

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

December 28, 2016

[Cite as *12/28/2016 Case Announcements*, 2016-Ohio-8438.]

MERIT DECISIONS WITH OPINIONS

2013-0449. Columbus City Schools Bd. of Edn. v. Franklin Cty. Bd. of Revision, Slip Opinion No. 2016-Ohio-8375.

Board of Tax Appeals, No. 2010-W-3563. Decision vacated and cause remanded.

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

2014-1621. Caster v. Columbus, Slip Opinion No. 2016-Ohio-8394.

In Mandamus. Writ granted.

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

O'Connor, C.J., concurs in part and dissents in part, with an opinion joined by Lanzinger, J.

O'Donnell, J., dissents and would not overrule any portion of *State ex rel. Steckman v. Jackson*, 70 Ohio St.3d 420, 639 N.E.2d 83 (1994).

2014-1781. Emerson Network Power, Energy Sys., N. Am., Inc. v. Lorain Cty. Bd. of Revision, Slip Opinion No. 2016-Ohio-8392.

Board of Tax Appeals, No. 2013-5354. Decision vacated and cause remanded with instructions.

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

Lanzinger, J., concurs in judgment only.

O'Donnell, J., dissents and would affirm the decision of the Board of Tax Appeals.

2014-1831. Utt v. Lorain Cty. Bd. of Revision, Slip Opinion No. 2016-Ohio-8402.

Board of Tax Appeals, No. 2013-2664. Decision reversed.

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

Pfeifer, O'Donnell, and O'Neill, JJ., dissent and would affirm the decision of the Board of Tax Appeals.

2014-2012. Giddens v. Testa, Slip Opinion No. 2016-Ohio-8412.

Board of Tax Appeals, No. 2012-359. Decision affirmed in part and reversed in part and remanded.

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

2015-0917. T. Ryan Legg Irrevocable Trust v. Testa, Slip Opinion No. 2016-Ohio-8418.

Board of Tax Appeals, No. 2013-1469. Decision affirmed in part and vacated in part and remanded.

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

Lanzinger, J., concurs, with an opinion.

2015-1340. Jacobson v. Kaforey, Slip Opinion No. 2016-Ohio-8434.

Summit App. No. 26915, 2015-Ohio-2624. Judgment affirmed.

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

Kennedy, J., concurs in judgment only, with an opinion joined by Jensen, J.

O'Donnell, J., dissents, with an opinion.

James D. Jensen, of the Sixth District Court of Appeals, sitting for French, J.

MERIT DECISIONS WITHOUT OPINIONS

2016-1510. State ex rel. Jackson v. O'Donnell.

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

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

2016-1512. Rose v. Powers.

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

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

O'Donnell, J., dissents and would grant a peremptory writ.

2016-1517. State ex rel. Buchanan v. Mohr.

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., dissents and would grant an alternative writ.

2016-1534. Doremus v. Lucas Cty. Probate Court.

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. This cause came on for further consideration upon appellee's motion to set an execution date.

Upon consideration thereof, it is ordered by the court that the motion is granted.

It is further ordered that Lawrence Alfred Landrum's sentence be carried into execution by the Warden of the Southern Ohio Correctional Facility, or in his absence, by the Deputy Warden on Wednesday, the 12th day February, 2020, in accordance with the statutes so provided.

It is further ordered that a certified copy of this entry and a warrant under the seal of this court be duly certified to the warden of the Southern Ohio Correctional Facility and that said warden shall make due return thereof to the Clerk of the Court of Common Pleas of Ross County.

Pfeifer and O'Neill, JJ., dissent.

1989-2136. State v. Bonnell.

Cuyahoga App. No. 55927. On motion for order or relief pursuant to S.Ct.Prac.R. 4.01. Motion denied.

O'Neill, J., dissents.

1998-1970. State v. Tibbetts.

Hamilton C.P. No. B9708596. On motion for stay of execution. Motion denied.

O'Neill, J., dissents for the reasons set forth in his dissenting opinion in *State v. Wogenstahl*, 134 Ohio St.3d 1437, 2013-Ohio-164, 981 N.E.2d 900.

2015-1762. Robinson v. LaRose.

Trumbull App. No. 2015-T-0051, 2015-Ohio-4323. On motion to certify the record. Motion denied as moot.

2016-1486. Sunoco Pipeline, L.P. v. Teter.

Harrison App. Nos. 16 HA 0002 and 16 HA 0005, 2016-Ohio-7073. On motion of Sunoco Pipeline, L.P., to lift stay of execution of appellate court's judgment. Motion denied. On motion to strike motion of Sunoco Pipeline, L.P., to lift stay of execution of appellate court's judgment. Motion denied.

O'Donnell, Lanzinger, and French, JJ., dissent and would grant the motion to lift stay of execution and would require a bond in the amount of \$2.5 million.

2016-1596. State v. Juan.

Franklin App. Nos. 15AP-447 and 15AP-1054, 2016-Ohio-5339. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and O'Neill, JJ., dissent.

2016-1599. State v. Wilson.

Putnam App. No. 12-15-13. On motion for leave to file delayed appeal. Motion denied.

2016-1600. State v. Bowers.

Hamilton App. No. C-150024, 2016-Ohio-904. On motion for leave to file delayed appeal. Motion denied.

2016-1620. State v. Murphy.

Ross App. No. 15CA3475, 2016-Ohio-1165. On motion for leave to file delayed appeal. Motion denied.

O'Neill, J., dissents.

2016-1625. State v. Blair.

Washington App. No. 14CA33, 2016-Ohio-2872. On motion for leave to file delayed appeal. Motion denied.

2016-1636. Fannie Mae v. Hicks.

Cuyahoga App. No. 103804, 2016-Ohio-7483. On motion for stay. Motion denied.

Lanzinger and Kennedy, JJ., dissent.

2016-1644. State v. Weems.

Cuyahoga App. No. 102954, 2016-Ohio-701. On motion for leave to file delayed appeal. Motion denied.

2016-1652. State v. Brown.

Richland App. No. 16CA15, 2016-Ohio-5893. 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 5 of the court of appeals' entry filed October 28, 2016:

“Whether the post-release control notification of R.C. 2929.19(B)(2)(e) must include notification of the penalty provisions in R.C. 2929.141(A)(1)-(2), specifically, whether a trial court must inform an offender at the time of sentencing that the commission of a felony during a period of post-release control permits a trial court to impose a new prison term for the violation to be served consecutively with any prison term for the new felony.”

The conflict case is *State v. Pippen*, 4th Dist. Scioto No. 14CA3595, 2014-Ohio-4454.

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 Richland County.

Pfeifer, J., dissents.

2016-1656. State v. Ward.

Montgomery App. No. 26773, 2016-Ohio-5354. On motion for leave to file delayed appeal. Motion denied.

2016-1662. State v. Holden.

Hamilton App. No. C-1600150, 2016-Ohio-7042. On motion for stay. Motion denied.

O'Neill, J., dissents and would grant the stay and order the bond continued.

2016-1663. Rownd v. Marcelli.

Stark App. No. 2015 CA 00154, 2016-Ohio-7142. On motion for stay of trial court's July 28, 2015 judgment and the court of appeals' September 30, 2016 opinion. Motion denied.

2016-1669. State v. Travis.

Seneca App. No. 13-16-08. On motion for leave to file delayed appeal. Motion denied.

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

2016-1674. State v. Jackson.

Cuyahoga App. No. 100877, 2016-Ohio-7474. On emergency motion to stay court of appeals' judgment. Motion denied.

2016-1685. State v. Murphy.

Ross App. No. 15CA3475, 2016-Ohio-1165. On motion for leave to file delayed appeal. Motion denied.

O'Neill, J., dissents.

2016-1704. State ex rel. Williams v. Trim.

Union App. No. 14-13-18. On motion for stay. Motion denied.

Pfeifer, J., dissents.

APPEALS NOT ACCEPTED FOR REVIEW

2015-0262. State v. Montgomery.

Franklin App. No. 13AP-1091, 2015-Ohio-500.

O'Donnell, J., dissents and would accept the cause on Proposition of Law Nos. IV and V.

Kennedy, J., dissents.

2016-1049. State v. Patrick.

Mahoning App. No. 14 MA 0093, 2016-Ohio-3283.

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

2016-1073. Ellison v. Hillsboro.

Highland App. No. 15CA17, 2016-Ohio-1556.

O'Donnell and Kennedy, JJ., dissent.

2016-1077. Cunningham v. Bone Dry Waterproofing, Inc.

Franklin App. No. 15AP-587, 2016-Ohio-3341.

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

2016-1081. State v. Walker.

Seneca App. No. 13-15-42, 2016-Ohio-3499.

2016-1085. State v. Clark.

Cuyahoga App. No. 96207, 2016-Ohio-2825. Motion to strike denied.

O'Connor, C.J., dissents and would accept the appeal on Proposition of Law No. II, reverse the decision of the court of appeals, and remand the cause to the court of appeals for application of *State v. Johnson*, 128 Ohio St.3d 153, 2010-Ohio-6314, 942 N.E.2d 1061.

O'Neill, J., dissents.

2016-1086. In re P.G.T.

Columbiana App. No. 14 CO 0034, 2016-Ohio-3429.

2016-1090. State v. Cannon.

Cuyahoga App. No. 103298, 2016-Ohio-3173.

2016-1096. In re Estate of Ball.

Belmont App. No. 15 BE 0004, 2016-Ohio-4817.

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

2016-1097. Brown v. Ralston.

Belmont App. No. 14 BE 0051, 2016-Ohio-4916.

2016-1104. Hutchinson v. Kaforey.

Summit App. No. 27761, 2016-Ohio-3541.

2016-1114. State v. Hicks.

Hamilton App. No. C-150311.

2016-1118. CapitalSource Bank v. Hnatiuk.

Cuyahoga App. No. 103210, 2016-Ohio-3450.

2016-1127. State v. Clark.

Cuyahoga App. No. 103324, 2016-Ohio-4561.

2016-1132. State v. Wolfe.

Delaware App. No. 16CAA020008, 2016-Ohio-4616.

2016-1144. State v. Lytle.

Franklin App. Nos. 15AP-748 and 15AP-754, 2016-Ohio-3532.

2016-1151. State v. Hasenyager.

Summit App. No. 27756, 2016-Ohio-3540.

O'Neill, J., dissents and would accept the cause on Proposition of Law No. III.

2016-1171. Grubb v. Buehrer.

Franklin App. No. 15AP-576, 2016-Ohio-4645.

2016-1174. State v. Hackney.

Hamilton App. No. C-150375, 2016-Ohio-4609.

O'Neill, J., dissents.

2016-1180. State v. Lenoir.

Montgomery App. No. 26846, 2016-Ohio-4981.

2016-1182. State v. Steiner.

Holmes App. No. 15CA17, 2016-Ohio-4648.

2016-1192. State v. Mickens.

Franklin App. No. 15AP-961, 2016-Ohio-4636.

2016-1215. Hess v. Satink.

Summit App. No. 27729, 2016-Ohio-4684.

2016-1226. New Beginnings Residential Treatment Ctr., L.L.C. v. Steel Town, L.L.C.

Mahoning App. No. 15 MA 0185, 2016-Ohio-4814.

O'Donnell, J., dissents.

2016-1230. State v. Smith.

Fairfield App. No. 15-CA-46, 2016-Ohio-4832.

2016-1253. State v. Johnson.

Montgomery App. No. 26339, 2016-Ohio-4888.

2016-1254. State v. Johnson.

Montgomery App. No. 26795, 2016-Ohio-4889.

2016-1276. State ex rel. Curtis v. Brown Cty. Coroner.

Brown App. No. CA2006-02-002.

2016-1285. State v. Miller.

Lorain App. No. 14CA010556, 2016-Ohio-4993.

2016-1294. State v. Mallett.

Lucas App. Nos. L-15-1143 and L-15-1144.

2016-1296. State v. Blevins.

Clark App. No. 2014-CA-47, 2016-Ohio-5049.

2016-1523. State v. Lumbus.

Cuyahoga App. No. 102273, 2016-Ohio-5920.

2016-1531. Fifth Third Mtge. Co. v. Perry.

Pickaway App. No. 15CA22, 2016-Ohio-7811. Motion for stay denied.

Pfeifer and O'Neill, JJ., dissent and would accept the cause and grant the motion for stay.

2016-1539. State v. Pullens.

Clermont App. No. CA2015-03-024, 2016-Ohio-260.

O'Neill, J., dissents.

RECONSIDERATION OF PRIOR DECISIONS

2015-0839. State ex rel. Cuyahoga Lakefront Land, L.L.C. v. Cleveland.

Cuyahoga App. No. 101438, 2015-Ohio-1637. Reported at ___ Ohio St.3d ___, 2016-Ohio-7640, ___ N.E.3d ___. On motion for reconsideration. Motion denied.

Pfeifer, J., dissents.

2015-1419. Smith v. Erie Ins. Co.

Ottawa App. No. OT-15-005, 2015-Ohio-3078. Reported at ___ Ohio St.3d ___, 2016-Ohio-7742, ___ N.E.3d ___. On motion for reconsideration. Motion denied.

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

2016-0638. State v. Blair.

In Habeas Corpus. Reported at 146 Ohio St.3d 1506, 2016-Ohio-5873, 58 N.E.3d 1177. On motion for reconsideration. Motion granted. On entry of judgment. Entry denied as moot. Sua sponte, cause dismissed.

Pfeifer and Kennedy, JJ., dissent and would deny the motion for reconsideration.

2016-0954. State v. Johnson.

Cuyahoga App. No. 102449, 2016-Ohio-1536. Reported at 62 Ohio St.3d 185, 2016-Ohio-7455, 147 N.E.3d 1412. On motion for reconsideration. Motion denied.

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

2016-1172. State ex rel. Stanley v. Andrews.

In Mandamus. Reported at 147 Ohio St.3d 1416, 2016-Ohio-7598, 62 N.E.3d 188. On motion for reconsideration. Motion denied. On motion to take judicial notice. Motion denied as moot.

2016-1189. State ex rel. Bradford v. First Dist. Court of Appeals Judges.

In Prohibition. Reported at 147 Ohio St.3d 1410, 2016-Ohio-7455, 62 N.E.3d 183. On motion for reconsideration. Motion denied.

2016-1304. State ex rel. Victor v. Stupika.

In Prohibition. Reported at 147 Ohio St.3d 1410, 2016-Ohio-7455, 62 N.E.3d 184. On motion for reconsideration. Motion denied.

2016-1340. Disciplinary Counsel v. Cummings.

Reported at 147 Ohio St.3d 1214, 2016-Ohio-7294, 63 N.E.3d 135. On motion for reconsideration. Motion denied.

O'Neill, J., dissents.

2016-1385. State v. Goldshtein.

Cuyahoga App. No. 104262. Reported at 147 Ohio St.3d 1436, 2016-Ohio-7677, 63 N.E.3d 155. On motion for reconsideration. Motion denied.

O'Donnell, J., dissents.