

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

November 9, 2016

[Cite as *11/09/2016 Case Announcements*, 2016-Ohio-7677.]

MERIT DECISIONS WITH OPINIONS

2015-1762. Robinson v. LaRose, Slip Opinion No. 2016-Ohio-7647.

Trumbull App. No. 2015-T-0051, 2015-Ohio-4323. Judgment affirmed and motions denied.

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

2015-1984. State ex rel. Cornwall v. Sutula, Slip Opinion No. 2016-Ohio-7652.

Cuyahoga App. No. 103322, 2015-Ohio-4704. Judgment affirmed.

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

2016-0459. State ex rel. Cain v. Gee, Slip Opinion No. 2016-Ohio-7653.

Miami App. No. 15-CA-27. Judgment affirmed.

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

MERIT DECISIONS WITHOUT OPINIONS

2016-1011. Kerns v. Simmers.

In Mandamus. It is ordered by the court that an alternative writ is granted and the following briefing schedule is set for presentation of evidence and filing of briefs pursuant to S.Ct.Prac.R. 12.05.

The parties shall file any evidence they intend to present within 20 days of the date of this entry; relators shall file a brief within 10 days of the filing of the evidence; respondents shall file a brief within 20 days after the filing of relators' brief; and relators may file a reply brief within 7 days after the filing of respondents' brief.

It is further ordered that respondents' motion for judgment on the pleadings is denied.

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

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

2016-1279. Staats v. Ferrero.

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.

2016-1309. State ex rel. Jordan v. Marshall.

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

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

O'Neill, J., concurs in the dismissal on the authority of *State ex rel. Ervin v. Barker*, 136 Ohio St.3d 160, 2013-Ohio-3171, 991 N.E.2d 1146 (“Because [petitioner] has an adequate remedy at law by way of appeal, he cannot establish the elements for a writ of mandamus”), and *State v. Thompson*, 147 Ohio St.3d 29, 2016-Ohio-2769, 59 N.E.3d 1264 (“denial of a motion for jail-time credit pursuant to R.C. 2929.19(B)(2)(g)(iii) is a final, appealable order”).

2016-1311. State ex rel. Diaz v. Donnely.

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.

2016-1360. State v. Blair.

In 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.

MOTION AND PROCEDURAL RULINGS

2016-0645. Orr v. Lazaroff.

In Habeas Corpus. On petitioner's "motion requesting full disclosure of proof," petitioner's "objection against 16-0645 unconstitutional judgment of dismissal," and petitioner's "motion to set aside unconstitutional Title 27 16-0645 dismissal judgment." Objection and motions denied.

2016-1384. State v. Schwab.

Athens App. No. 12CA39, 2013-Ohio-4349. On motion for leave to file delayed appeal. Motion denied.

O'Connor, C.J., dissents.

2016-1385. State v. Goldshtein.

Cuyahoga App. No. 104262. On motion for leave to file delayed appeal. Motion denied. On motion for stay of execution. Motion denied.

O'Donnell, J., dissents and would grant the motion for leave to file delayed appeal.

2016-1392. State v. Taylor.

Cuyahoga App. No. 104648. On motion for leave to file delayed appeal. Motion denied.

2016-1395. State v. Dye.

Fairfield App. No. 15-CA-65, 2016-Ohio-5065. On review of an order certifying a conflict. The court determines that a conflict exists. The parties are ordered to brief the issue stated at page 2 of the court of appeals' entry filed August 30, 2016:

"Pursuant to R.C. 2953.52, must trial courts wait until the applicable statute of limitations has expired prior to sealing the records of a case dismissed without prejudice?"

The conflict case is *State v. C.K.*, 8th Dist. Cuyahoga No. 99886, 2013-Ohio-5135.

It is ordered by the court that the clerk shall issue an order for the transmittal of the record from the Court of Appeals for Fairfield County.

Lanzinger and French, JJ., dissent.

2016-1399. State v. Johnson.

Hamilton App. Nos. C-150595 and C-150596, 2016-Ohio-4934. On motion for leave to file delayed appeal. Motion granted.

Pfeifer and O'Donnell, JJ., dissent.

2016-1439. State v. White.

Lucas App. No. L-16-1138. On motion for stay of judgment. Motion denied.

Pfeifer, J., dissents.

APPEALS ACCEPTED FOR REVIEW

2016-1014. Brecksville-Broadview Hts. Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision.

Cuyahoga App. No. 103015, 2016-Ohio-3166.

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

APPEALS NOT ACCEPTED FOR REVIEW

2016-0810. Sivit v. Village Green of Beachwood, L.P.

Cuyahoga App. Nos. 103340 and 103498, 2016-Ohio-2940. Appeal and cross-appeal not accepted.

Pfeifer, J., dissents and would accept the appeal and the cross-appeal.

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

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

2016-0896. In re Guardianship of Sweeney.

Cuyahoga App. No. 103285, 2016-Ohio-3260.

O'Donnell, J., dissents.

2016-0945. Wiltz v. Ohio Civ. Rights Comm.

Knox App. No. 15CA21, 2016-Ohio-3046.

2016-0984. State v. Randle.

Cuyahoga App. No. 103264, 2016-Ohio-3059.

Pfeifer and O'Neill, JJ., dissent.

2016-0988. State v. Montanez-Roldon.

Cuyahoga App. No. 103509, 2016-Ohio-3062.

2016-0993. State v. Scott.

Licking App. Nos. 15 CA 82 and 15 CA 81, 2016-Ohio-3488.

2016-0998. Sky Bank v. Colley.

Franklin App. Nos. 15AP-736 and 15AP-737, 2016-Ohio-3139.

2016-0999. State v. Nitsche.

Cuyahoga App. No. 103174, 2016-Ohio-3170.

2016-1000. Parham v. McManamon.

Cuyahoga App. No. 103679, 2016-Ohio-3264.

2016-1002. Burkhart Family Trust v. Antero Resources Corp.

Monroe App. Nos. 14 MO 0019 and 14 MO 0020, 2016-Ohio-4817.

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

2016-1004. State v. Shine.

Trumbull App. No. 2015-T-0006, 2016-Ohio-3123.

2016-1009. Nieman v. Moving Ins., L.L.C.

Hamilton App. No. C-150666.

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

2016-1016. State v. Marshall.

Hamilton App. No. C-150383, 2016-Ohio-3184.

2016-1021. Cracraft v. Dayton Power & Light Co.

Montgomery App. No. 26808, 2016-Ohio-3272.

2016-1025. Branche v. Motorists Mut. Ins. Co.

Lake App. No. 2016-L-004, 2016-Ohio-3238.

Kennedy, J., dissents.

2016-1031. State v. Panning.

Van Wert App. No. 15-15-11, 2016-Ohio-3284.

2016-1034. Hetzer-Young v. Elano Corp.

Greene App. No. 2015-CA-38, 2016-Ohio-3356.

Pfeifer and O'Neill, JJ., dissent.

2016-1041. Brunner v. RJ Lipps, Inc.

Hamilton App. No. C-150601, 2016-Ohio-3231.

2016-1048. State v. Carnahan.

Defiance App. No. 4-15-18, 2016-Ohio-3213.

2016-1057. Jabr v. Ohio Dept. of Job & Family Servs.

Franklin App. No. 15AP-1141, 2016-Ohio-4775. Motion for judgment entry denied as moot.

2016-1058. Jabr v. Ohio Dept. of Taxation.

Franklin App. No. 16AP-26, 2016-Ohio-4776. Motion for judgment entry denied as moot.

2016-1060. Vickers v. Canal Pointe Nursing Home & Rehab. Ctr.

Summit App. No. 27757, 2016-Ohio-3244.

O'Donnell, J., dissents.

2016-1061. State v. Hunter.

Erie App. No. E-15-049.

2016-1070. Bond v. Pandolfi de Rinaldis.

Franklin App. No. 15AP-646, 2016-Ohio-3342.

2016-1109. State v. Williams.

Cuyahoga App. Nos. 103343 and 103350, 2016-Ohio-3454.

2016-1121. State v. Hammock.

Richland App. No. 16CA37.

2016-1133. State v. Rickard.

Lucas App. No. L-16-1043, 2016-Ohio-4755.

2016-1135. State v. Williams.

Franklin App. No. 15AP-48, 2016-Ohio-4550.

2016-1221. Draughon v. Jenkins.

Ross App. No. 16CA3528, 2016-Ohio-5364.

Pfeifer, J., dissents.

2016-1265. State v. Huge.

Hamilton App. No. C-120388, 2013-Ohio-2160. On motion to reclassify as appeal of right pursuant to S.Ct.Prac.R. 5.01(A)(2). Motion denied.

French, J., dissents and would grant the motion to reclassify and accept the cause.

2016-1379. State v. Connin.

Lucas App. No. L-11-1312, 2012-Ohio-4989. On motion to exceed page limitation. Motion denied as moot.

RECONSIDERATION OF PRIOR DECISIONS

2012-1212. State v. Montgomery.

Franklin C.P. No. 10CR-12-7125. Reported at __ Ohio St.3d __, 2016-Ohio-5487, __ N.E.3d __. On motion for reconsideration. Motion granted in part, to the extent that paragraph 191 of the opinion is modified to read as follows: “Moreover, we have previously upheld the imposition of death where the defendant was convicted of both the course-of-conduct specification under R.C. 2929.04(A)(5) and the escaping-detection specification under R.C. 2929.04(A)(3). *Bethel* at ¶ 212, citing *State v. White*, 85 Ohio St.3d 433, 457, 709 N.E.2d 140 (1999).” Motion denied in all other respects.

O’Donnell and Kennedy, JJ., dissent and would deny the motion in its entirety.

O’Neill, J., dissents and would grant the motion.

2012-1644. State v. Jackson.

Trumbull App. No. 01-CR-794. Reported at __ Ohio St.3d __, 2016-Ohio-5488, __ N.E.3d __. On motion for reconsideration. Motion denied.

Lanzinger, J., dissents.

William A. Klatt, J., of the Tenth District Court of Appeals, sitting for O’Neill, J.

2014-1909. Farnsworth v. Burkhart.

Monroe App. No. 13 MO 14, 2014-Ohio-4184. Reported at __ Ohio St.3d __, 2016-Ohio-5816, __ N.E.3d __. On motion for reconsideration. Motion denied.

Pfeifer, J., dissents.

2015-1548. State ex rel. Ullmann v. Husted.

Franklin App. No. 14AP-863, 2015-Ohio-3120. Reported at __ Ohio St.3d __, 2016-Ohio-5584, __ N.E.3d __. On motion for reconsideration. Motion denied.

O’Neill, J., dissents.

2016-0762. Walker v. Brewster.

Stark App. No. 2015CA00142, 2016-Ohio-1463. Reported at 146 Ohio St.3d 1492, 2016-Ohio-5585, 57 N.E.3d 1171. On motion for reconsideration. Motion denied.

2016-0782. State v. Jackson.

Cuyahoga App. No. 103035, 2016-Ohio-704. Reported at 146 Ohio St.3d 1492, 2016-Ohio-5585, 57 N.E.3d 1171. On motion for reconsideration. Motion granted. The discretionary appeal is accepted. The clerk shall issue an order for the transmittal of the record from the Court of Appeals for Cuyahoga County, and the parties shall brief this case in accordance with the Rules of Practice of the Supreme Court of Ohio.

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

2016-0817. State v. Gall.

Montgomery App. Nos. 26240 and 26245, 2016-Ohio-1562. Reported at 146 Ohio St.3d 1503, 2016-Ohio-5792, 58 N.E.3d 1174. On motion for reconsideration. Motion denied.

2016-0920. In re Complaint of Smith v. Ohio Power Co.

Public Utilities Commission, No. 13-2109-EL-CSS. Reported at 146 Ohio St.3d 1495, 2016-Ohio-5642, 57 N.E.3d 1173. On motion for reconsideration. Motion denied.

O'Neill, J., dissents.