

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

August 21, 2019

[Cite as *08/21/2019 Case Announcements*, 2019-Ohio-3263.]

MERIT DECISIONS WITH OPINIONS

2018-0159. Cleveland Metro. Bar Assn. v. Austin, Slip Opinion No. 2019-Ohio-3325.

On Certified Report by the Board of Professional Conduct, No. 2017-067. Respondent, Rebecca Jo Austin, Attorney Registration No. 0088694, last known address in Lakewood, Ohio, indefinitely suspended from the practice of law with credit for time served under interim default suspension.

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

O'Connor, C.J., and Fischer, J., would not award credit for time served under the interim default suspension.

2019-0245. Ohio State Bar Assn. v. Doheny, Slip Opinion No. 2019-Ohio-3326.

On Certified Report by the Board of Unauthorized Practice of Law, No. UPL 17-02. Respondent, Donald A. Doheny, enjoined from engaging in the unauthorized practice of law in Ohio and civil penalty imposed.

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

MERIT DECISIONS WITHOUT OPINIONS

2019-0419. State ex rel. Ullmann v. Mingo.

In Mandamus, Prohibition, and Procedendo. On respondents' motion to dismiss. Motion denied. Sua sponte, cause dismissed as to mandamus actions against

respondents Mayor Andrew Ginther and Judge Stephanie Mingo and as to prohibition and procedendo actions against Judge Mingo. Relator's motions to correct caption and for leave to file amended affidavit granted. Relator's motion to determine conflict of interest among respondents denied.

Alternative writ as to mandamus action against respondent City Attorney Zach Klein granted. The following briefing schedule is set for the 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, DeWine, Donnelly, and Stewart, JJ., concur.

2019-0537. State ex rel. Dudas v. Lucci.

In Prohibition. On respondent's motion to dismiss. Motion denied. Sua sponte, cause dismissed for failure to state a claim in prohibition. Relator's motion to strike respondent's motion to dismiss denied as moot. Respondent's motion for leave to amend motion to dismiss denied as moot.

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

Donnelly, J., not participating.

2019-0591. State ex rel. Mapp v. Butler Cty. Court of Common Pleas.

In Mandamus and Prohibition. On Butler County respondents' motion to dismiss. Motion granted. Cause dismissed.

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

2019-0623. Dixon v. Mohr.

In Mandamus. On motion to dismiss of the state of Ohio and respondents Inspector Burkhardt, Lieutenant Bennett, and Warden Bowerman. Motion granted. Motions for leave, to correct addresses, to amend the complaint, and "to change address for some defendants" denied as moot. Cause dismissed.

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

2019-0653. State ex rel. Cook v. Ninth Dist. Court of Appeals.

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

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

2019-0710. State ex rel. Myers v. Ohio Gen. Assembly.

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.

2019-0712. State ex rel. Carr v. Muenchenbach.

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

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

2019-0741. State ex rel. Chubb v. McIntosh.

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

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

2019-0751. State ex rel. Alexander v. Pratt.

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

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

2019-0755. State ex rel. Simpson v. Hamilton Cty. Court of Common Pleas.

In Mandamus. On respondent's motion to dismiss. Motion granted. Relator's motions to amend, to strike, and for appointment of counsel denied. Cause dismissed.

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

Fischer, J., not participating.

2019-0756. State ex rel. Spehar v. Eleventh Dist. Court of Appeals.

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

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

2019-0765. McElroy v. Mohr.

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

O'Connor, C.J., and Kennedy, Klatt, and DeWine, JJ., concur.

French, Donnelly, and Stewart, JJ., dissent.

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

2019-0794. State ex rel. Carter v. Allen Cty. Court of Common Pleas.

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

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

2019-0799. State ex rel. Lloyd v. Pokorny.

In Mandamus. On relator's emergency motion for issuance of peremptory writ and/or alternative writ. Motion denied. Sua sponte, cause dismissed.

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

2019-0825. West v. Erdos.

In Habeas Corpus. Sua sponte, cause dismissed.

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

2019-0829. In re Hall.

In Habeas Corpus. Sua sponte, cause dismissed.

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

2019-0831. Ball v. Wood Cty. Justice Ctr.

In Habeas Corpus. Motion to grant relief denied. Sua sponte, cause dismissed.

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

Donnelly, J., dissents and would order a return setting forth justification for the refusal to provide a medically necessary diet.

2019-0849. Carman v. Pinkney.

In Habeas Corpus. Sua sponte, cause dismissed.

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

2019-0895. Gaston v. Weisenburger.

In Habeas Corpus. Relator’s notices “of petition injunction” and of change of venue denied. Sua sponte, cause dismissed.

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

2019-0950. State ex rel. Evans v. Adult Parole Auth.

In Habeas Corpus. Sua sponte, cause dismissed.

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

MOTION AND PROCEDURAL RULINGS

2018-1099. State ex rel. Guilfoyle v. Indus. Comm.

Franklin App. No. 17AP-408, 2018-Ohio-2412. Sua sponte, appellant Industrial Commission ordered to show cause within seven days why its appeal should not be dismissed as moot in light of the settlement referred to in the application for dismissal filed in this case on February 28, 2019, by appellant Big Lots, Inc. Appellee, Dolores J. Guilfoyle, may file a response within seven days of the filing of the Industrial Commission’s response.

2018-1416. State ex rel. Navistar, Inc. v. Indus. Comm.

Franklin App. No. 16AP-776, 2018-Ohio-3386. Appellant, Navistar, Inc., ordered to show cause within 14 days why its appeal should not be dismissed as moot. Appellees may file a response within seven days of the filing of Navistar’s response.

2019-0020. In re Application of Dayton Power & Light Co.

Public Utilities Commission, Nos. 16-0395-EL-SSO, 16-0396-EL-ATA, and 16-0397-EL-AAM. Sua sponte, cause held for the decision in 2018-1396, *In re Application of Ohio Power Co.*

Kennedy, J., dissents.

2019-0318. State v. Clyde.

Erie App. No. E-18-016, 2019-Ohio-302. On appellant’s request for records. Request denied.

Donnelly, J., concurs and clarifies for appellant that there is no opinion to provide given that the members of this court generally do not release opinions explaining their votes to deny or accept an appeal.

2019-0737. State v. Brown.

Greene App. No. 2018-CA-29, 2019-Ohio-1666. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue as stated in paragraph 12 of the court of appeals' decision: "May a child support obligor be prosecuted for failure to pay child support under R.C. 2919.21(B) where a child support order was in place for the time period specified in the charging document, but the charging document was filed after the child for whom support was owed had been emancipated and the child support obligation had terminated?" The conflict case is *State v. Hubbard*, 2018-Ohio-3627, 119 N.E.3d 798 (11th Dist.).

O'Connor, C.J., dissents.

2019-0752. State ex rel. Kerr v. Pollex.

Wood App. No. WD-19-005, 2019-Ohio-1725. On appellees' motion to dismiss. Motion denied.

2019-0788. State v. Anderson.

Lucas App. No. L-18-1110, 2019-Ohio-1915. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause held for the decision in 2017-1703, *State v. Dangler*, and briefing schedule stayed.

French, J., dissents.

2019-0847. Ettayem v. Ramsey.

Franklin App. No. 17AP-155, 2019-Ohio-675. On appellant's motion to stay. Motion denied.

Kennedy and Donnelly, JJ., dissent.

2019-0882. State v. Nixon.

Portage App. Nos. 2019-P-0028 and 2019-P-0029, 2019-Ohio-1955. On appellant's motion for stay. Motion denied.

2019-0963. Bechtel v. Cornachio.

In Prohibition. On emergency motions for stay and for expedited alternative writ. Motions denied.

APPEALS ACCEPTED FOR REVIEW

2019-0617. State v. Berry.

Cuyahoga App. No. 106415, 2018-Ohio-4855.

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

2019-0659. State v. Willingham.

Cuyahoga App. Nos. 106706 and 107033, 2019-Ohio-1892. Appellant's motion to consolidate with case No. 2019-0900 granted.

French and Donnelly, JJ., dissent and would not accept the appeal.

2019-0900. State v. Willingham.

Cuyahoga App. Nos. 106706 and 107033, 2019-Ohio-1892. Appellant's motion to consolidate with case No. 2019-0659 granted.

French, J., would accept the cause on proposition of law No. I only.

Donnelly, J., dissents and would not accept the appeal.

APPEALS NOT ACCEPTED FOR REVIEW

2019-0656. Women's Med. Ctr. of Dayton v. Dept. of Health.

Montgomery App. No. 28132, 2019-Ohio-1146.

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

2019-0738. State v. Barnes.

Cuyahoga App. No. 108601. Appellant's motion for stay denied.

O'Connor, C.J., and French and Stewart, JJ., dissent and would accept the appeal.