

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS

January 23, 2019

[Cite as *01/23/2019 Case Announcements, 2019-Ohio-169.*]

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## MERIT DECISIONS WITH OPINIONS

**2017-1778. *State v. Amos*, Slip Opinion No. 2019-Ohio-168.**

Hamilton App. Nos. C-160717 and C-160718, 2017-Ohio-8448. Cause dismissed as having been improvidently accepted.

French, Osowik, DeWine, Donnelly, and Stewart, JJ., concur.

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

Thomas J. Osowik, J., of the Sixth District Court of Appeals, sitting for Fischer, J.

## MERIT DECISIONS WITHOUT OPINIONS

**2018-0941. *State ex rel. DeBruyne v. Lucas Cty. Court of Common Pleas, Juvenile Div.***

In Prohibition. On consideration of the merits, there is an adequate remedy at law. Writ denied.

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

Kennedy, French, and Donnelly, JJ., dissent.

**2018-1214. *State ex rel. Capital Royalty Partners II, L.P. v. Serrott.***

In Prohibition. On respondent's motion to dismiss. Motion granted. Cause dismissed. Intervening respondent's motion for judgment on pleadings denied as moot.

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

**2018-1236. State ex rel. Hamilton v. Dept. of Health.**

In Mandamus. On respondent's motion to dismiss. Motion granted. Cause dismissed. Relator's motion for judicial notice denied.

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

**2018-1314. State ex rel. Shepherd v. Woods.**

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

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

**2018-1475. Baldwin-Nazarene v. Bank of Am.**

Miscellaneous case. On respondents' motion to dismiss. Motion granted. Cause dismissed.

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

**2018-1482. Baldwin-Nazarene v. Am. Express Fin. Servs.**

Miscellaneous case. On respondents' motion to dismiss. Motion granted. Cause dismissed.

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

**2018-1500. Baldwin-Nazarene v. KEMBA Credit Union.**

Miscellaneous case. On Sup.Ct.Prac.R. 12.04 determination. Cause dismissed.

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

**2018-1513. Baldwin v. BB & T Bank.**

Miscellaneous case. On respondent's motion to dismiss. Motion granted. Cause dismissed.

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

**2018-1514. Baldwin-Nazarene v. HSBC Headquarters N.A.**

Miscellaneous case. On respondents' motion to dismiss. Motion granted. Cause dismissed.

O'Connor, C.J., and Kennedy, French, Fischer, DeWine, Donnelly, and

Stewart, JJ., concur.

**2018-1543. State ex rel. Kerr v. Winters.**

In Prohibition. On respondent's motion to dismiss amended complaint. Motion granted. Cause dismissed.

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

**2018-1545. State ex rel. Higgins v. McCarty.**

In Mandamus and Procedendo. On respondent's motion for judgment on pleadings. Motion granted. Cause dismissed.

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

**2018-1556. Baldwin-Nazarene v. United Nations Headquarters.**

Miscellaneous case. On Sup.Ct.Prac.R. 12.04 determination. Cause dismissed.

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

**2018-1559. State ex rel. Nyamusevya v. Schneider.**

In Mandamus and Prohibition. On respondent's motion to dismiss. Motion granted. Cause dismissed. Relator's motions to provide and to stay final appealable default judgment, to hold in abeyance respondent's motion to dismiss, and to remove motion to hold in abeyance respondent's motion to dismiss, and request for alternative writ denied as moot.

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

**2018-1562. Baldwin-Nazarene v. Hamilton Cty. Courthouse.**

Miscellaneous case. On respondents' motion to dismiss. Motion granted. Cause dismissed.

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

**2018-1563. Baldwin-Nazarene v. Cincinnati Social Sec. Office.**

Miscellaneous case. On S.Ct.Prac.R. 12.04 determination. Cause dismissed.

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

**2018-1577. Baldwin v. Morgan Stanley Worldwide Headquarters.**

Miscellaneous case. On S.Ct.Prac.R. 12.04 determination. Cause dismissed.

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

**2018-1591. Baldwin-Nazarene v. Univ. of Cincinnati.**

Miscellaneous case. On respondents' motion to dismiss. Motion granted. Cause dismissed.

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

**2018-1594. State ex rel. Penland v. Cincinnati.**

In Mandamus. On respondents' motion to dismiss. Motion granted. Cause dismissed. Relator is awarded statutory damages under R.C. 149.73(C)(1) in the amount of \$400.00.

Kennedy, French, DeWine, Donnelly, and Stewart, JJ., concur.

O'Connor, C.J., concurs in granting the motion but dissents from the award of damages.

Fischer, J., not participating.

**2018-1597. Baldwin-Nazarene v. Cincinnati Bar Assn.**

Miscellaneous case. On respondents' motions to dismiss. Motions granted. Cause dismissed.

O'Connor, C.J., and Kennedy, French, DeWine, Donnelly, and Stewart, JJ., concur.

Fischer, J., not participating.

**2018-1600. Baldwin-Nazarene v. WCPO TV Station 9.**

Miscellaneous case. On respondent's motion to dismiss. Motion granted. Cause dismissed.

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

**2018-1602. Baldwin v. United Healthcare Community Plan.**

Miscellaneous case. On respondent's motion to dismiss. Motion granted. Cause dismissed.

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

**2018-1631. State ex rel. Carr v. Dayton Police Dept.**

In Mandamus. 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.

Kennedy, French, DeWine, and Stewart, JJ., concur.

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

**2018-1660. Sweeting v. Dinkelacker.**

In Mandamus and Prohibition. On respondents' motion to dismiss. Motion granted. Cause dismissed. Relator's motion in opposition denied as moot.

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

## **MOTION AND PROCEDURAL RULINGS**

**2000-1540. State v. Hutton.**

Cuyahoga App. No. 51704. On motion for relief pursuant to S.Ct.Prac.R. 4.01. Motion denied.

**2018-0609. State ex rel. Freed v. Drexel.**

In Mandamus. On relator's motions for Ohio Constitution, Article IV, Section 2(C) "Reasons Therefor," to reverse denial of due process, to withdraw or strike erroneous filing, and for judicial notice. Motions denied.

French, DeWine, and Stewart, JJ., would grant relator's motion to strike erroneous filing.

**2018-0794. Willacy v. Cleveland Bd. of Income Tax Rev.**

Franklin App. No. 18AP-352 and Board of Tax Appeals, No. 2017-513. On appellees' motion to strike. Motion granted in part, as to page 35 from appellant's supplement and direct references to it in the brief, and denied in all other respects.

**2018-1218. State ex rel. Britford v. Schneider.**

In Mandamus. On relator's motion for supplementation of the record pursuant to S.Ct.Prac.R. 15.08. Motion denied.

**2018-1592. State v. Faggs.**

Delaware App. No. 17 CAA 10 0072, 2018-Ohio-3643. 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 3 of the court of appeals' judgment entry filed November 2, 2018:

“In a criminal prosecution of a parent (or an adult acting in loco parentis) for domestic violence under R.C. 2919.25(A), where the defendant's acts relate to corporal punishment of a child, does the State bear a burden to prove unreasonable parental discipline, or is reasonable parental discipline in the nature of an affirmative defense?”

The conflict case is *State v. Rosa*, 2013-Ohio-5867, 6 N.E.3d 57 (7th Dist.).

Sua sponte, cause consolidated with 2018-1501, *State v. Faggs*, and briefing in case Nos. 2018-1501 and 2018-1592 shall be consolidated. The parties shall file two originals of each of the briefs permitted under S.Ct.Prac.R. 16.02 through 16.04 and include both case numbers on the cover page 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., and French, J., dissent.

**2018-1670. State v. Weber.**

Fairfield App. No. 17-CA-36, 2018-Ohio-3174. On review of an order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause held for the decision in 2018-0012, *State v. Hitchcock*, and briefing schedule stayed.

Fischer, J., would not hold the cause.

French, J., dissents.

William J. Klatt, J., of the Tenth District Court of Appeals, sitting for Stewart, J.

**2018-1718. State v. Lee.**

Ashtabula App. No. 2018-A-0009, 2018-Ohio-4376. On review of an order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause held for the decision in 2018-1348, *State v. Pendleton*, and briefing schedule stayed. Sua sponte, cause consolidated with 2018-1585, *State v. Lee*.

**APPEALS ACCEPTED FOR REVIEW**

**2018-1501. State v. Faggs.**

Delaware App. No. 17 CAA 10 0072, 2018-Ohio-3643. Sua sponte, cause consolidated with 2018-1592, *State v. Faggs*, and briefing in case Nos. 2018-1501 and 2018-1592 shall be consolidated. The parties shall file two originals of each of

the briefs permitted under S.Ct.Prac.R. 16.02 through 16.04 and include both case numbers on the cover page 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., and French and DeWine, JJ., dissent.

**2018-1585. State v. Lee.**

Ashtabula App. No. 2018-A-0009, 2018-Ohio-4376. Sua sponte, cause held for the decision in 2018-1348, *State v. Pendleton*, and briefing schedule stayed. Sua sponte, cause consolidated with 2018-1718, *State v. Lee*.

**APPEALS NOT ACCEPTED FOR REVIEW**

**2018-1350. State v. Weber.**

Fairfield App. No. 17-CA-36, 2018-Ohio-3174.

Kennedy, DeWine, and Donnelly, JJ., dissent, and would accept the appeal and hold the cause for the decision in 2018-0012, *State v. Hitchcock*.

William J. Klatt, J., of the Tenth District Court of Appeals, sitting for Stewart, J.