

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

December 30, 2020

[Cite as *12/30/2020 Case Announcements*, 2020-Ohio-6834.]

MERIT DECISIONS WITH OPINIONS

2019-1411. *State v. Anderson*, Slip Opinion No. 2020-Ohio-6910.

Lorain App. No. 18CA011376, 2019-Ohio-3534. Judgment reversed and cause remanded for entry of a sentence that conforms with *State v. Chapman*, __ Ohio St.3d __, 2020-Ohio-6730, __ N.E.3d __.

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

2019-1646. *State v. Adams*, Slip Opinion No. 2020-Ohio-6911.

Cuyahoga App. No. 108083, 2019-Ohio-4259. Cause dismissed as having been improvidently accepted.

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

Donnelly, J., dissents and would order briefing.

Stewart, J., not participating.

MERIT DECISIONS WITHOUT OPINIONS

2020-0464. *State ex rel. Berlingeri v. Sehlmeier*.

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

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

Kennedy, J., dissents and would grant an alternative writ.

2020-0821. State ex rel. Cox v. Youngstown Civ. Serv. Comm.

In Mandamus and Procedendo. On relators' application for determination of additional security. Application denied as moot. Relators' motion to strike denied. Respondents' motion for judgment on the pleadings granted as to Count 3 and denied as to Counts 1 and 2 of relator's amended complaint.

Sua sponte, alternative writ granted. The following 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, relators shall file a brief within 10 days after the filing of the evidence, respondents shall file a brief within 20 days after the filing of relators' brief, and relators may file a reply brief within 7 days after the filing of respondents' brief. Because relator Michael R. Cox lacks standing to bring a taxpayer action in support of Count 1, the parties shall not address the merits of the taxpayer action in briefing Count 1.

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

2020-1160. Ajamu v. Metz.

In 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.

2020-1170. State ex rel. Townsend v. Kilbane.

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

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

French, J., not participating.

2020-1179. State ex rel. Robinson v. Summit Cty. Court of Common Pleas.

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

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

2020-1212. McElroy v. Chambers-Smith.

In Mandamus. On respondents' motions to dismiss. Motions granted.

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

French and Fischer, JJ., not participating.

2020-1217. State ex rel. Kerr v. Collier.

In Mandamus. On relator's notice of dismissal. Cause dismissed without prejudice.

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

2020-1229. Cole v. Summit Cty. Court of Common Pleas.

In Mandamus. On respondent's motion to dismiss. Motion granted. Relator's motion to strike denied. Relator's motion to proceed denied as moot. Respondent's request to strike denied and request to declare relator a vexatious litigator granted. Cause dismissed.

Fischer and Stewart, JJ., concur.

O'Connor, C.J., and Kennedy and Donnelly, JJ., would deny respondent's request to declare relator a vexatious litigator.

French and DeWine, JJ., would grant respondent's request to strike.

2020-1240. State ex rel. Williams v. Chambers-Smith.

In Mandamus. On respondent's motion to dismiss. Motion granted. No filing fee is required. Cause dismissed.

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

French, J., not participating.

2020-1249. State ex rel. Shabazz v. McCormick.

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.

MOTION AND PROCEDURAL RULINGS

2018-1585 and 2018-1718. State v. Lee.

Ashtabula App. No. 2018-A-0009, 2018-Ohio-4376. Sua sponte, cause no longer held for the decision in 2018-1348, *State v. Pendleton*, and stay of briefing schedule lifted. The clerk shall issue an order for the transmittal of the record from the Court of Appeals for Ashtabula County, and the parties shall brief this case in accordance with the Rules of Practice of the Supreme Court of Ohio.

2019-0912. State v. Grevious.

Butler App. No. CA2018-05-093, 2019-Ohio-1932. Sua sponte, cause no longer held for the decision in 2019-1103, *State v. Kinney*, and stay of briefing schedule lifted. The clerk shall issue an order for the transmittal of the record from the Court of Appeals for Butler County, and the parties shall brief this case in accordance with the Rules of Practice of the Supreme Court of Ohio.

2019-1215. State v. Philpotts.

Cuyahoga App. No. 107374, 2019-Ohio-2911. Sua sponte, cause no longer held for the decision in 2019-0544, *State v. Weber*, and stay of briefing schedule lifted. The clerk shall issue an order for the transmittal of the record from the Court of Appeals for Cuyahoga County, and the parties shall brief this case in accordance with the Rules of Practice of the Supreme Court of Ohio.

2020-0197. Senterra, Ltd. v. Winland.

Belmont App. No. 18 BE 0051, 2019-Ohio-5458. Sua sponte, cause no longer held for the decision in 2019-1494, *West v. Bode*, and stay of briefing schedule lifted. The clerk shall issue an order for the transmittal of the record from the Court of Appeals for Belmont County, and the parties shall brief the cross-appeal in this case in accordance with the Rules of Practice of the Supreme Court of Ohio.

Fischer and DeWine, JJ., dissent and would dismiss the cross-appeal as having been improvidently accepted.

2020-0368. State v. Jones.

Hamilton App. No. C-170647, 2020-Ohio-281. On appellee's motion to dismiss appeal as improvidently accepted. Motion denied.

French and Donnelly, JJ., dissent.

2020-0405. AKC, Inc. v. United Specialty Ins. Co.

Summit App. No. 2919, 2020-Ohio-2809. On appellee's motion to dismiss as improvidently accepted. Motion denied.

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

2020-0433. Richmond Mill, Inc. v. Ferraro.

Jefferson App. No. 18 JE 0015, 2020-Ohio-585. Sua sponte, cause no longer held for the decision in 2019-1494, *West v. Bode*, and stay of briefing schedule lifted. The clerk shall issue an order for the transmittal of the record from the Court of Appeals for Jefferson County, and the parties shall brief this case on proposition of law No. II of the appeal and on the cross-appeal in accordance with the Rules of Practice of the Supreme Court of Ohio.

2020-0508. State v. Metz.

Cuyahoga App. Nos. 107212, 107261, 107259, and 107246, 2019-Ohio-4054. On appellees Anthony Metz, Anthony Bergant, and Justin Browning’s motion for stay or, in the alternative, to dismiss appeal as improvidently granted. Motion denied.

Fischer and Stewart, JJ., would grant the request for a stay.

2020-0773. Fonzi v. Brown.

Monroe App. No. 19 MO 0012, 2020-Ohio-3631. Sua sponte, cause no longer held for the decision in 2019-1123, *Gerrity v. Chervenak*, and stay of briefing schedule lifted. The clerk shall issue an order for the transmittal of the record from the Court of Appeals for Monroe County, and the parties shall brief this case on proposition of law Nos. II through V in accordance with the Rules of Practice of the Supreme Court of Ohio.

2020-0812. Peppertree Farms, L.L.C. v. Thonen.

Stark App. No. 2019CA00159, 2020-Ohio-3042. Sua sponte, cause no longer held for the decision in 2019-1494, *West v. Bode*, and stay of briefing schedule lifted. The clerk shall issue an order for the transmittal of the record from the Court of Appeals for Stark County, and the parties shall brief this case on proposition of law No. I in accordance with the Rules of Practice of the Supreme Court of Ohio.

DeWine, J., dissents and would dismiss the appeal as having been improvidently accepted.

2020-0814. Peppertree Farms, L.L.C. v. Thonen.

Stark App. No. 2019CA00161, 2020-Ohio-3043. Sua sponte, cause no longer held for the decision in 2019-1494, *West v. Bode*, and stay of briefing schedule lifted. The clerk shall issue an order for the transmittal of the record from the Court of Appeals for Stark County, and the parties shall brief this case on proposition of law Nos. II and III in accordance with the Rules of Practice of the Supreme Court of Ohio.

DeWine, J., dissents and would dismiss the appeal as having been improvidently accepted.

2020-0823. State ex rel. Johnstone v. Cincinnati.

Hamilton App. No. C-190263. On appellant’s motion for relief. Motion granted. Appellant shall submit his merit brief within 10 days, and the briefing in this case shall proceed as provided by S.Ct.Prac.R. 16.01 through 16.04.

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

2020-0861. Fonzi v. Miller.

Monroe App. No. 19 MO 0011, 2020-Ohio-3739. Sua sponte, cause no longer held for the decision in 2019-1123, *Gerrity v. Chervenak*, proposition of law No. VI dismissed as improvidently accepted, and stay of briefing schedule lifted. The clerk shall issue an order for the transmittal of the record from the Court of Appeals for Monroe County, and the parties shall brief this case on proposition of law Nos. II through V in accordance with the Rules of Practice of the Supreme Court of Ohio.

2020-1250. State v. Brooks.

Richland App. No. 2019 CA 0104, 2020-Ohio-4123. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue as stated on page 4 of the court of appeals' October 8, 2020 entry: "Does legislation that shifts the burden of proof on self-defense to the prosecution (2018 H.B. 228, eff. March 28, 2019) apply to all subsequent trials even when the alleged offenses occurred prior to the effective date of the act?" The conflict case is *State v. Gloff*, 2020-Ohio-3143, 155 N.E.3d 42 (12th Dist.). Sua sponte, cause consolidated with 2020-1189, *State v. Brooks*.

2020-1259. Masjid Omar Ibn Khattab Mosque v. Salim.

Franklin App. No. 19AP-632. On appellants' motion for immediate stay and referral to mediation. Motion denied. Appellee's requests for expedited ruling and for sanctions denied.

Donnelly and Stewart, JJ., would grant the request for a stay.

French, J., dissents.

2020-1271. State v. Burke.

Henry App. Nos. 07-19-09 and 07-19-10. On appellant's motion for stay. Motion granted.

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

2020-1356. State v. Watkins.

Franklin App. No. 20AP-313, 2020-Ohio-5203. On appellant's motion for emergency stay pending appeal. Motion granted.

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

2020-1372. State v. Poteet.

Columbiana App. No. 19 CO 0030, 2020-Ohio-4732. On appellant's motion for stay of court of appeals' judgment. Motion granted.

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

2020-1439. State ex rel. Campus Health Servs., Inc. v. Russo.

Cuyahoga App. No. 110003, 2020-Ohio-5436. On appellants' amended motion for stay of court of appeals' judgment. Motion fails for want of four votes.

Kennedy, French, and Fischer, JJ., would grant the motion.

Donnelly, J., not participating.

APPEALS ACCEPTED FOR REVIEW

2020-1189. State v. Brooks.

Richland App. No. 2019 CA 0104, 2020-Ohio-4123. Appeal accepted on proposition of law No. I. Sua sponte, cause consolidated with 2020-1250, *State v. Brooks*.

Kennedy and Stewart, JJ., would accept the appeal on both propositions of law.

Fischer, J., dissents.