.

2014-1514. In re R.L.
Hamilton App. No. C-140219.
Pfeifer and O'Neill, JJ., dissent.

RECONSIDERATION OF PRIOR DECISIONS

2011-0122. State v. Hardin.
Pike App. No. 10CA803, 2010-Ohio-6304. Reported at 140 Ohio St.3d 1409,
2014-Ohio-3785, 15 N.E.3d 878. On motion for reconsideration. Motion denied.
Pfeifer and O'Neill, JJ., dissent.

2013-0291 and 2013-0493. Hauser v. Dayton Police Dept.
Montgomery App. No. 24965, 2013-Ohio-11. Reported at 140 Ohio St.3d 268,
2014-Ohio-3636, 17 N.E.3d 554. On motion for reconsideration. Motion denied.
Pfeifer, Kennedy, and O'Neill, JJ., dissent.

2014-0975. State ex rel. Russell v. Klatt.
In Mandamus. Reported at 140 Ohio St.3d 1410, 2014-Ohio-3785, 15 N.E.3d 880.
On motion for reconsideration. Motion denied.
French, J., not participating.