

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

March 14, 2018

[Cite as *03/14/2018 Case Announcements*, 2018-Ohio-923.]

MERIT DECISIONS WITH OPINIONS

2017-0286. *State ex rel. Quillen v. Wainwright*, Slip Opinion No. 2018-Ohio-922.

Marion App. No. 9-16-45. Judgment affirmed.

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

DeGenaro, J., not participating.

MERIT DECISIONS WITHOUT OPINIONS

2017-0813. *State ex rel. Speedway, L.L.C. v. Wray*.

In Mandamus. On respondents' motion for judgment on pleadings. Motion granted as to counts 2, 3, 4, and 5 of relators' complaint. Motion denied as to relator New Wen, Inc.'s claims in count 1. On motion of amicus curiae Ohio Council of Retail Merchants for leave to file memo urging denial of respondents' motion for judgment on pleadings. Motion granted. Sua sponte, alternative writ granted as to relator New Wen, Inc.'s claim in count 1, 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; relator shall file a brief within 10 days after 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.

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

Kennedy and French, JJ., dissent and would deny respondents' motion for judgment on pleadings and grant an alternative writ as to all claims.

2017-1252. State ex rel. Russell v. Logan Cty. Court of Common Pleas.

In Mandamus and Prohibition. On respondents' motion to dismiss. Motion denied. Sua sponte, alternative writ granted. 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; relator shall file a brief within 10 days after 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.

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

2017-1255. State ex rel. Mathews v. Montgomery.

In Mandamus. On respondents' motion to dismiss. Motion granted. Cause dismissed. On relator's urgent motion for emergency stay and motion for stay of proceedings. Motions denied as moot.

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

2017-1358. El v. Summit Cty. Court of Common Pleas.

In Mandamus. On respondents' motions to dismiss. Motions granted. Cause dismissed. On relator's motion to vacate eviction and motion for fiduciary request/picture evidence supporting request. Motions denied as moot.

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

2017-1808. State ex rel. Fant v. Sloan.

In Procedendo, Mandamus, Habeas Corpus, and Prohibition. On respondent's motion to dismiss. Motion granted. Cause dismissed.

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

DeGenaro, J., not participating.

2017-1817. State ex rel. Barnett v. Fleegle.

In Prohibition. On S.Ct.Prac.R. 12.04 determination. Sua sponte, cause dismissed.

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

2018-0035. State ex rel. Scott v. Kontos.

In Mandamus. On respondent's motion to dismiss. Motion granted. Cause dismissed.

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

2018-0045. State ex rel. Ames v. Reinbold.

In Prohibition. On S.Ct.Prac.R. 12.04 determination. Sua sponte, cause dismissed.

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

2018-0080. State ex rel. White v. Macke.

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

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

2018-0096. State ex rel. Robinson v. Ninth Dist. Court of Appeals Judges.

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

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

MOTION AND PROCEDURAL RULINGS

1996-2204. State v. Moore.

Hamilton App. No. C950009. On appellant's motion for order of relief. Motion denied.

Fischer, J., dissents, and would hold the cause for the decision in 2017-0200, *State v. Mason*.

1998-2061. State v. Franklin.

Montgomery C.P. No. 97CR1139. On motion to set execution date. Motion granted. Antonio Sanchez Franklin's sentence shall be carried into execution by the warden of the Southern Ohio Correctional Facility, or in his absence, by the

deputy warden, on Thursday, January 12, 2023, in accordance with the statutes so provided.

2015-1309. State v. Ford.

Summit C.P. No. CR 2013 04 1008 (A). On appellant's motion for leave to amend merit brief. Motion denied.

Kennedy, J., dissents.

2017-1443. State ex rel. Staats v. Stark Cty. Prosecutor's Office.

In Mandamus. On respondent's motion to find relator a vexatious litigator pursuant to S.Ct.Prac.R. 4.3(B). Motion denied. On relator's motion to strike motion to find relator a vexatious litigator. Motion denied as moot.

2018-0054. State v. Nelson.

Cuyahoga App. No. 104795, 2017-Ohio-6883. On motion for leave to file delayed appeal. Motion denied.

Fischer, J., dissents.

2018-0073. State v. Lewis.

Allen App. No. 1-14-59. On motion for leave to file delayed appeal. Motion denied.

2018-0083. State v. Brown-Bowman.

Stark App. No. 2017CA00059, 2017-Ohio-7974. On motion for leave to file delayed appeal. Motion denied.

Fischer, J., dissents.

2018-0106. State v. Moore.

Cuyahoga App. No. 105240, 2017-Ohio-8483. On motion for leave to file delayed appeal. Motion granted. Appellant shall file a memorandum in support of jurisdiction within 30 days.

O'Donnell and French, JJ., dissent.

2018-0192. Ruiz v. Brecksville.

Cuyahoga App. No. 105390, 2017-Ohio-9164. On appellant's amended motion for stay of execution of judgment. Motion granted.

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

APPEALS ACCEPTED FOR REVIEW

2017-1463. State v. Martin.

Trumbull App. Nos. 2016-T-0103 and 2016-T-0104, 2017-Ohio-7453.
O'Connor, C.J., and French and Fischer, JJ., dissent.

2017-1505. State v. Hairston.

Franklin App. No. 16AP-294, 2017-Ohio-7612.
O'Connor, C.J., and DeWine and DeGenaro, JJ., dissent.

2017-1506. State v. Gwynne.

Delaware App. No. 16 CAA 12 0056, 2017-Ohio-7570.
O'Connor, C.J., and O'Donnell and DeWine, JJ., dissent.

2017-1548. Wayt v. DHSC, L.L.C.

Stark App. No. 2016CA00215, 2017-Ohio-7734. Cause accepted on proposition of law No. II.
Kennedy, J., would accept the cause on all propositions of law.
French, Fischer, and DeGenaro, JJ., dissent.

2017-1575. State v. Parker.

Cuyahoga App. No. 105472, 2017-Ohio-7484.

2017-1576. Kljun v. Admr., Bur. of Workers' Comp.

Cuyahoga App. No. 105340, 2017-Ohio-7724. Cause accepted on proposition of law No. I.
O'Donnell, Kennedy, and DeWine, JJ., would accept the cause on all propositions of law.
O'Connor, C.J., and Fischer and DeGenaro, JJ., dissent.

2017-1610. State v. St. Jules.

Montgomery App. No. 27405, 2017-Ohio-7941. Sua sponte, cause held for the decision in 2017-0087, *State v. Carnes*, and briefing schedule stayed.

2017-1623. State v. Barfield.

Hamilton App. No. C-160768, 2017-Ohio-8243. Sua sponte, cause held for the decision in 2017-0087, *State v. Carnes*, and briefing schedule stayed.
Fischer, J., not participating.

2017-1681. State v. McCray.

Hamilton App. No. C-160272, 2017-Ohio-2996. Cause accepted on proposition of law No. II. Sua sponte, cause held for the decision in 2017-0087, *State v. Carnes*, and briefing schedule stayed.

Fischer, J., not participating.

APPEALS NOT ACCEPTED FOR REVIEW

2017-1184. State v. Carter.

Cuyahoga App. No. 104653, 2017-Ohio-5573.

DeGenaro, J., not participating.

2017-1366. State v. Robertson.

Hamilton App. No. C-160681, 2017-Ohio-7225. Appeal and cross-appeal not accepted.

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

Fischer, J., not participating.

2017-1407. Schermerhorn v. Brown Twp. Bd. of Trustees.

Delaware App. No. 17 CAE 06 0037.

DeGenaro, J., not participating.

2017-1412. Mt. Healthy v. Fraternal Order of Police, Ohio Labor Council, Inc.

Hamilton App. No. C-160765.

French, J., dissents.

Fischer, J., not participating.

2017-1414. State v. Mincey.

Hamilton App. No. C-160600.

Fischer, J., not participating.

2017-1422. In re Brahma Invest. Group, Inc.

Hamilton App. No. C-160773.

Fischer, J., not participating.

2017-1423. State v. Jordan.

Montgomery App. No. 27208, 2017-Ohio-7342.

2017-1424. In re Z.H.

Franklin App. No. 16AP-648, 2017-Ohio-5525.

2017-1427. State v. Lamb.

Hamilton App. No. C-160504.

Fischer, J., not participating.

2017-1446. State v. Hambleton.

Columbiana App. No. 16 CO 0028, 2017-Ohio-7561.

DeGenaro, J., not participating.

2017-1450. State v. Ortiz.

Cuyahoga App. No. 104689, 2017-Ohio-7400.

2017-1452. State v. Kalman.

Athens App. No. 16CA9, 2017-Ohio-7548.

2017-1455. Soberay v. Greyhound Lines, Inc.

Cuyahoga App. No. 106105. Appellee's motion to dismiss appeal and to sanction denied.

2017-1465. Hoeflinger v. AM Mart, L.L.C.

Lucas App. No. L-16-1124, 2017-Ohio-7530.

2017-1467. State v. Swing.

Clermont App. No. CA2016-10-068, 2017-Ohio-8039.

French and Fischer, JJ., dissent and would accept the cause on proposition of law No. III.

Kennedy, J., dissents.

2017-1469. State v. Alhashimi.

Warren App. Nos. CA2016-07-065 and CA2017-07-066, 2017-Ohio-7658.

2017-1471. Angerbauer v. State Med. Bd.

Franklin App. No. 17AP-88, 2017-Ohio-7420.

2017-1473. State v. Tringelof.

Clermont App. Nos. CA2017-03-015 and CA2017-03-016, 2017-Ohio-7657.

2017-1474. State v. Bosley.

Mahoning App. No. 16 MA 0100, 2017-Ohio-7643.

French, J., dissents.

DeGenaro, J., not participating.

2017-1475. State v. Cervelli.

Huron App. No. H-16-029, 2017-Ohio-7531.

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

2017-1478. Barrett v. Barrett.

Mahoning App. No. 16 MA 0025, 2017-Ohio-7562.

DeGenaro, J., not participating.

2017-1481. State v. Riley.

Washington App. No. 16CA29, 2017-Ohio-5819.

2017-1482. State v. Hardy.

Montgomery App. No. 27158, 2017-Ohio-7635.

2017-1488. Weckel v. Cole & Russell Architects.

Hamilton App. No. C-160591, 2017-Ohio-7491.

Fischer, J., not participating.

2017-1489. State v. Gindlesperger.

Cuyahoga App. No. 104539, 2017-Ohio-7478.

2017-1497. State v. Darling.

Cuyahoga App. No. 104517, 2017-Ohio-7603.

2017-1498. Thomarios v. Hardy Invest. Assocs., Ltd.

Summit App. No. 28396, 2017-Ohio-7597.

2017-1503. State v. Fannin.

Medina App. No. 16CA0053-M, 2017-Ohio-7544.

2017-1504. May v. Kroger Co.

Licking App. No. 2017 CA 00013, 2017-Ohio-7696.

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

2017-1507. State v. Goines.

Cuyahoga App. No. 105436, 2017-Ohio-8172.

2017-1508. Lorain v. McKiel.

Lorain App. Nos. 16CA011016 and 16CA011017, 2017-Ohio-7919.

2017-1514. State v. Chafin.

Scioto App. No. 16CA3769, 2017-Ohio-7622.

2017-1524. State v. Kirkpatrick.

Hamilton App. Nos. C-160880, C-160881, and C-160882.
Fischer, J., not participating.

2017-1525. State v. Carmel.

Summit App. No. 28463, 2017-Ohio-7589.

2017-1526. McMichael v. Akron Gen. Med. Ctr.

Summit App. No. 28333, 2017-Ohio-7594.
Kennedy and French, JJ., dissent.

2017-1527. Hudson v. Akron.

Summit App. No. 28011, 2017-Ohio-7590.
O'Donnell, J., dissents.

2017-1528. Miller v. Moyer.

Sandusky App. No. S-16-033, 2017-Ohio-7106.

2017-1529. State v. Steele.

Cuyahoga App. No. 105085, 2017-Ohio-7605.
DeGenaro, J., not participating.

2017-1530. State v. Jones.

Cuyahoga App. No. 105405, 2017-Ohio-7326.

2017-1537. Sheba v. Kautz.

Belmont App. No. 15 BE 0008, 2017-Ohio-7699.
Kennedy, J., dissents.
DeGenaro, J., not participating.

2017-1540. State v. Tucker.

Franklin App. No. 15AP-1123, 2017-Ohio-7735.

2017-1543. Mullaji v. Mollagee.

Lorain App. No. 16CA011047.

2017-1546. State v. Rigel.

Clark App. No. 2016-CA-90, 2017-Ohio-7640.

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

DeGenaro, J., dissents and would accept the cause on proposition of law Nos. II and III.

2017-1552. State v. Raider.

Lorain App. No. 16CA010926, 2017-Ohio-7788.

2017-1555. State v. Smith.

Franklin App. No. 16AP-772.

2017-1559. State v. Hoffman.

Mahoning App. No. 15 MA 0182, 2017-Ohio-8024.

DeGenaro, J., not participating.

2017-1560. State v. Hurt.

Miami App. No. 2016-CA-11, 2017-Ohio-5495.

2017-1561. State v. Schimmel.

Clark App. No. 2017-CA-23, 2017-Ohio-7747.

2017-1563. Williams v. Chrysler First Fin. Servs. Co.

Lucas App. No. L-17-1009, 2017-Ohio-7778.

2017-1565. Bond v. Halcon Energy Properties, Inc.

Mahoning App. No. 15 MA 0178, 2017-Ohio-7754.

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

Lisa L. Sadler, J., of the Tenth District Court of Appeals, sitting for DeGenaro, J.

2017-1569. State v. Gettings.

Mahoning App. No. 16 MA 0050, 2017-Ohio-7764.

DeGenaro, J., not participating.

2017-1570. State v. Kiser.

Sandusky App. No. S-15-030, 2017-Ohio-7799.

2017-1571. State v. Hendershot.

Muskingum App. No. CT2016-0061, 2017-Ohio-8112.

2017-1573. State v. Ladson.

Cuyahoga App. No. 104642, 2017-Ohio-7715.

DeGenaro, J., not participating.

2017-1577. Mt. Healthy v. Fraternal Order of Police, Ohio Labor Council, Inc.

Hamilton App. No. C-160765.

Fischer, J., not participating.

2017-1578. State v. White.

Scioto App. No. 16CA3747, 2017-Ohio-8087.

2017-1580. State v. Brisco.

Franklin App. No. 16AP-759, 2017-Ohio-8089.

2017-1581. State v. Maher.

Fayette App. No. CA2016-10-015, 2017-Ohio-7807.

2017-1584. OneWest Bank, FSB v. Wheeler.

Medina App. No. 16CA0026-M, 2017-Ohio-7925.

2017-1585. State v. Fayson.

Seneca App. No. 13-17-08, 2017-Ohio-7793.

2017-1587. State v. Gatlin.

Muskingum App. No. CT2016-0053, 2017-Ohio-7894.

2017-1591. State v. Harris.

Summit App. No. 28357, 2017-Ohio-7914.

2017-1595. State v. Kane.

Franklin App. No. 16AP-781, 2017-Ohio-7838.

2017-1596. Bolen v. Mohan.

Lorain App. No. 16CA011000, 2017-Ohio-7911.

2017-1597. Fox v. Huron City School Dist. Bd. of Edn.

Erie App. Nos. E-16-076 and E-16-077, 2017-Ohio-7984.

2017-1598. GMAC Bank v. Bradac.

Cuyahoga App. No. 105242, 2017-Ohio-7888.

Fischer, J., dissents and would accept the cause on proposition of law No. IV.

2017-1599. State ex rel. Sommers v. Perkins Local Schools Bd. of Edn.

Erie App. No. E-16-081, 2017-Ohio-7991.

O'Donnell, J., dissents.

2017-1600. State v. Hartman.

Montgomery App. No. 27162, 2017-Ohio-7933.

2017-1602. Silver Lining Group EIC Morrow Cty. v. Dept. of Edn. Autism Scholarship Program.

Franklin App. No. 16AP-398, 2017-Ohio-7834.

Kennedy, J., dissents.

2017-1603. State v. Murton.

Geauga App. No. 2016-G-0098, 2017-Ohio-7949.

2017-1604. State v. Spaulding.

Sandusky App. No. S-16-028, 2017-Ohio-7993.

2017-1605. State v. Robinson.

Washington App. No. 16CA33, 2017-Ohio-8274.

2017-1606. State v. Quinn.

Lucas App. No. L-17-1170, 2017-Ohio-8207.

2017-1607. Bank of New York Mellon v. Uballe.

Lucas App. No. L-15-1047, 2017-Ohio-7978.

2017-1608. Heather Lake Assn. v. Billiter.

Fairfield App. No. 17-CA-31, 2017-Ohio-8387.

2017-1611. Fid. Tax, L.L.C. v. Hall.

Franklin App. No. 16AP-720, 2017-Ohio-5604. Appellee's motion to dismiss appeal denied as moot.

French, J., not participating.

2017-1612. City Natl. Bank v. Gides.

Lake App. No. 2017-L-030, 2017-Ohio-7962.

2017-1613. State v. Barber.

Franklin App. No. 17AP-59, 2017-Ohio-7904.

O'Donnell, J., dissents.

2017-1616. Rollison v. Humility of Mary Health Partners.

Trumbull App. No. 2016-T-0090, 2017-Ohio-7959. Appellant's motion to substitute exhibit granted.

2017-1620. State v. Bello-Mancilla.

Franklin App. No. 16AP-787, 2017-Ohio-8003.

2017-1622. State v. Quinn.

Clark App. No. 2016-CA-64, 2017-Ohio-8107.

2017-1624. State v. Hopkins.

Erie App. No. E-10-027, 2011-Ohio-5908.

2017-1625. State v. Johnson.

Lucas App. No. L-16-1165, 2017-Ohio-8206.

2017-1632. State v. Brown.

Trumbull App. No. 2016-T-0105, 2017-Ohio-4241.

2017-1635. Dunning v. Varnau.

Brown App. No. CA2016-09-017, 2017-Ohio-7207.

2017-1650. State v. Carosiello.

Columbiana App. No. 15 CO 0017, 2017-Ohio-8160.

2017-1652. State v. Mason.

Cuyahoga App. No. 104533, 2017-Ohio-7065.

DeGenaro, J., not participating.

2017-1657. State v. Guerrero-Sanchez.

Montgomery App. No. 27327, 2017-Ohio-8185.

2017-1663. State v. White.

Franklin App. No. 12AP-1055, 2013-Ohio-2217.

2017-1696. State v. Crosby.

Lorain App. No. 16CA011019, 2017-Ohio-8349.

2017-1789. State v. Mink.

Lucas App. No. L-16-1144, 2017-Ohio-5689.

2017-1802. State v. Sowards.

Gallia App. No. 06CA13.

2018-0040. State v. Yuschak.

Medina App. No. 15CA0055-M, 2016-Ohio-8507.

2018-0048. State v. Craig.

Athens App. No. 15CA22, 2017-Ohio-4342.

2018-0072. State v. Potts.

Trumbull App. No. 95-T-5182.

2018-0075. In re C.M.

Athens App. Nos. 17CA16 and 17CA17, 2017-Ohio-9037.

RECONSIDERATION OF PRIOR DECISIONS

2015-0791. Notestine Manor, Inc. v. Logan Cty. Bd. of Revision.

Board of Tax Appeals, No. 2014-2543. Reported at __ Ohio St.3d __, 2018-Ohio-2, __ N.E.3d __. On motion for reconsideration. Motion denied.

O'Donnell and DeWine, JJ., dissent.