

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS

May 17, 2017

[Cite as *05/17/2017 Case Announcements, 2017-Ohio-2822.*]

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## MERIT DECISIONS WITH OPINIONS

**2015-1581. Ohio Patrolmen's Benevolent Assn. v. Findlay, Slip Opinion No. 2017-Ohio-2804.**

Cuyahoga App. No. 102282, 2015-Ohio-3234. Judgment reversed and cause remanded.

O'Donnell, Kennedy, French, O'Neill, Fischer, and DeWine, JJ., concur.  
O'Connor, C.J., dissents, with an opinion.

**2016-1187. Johnson v. Madison Cty. Court of Common Pleas, Slip Opinion No. 2017-Ohio-2805.**

Madison App. No. CA2016-03-013. Judgment affirmed.

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

**2016-1829. Disciplinary Counsel v. Miller, Slip Opinion No. 2017-Ohio-2821.**

On Certified Report by the Board of Professional Conduct, No. 2016-023. J. Greg Miller, Attorney Registration No. 0446855, is hereby suspended from the practice of law for 12 months, with the entire suspension stayed.

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

O'Donnell, J., dissents and would remand the cause to the Board of Professional Conduct to reconsider the sanction to be imposed on respondent.

## MERIT DECISIONS WITHOUT OPINIONS

### **2016-1857. State ex rel. Taylor v. Nobles.**

In Habeas Corpus. Sua sponte, cause dismissed.

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

### **2016-1899. Thomas v. Jenkins.**

In Habeas Corpus. Sua sponte, cause dismissed.

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

### **2016-1908. Johnson v. Sloan.**

In Habeas Corpus. Sua sponte, cause dismissed.

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

### **2017-0163. State ex rel. Blair v. Adult Parole Bd.**

In Mandamus. On S.Ct.Prac.R. 12.04 determination. Cause dismissed.

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

### **2017-0177. Lucas v. Marshall.**

In Habeas Corpus. Sua sponte, cause dismissed.

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

### **2017-0187. State ex rel. Stinson v. Cass.**

In Mandamus. On S.Ct.Pract.R. 12.04 determination. Cause dismissed. On motion for order of allowance. Motion denied.

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

### **2017-0224. Cook v. Clerk of Appeals Court, Summit Cty., Ninth Judicial Dist.**

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

O'Donnell, Kennedy, French, O'Neill, Fischer, and DeWine, JJ., concur.  
O'Connor, C.J., not participating.

### **2017-0239. Sudberry v. Schweitzer.**

In Habeas Corpus. On petitioner's "supplemental add/joinder motion." Motion denied. Sua sponte, cause dismissed.

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

**2017-0240. State ex rel. Darrington v. Franklin Cty. Common Pleas Court.**

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

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

**2017-0252. State ex rel. McDuffie v. Strickland Saffold.**

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

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

**2017-0312. Quinnie v. Keough.**

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

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

**2017-0333. Rasheed v. Rothgery.**

In Mandamus. On S.Ct.Pract.R. 12.04 determination. Cause dismissed.

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

O'Donnell, J., dissents.

**2017-0377. Page v. Franklin Cty. Probate Court.**

In Prohibition. On motion to expedite. Motion denied. On motion to dismiss. Motion granted. Cause dismissed.

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

## **MOTION AND PROCEDURAL RULINGS**

**1987-1674. State v. Broom.**

Cuyahoga App. No. 51237. On motion to set execution date. Motion granted.

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.

**2011-2005. State v. Dean.**

Clark App. No. 05-CR-348. On application for reopening under S.Ct. Prac. R. 11.06. Application denied. On motion to strike opposition to application for reopening. Motion denied.

**2017-0305. State v. Steed.**

Wood App. No. WD-15-069, 2016-Ohio-8088. On motion for leave to file delayed appeal. Motion granted. Appellant shall file a memorandum in support of jurisdiction within 30 days of the date of this entry.

O'Donnell and French, JJ., dissent.

**2017-0307. State v. Rock.**

Lake App. No. 2016-L-088, 2016-Ohio-7445. On motion for leave to file delayed appeal. Motion denied.

O'Neill, J., dissents.

**2017-0358. State v. Hunter.**

Erie App. No. E-16-058. On motion for leave to file delayed appeal. Motion denied.

**2017-0362. State v. Rock.**

Lake App. No. 2016-L-011, 2016-Ohio-8516. On motion for leave to file delayed appeal. Motion denied.

Kennedy and Fischer, JJ., dissent.

**2017-0366. State v. Toyer.**

Lucas App. No. L-12-1299, 2014-Ohio-4338. On motion for leave to file delayed appeal. Motion denied.

**2017-0382. State v. Durham.**

Cuyahoga App. Nos. 103352 and 103382, 2016-Ohio-7394. On motion for leave to file delayed appeal. Motion denied.

**2017-0393. State v. Ashley.**

Cuyahoga App. No. 104305, 2017-Ohio-188. On motion for leave to file delayed appeal. Motion denied.

**2017-0401. State v. Goss.**

Ashland App. Nos. 16 COA 023 and 16 COA 024, 2017-Ohio-161. On review of order certifying a conflict. It is determined that no conflict exists within the meaning of S.Ct.Prac.R. 8.02. Cause dismissed.

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

**2017-0406. State v. Ronny.**

Cuyahoga App. No. 102968, 2016-Ohio-3448. On motion for leave to file delayed appeal. Motion denied.

O'Neill, J., dissents.

**2017-0408. State v. Smith.**

Ashtabula App. No. 2015-A-0027, 2016-Ohio-8420. On motion for leave to file delayed appeal. Motion granted. Appellant shall file a memorandum in support of jurisdiction within 30 days of the date of this entry.

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

**2017-0420. State v. Medina.**

Cuyahoga App. No. 104826. On motion for leave to file delayed appeal. Motion denied.

**2017-0423. In re R.H.**

Cuyahoga App. No. 104455, 2017-Ohio-467. On motion for stay and limited remand to the Eighth District Court of Appeals. Motion denied.

O'Donnell and Fischer, JJ., dissent.

**2017-0472. Kettering Health Network v. CareSource.**

Montgomery App. No. 27233, 2017-Ohio-1193. On motion to stay execution of court of appeals' judgment. Motion granted and bond posted with trial court continued.

**APPEALS ACCEPTED FOR REVIEW**

**2016-1442. In re LMD Integrated Logistical Servs., Inc.**

Franklin App. No. 15AP-545, 2016-Ohio-5385.

**2016-1513. In re Hamilton v. Internatl. Union of Operating Engineers, Local 20.**

Butler App. No. CA2016-03-054, 2016-Ohio-5565.

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

**2016-1646. State v. Blair.**

Hamilton App. No. 160333, 2016-Ohio-5714.

O’Neill and DeWine, JJ., dissent.

Fischer, J., not participating.

**2016-1742. State v. Upkins.**

Shelby App. No. 17-16-04. Discretionary appeal accepted on proposition of law No. IV. The parties are ordered to brief the issue stated as follows:

“When appellate counsel also served as trial counsel and moves to withdraw pursuant to *Anders v. California*, the court shall permit counsel to withdraw and must then appoint new appellate counsel to review the record and raise any nonfrivolous appealable issue.”

O’Neill, J., would accept the cause on all propositions of law.

O’Donnell, Kennedy, and DeWine, J., dissent.

**2017-0433. In re R.K.**

Franklin App. No. 16AP-575.

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

**APPEALS NOT ACCEPTED FOR REVIEW**

**2016-0113. State v. Jalowiec.**

Lorain App. No. 14CA010548, 2015-Ohio-5042.

**2016-1165. State v. Sampson.**

Cuyahoga App. No. 103311, 2016-Ohio-4560.

O’Connor, C.J., dissents and would accept the appeal and hold the cause for decision in 2015-0677, *State v. Aalim*.

**2016-1317. Fifth Third Bank v. Unknown Spouse of Lockwood.**

Lucas App. No. L-16-1159.

**2016-1428. Hicks v. Cadle Co.**

Trumbull App. No. 2014-T-0103, 2016-Ohio-4728.

Fischer, J., dissents.

**2016-1435. State v. Hawkey.**

Defiance App. No. 4-14-03, 2016-Ohio-5369.

**2016-1441. In re M.D.**

Summit App. No. 28087, 2016-Ohio-5393.

Fischer, J., dissents and would accept the appeal on proposition of law No. II.

**2016-1447. State v. Holder.**

Hamilton App. Nos. C-150670 and C-150673.

Fischer, J., not participating.

**2016-1450. State v. Emmons.**

Hamilton App. No. C-150636, 2016-Ohio-5384.

Fischer and DeWine, JJ., not participating.

**2016-1464. Keller & Kehoe, L.L.P. v. Smart Media of Delaware, Inc.**

Cuyahoga App. No. 103607, 2016-Ohio-5409.

**2016-1474. State v. McNeill.**

Lorain App. No. 15CA010774, 2016-Ohio-5463.

**2016-1478. Haskins v. 7112 Columbia, Inc.**

Mahoning App. No. 15 MA 0192, 2016-Ohio-5575.

**2016-1479. Norton Outdoor Advertising, Inc. v. RGT Foods, Inc.**

Hamilton App. No. C-160243.

Fischer, J., not participating.

**2016-1481. State v. Eason.**

Cuyahoga App. No. 103575, 2016-Ohio-5516.

**2016-1484. St. Clairsville v. Jeffers.**

Belmont App. No. 15 BE 0017, 2016-Ohio-5574.

**2016-1491. State v. Meyer.**

Franklin App. No. 15AP-589, 2016-Ohio-5638.

**2016-1498. Young v. UC Health, W. Chester Hosp., L.L.C.**

Hamilton App. Nos. C-150562 and C-150566, 2016-Ohio-5526.

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

Fischer and DeWine, JJ., not participating.

**2016-1499. Young v. UC Health, W. Chester Hosp., L.L.C.**

Hamilton App. No. C-150566, 2016-Ohio-5526.

O'Neill, J., dissents.

Fischer and DeWine, JJ., not participating.

**2016-1501. State v. Cardenas.**

Darke App. No. 2015-CA-16, 2016-Ohio-5537.

O'Neill, J., dissents.

**2016-1511. State v. Potts.**

Hancock App. No. 5-16-03, 2016-Ohio-5555.

**2016-1515. Engelhart v. Hamilton Cty. Bd. of Commrs.**

Hamilton App. No. C-150639, 2016-Ohio-4935.

French, J., dissents.

Fischer and DeWine, JJ., not participating.

**2016-1520. CitiMortgage, Inc. v. Nyamusevya.**

Franklin App. No. 14AP-464, 2016-Ohio-5588.

**2016-1527. Raze Internatl., Inc. v. Southeastern Equip. Co., Inc.**

Jefferson App. No. 14 JE 0015, 2016-Ohio-5700.

**2016-1532. Ball v. MPW Indus. Servs., Inc.**

Licking App. No. 15-CA-89, 2016-Ohio-5744.

**2016-1536. Kravitz, Brown & Dortch, L.L.C. v. Klein.**

Franklin App. No. 16AP-200, 2016-Ohio-5594.

**2016-1545. State v. Cardwell.**

Franklin App. No. 15AP-1076, 2016-Ohio-5591.

**2016-1546. Cleveland v. Lowery.**

Cuyahoga App. No. 103722, 2016-Ohio-5626.

**2016-1548. State v. Speelman.**

Ashland App. No. 15-COA-045, 2016-Ohio-3409.

**2016-1550. State v. Williams.**

Hamilton App. No. C-150249, 2016-Ohio-5827.



O'Neill, J., dissents.  
Fischer, J., not participating.

**2016-1555. State v. Machuca.**

Cuyahoga App. No. 103397, 2016-Ohio-5833.

**2016-1610. State v. Phillips.**

Franklin App. No. 15AP-1038, 2016-Ohio-5944.

**2016-1617. State v. Anderson.**

Franklin App. No. 15AP-1082, 2016-Ohio-5946.

**2016-1638. State v. Cummings.**

Cuyahoga App. No. 103892, 2016-Ohio-5931.

**2016-1732. State v. Roberts.**

Clark App. No. 2015-CA-104, 2016-Ohio-7327.

**2016-1769. State v. Brown.**

Richland App. No. 16CA15, 2016-Ohio-5893.

**2016-1773. Martin v. Martin.**

Trumbull App. No. 2015-T-0025, 2016-Ohio-7551.

O'Donnell and Kennedy, JJ., dissent.

Fischer, J., dissents and would accept the appeal on proposition of law No. II.

**2016-1784. State v. Garner.**

Lake App. No. 2016-L-041, 2016-Ohio-5785.

**2016-1800. State v. Williams.**

Auglaize App. No. 2-16-08.

**2016-1801. State v. Hancock.**

Clark App. No. 2016-CA-3, 2016-Ohio-7096.

**2016-1816. State v. Cantrell.**

Montgomery App. No. 26975, 2016-Ohio-7623.

**2016-1819. State ex rel. Thomas v. Sheldon.**

Allen App. No. 1-16-26, 2016-Ohio-7642.

Fischer, J., not participating.

**2016-1827. State v. Wang.**

Hamilton App. No. C-150487, 2016-Ohio-7578.  
Fischer and DeWine, JJ., not participating.

**2016-1832. State v. Soto.**

Cuyahoga App. No. 103321, 2016-Ohio-7476.

**2016-1833. State v. Wright.**

Cuyahoga App. No. 104134, 2016-Ohio-7493.

**2016-1854. State v. Price.**

Lucas App. No. L-16-1031, 2016-Ohio-7633.

**2016-1858. State v. Fishel.**

Stark App. No. 2016 CA 00037, 2016-Ohio-7656.

**2016-1869. State v. Herald.**

Defiance App. No. 4-16-09, 2016-Ohio-7733.

**2016-1892. Davie v. First Baptist Church.**

Cuyahoga App. No. 104004, 2016-Ohio-7713.

**2016-1897. Burrell-El v. Cincinnati.**

Hamilton App. No. C-160452.  
Fischer, J., not participating.

**2016-1898. State v. Mitchell.**

Montgomery App. No. 26887, 2016-Ohio-7691.

**2016-1903. Donlon v. Lineback.**

Warren App. Nos. CA2016-03-015 and CA2016-03-016, 2016-Ohio-7739.  
Fischer, J., not participating.

**2016-1914. State v. Jackson.**

Cuyahoga App. Nos. 104068 and 104450, 2016-Ohio-7308.

**2017-0005. Angus v. Angus.**

Franklin App. Nos. 15AP-655 and 15AP-693, 2016-Ohio-7789.

**2017-0006. State v. Copeland.**

Montgomery App. No. 26842, 2016-Ohio-7797.  
DeWine, J., dissents.

**2017-0025. State v. Thompson.**

Montgomery App. No. 26954, 2016-Ohio-7521.

**2017-0050. State v. Clyde.**

Erie App. No. E-14-006.

**2017-0051. State v. Bluford.**

Cuyahoga App. No. 103783.

**2017-0059. State v. Barnes.**

Muskingum App. No. CT2005-0013.

**2017-0068. State v. Barnett.**

Muskingum App. No. CT2016-0028, 2016-Ohio-8070.

**2017-0071. State v. Ward.**

Montgomery App. No. 26773, 2016-Ohio-5354.

**2017-0076. State v. Byrd.**

Summit App. No. 27868, 2016-Ohio-8135.

**2017-0084. State v. Weaver.**

Montgomery App. No. 26591, 2016-Ohio-7984.

**2017-0108. State v. Guyton.**

Ashtabula App. No. 2016-A-0023, 2016-Ohio-8110.

**2017-0133. State v. Hill.**

Lucas App. No. L-16-1086, 2016-Ohio-8529.

**2017-0143. State v. Hart.**

Lucas App. No. L-15-1067, 2016-Ohio-8169.

**2017-0146. State v. Runyon.**

Butler App. No. CA2016-06-120, 2016-Ohio-8230.

**2017-0238. State v. Cobb.**

Stark App. No. 2014 CA 00218.

**2017-0250. State v. Clark.**

Cuyahoga App. No. 103324, 2017-Ohio-178.

**2017-0284. State v. Shelby.**

Lawrence App. No. 15CA20.

**2017-0298. State v. Waver.**

Butler App. No. CA2015-08-155.

**2017-0317. State v. Taylor.**

Summit App. No. 27273.

**2017-0326. State v. Carlton.**

Hamilton App. No. C-150390.

Fischer and DeWine, JJ., not participating.

**2017-0386. In re B.W.**

Tuscarawas App. Nos. 2016 AP 09 0045 and 2016 AP 09 0046, 2017-Ohio-605.  
Appeal not accepted. Motion for stay denied as moot.

O'Neill, J., dissents and would accept the appeal and grant the motion for stay.

**2017-0439. Nationstar Mtge., L.L.C. v. Payne.**

Franklin App. No. 16AP-185, 2017-Ohio-513. Appeal not accepted. Motion for stay denied as moot.

**2017-0446. In re B.F.**

Lucas App. No. L-16-1094, 2017-Ohio-609.

## **RECONSIDERATION OF PRIOR DECISIONS**

**2015-0384. State v. Gonzales.**

Wood App. No. WD-13-086, 2015-Ohio-461. Reported at \_\_ Ohio St.3d \_\_, 2017-Ohio-777, \_\_ N.E.3d \_\_. On motion for reconsideration. Motion denied.

Kennedy and O'Neill, JJ., dissent.

**2015-0385. State v. Gonzales.**

Wood App. No. WD-13-086, 2015-Ohio-461. Reported at \_\_ Ohio St.3d \_\_, 2017-Ohio-777, \_\_ N.E.3d \_\_. On motion for reconsideration. Motion denied.

Kennedy and O’Neill, JJ., dissent.

**2016-1225. State v. Victor.**

Geauga App. Nos. 2014-G-3220, 2014-G-3241, and 2015-G-0010, 2015-Ohio-5520. Reported at 148 Ohio St.3d 1410, 2017-Ohio-573, 69 N.E.3d 750. On motion for reconsideration. Motion denied.

**2016-1267. Whitmer v. Zochowski.**

Franklin App. Nos. 15AP-52, 15AP-60, and 15-AP-65, 2016-Ohio-4764. Reported at 148 Ohio St.3d 1411, 2017-Ohio-573, 69 N.E.3d 751. On motion for reconsideration. Motion denied.

**2016-1306. State v. Taulbee.**

Fairfield App. No. 16-CA-10, 2016-Ohio-5445. Reported at 148 Ohio St.3d 1426, 2017-Ohio-905, 71 N.E.3d 298. On motion for reconsideration. Motion denied.

**2016-1365. Barton v. Barton.**

Greene App. No. 2015-CA-53, 2016-Ohio-5264. Reported at 148 Ohio St.3d 1411, 2017-Ohio-573, 69 N.E.3d 751. On motion for reconsideration. Motion denied.

**2016-1388. Cunningham v. Protect Autoworks.**

Portage App. No. 2015-P-0066, 2016-Ohio-4745. Reported at 148 Ohio St.3d 1411, 2017-Ohio-573, 69 N.E.3d 751. On motion for reconsideration. Motion denied.

O’Donnell, J., dissents.

**2016-1437. State v. Armstrong.**

Cuyahoga App. No. 103088, 2016-Ohio-2627. Reported at 148 Ohio St.3d 1427, 2017-Ohio-905, 71 N.E.3d 298. On motion for reconsideration. Motion denied.

**2016-1529. Masten v. Masten.**

Fairfield App. No. 16-CA-4, 2016-Ohio-5738. Reported at 148 Ohio St.3d 1427, 2017-Ohio-905, 71 N.E.3d 298. On motion for reconsideration. Motion denied.

**2016-1598. State v. Myers.**

Wood App. No. WD-16-007, 2016-Ohio-7112. Reported at 148 Ohio St.3d 1428, 2017-Ohio-905, 71 N.E.3d 299. On motion for reconsideration and/or en banc consideration. Motion denied. On motion to correct clerical error. Motion denied.

**2016-1679. Farmer v. E. Knox Bd. of Edn.**

Knox App. No. 2016CA00014. Reported at 148 Ohio St.3d 1428, 2017-Ohio-905, 71 N.E.3d 299. On motion for reconsideration. Motion denied.

**2016-1717. State ex rel. Griffin v. Myers.**

In Mandamus. Reported at 148 Ohio St.3d 1406, 2017-Ohio-573, 69 N.E.3d 748. On motion for reconsideration. Motion denied.

**2016-1745. State ex rel. Haddix v. Forchione.**

In Mandamus and Procedendo. Reported at 148 Ohio St.3d 1406, 2017-Ohio-573, 69 N.E.3d 748. On motion for reconsideration. Motion denied.

**2017-0041. State v. Jabbaar.**

Cuyahoga App. No. 104922. Reported at 148 Ohio St.3d 1424, 2017-Ohio-905, 71 N.E.3d 296. On motion for reconsideration. Motion denied.