

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

July 6, 2011

[Cite as *07/06/2011 Case Announcements*, 2011-Ohio-3244.]

MERIT DECISIONS WITH OPINIONS

2010-1049 and 2010-1275. Ward v. United Foundries, Inc., Slip Opinion No. 2011-Ohio-3176.

Stark App. No. 09CA-019, 2010-Ohio-6694. Certified question answered in the negative, and judgment of the court of appeals affirmed.

O'Connor, C.J., and Lundberg Stratton, O'Donnell, Lanzinger, Cupp, and McGee Brown, JJ., concur.

Pfeifer, J., concurs in judgment only.

2010-1579. State ex rel. Fifth Third Mortgage Co. v. Russo, Slip Opinion No. 2011-Ohio-3177.

Cuyahoga App. Nos. 94816, 94817, and 94818, 2010-Ohio-3734. Judgment of the court of appeals affirmed.

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

Lundberg Stratton and McGee Brown, JJ., concur in part and dissent in part.

2010-2248. Columbus Bar Assn. v. Troxell, Slip Opinion No. 2011-Ohio-3178.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 10-007. Richard Hollingsworth Harold Troxell, Attorney Registration No. 0066395, is indefinitely suspended from the practice of law in Ohio.

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

2010-2251. Disciplinary Counsel v. Folwell, Slip Opinion No. 2011-Ohio-3181.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 10-032. Norman L. Folwell, Attorney Registration No. 0056055, is suspended from the practice of law in Ohio for two years, with one year stayed on conditions.

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

MERIT DECISIONS WITHOUT OPINIONS

2010-1050. Commercial Real Estate Financing II, L.L.C. v. Cuyahoga Cty. Bd. of Revision.

Board of Tax Appeals, No. 2008-M-106. On motion to dismiss for lack of jurisdiction. Motion to dismiss granted. Cause dismissed.

O'Connor, C.J., and Lundberg Stratton, O'Donnell, Lanzinger, Cupp, and McGee Brown, JJ., concur.

Pfeifer, J., dissents.

2010-1780. State ex rel. Kohus v. Ohio Dept. of Pub. Safety.

In Mandamus. On answers of respondents. On S.Ct.Prac.R. 10.5 determination, cause dismissed.

O'Connor, C.J., and Pfeifer, O'Donnell, Lanzinger, and McGee Brown, JJ., concur.

Lundberg Stratton and Cupp, JJ., dissent and would grant an alternative writ.

2011-0653. State ex rel. Morrow v. Kovack.

In Procedendo. On respondent's answer and motion for judgment on the pleadings. Motion for judgment on the pleadings granted. Motion to strike memorandum in support of writ denied as moot. Cause dismissed.

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

2011-0712. [State ex rel.] Baldwin v. Thaxton.

In Mandamus. On motion to dismiss. Motion to dismiss granted. Motion to amend denied as moot. Cause dismissed.

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

2011-0844. State ex rel. McDaniel v. Ater.

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

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

2011-0868. Goldshtein v. Bradshaw.

In Habeas Corpus. On petition for writ of habeas corpus of Feliks Goldshtein. Sua sponte, cause dismissed.

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

2011-0901. State ex rel. Levine v. Buehrer.

In Mandamus. On motion to dismiss. Motion to dismiss granted. Motion to stay discovery denied as moot. Cause dismissed.

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

MOTION AND PROCEDURAL RULINGS

2009-1292. State ex rel. Doner v. Mustine.

In Mandamus. Motion to strike appendices A and B from relators' reply brief denied. Motion and supplemental motion for leave to supplement presentation of evidence granted. Request for oral argument granted.

O'Connor, C.J., and Lanzinger, J., would grant the motion to strike.

Cupp, J., not participating.

2010-1642. State ex rel. McCaffrey v. Mahoning Cty. Prosecutor's Office.

In Mandamus. On motion for leave to file and serve an amended complaint. Motion denied.

2010-1705. In re All Cases Against Sager Corp.

Cuyahoga App. No. 93567, 188 Ohio App.3d 796, 2010-Ohio-3872. On motion to strike appellant's merit brief and motion to dismiss. Motions denied.

O'Donnell and Lanzinger, JJ., dissent.

2011-0132. State ex rel. Vindicator Printing Co. v. Wolff.

In Mandamus and Prohibition. Motion of respondents to file transcript of proceedings held October 14, 2010 under seal and joint motion to file unredacted copy of grand jury venire under seal granted. Motion for order to file bills of particulars under seal granted. Motion to strike affidavit of Marion H. Little Jr. denied.

2011-0632. State v. Gwen.

Summit App. No. 25218, 2011-Ohio-1512. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause held for the decision in 2011-0200, *State v. McCumbers*, Summit App. No. 25169, 2010-Ohio-6129, and briefing schedule stayed.

2011-0779. Plaugher v. Oniala.

Stark App. No. 2010 CA 00204, 2011-Ohio-1207. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause held for the decision in 2010-2148, *Havel v. Villa St. Joseph*, Cuyahoga App. No. 94677, 2010-Ohio-5251; cause consolidated with 2011-0688, *Plaugher v. Oniala*, Stark App. No. 2010 CA 00204, 2011-Ohio-1207; and briefing schedule stayed.

Pfeifer, J., dissents.

2011-0838. State v. Mundy.

Medina App. No. 10CA0039-M, 2011-Ohio-1157. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause held for the decision in 2011-0008 and 2011-0010, *State v. Harris*, Cuyahoga App. No. 95128, 2010-Ohio-5374; and briefing schedule stayed.

Pfeifer, Lundberg Stratton, and O'Donnell, JJ., dissent.

2011-0841. State v. Hicks.

Jefferson App. No. 09 JE 38, 2011-Ohio-1184. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, Lundberg Stratton, and McGee Brown, JJ., dissent.

2011-0847. State v. Johnson.

Franklin App. No. 03AP-1103, 2004-Ohio-4842. On motion for leave to file delayed appeal. Motion denied.

2011-0857. State v. Obermiller.

Cuyahoga C.P. No. CR-10-542119-A. On motion for leave to file delayed appeal. Motion granted.

2011-0858. State v. Petrik.

Crawford App. No. 3-10-06, 2010-Ohio-3671. On motion for leave to file delayed appeal. Motion denied.

2011-0860. State v. Kinder.

Cuyahoga App. No. 94722. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, Cupp, and McGee Brown, JJ., dissent.

2011-0881. State v. Bevins.

Hamilton App. No. C-070850. On motion for leave to file delayed appeal. Motion denied.

2011-0971. Freeman Indus. Prods., L.L.C. v. Armor Metal Group Acquisitions, Inc.

Clermont App. Nos. CA2010-09-071 and CA2010-09-080, 2011-Ohio-1995. On motion for stay of court of appeals' judgment. Motion denied.

Lundberg Stratton and O'Donnell, JJ., dissent.

APPEALS ACCEPTED FOR REVIEW

2011-0599. State v. Eafford.

Cuyahoga App. No. 94718, 2011-Ohio-927.

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

2011-0606. Eastley v. Volkman.

Scioto App. No. 09CA3308, 2010-Ohio-4771.

2011-0688. Plaugher v. Oniala.

Stark App. No. 2010 CA 00204, 2011-Ohio-1207. Discretionary appeal accepted; cause held for the decision in 2010-2148, *Havel v. Villa St. Joseph*, Cuyahoga App. No. 94677, 2010-Ohio-5251; cause consolidated with 2011-0779, *Plaugher v. Oniala*, Stark App. No. 2010 CA 00204, 2011-Ohio-1207; and briefing schedule stayed.

Pfeifer, J., dissents.

2011-0716. State ex rel. Carna v. Teays Valley Local School Dist. Bd. of Edn.

Pickaway App. No. 10CA18, 2011-Ohio-1522.

Lanzinger and Cupp, JJ., dissent.

APPEALS NOT ACCEPTED FOR REVIEW

2011-0160. State v. Zonou.

Hamilton App. No. C-090903. Motion for leave to file memorandum in support of jurisdiction absent opinion of the court of appeals granted. Discretionary appeal not accepted.

2011-0185. State v. Colley.
Scioto App. No. 09CA3323.

2011-0329. State v. Burst.
Cuyahoga App. No. 94080, 2010-Ohio-5773. Discretionary appeal not accepted. Motion for transcript denied as moot.

2011-0410. Witzmann v. Adam.
Montgomery App. No. 23352, 2011-Ohio-379.
Pfeifer, J., dissents.

2011-0517. T.M. v. J.H.
Lucas App. Nos. L-10-1014 and L-10-1034, 2011-Ohio-283. Discretionary appeal and cross-appeal not accepted.

2011-0561. Calhoun, Kademenos, & Childress Co., L.P.A. v. Shepherd.
Richland App. No. 08CA224.

2011-0577. State v. Ogletree.
Cuyahoga App. No. 94512, 2011-Ohio-819.

2011-0579. State v. Morris.
Cuyahoga App. No. 94923, 2011-Ohio-824.

2011-0582. Bray v. Bray.
Ross App. No. 10CA3167, 2011-Ohio-861.

2011-0584. Malcolm v. Duckett.
Lucas App. No. L-10-1110, 2011-Ohio-865.

2011-0585. State v. Evans.
Wayne App. No. 10CA0027, 2011-Ohio-1449.

2011-0594. Cook v. State.
Franklin App. No. 10AP-641, 2011-Ohio-906.

O'Donnell and Lanzinger, JJ., dissent and would accept the appeal and hold the cause for the decision in 2010-1660, *State v. Palmer*, Franklin App. Nos. 09AP-956 and 09AP-957, 2010-Ohio-2421.

Cupp, J., dissents.

2011-0597. State v. Ramey.

Clark App. No. 2010 CA 19, 2011-Ohio-1288.

Lundberg Stratton and Lanzinger, JJ., dissent.

2011-0600. Heider v. Siemens, AG.

Allen App. No. 1-10-66, 2011-Ohio-901.

2011-0605. Eastley v. Volkman.

Scioto App. No. 09CA3309, 2010-Ohio-4771.

O'Connor, C.J., dissents.

2011-0607. Stanley Miller Constr. Co. v. Ohio School Facilities Comm.

Franklin App. No. 10AP-298, 2011-Ohio-909.

Pfeifer, J., dissents.

2011-0608. State v. Clemons.

Belmont App. No. 10 BE 7, 2011-Ohio-1177.

2011-0611. Kellstone, Inc. v. Laken Shipping Corp.

Cuyahoga App. No. 95429, 2011-Ohio-484.

Pfeifer, J., dissents.

2011-0613. Nagel v. Roth.

Williams App. No. WM-11-002.

2011-0615. Fratilla v. Owners Ins. Co.

Lucas App. No. L-10-1237, 2011-Ohio-970.

Pfeifer, J., dissents.

2011-0617. State v. Cash.

Cuyahoga App. No. 95158, 2011-Ohio-938.

2011-0618. State v. King.

Richland App. No. 10CA44, 2011-Ohio-1018.

2011-0620. State v. Fears.

Cuyahoga App. No. 94997, 2011-Ohio-930.

Lundberg Stratton and O'Donnell, JJ., dissent.

2011-0623. State v. Martin.

Franklin App. No. 09AP-1073, 2011-Ohio-951.

Cupp, J., dissents.

2011-0624. State v. Curtis.

Brown App. No. CA2009-10-037.

2011-0627. State v. Harvey.

Richland App. No. 10-CA-45, 2011-Ohio-1201.

2011-0634. State v. Gutierrez.

Putnam App. No. 12-10-01.

2011-0636. State v. Brock.

Hancock App. No. 5-11-04.

2011-0638. In re Estate of Scanlon.

Cuyahoga App. No. 95264, 2011-Ohio-1097. Discretionary appeal not accepted.
Motion for sanctions denied.

2011-0640. In re Estate of Brunswick.

Warren App. No. CA2010-02-019, 2011-Ohio-993.

2011-0641. In re G.L.

Franklin App. No. 09AP-955, 2011-Ohio-1086.

2011-0645. State v. Ryan.

Hamilton App. No. C-100441.

2011-0648. State v. Van Tielen.

Brown App. No. CA2010-06-011.

2011-0649. State v. Dowdell.

Cuyahoga App. No. 94801, 2011-Ohio-1063.

Lanzinger and McGee Brown, JJ., dissent.

2011-0651. State v. Harris.

Cuyahoga App. No. 95097, 2011-Ohio-1072.

Lundberg Stratton and Lanzinger, JJ., dissent.

2011-0652. State v. Snyder.

Cuyahoga App. No. 94755, 2011-Ohio-1062.

2011-0654. State v. Dohm.

Lake App. No. 2009-L-076, 2011-Ohio-1160.

2011-0666. Roberts v. Nationwide Mut. Fire Ins. Co.

Cuyahoga App. No. 95495, 2011-Ohio-1101.

2011-0669. State v. Carter.

Allen App. No. 1-10-01.

2011-0682. State v. Lampley.

Richland App. No. 10-CA-106, 2011-Ohio-1204.

2011-0684. State v. Webb.

Richland App. No. 07CA43.

2011-0687. Peffer v. Cleveland Clinic Found.

Cuyahoga App. No. 94356, 2011-Ohio-450.

Pfeifer, J., dissents.

2011-0690. State v. Belmonte.

Franklin App. No. 10AP-373, 2011-Ohio-1334.

O'Donnell, J., dissents.

2011-0695. State v. Martin.

Summit App. No. 25534, 2011-Ohio-1781.

O'Connor, C.J., not participating.

2011-0696. State v. Mundy.

Medina App. No. 10CA0039-M, 2011-Ohio-1157.

Lanzinger, J., dissents and would accept the appeal and hold the cause for the decision in 2011-0008 and 2011-0010, *State v. Harris*, Cuyahoga App. No. 95128, 2010-Ohio-5374.

2011-0703. State v. Henriksson.

Butler App. No. CA2010-08-197, 2011-Ohio-1632.
O'Donnell, J., dissents.

2011-0723. Owners Ins. Co. v. Doe.

Lucas App. No. L-10-1326, 2011-Ohio-1263.

2011-0725. State v. McCarey.

Franklin App. No. 11AP-72.

2011-0732. Ingle-Barr, Inc. v. E. Local School Dist. Bd. of Edn.

Pike App. Nos. 10CA808 and 10CA809, 2011-Ohio-584.

2011-0750. State v. Jones.

Mahoning App. No. 10 MA 47, 2011-Ohio-1002.

2011-0753. In re T.B.

Franklin App. No. 11AP-99, 2011-Ohio-1339.

2011-0760. State v. Moton.

Summit App. No. 25188.

2011-0768. State v. Steimle.

Cuyahoga App. No. 95076, 2011-Ohio-1071.

2011-0771. State v. Doan.

Hamilton App. No. C-940330.

2011-0781. State v. Renner.

Montgomery App. No. 24019, 2011-Ohio-502.

2011-0782. State v. Wynn.

Montgomery App. No. 24252, 2011-Ohio-1441.

2011-0793. State v. Hyde.

Hamilton App. No. C-110127.

2011-0798. State v. Middleton.

Butler App. No. CA2010-07-173, 2011-Ohio-1631.

2011-0800. State v. Turns.
Franklin App. No. 10AP-740, 2011-Ohio-1497.

2011-0801. State v. Butler.
Lawrence App. No. 10CA36, 2011-Ohio-1652.

2011-0806. State v. Gopp.
Wayne App. No. 10CA0023, 2011-Ohio-1530.

2011-0820. State v. Clement.
Cuyahoga App. No. 94869, 2011-Ohio-1555.

2011-0837. State v. Patrick.
Franklin App. No. 10AP-26, 2011-Ohio-1592.

2011-0867. State v. Clementson.
Cuyahoga App. No. 94230, 2011-Ohio-1798.

RECONSIDERATION OF PRIOR DECISIONS

2010-0115. Willis Day Warehousing Co. v. Wood Cty. Bd. of Revision.
Board of Tax Appeals, Nos. 2006-M-1794 and 2007-M-868. Reported at 128 Ohio St.3d 1441, 2011-Ohio-1618, 944 N.E.2d 692. On motion for reconsideration. Motion denied.
Pfeifer, J., dissents.

2011-0235. State ex rel. Christoff v. Turner.
In Mandamus and Prohibition. Reported at 128 Ohio St.3d 1479, 2011-Ohio-2055, 946 N.E.2d 238. On motion for reconsideration. Motion denied.
O'Donnell, J., not participating.

2011-0275. State ex rel. Turner v. Brown.
In Mandamus and Prohibition. Reported at 128 Ohio St.3d 1479, 2011-Ohio-2055, 946 N.E.2d 238. On motion for reconsideration. Motion denied.
O'Donnell, J., not participating.