

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

February 6, 2008

[Cite as *02/06/2008 Case Announcements, 2008-Ohio-381.*]

MERIT DECISIONS WITH OPINIONS

2006-2340 and 2007-0121. Al Minor & Assoc., Inc. v. Martin, Slip Opinion No. 2008-Ohio-292.

Franklin App. No. 06AP-217, 2006-Ohio-5948. Judgment affirmed.

Moyer, C.J., and Pfeifer, Lundberg Stratton, O'Connor, O'Donnell, Lanzinger, and Cupp, JJ., concur.

2006-2343. Stevens v. Radey, Slip Opinion No. 2008-Ohio-291.

Cuyahoga App. Nos. 87273 and 87274, 2006-Ohio-5579. Judgment reversed.

Moyer, C.J., and Pfeifer, Lundberg Stratton, O'Connor, O'Donnell, Lanzinger, and Cupp, JJ., concur.

2007-1560. Barber v. Moore, Slip Opinion No. 2008-Ohio-293.

Warren App. No. CA2007-06-077. Judgment affirmed.

Moyer, C.J., and Pfeifer, Lundberg Stratton, O'Connor, O'Donnell, Lanzinger, and Cupp, JJ., concur.

MERIT DECISIONS WITHOUT OPINIONS

2007-2212. State ex rel. Martin v. Chief Inspector.

In Mandamus. On answer of respondent. On S.Ct.Prac.R. X(5) determination, cause dismissed.

Moyer, C.J., and Pfeifer, Lundberg Stratton, O'Connor, O'Donnell, Lanzinger, and Cupp, JJ., concur.

2007-2245. Everest Indemn. Ins. Co. v. Sinclair.

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

Moyer, C.J., and Pfeifer, O'Connor, O'Donnell, Lanzinger, and Cupp, JJ., concur.

Lundberg Stratton, J., dissents and would grant an alternative writ.

Motion for admission pro hac vice of Stephen P. Brown by Jerome G. Wyss granted.

MOTION AND PROCEDURAL RULINGS

1992-1246. State v. Richard.

Cuyahoga App. No. 57664. On motion to vacate the court's order of October 28, 1992. Motion denied.

2007-2331. State v. Hayes.

Franklin App. No. 06AP-290, 2007-Ohio-3056. On motion for leave to file delayed appeal. Motion denied.

Cupp, J., dissents.

2007-2344. State v. Williams.

Hamilton App. Nos. C-060631 and C-060668, 2007-Ohio-5577. On motion for leave to file delayed appeal. Motion granted.

O'Connor, Lanzinger, and Cupp, JJ., dissent.

2007-2352. State v. Baiduc.

Geauga App. No. 2006-G-2711, 2007-Ohio-4963. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, Lundberg Stratton, and Cupp, JJ., dissent.

2007-2359. State v. Brown.

Allen App. No. 1-05-11, 2005-Ohio-6177. On motion for leave to file delayed appeal. Motion denied.

2007-2387. State v. Christian.

Cuyahoga App. No. 79789. On motion for leave to file delayed appeal. Motion denied.

Lundberg Stratton, J., dissents.

2007-2399. State v. Jones.

Hamilton App. No. C-070083. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

2007-2408. State v. Nixon.

Muskingum App. No. CT2007-0043. On motion for leave to file delayed appeal. Motion denied.

Lundberg Stratton, J., dissents.

2007-2409. State v. Cobb.

Guernsey App. Nos. 06-CA-25 and 06-CA-26, 2007-Ohio-4243. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, Lundberg Stratton, and Cupp, JJ., dissent.

2007-2410. State v. Clark.

Hamilton App. No. C-060848. On motion for leave to file delayed appeal. Motion denied.

Cupp, J., dissents.

2007-2412. State v. Monroe.

Franklin App. No. 06AP-554. On motion for leave to file delayed appeal. Motion denied.

2007-2426. State v. Sessler.

Crawford App. No. 3-06-23, 2007-Ohio-4931. On review of 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' Journal Entry filed November 30, 2007:

“Is the holding in *State v. Pelfrey*, 112 Ohio St.3d 422, applicable to charging statutes that contain separate sub-parts with distinct offense levels?”

O'Connor, O'Donnell, and Lanzinger, JJ., dissent.

The conflict case is *State v. Kepiro*, Franklin App. No. 06AP-1302, 2007-Ohio-4593.

Sua sponte, cause consolidated with 2007-2030, *State v. Sessler*, Crawford App. No. 3-06-23, 2007-Ohio-4931.

2007-2428. Masek v. Marroulis.

Trumbull App. No. 2007-T-0034, 2007-Ohio-6159. On motion for stay of court of appeals' judgment. Motion denied.

2008-0035. State v. Frye.

Ashtabula App. No. 2007-A-0023, 2007-Ohio-6941. On motion for stay of court of appeals' judgment. Motion denied.

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

2008-0045. State v. Hatfield.

Ashtabula App. No. 2006-A-0033, 2007-Ohio-7130. On motion for stay of court of appeals' judgment. Motion granted.

Pfeifer, O'Donnell, and Cupp, JJ., dissent.

2008-0061. Atelier Dist., LLC v. Parking Co. of Am., Inc.

Franklin App. No. 07AP-87, 2007-Ohio-7138. On motion for stay of court appeals' judgment. Motion denied.

Lundberg Stratton, J., dissents.

APPEALS ACCEPTED FOR REVIEW

2007-1865. State v. Aleshire.

Licking App. No. 2007-CA-1, 2007-Ohio-4446. Discretionary appeal accepted on Proposition of Law No. II; cause held for the decision in 2006-1973, *State v. Sarkozy*, Cuyahoga App. No. 86952, 2006-Ohio-3977; and briefing schedule stayed.

Moyer, C.J., would also accept the appeal on Proposition of Law No. I.

Lundberg Stratton and O'Connor, JJ., would also accept the appeal on Proposition of Law Nos. I, III, IV, and V.

Pfeifer, O'Donnell, and Cupp, JJ., dissent.

2007-1913. Reeder v. Knuckles.

Clermont App. No. CA2006-11-095, 2007-Ohio-4541.

Pfeifer, Lanzinger, and Cupp, JJ., dissent.

2007-1965. State v. Matthews.

Hamilton App. Nos. C-060669 and C-060692, 2007-Ohio-4881. Discretionary appeal accepted; cause held for the decision in 2007-0595 and 2007-0651, *State v. Cabrales*, Hamilton App. No. C-050682, 2007-Ohio-857; and briefing schedule stayed.

2007-1980. Young v. Univ. of Akron.

Franklin App. No. 06AP-1022, 2007-Ohio-4663.

O'Donnell, Lanzinger, and Cupp, JJ., dissent.

2007-2030. State v. Sessler.

Crawford App. No. 3-06-23, 2007-Ohio-4931. Discretionary appeal accepted and cause consolidated with 2007-2426, *State v. Sessler*, Crawford App. No. 3-06-23, 2007-Ohio-4931.

O'Connor, J., dissents.

2007-2111. State v. Babb.

Summit App. No. 23631, 2007-Ohio-5102. Discretionary appeal accepted on Proposition of Law No. I; cause held for the decision in 2007-1703, *State v. Kalish*, Lake App. No. 2006-L-093, 2007-Ohio-3850; and briefing schedule stayed.

APPEALS NOT ACCEPTED FOR REVIEW

2007-1724. State v. Dotson.

Clark App. No. 06-CA-45, 2007-Ohio-4078.

2007-1853. Carlisle v. Martz Concrete Co.

Warren App. No. CA2006-06-067, 2007-Ohio-4362.

2007-1867. State v. Blackman.

Cuyahoga App. No. 88608, 2007-Ohio-4168.

2007-1868. State v. Howard.

Clark App. No. 07CA0003, 2007-Ohio-4334.

2007-1872. State v. Strozier.

Montgomery App. No. 21746, 172 Ohio App.3d 780, 2007-Ohio-4575.

O'Connor, J., dissents.

2007-1879. State v. Mallin.

Ottawa App. No. OT-06-040, 2007-Ohio-4476.

2007-1903. State v. Roman.

Mahoning App. No. 06-MA-32, 2007-Ohio-5243.

Moyer, C.J., and O'Connor, J., dissent and would accept the appeal and hold the cause for the decision in 2007-0656 and 2007-0657, *State v. Veney*, Franklin App. No. 06AP-523, 2007-Ohio-1295.

2007-1915. State v. Smith.

Ashtabula App. No. 2006-A-0082, 2007-Ohio-4772. Discretionary appeal not accepted. Motion to dismiss denied as moot.

2007-1921. State v. Alley.

Portage App. No. 2006-P-0070, 2007-Ohio-4483.

2007-1927. Jeffery v. Jeffery.

Wayne App. No. 06CA0046, 2007-Ohio-4482.

O'Connor, J., dissents.

2007-1929. Banez v. Banez.

Stark App. No. 2006CA00216, 2007-Ohio-4584.

O'Donnell, J., dissents and would accept the appeal on Proposition of Law No. I.

2007-1933. State v. Murphy.

Butler App. No. CA2006-06-143, 173 Ohio App.3d 221, 2007-Ohio-4535.

2007-1935. State v. Reyes.

Mercer App. No. 10-07-18.

2007-1937. In re Kitzmiller.

Licking App. No. 2006-CA-00147, 2007-Ohio-4565.

O'Donnell, J., dissents.

2007-1938. State v. Keith.

Allen App. No. 1-06-53, 2007-Ohio-4632.

2007-1940. State v. Harris.

Adams App. No. 07CA836, 2007-Ohio-4660.

2007-1944. State v. Orwick.

Hancock App. No. 5-06-59, 2007-Ohio-4488.

Cupp, J., not participating.

2007-1945. State v. Pina.

Hancock App. No. 5-06-55, 2007-Ohio-4486.

Moyer, C.J., dissents and would accept the appeal and hold the cause for the decision in 2007-1415, *State v. Mosmeyer*, Hamilton App. No. C-060747.

Lanzinger, J., dissents and would accept the appeal on Proposition of Law No. I and hold the cause for the decision in 2007-1415, *State v. Mosmeyer*.
Cupp, J., not participating.

2007-1948. Djukic v. Turner.

Cuyahoga App. No. 88849, 2007-Ohio-4433.

2007-1966. Fuller v. Anderson.

Lorain App. No. 07CA009210.

2007-1970. State v. Thurman.

Cuyahoga App. No. 88898, 2007-Ohio-4676.

2007-1971. State v. Rarden.

Butler App. No. CA2006-08-202.

2007-1974. Cleveland v. Assad.

Franklin App. No. 07AP-152, 2007-Ohio-4672.

2007-1976. Bacon v. Fowlers Mill Inn & Tavern.

Geauga App. No. 2007-G-2753, 2007-Ohio-4958.

O'Donnell, J., dissents.

2007-1977. Wainscott v. Americare Communities Anderson Dev., LLC.

Butler App. No. CA2006-12-308, 2007-Ohio-4735.

O'Donnell, J., dissents.

2007-1979. Miami Valley Hosp. v. Purvis.

Montgomery App. No. 21740, 2007-Ohio-4721.

2007-1981. State v. Hakim.

Cuyahoga App. No. 88971, 2007-Ohio-5339.

2007-1983. Thompson v. Ohio State Univ. Hosp.

Franklin App. No. 06AP-1117, 2007-Ohio-4668.

2007-1986. State v. Byrd.

Cuyahoga App. No. 88570, 2007-Ohio-3533.

Moyer, C.J., dissents.

2007-1988. State v. McBride.

Ashland App. No. 06COA037, 2007-Ohio-4683.
O'Donnell, J., dissents.

2007-1991. State v. Hosier.

Morgan App. No. CA-06-015, 2007-Ohio-5294.

2007-1992. State v. Lathan.

Lucas App. No. L-06-1239, 2007-Ohio-5596.
Lanzinger, J., not participating.

2007-1993. State v. Williams.

Cuyahoga App. No. 88737, 2007-Ohio-5073.

2007-1995. State v. Walker.

Franklin App. No. 06AP-810, 2007-Ohio-4666.

2007-1998. Toledo v. Ohio Council 8.

Lucas App. No. L-07-1045, 2007-Ohio-4899.

2007-2000. Gibbs v. Zadikoff.

Hamilton App. No. C-060869, 2007-Ohio-4883.
Pfeifer, J., dissents.

2007-2001. Aria's Way, LLC v. Concord Twp. Bd. of Zoning Appeals.

Lake App. No. 2006-L-234, 173 Ohio App.3d 73, 2007-Ohio-4776.
Moyer, C.J., and O'Connor, J., dissent.

2007-2002. State v. Archibald.

Lake App. No. 2006-L-047, 2007-Ohio-4966.
Pfeifer, J., dissents.

2007-2005. State v. Miller.

Auglaize App. No. 2-07-02, 2007-Ohio-4744.

2007-2006. State v. Baird.

Mahoning App. No. 06 MA 53, 2007-Ohio-4991.

2007-2009. State v. Sutton.

Cuyahoga App. No. 89153, 2007-Ohio-4852.

2007-2011. Callos Professional Emp., LLC v. Greco.

Mahoning App. No. 06 MA 172, 2007-Ohio-4983.

2007-2016. State v. Sowards.

Gallia App. No. 06CA13, 2007-Ohio-4863.

Moyer, C.J., dissents and would accept the appeal on Proposition of Law Nos. II and III.

2007-2017. State v. Adams.

Mahoning App. No. 06 MA 179, 2007-Ohio-5352.

2007-2018. State v. Gragg.

Fayette App. No. CA2006-09-038, 173 Ohio App.3d 270, 2007-Ohio-4731.

2007-2022. Young v. Russ.

Lake App. No. 2006-L-031, 2007-Ohio-5214.

2007-2028. Petty v. Kroger Food & Pharmacy.

Franklin App. No. 07AP-92, 2007-Ohio-5098.

Pfeifer, J., dissents.

2007-2031. Brimfield Twp. Bd. of Trustees v. Bush.

Portage App. No. 2005-P-0022, 2007-Ohio-4960.

2007-2033. State v. Hall.

Franklin App. No. 07AP-292, 2007-Ohio-5017.

2007-2034. Martel v. Am. Family Ins. Co.

Delaware App. No. 07CAE020012, 2007-Ohio-4819.

O'Connor, J., dissents and would accept the appeal on Proposition of Law No. I.

2007-2035. In re Estate of Gates.

Columbiana App. No. 06 CO 60, 2007-Ohio-5040.

2007-2036. Garbers v. Rachwal.

Lucas App. No. L-06-1212, 2007-Ohio-4903.

Pfeifer, J., dissents.

2007-2039. Pingue v. Pingue.

Delaware App. No. 06-CAE-10-0077, 2007-Ohio-4818.

2007-2062. State v. Tapke.

Hamilton App. No. C-060494, 2007-Ohio-5124.

2007-2068. State v. Lloyd.

Lake App. No. 2007-L-029, 2007-Ohio-5503.

2007-2072. State v. Silsby.

Lake App. No. 2007-L-051, 2007-Ohio-5606.

2007-2074. State v. West.

Jefferson App. No. 05 JE 57, 2007-Ohio-5240.

2007-2077. State v. Rufus.

Lake App. Nos. 2006-L-254, 2006-L-255, and 2006-L-256, 2007-Ohio-4951.

2007-2082. State v. McGrath.

Cuyahoga App. No. 88855, 2007-Ohio-4682.

2007-2083. State v. Goodell.

Lucas App. No. L-07-1016, 2007-Ohio-5318.

Lanzinger, J., not participating.

2007-2087. State ex rel. Warner v. Cincinnati.

Hamilton App. No. C-060520.

Lundberg Stratton, J., dissents.

2007-2091. State v. Carroll.

Lucas App. No. L-05-1362, 2007-Ohio-5313.

O'Connor and Lanzinger, JJ., dissent.

2007-2096. State v. Simmons.

Lake App. Nos. 2006-L-265 and 2006-L-276, 2007-Ohio-4965. Discretionary appeal not accepted. Motion to exceed page limitation of memorandum in support of jurisdiction denied as moot.

2007-2110. State v. Cook.

Hamilton App. No. C-060812.

O'Connor, J., dissents.

2007-2115. State v. Isaac.

Ashland App. No. 06 COA 44, 2007-Ohio-5134.

Lundberg Stratton and Lanzinger, JJ., dissent and would accept the appeal on Proposition of Law No. I and hold the cause for the decision in 2007-1415, *State v. Mosmeyer*, Hamilton App. No. C-060747.

2007-2119. State v. Boland.

Cuyahoga App. No. 90319.

2007-2125. State v. Liddy.

Lake App. No. 2006-L-083, 2007-Ohio-5225. Discretionary appeal not accepted. Motion to exceed page limitation of memorandum in support of jurisdiction denied as moot.

2007-2135. State v. Johnson.

Hamilton App. No. C-060852.

2007-2141. Moody v. Wiza.

Ottawa App. No. OT-07-005, 2007-Ohio-5356.

2007-2161. State v. Butler.

Jefferson App. No. 06 JE 37, 2007-Ohio-2193.

2007-2169. State v. Wood.

Medina App. No. 06CA0044-M, 2007-Ohio-2673.

2007-2206. State v. Byerly.

Richland App. No. 02-CA-81, 2003-Ohio-6911.

2007-2215. State v. Powers.

Summit App. No. 23400, 2007-Ohio-2738.

2007-2280. State v. Rafferty.

Summit App. No. 23217, 2007-Ohio-3997.

2007-2313. In re Roberson Children.

Stark App. No. 2007CA0067.

2007-2339. State v. Dickens.

Hamilton App. No. C-060664.

Moyer, C.J., dissents and would accept the appeal and hold the cause for the decision in 2007-0325, *State v. Davis*, Hamilton App. No. C-040665, 2006-Ohio-3171.

2007-2342. State v. Poindexter.

Montgomery App. No. 21036, 2007-Ohio-3461.

RECONSIDERATION OF PRIOR DECISIONS

2007-1215. State v. Bunting.

Stark App. No. 2006CA00330. Reported at 116 Ohio St.3d 1438, 2007-Ohio-6518, 877 N.E.2d 990. On motion for reconsideration. Motion denied.

2007-1549. Trans Rail Am., Inc. v. Hubbard Twp.

Trumbull App. No. 2006-T-0088, 2007-Ohio-3478. Reported at 116 Ohio St.3d 1440, 2007-Ohio-6518, 877 N.E.2d 991. On motion for reconsideration. Motion denied.

Moyer, C.J., and O'Donnell, J., dissent.

2007-1599. State v. Long.

Seneca App. No. 13-07-20. Reported at 116 Ohio St.3d 1441, 2007-Ohio-6518, 877 N.E.2d 991. On motion for reconsideration. Motion denied.

Moyer, C.J., dissents.

2007-1605. State v. Pierce.

Cuyahoga App. No. 88470, 2007-Ohio-3665. Reported at 116 Ohio St.3d 1437, 2007-Ohio-6518, 877 N.E.2d 989. On motion for reconsideration. Motion granted. Discretionary appeal is also accepted on Proposition of Law Nos. I and II, and cause continues to be held for the decision in 2006-2187, *Hyle v. Porter*, Hamilton App. No. C-050768, 170 Ohio App.3d 710, 2006-Ohio-5454.

Lundberg Stratton, O'Connor, and Lanzinger, JJ., dissent.

2007-1795. State ex rel. Vaughn Industries, L.L.C. v. Reece.

In Prohibition. Reported at 116 Ohio St.3d 1212, 2007-Ohio-6670, 878 N.E.2d 1050. On motion for reconsideration. Motion denied. Request for oral argument denied.

O'Donnell and Lanzinger, JJ., dissent.

2007-1924. State ex rel. Payne v. Glaeden.

In Habeas Corpus. Reported at 116 Ohio St.3d 1434, 2007-Ohio-6518, 877 N.E.2d 987. On motion for reconsideration. Motion denied.

O'Donnell, J., dissents.

2007-1949. State v. Blackburn.

Guernsey App. No. 06 CA 37, 2007-Ohio-4282. Reported at 116 Ohio St.3d 1436, 2007-Ohio-6518, 877 N.E.2d 988. On motion for reconsideration. Motion denied.

Moyer, C.J., and Pfeifer and O'Donnell, JJ., dissent.