

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS

February 22, 2017

[Cite as *02/22/2017 Case Announcements, 2017-Ohio-573.*]

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## MERIT DECISIONS WITH OPINIONS

**2015-1685. Dunkle v. Dept. of Rehab. & Corr., Slip Opinion No. 2017-Ohio-551.**

Marion App. No. 9-15-28. Judgment affirmed.

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

**2015-1847. State v. Orr, Slip Opinion No. 2017-Ohio-552.**

Cuyahoga App. No. 102460, 2015-Ohio-4081. Cause dismissed as having been improvidently accepted.

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

## MERIT DECISIONS WITHOUT OPINIONS

**2016-1115. State ex rel. Cincinnati Enquirer v. Pike Cty. Coroner's Office.**

In Mandamus. Sua sponte, alternative writ granted and briefing schedule 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; relator shall file a brief within 10 days of the filing of the evidence; respondent shall file a brief within 20 days after the filing of relator's brief; and relator may file a reply brief within 7 days after the filing of respondent's brief.

On respondent's motion to dismiss. Motion denied.

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

**2016-1153. State ex rel. GateHouse Media Ohio Holdings II, Inc. v. Pike Cty. Coroner's Office.**

In Mandamus. Sua sponte, alternative writ granted and briefing schedule 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; relator shall file a brief within 10 days of the filing of the evidence; respondent shall file a brief within 20 days after the filing of relator's brief; and relator may file a reply brief within 7 days after the filing of respondent's brief.

On respondents' motion to dismiss. Motion denied. On relators' motion for order lifting mediation stay. Motion denied as moot.

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

**2016-1362. Sims v. Pinkney.**

In Habeas Corpus. On petition for writ of habeas corpus of Antrown T. Sims. Sua sponte, cause dismissed without prejudice.

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

**2016-1414. Melhado v. Wainwright.**

In Habeas Corpus. On petition for writ of habeas corpus of Clive Melhado. Sua sponte, cause dismissed.

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

**2016-1526. In re Boylen v. Marquis.**

In Habeas Corpus. On petition for writ of habeas corpus of Adam Boylen. Sua sponte, cause dismissed.

On petitioner's motion for peremptory writ ordering the immediate release and discharge of petitioner from confinement and imprisonment. Motion denied.

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

**2016-1661. State ex rel. Black v. Harsha.**

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.

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

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.

**2016-1723. State ex rel. Russell v. Klatt.**

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

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

French, J., not participating.

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

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.

**2016-1767. State ex rel. Rink v. Duhart.**

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

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

O'Neill, J., dissents and would grant an alternative writ.

**2016-1849. Jones v. State.**

In 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.

## **MOTION AND PROCEDURAL RULINGS**

**1993-1667. State v. Bidinost.**

Cuyahoga App. No. 62925. On appellee's motion to redact the full names of minor victims. Motion granted. The Reporter of Decisions shall replace the victims' full names with the victims' initials in the opinion for this case that is available on the court's website.

**1994-2622. State v. Otte.**

Cuyahoga App. No. 64617. On motion to vacate Gary Otte's death sentences. Motion denied. On motion to stay execution date. Motion denied.

O'Neill, J., dissents and would grant both motions.

**2015-0192. State v. D.B.**

Montgomery App. No. 25859, 2014-Ohio-4858. On appellant's motion for stay of execution of judgment. Motion granted.

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

**2015-0677. State v. Aalim.**

Montgomery App. No. 26249, 2015-Ohio-892. On appellee's motion for stay of execution of judgment. Motion granted.

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

**2015-1517. State ex rel. Singer v. Fairland Local School Dist. Bd. of Edn.**

In Mandamus. On request for oral argument. Motion granted.

O'Donnell, J., dissents and would deny the request for oral argument and grant a writ of mandamus.

**2016-1325. In re Application of Ohio Edison Co.**

Public Utilities Commission, No. 14-1297-EL-SSO. On motion to dismiss of Public Utilities Commission of Ohio. Motion granted. On motion to dismiss of Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company. Motion granted. Cause dismissed.

**2016-1798. State v. Pulvino.**

Portage App. No. 2015-P-0056, 2016-Ohio-1589. On motion for leave to file delayed appeal. Motion denied.

O'Neill and Fischer, JJ., dissent.

**2016-1814. State v. Dominguez.**

Cuyahoga App. No. 104796. On motion for leave to file delayed appeal. Motion denied.

**2016-1831. State v. Smith.**

Summit App. No. 27832, 2016-Ohio-7084. On motion for leave to file delayed appeal. Motion denied.

O'Neill, J., dissents.

**2016-1835. Perry v. Allstate Indemn. Co.**

Certified Question of State Law, United States District Court, Northern District of Ohio, Eastern Division, No. 1:16-cv-1522. On review of preliminary memoranda pursuant to S.Ct.Prac.R. 9.05. The court determines that it will not answer the certified question. Cause dismissed. On request to consolidate 2016-1835 and 2016-1840. Request denied as moot.

French, Fischer, and DeWine, JJ., dissent.

**2016-1837. State v. Daniels.**

Franklin App. No. 14AP-326, 2015-Ohio-2649. On motion for leave to file delayed appeal. Motion denied.

**2016-1840. Cranfield v. State Farm Fire & Cas. Co.**

Certified Question of State Law, United States District Court, Northern District of Ohio, Eastern Division, No. 1:16-cv-1273. On review of preliminary memoranda pursuant to S.Ct.Prac.R. 9.05. The court determines that it will not answer the certified question. Cause dismissed.

French, Fischer, and DeWine, JJ., dissent.

**2016-1856. State v. Suber.**

Licking App. No. 16 CA 14, 2016-Ohio-7497. On motion for leave to file delayed appeal. Motion granted. It is further ordered by the court that appellant shall file a memorandum in support of jurisdiction within 30 days from the date of this entry.

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

**2016-1861. State v. Saracco-Rios.**

Madison App. Nos. CA2016-02-011 and CA2016-03-014, 2016-Ohio-7192. On motion for leave to file delayed appeal. Motion denied.

**2016-1870. Cyran v. Cyran.**

Montgomery App. No. 27009, 2016-Ohio-7323. On review of an order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated at page 2 of the court of appeals' entry filed November 21, 2016:

“Does the collateral consequences exception to mootness apply to an appeal from an expired protective order when the appellant faces possible collateral consequences that may not be ascertainable at the time of the appeal?”

The conflict case is *Wilder v. Perma*, 174 Ohio App.3d 586, 2007-Ohio-6635 (8th Dist.).

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 Montgomery County.

It is ordered by the court, sua sponte, that this cause is consolidated with 2016-1737, *Cyran v. Cyran*, and that briefing in 2016-1737 and 2016-1870 shall be consolidated. The parties shall file two originals of each of the briefs under S.Ct.Prac.R. 16.02 through 16.04 and include both case numbers on the cover of the briefs. The parties shall otherwise comply with the requirements of S.Ct.Prac.R. 16.01 through 16.04.

O'Connor, C.J., dissents.

**2016-1872. State v. Hodges.**

Medina App. No. 15CA0056-M, 2016-Ohio-5461. On motion for leave to file delayed appeal. Motion denied.

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

**2016-1887. State v. Geiger.**

Franklin App. No. 15AP-1120, 2016-Ohio-7571. On motion for leave to file delayed appeal. Motion denied.

O'Neill, J., dissents.

**2016-1890. State v. Williams.**

Lorain App. No. 16CA010900, 2016-Ohio-7345. On motion for leave to file delayed appeal. Motion granted. It is further ordered by the court that appellant shall file a memorandum in support of jurisdiction within 30 days from the date of this entry.

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

**2016-1895. State v. Pleatman.**

Hamilton App. No. C-160234, 2016-Ohio-7659. On motion to stay imposition of sentence. Motion denied. On motion to stay pending decision by court of appeals. Motion denied.

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

Fischer and DeWine, JJ., not participating.

**2016-1910. State v. Miler.**

Cuyahoga App. No. 100461, 2015-Ohio-1535. On motion for leave to file delayed appeal. Motion denied.

**2016-1912. State v. Woogerd.**

Franklin App. No. 05AP-45, 2007-Ohio-1518. On motion for leave to file delayed appeal. Motion denied.

### **APPEALS ACCEPTED FOR REVIEW**

**2015-1736. State v. Mack.**

Cuyahoga App. No. 10261, 2015-Ohio-2149. Discretionary appeal accepted on proposition of law No. I only. Judgment vacated and cause remanded to the court of appeals to consider the merits of appellant's appeal.

**2016-1236. O'Hamill v. CareSource Mgt. Group.**

Cuyahoga App. No. 104586. Discretionary appeal accepted and cause held for decision in 2015-1975, *Ferguson v. State*, and briefing schedule stayed.

O'Neill, J., dissents.

**2016-1252. Preterm-Cleveland, Inc. v. Kasich.**

Cuyahoga App. No. 103103, 2016-Ohio-4859.

O'Connor, C.J., dissents.

**2016-1255. State v. Pountney.**

Cuyahoga App. No. 103686, 2016-Ohio-4866.

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

**2016-1737. Cyran v. Cyran.**

Montgomery App. No. 27009, 2016-Ohio-7323. Discretionary appeal accepted. Sua sponte, cause consolidated with 2016-1870, *Cyran v. Cyran*.

### **APPEALS NOT ACCEPTED FOR REVIEW**

**2015-0264. State v. Jackson.**

Trumbull App. No. 2008-T-077.

O'Neill, J., not participating.

**2015-0265. State v. Jackson.**

Trumbull App. No. 2013-T-0103, 2015-Ohio-7.

O'Neill, J., not participating.

**2016-0706. State v. Phillips.**

Summit App. No. 27733, 2016-Ohio-1198.  
O'Connor, C.J., not participating.

**2016-0949. State v. Sweeting.**

Hamilton App. No. C-150436.  
Fischer, J., not participating.

**2016-1184. Parrott v. State Med. Bd. of Ohio.**

Franklin App. No. 15-AP-963, 2016-Ohio-4635.

**2016-1186. Wright v. Harts Machine Servs., Inc.**

Fulton App. No. F-15-004, 2016-Ohio-4758.  
Kennedy, J., dissents.  
French, J., dissents and would accept the appeal on proposition of law No. I.

**2016-1190. Huntington Natl. Bank v. Cade.**

Cuyahoga App. No. 103674, 2016-Ohio-4705.

**2016-1193. State v. Kadunc.**

Franklin App. No. 15AP-920, 2016-Ohio-4637.  
O'Neill, J., dissents.  
O'Donnell, J., not participating.

**2016-1194. Beadle v. O'Konski-Lewis.**

Lucas App. No. L-15-1216, 2016-Ohio-4749.

**2016-1198. Beacon Place at Church Square Homeowner's Assn., Inc. v. Smith.**

Cuyahoga App. No. 103323, 2016-Ohio-4694. Motion to strike denied as moot.

**2016-1203. State v. Phillips.**

Hamilton App. No. C-150376, 2016-Ohio-4672.  
Fischer and DeWine, JJ., not participating.

**2016-1206. Ricketts v. Everflow E., Inc.**

Mahoning App. No. 14 MA 0103, 2016-Ohio-4807.

**2016-1207. Weber v. Ferrellgas, Inc.**

Trumbull App. No. 2015-T-0071, 2016-Ohio-4738.



**2016-1213. WCI, Inc. v. Ohio State Liquor Control Comm.**  
Franklin App. No. 16AP-72, 2016-Ohio-4778.

**2016-1216. State v. Sherman.**  
Tuscarawas App. No. 2015 AP 12 0067, 2016-Ohio-4967.  
O’Neill, J., dissents.

**2016-1217. State v. Hedges.**  
Hocking App. No. 15CA21, 2016-Ohio-5038.  
O’Neill, J., dissents.

**2016-1220. State ex rel. Macey v. Byrd.**  
Cuyahoga App. No. 103646, 2016-Ohio-4703.  
O’Donnell, J., dissents.

**2016-1222. State v. Brantley.**  
Summit App. No. 27466, 2016-Ohio-4680.  
O’Neill, J., dissents.

**2016-1223. State v. Thompson.**  
Wayne App. No. 15AP0016, 2016-Ohio-4689.  
DeWine, J., dissents and would accept the appeal on proposition of law No. IV.

**2016-1225. State v. Victor.**  
Geauga App. Nos. 2014-G-3220, 2014-G-3241, and 2015-G-0010, 2015-Ohio-5520. Appeal and cross-appeal not accepted. Motion to strike denied as moot.

**2016-1227. Dellecurti v. Walgreen Co.**  
Trumbull App. No. 2015-T-0097, 2016-Ohio-4741.  
O’Donnell, J., dissents.

**2016-1246. Simmons v. Extendicare Health Servs., Inc.**  
Delaware App. No. 15 CAE 12 0095, 2016-Ohio-4831.  
O’Donnell, J., dissents.

**2016-1249. Automation Tool & Die, Inc. v. Ohio Bur. of Workers’ Comp.**  
Franklin App. No. 15AP-631, 2016-Ohio-4882.  
O’Donnell, J., dissents.

**2016-1258. State v. Radney.**

Cuyahoga App. No. 103869, 2016-Ohio-5328.

O'Neill, J., dissents and would accept the appeal and hold the cause for the decision in 2016-0672, *State v. Mohamed*.

**2016-1262. U.S. Bank, N.A. v. Beach.**

Summit App. No. 27928, 2016-Ohio-4938.

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

Franklin App. Nos. 15AP-52, 15AP-60, and 15AP-65, 2016-Ohio-4764.

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

**2016-1268. Snowden v. Ekeh.**

Montgomery App. No. 26688, 2016-Ohio-4976.

**2016-1315. State v. Peirano.**

Franklin App. No. 16AP-96, 2016-Ohio-5045.

French and Fischer, JJ., dissent and would accept the appeal on proposition of law No. I.

**2016-1324. Miller v. Cloud.**

Columbiana App. No. 2015 CO 0018, 2016-Ohio-5063.

Kennedy and O'Neill, JJ., dissent.

**2016-1329. State v. Rucker.**

Hamilton App. No. C-150434, 2016-Ohio-5111.

O'Donnell, J., dissents and would accept the appeal on proposition of law No. II.

O'Neill, J., dissents.

Fischer, J., not participating.

**2016-1331. State v. Nian.**

Delaware App. No. 15CAA070052, 2016-Ohio-5146.

**2016-1343. State v. Tracey.**

Muskingum App. No. CT2015-0040, 2016-Ohio-5255.

**2016-1352. State v. Lee.**

Richland App. No. 15 CA 52, 2016-Ohio-1045. Appellee's motion to strike and dismiss appeal denied as moot.

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

Greene App. No. 2015-CA-53, 2016-Ohio-5264.

**2016-1381. State v. Sinkovitz.**

Hocking App. No. 13CA12.

**2016-1382. State v. Malone.**

Scioto App. No. 14CA3648, 2016-Ohio-3543.

**2016-1383. State v. Armengau.**

Franklin App. No. 16AP-418, 2016-Ohio-5534.

**2016-1386. State v. Kudla.**

Summit App. No. 27652, 2016-Ohio-5215.

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

Portage App. No. 2015-P-0066, 2016-Ohio-4745.

O'Donnell, J., dissents.

**2016-1389. State v. Pertee.**

Summit App. No. 27898.

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

**2016-1390. In re Estate of Geneva.**

Tuscarawas App. No. 2016 AP 02 0013, 2016-Ohio-5382.

**2016-1400. State v. Norris.**

Licking App. No. 16 CA 7, 2016-Ohio-5381.

**2016-1404. State v. Dixon.**

Montgomery App. No. 26873, 2016-Ohio-5538.

**2016-1409. State v. Moffett.**

Summit App. No. 28001, 2016-Ohio-5314.

**2016-1433. State v. Wilson.**

Cuyahoga App. No. 102673.

**2016-1457. State v. Payne.**

Butler App. No. CA2015-12-219, 2016-Ohio-5470.

**2016-1458. State v. Reed.**

Franklin App. No. 15AP-952, 2016-Ohio-5494.

**2016-1461. State v. Arega.**

Franklin App. No. 12AP-263.

**2016-1476. State v. Ramallo.**

Lucas App. No. L-15-1236, 2016-Ohio-5544.

**2016-1482. State v. Jenkins.**

Franklin App. No. 16AP-105, 2016-Ohio-5533.

**2016-1485. State v. Weckel.**

Greene App. No. 2015-CA-64, 2016-Ohio-5654.

**2016-1492. State v. Hewitt.**

Stark App. No. 2016CA00067, 2016-Ohio-5762.

French, J., dissents.

**2016-1509. State v. Williams.**

Montgomery App. No. 26635, 2016-Ohio-5655. Motion to vacate or set aside judgment denied as moot.

**2016-1519. State v. Colvin.**

Mahoning App. No. 15 MA 0162, 2016-Ohio-5644.

O'Donnell, J., dissents.

**2016-1522. State v. Smelko.**

Summit App. No. 28320.

**2016-1524. State v. Dukes.**

Summit App. No. 27966, 2016-Ohio-5596.

**2016-1541. State v. West.**

Summit App. No. 28051, 2016-Ohio-5694.

**2016-1542. State v. McMullen.**

Clark App. No. 2014-CA-153, 2016-Ohio-5650.

**2016-1552. State v. Gilmore.**

Cuyahoga App. No. 104854.

**2016-1554. State v. Norris.**

Clark App. No. 2015-CA-22, 2016-Ohio-5729.

**2016-1674. State v. Jackson.**

Cuyahoga App. No. 100877, 2016-Ohio-7474.

**2016-1771. State v. Payne.**

Ashtabula App. No. 2015-A-0036.

**2016-1808. State v. Smith.**

Guernsey App. No. 15CA00020.

**2016-1824. In re Z.F.**

Summit App. Nos. 28246 and 28247, 2016-Ohio-7463.

**2016-1836. State v. Kalman.**

Ashland App. No. 15 COA 041.

**2016-1875. In re B.A.**

Cuyahoga App. No. 104496, 2016-Ohio-7786.

**RECONSIDERATION OF PRIOR DECISIONS**

**2014-1940. Linert v. Foutz.**

Mahoning App. No. 11 MA 189, 2014-Ohio-4431. Reported at \_\_ Ohio St.3d \_\_, 2016-Ohio-8445, \_\_ N.E.3d \_\_. On motion for reconsideration. Motion denied. O'Neill, J., dissents.

**2016-1073. Ellison v. Hillsboro.**

Highland App. No. 15CA17, 2016-Ohio-1556. Reported at 147 Ohio St.3d 1474, 2016-Ohio-8438, 65 N.E.3d 777. On motion for reconsideration. Motion denied. O'Donnell and Kennedy, JJ., dissent.

**2016-1174. State v. Hackney.**

Hamilton App. No. C-150375, 2016-Ohio-4609. Reported at 147 Ohio St.3d 1475, 2016-Ohio-8438, 65 N.E.3d 778. On motion for reconsideration. Motion denied.  
O'Neill, J., dissents.  
Fischer, J., not participating.