

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS

June 03, 2015

[Cite as *06/03/2015 Case Announcements, 2015-Ohio-2104.*]

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## MERIT DECISIONS WITH OPINIONS

**2014-0674. State v. Anderson, Slip Opinion No. 2015-Ohio-2089.**

Summit App. No. 26640, 2014-Ohio-1206. Judgment reversed.

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

Lanzinger, J., concurs in judgment only.

**2014-1390. Disciplinary Counsel v. Calabrese, Slip Opinion No. 2015-Ohio-2073.**

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 2013-070. Anthony Orlando Calabrese III, Attorney Registration No. 0068535, is hereby permanently disbarred from the practice of law in Ohio.

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

**2014-1487. Pointer v. Russo, Slip Opinion No. 2015-Ohio-2078.**

Cuyahoga App. No. 101548, 2014-Ohio-3244. Judgment affirmed.

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

O'Donnell, J., concurs in judgment only.

## MERIT DECISIONS WITHOUT OPINIONS

**2014-1342. State ex rel. Baker v. Buehrer.**

In Mandamus. On S.Ct.Prac.R. 12.04 determination, cause dismissed.

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

Pfeifer, J., dissents and would grant the writ.

**2015-0218. Smith v. Richard.**

In Habeas Corpus. On petition for writ of habeas corpus of Steven S. Smith. Sua sponte, cause dismissed.

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

**2015-0489. State ex rel. Taylor v. Baker.**

In Mandamus. On motion to dismiss. Motion granted.

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

## **MOTION AND PROCEDURAL RULINGS**

**2003-1060. Ohio Bd. of Regents v. Miller.**

Franklin App. No. 03AP172. On motion for hearing. Motion denied.

**2008-0525. State v. Jones.**

Summit C.P. No. CR07041294. On application for reopening under S.Ct.Prac.R. 11.6. Motion denied.

**2014-1951. State ex rel. Moir v. Kovack.**

In Prohibition. On respondents' motions to dismiss. Motions denied. Respondents shall file an answer to the complaint within 21 days of the date of the entry denying the motion to dismiss.

**2015-0320. State v. Griffin.**

Franklin App. No. 13AP-182, 2014-Ohio-5659. On motion to reopen. Motion denied. On motion to strike memo opposing motion for stay. Motion denied.

**2015-0545. Lutz v. Chesapeake Appalachia, L.L.C.**

Certified Question of State Law, United States District Court, Southern District of Ohio, Eastern Division No. 4:09-CV-2256. On review of preliminary memoranda pursuant to S.Ct.Prac.R. 9.05. The court will answer the following question:

“Does Ohio follow the ‘at the well’ rule (which permits the deduction of post-production costs) or does it follow some version of the ‘marketable product’

rule (which limits the deduction of post-production costs under certain circumstances)?”

Petitioner shall file its merit brief within 40 days and the parties shall otherwise proceed in accordance with S.Ct.Prac.R. 16.02 through 16.04 and S.Ct.Prac.R. 9.07.

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

**2015-0546. State v. Miller.**

Cuyahoga App. No. 100461, 2014-Ohio-3907. On motion for leave to file delayed appeal. Motion denied.

**2015-0550. State v. Hicks.**

Seneca App. No. 13-14-19, 2014-Ohio-5630. On motion for leave to file delayed appeal. Motion granted.

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

**2015-0580. State v. Price.**

Cuyahoga App. No. 100981, 2015-Ohio-411. On motion for leave to file delayed appeal. Motion granted.

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

**2015-0626. State v. Moore.**

Cuyahoga App. Nos. 100483 and 100484, 2014-Ohio-5682. On motion for leave to file delayed appeal. Motion denied.

**APPEALS ACCEPTED FOR REVIEW**

**2014-2059. Linardos v. Joe Tex, Inc.**

Clermont App. No. CA2013-08-067, 2014-Ohio-4522. Upon consideration of the jurisdictional memoranda in this case, the court accepts the appeal on Proposition of Law Nos. I and II.

Kennedy, French, and O’Neill, JJ., would also accept Proposition of Law No. III of the appeal.

O’Donnell, J., dissents in part and would not accept Proposition of Law No. I of the appeal.

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

## APPEALS NOT ACCEPTED FOR REVIEW

**2013-0778. State v. Johnson.**

Guernsey App. No. 12 CA 19, 2013-Ohio-1398.

**2014-1906. Fahey Banking Co. v. Squire.**

Mahoning App. No. 14 MA 123. Motion to dismiss appeal denied.

**2014-1987. State v. Nixon.**

Portage App. No. 2013-P-0098, 2014-Ohio-4303.

**2014-2049. State v. Moore.**

Cuyahoga App. No. 99788, 2014-Ohio-5135.

O'Donnell, J., dissents.

**2014-2108. State v. Howard.**

Cuyahoga App. No. 100887, 2014-Ohio-4682.

**2014-2109. Wozniak v. Fritsch.**

Cuyahoga App. No. 101175, 2014-Ohio-4693.

**2014-2119. State v. Dougherty.**

Preble App. No. CA2013-12-014, 2014-Ohio-4760.

O'Neill, J., dissents.

**2014-2120. New York Life Ins. & Annuity v. Vengal.**

Cuyahoga App. No. 100557, 2014-Ohio-4798.

O'Neill, J., dissents.

**2014-2121. State v. Cromety.**

Trumbull App. No. 2014-T-0042, 2014-Ohio-4747.

**2014-2125. Akron Pregnancy Servs. v. Mayer Invest. Co.**

Summit App. No. 27141, 2014-Ohio-4779.

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

**2014-2126. Bank of New York Mellon v. Huth.**

Lucas App. Nos. L-12-1241 and L-12-1283, 2014-Ohio-4860.

**2014-2127. Scalise v. Cushman.**

Summit App. No. 27216, 2014-Ohio-4781.

**2014-2133. State v. Keahey.**

Erie App. No. E-13-055, 2014-Ohio-4971.

**2014-2134. Schwartz v. O'Brien.**

Cuyahoga App. No. 100930, 2014-Ohio-4813.  
O'Donnell, J., dissents.

**2014-2135. State v. Parris.**

Ottawa App. No. OT-14-015, 2014-Ohio-4863.

**2014-2136. Grose v. Cleveland.**

Cuyahoga App. No. 101003, 2014-Ohio-4819.

**2014-2141. State v. Santiago-Dennis.**

Cuyahoga App. No. 100661, 2014-Ohio-4204.

O'Connor, C.J., dissents and would accept and hold the cause for decision in 2014-0941, *State v. Shabazz*.

**2014-2147. State v. Roush.**

Morrow App. No. 13CA0008, 2014-Ohio-4887.

**2014-2150. State v. Carter.**

Clark App. No. 2013 CA 115, 2014-Ohio-4856.

**2014-2169. State v. Thomas.**

Cuyahoga App. No. 101263, 2014-Ohio-5153.  
O'Neill, J., dissents.

**2014-2176. In re D.J.**

Hamilton App. No. C-140243.

**2014-2177. Longo v. Longo.**

Geauga App. No. 2013-G-3175, 2014-Ohio-4880.  
O'Donnell, J., dissents.

**2014-2178. Ringhand v. Chaney.**

Clermont App. Nos. CA2013-09-072 and CA2013-09-076, 2014-Ohio-3661.

**2014-2179. Von Stein v. Phenicie.**

Crawford App. No. 3-13-18, 2014-Ohio-4872.

Pfeifer, J., not participating.

**2014-2187. Ineos USA, L.L.C. v. Furmanite Am., Inc.**

Allen App. No. 1-14-06, 2014-Ohio-4996.

Pfeifer, J., dissents.

**2014-2189. In re A.W.**

Knox App. No. 13-CA-24, 2014-Ohio-4952.

**2014-2191. V.R. v. Cincinnati-Hamilton Cty. Community Action Agency.**

Hamilton App. No. C-140230, 2014-Ohio-5061.

**2014-2205. Motorists Life Ins. Co. v. Sherbourne.**

Allen App. No. 1-14-17, 2014-Ohio-5205.

Pfeifer, J., dissents.

**2014-2207. State v. Frazier.**

Cuyahoga App. No. 101125, 2014-Ohio-4931.

**2014-2221. State v. Smith.**

Franklin App. No. 14AP-240, 2014-Ohio-4945.

**2014-2243. State v. Arledge.**

Fairfield App. No. 14 CA 14, 2014-Ohio-5054.

**2014-2248. Porocel Internatl., L.L.C. v. Petron Scientech, Inc.**

Hamilton App. No. C-130427.

**2014-2252. Selwyn v. Grimes.**

Cuyahoga App. No. 101252, 2014-Ohio-5147.

O'Donnell, J., dissents.

**2015-0002. Papadelis v. Woods Cove III, L.L.C.**

Cuyahoga App. No. 102180.

**2015-0020. State v. Verdi.**

Erie App. No. E-14-111.

O'Neill, J., dissents.

**2015-0047. State v. Brent.**

Franklin App. No. 14AP-187, 2014-Ohio-5246.

**2015-0123. State v. Hillman.**

Franklin App. Nos. 14AP-252 and 14AP-253, 2014-Ohio-5760.

**2015-0199. State v. Powell.**

Lorain App. No. 14CA010565, 2015-Ohio-145.

**2015-0239. State v. Varholick.**

Cuyahoga App. No. 101524, 2015-Ohio-20.  
Pfeifer and O'Neill, JJ., dissent.

**2015-0246. State v. Steiner.**

Fairfield App. No. 14CA65.

**2015-0252. State v. Lucius.**

Stark App. No. 2014CA00193.

**2015-0258. State v. Johnson.**

Cuyahoga App. No. 99377, 2015-Ohio-96.

**2015-0259. Wallace v. Nally.**

Columbiana App. No. 14 CO 35, 2015-Ohio-497.

**2015-0273. State v. Carter.**

Allen App. No. 1-14-23.

**2015-0275. Evans v. Evans.**

Scioto App. No. 14CA3647, 2015-Ohio-378.

**2015-0295. Robinette v. Bryant.**

Lawrence App. No. 14CA28, 2015-Ohio-119.

**2015-0304. State v. Sax.**

Huron App. No. H-13-026, 2015-Ohio-77.

**2015-0308. State v. Ferguson.**

Franklin App. No. 13AP-891.

**2015-0310. State v. Cotton.**

Cuyahoga App. No. 101865, 2015-Ohio-180.

**2015-0326. State v. Shuster.**

Morgan App. Nos. 13AP0001 and 13AP0002.

**2015-0330. State v. Thompson.**

Auglaize App. No. 2-14-08.

**2015-0364. State v. Miles.**

Cuyahoga App. No. 101790, 2015-Ohio-612.

**2015-0372. Huntington Natl. Bank v. Thompson.**

Montgomery App. No. 26265, 2014-Ohio-5168.

**2015-0379. Kostrzewski v. Toledo Dept. of Pub. Util.**

Lucas App. No. L-14-1271.

**2015-0397. State v. Barnett.**

Auglaize App. No. 2-13-26, 2015-Ohio-224.

**2015-0399. Kostrzewski v. The Toledo Clinic.**

Lucas App. No. L-14-1275.

**2015-0401. State v. Moore.**

Franklin App. No. 14AP-390, 2015-Ohio-426.

**2015-0407. State v. Rodriguez.**

Wood App. No. WD-14-075, 2015-Ohio-562.

**2015-0420. State v. Beeler.**

Summit App. No. 27309, 2015-Ohio-275.

**2015-0426. State v. Knox.**

Cuyahoga App. No. 101732, 2015-Ohio-424.

**2015-0428. State v. Jones.**

Summit App. No. 27294, 2014-Ohio-5784.



**2015-0434. State v. Yates.**  
Cuyahoga App. No. 102527.

**2015-0438. State v. Perry.**  
Cuyahoga App. No. 101141, 2015-Ohio-304.

**2015-0442. State v. Calhoun.**  
Summit App. No. 27628.

**2015-0448. State v. Johnston.**  
Montgomery App. No. 26016, 2015-Ohio-450.

**2015-0450. State v. Vanover.**  
Clark App. No. 2014-CA-80, 2015-Ohio-345.

**2015-0456. State v. Royster.**  
Montgomery App. No. 26378, 2015-Ohio-625.

**2015-0471. State v. Connin.**  
Lucas App. No. L-14-1098, 2015-Ohio-631.

**2015-0474. State v. Tristan.**  
Lucas App. No. L-09-1018.

**2015-0478. State v. Keahey.**  
Erie App. No. E-13-009, 2014-Ohio-4729.

**2015-0507. State v. Grega.**  
Ashtabula App. No. 2014-A-0026, 2015-Ohio-945.

**2015-0524. State v. Pipkin.**  
Butler App. Nos. CA2014-03-075 and CA2014-04-083, 2015-Ohio-725.

**2015-0597. State v. Brown.**  
Mahoning App. No. 12-MA-118, 2015-Ohio-793.

**2015-0631. In re M.S.**  
Cuyahoga App. Nos. 101902, 101903, 101904, and 101905.

## RECONSIDERATION OF PRIOR DECISIONS

**2010-1406. State v. Pickens.**

Hamilton C.P. No. B-0905088. Reported at 141 Ohio St.3d 462, 2014-Ohio-5445, 25 N.E.3d 1023. On motion for reconsideration. Motion denied.

**2013-0586. Sivit v. Village Green of Beachwood, L.P.**

Cuyahoga App. No. 98401, 2013-Ohio-103. Reported at \_\_ Ohio St.3d \_\_, 2015-Ohio-1193, \_\_N.E.3d\_\_. On motion for reconsideration. Motion denied.

**2013-1963. J&C Marketing, L.L.C. v. McGinty.**

Cuyahoga App. No. 99676, 2013-Ohio-4805. Reported at \_\_ Ohio St.3d \_\_, 2015-Ohio-1310, \_\_N.E.3d\_\_. On motion for reconsideration. Motion denied.

O'Donnell, J., dissents.

**2014-1873. Zager v. Johnson Controls, Inc.**

Butler App. No. CA2014-01-016, 2014-Ohio-3998. Reported at 142 Ohio St.3d 1422, 2015-Ohio-1353, 28 N.E.3d 122. On motion for reconsideration. Motion denied.

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

**2014-1885. U.S. Bank Natl. Assn. v. Schalip.**

Delaware App. No. 14 CAE 01 0003, 2014-Ohio-3756. Reported at 142 Ohio St.3d 1423, 2015-Ohio-1353, 28 N.E.3d 122. On motion for reconsideration. Motion denied.

**2014-1936. Bunting v. Wilson.**

Tuscarawas App. No. 2014 AP 07 0028. Reported at 142 Ohio St.3d 1423, 2015-Ohio-1353, 28 N.E.3d 122. On motion for reconsideration. Motion denied.

**2014-1971. Balsley v. Mason.**

Muskingum App. No. CT2014-0006, 2014-Ohio-4051. Reported at 142 Ohio St.3d 1423, 2015-Ohio-1353, 28 N.E.3d 122. On motion for reconsideration. Motion denied.

**2014-1973. Ward v. Balsley.**

Muskingum App. No. CT2014-0005, 2014-Ohio-4050. Reported at 142 Ohio St.3d 1424, 2015-Ohio-1353, 28 N.E.3d 122. On motion for reconsideration. Motion denied.

**2014-1974. Balsley v. Balsley.**

Muskingum App. No. CT2014-0009, 2014-Ohio-4055. Reported at 142 Ohio St.3d 1424, 2015-Ohio-1353, 28 N.E.3d 122. On motion for reconsideration. Motion denied.

**2014-1975. Balsley v. Lacey.**

Muskingum App. No. CT2014-0007, 2014-Ohio-4053. Reported at 142 Ohio St.3d 1424, 2015-Ohio-1353, 28 N.E.3d 122. On motion for reconsideration. Motion denied.

**2014-1976. Ward v. Balsley.**

Muskingum App. No. CT2014-0008, 2014-Ohio-4054. Reported at 142 Ohio St.3d 1424, 2015-Ohio-1353, 28 N.E.3d 122. On motion for reconsideration. Motion denied.

**2014-1986. State v. Reed.**

Clark App. No. 14-CA-101. Reported at 142 Ohio St.3d 1424, 2015-Ohio-1353, 28 N.E.3d 122. On motion for reconsideration. Motion denied.

**2015-0142. State v. Leonhart.**

Washington App. No. 13CA38, 2014-Ohio-5601. Reported at 142 Ohio St.3d 1421, 2015-Ohio-1353, 28 N.E.3d 120. On motion for reconsideration. Motion denied.

Kennedy and O'Neill, JJ., dissent.

French, J., dissents and would grant reconsideration as to Proposition of Law No. I only.