

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

December 16, 2009

[Cite as *12/16/2009 Case Announcements, 2009-Ohio-6487.*]

MERIT DECISIONS WITHOUT OPINIONS

2009-1769. State ex rel. Lawrence v. Kilbane.

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

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

2009-1789. [State ex rel.] Langan v. Clancy.

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

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

2009-1835. State ex rel. Gaughan v. Kilbane.

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

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

2009-1871. [State ex rel.] Furlong v. Horrigan.

In Mandamus. 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 the writ.

2009-1963. Pickering v. Sheldon.

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

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

2009-1969. Swain v. Welch.

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

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

MOTION AND PROCEDURAL RULINGS

2008-0582. State v. Silverman.

Montgomery App. No. 22097, 176 Ohio App.3d 12, 2008-Ohio-618. On motion to clarify court judgment. Motion granted. Cause remanded to the court of appeals to consider appellee's remaining assignments of error.

2009-0627. DIRECTV, Inc. v. Levin.

Franklin App. No. 08AP-32, 181 Ohio App.3d 92, 2009-Ohio-636. On motion for admission pro hac vice of Jeremy N. Kudon by Peter A. Rosato. Motion granted.

2009-1938. State v. McPherson.

Lorain App. No. 08CA009377, 2009-Ohio-1426. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2009-1948. State v. Sprauer.

Warren App. No. CA2005-02-022, 2006-Ohio-1146. On motion for leave to file delayed appeal. Motion denied.

2009-1954. State v. Gibson.

Cuyahoga App. No. 91793, 2009-Ohio-3883. On motion for leave to file delayed appeal. Motion denied. Request for transcript at state expense denied as moot.

Moyer, C.J., and Pfeifer, J., dissent and would grant the motion and the request.

Cupp, J., dissents and would grant the motion but deny the request.

2009-1964. State v. Crim.

Cuyahoga App. No. 93802. On motion for leave to file delayed appeal. Motion denied.

Moyer, C.J., and Pfeifer, J., dissent.

2009-1985. State v. Thornton.

Clermont App. No. CA2008-10-092, 2009-Ohio-3685. On motion for leave to file delayed appeal. Motion granted.

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

2009-2008. Blake v. Home S&L Co.

Columbiana App. No. 09CO14. On motion for stay of court of appeals' judgment. Motion denied.

O'Donnell, J., dissents.

2009-2065. State v. Irwin.

Columbiana App. No. 07-CO-22, 2009-Ohio-5271. On motion for stay of court of appeals' judgment. Motion denied.

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

APPEALS ACCEPTED FOR REVIEW

2009-1520. State v. Kupay-Zimmerman.

Cuyahoga App. No. 92043, 2009-Ohio-3596.

Pfeifer and O'Connor, JJ., dissent.

Cupp, J., not participating.

2009-1668. Elko v. State.

Richland App. No. 2008CA0220, 2009-Ohio-4557. Discretionary appeal accepted; cause held for the decision in 2008-2502, *State v. Bodyke*, Huron App. Nos. H-07-040, H-07-041, and H-07-042, 2008-Ohio-6387; and briefing schedule stayed.

2009-1757. In re Adoption of P.A.C.

Hamilton App. No. C-081149, 2009-Ohio-4492.

Pfeifer and O'Donnell, JJ., dissent.

2009-1811. McGuire v. State.

Richland App. No. 08 CA 227, 2009-Ohio-4397. Discretionary appeal accepted; cause held for the decision in 2008-2502, *State v. Bodyke*, Huron App. Nos. H-07-040, H-07-041, and H-07-042, 2008-Ohio-6387; and briefing schedule stayed.

2009-1844. State v. Howard.

Ross App. No. 08CA3086, 2009-Ohio-4496. Discretionary appeal accepted; cause held for the decision in 2008-2502, *State v. Bodyke*, Huron App. Nos. H-07-040, H-07-041, and H-07-042, 2008-Ohio-6387; and briefing schedule stayed.

2009-1856. State v. Petralia.

Lake App. No. 2008-L-095, 2009-Ohio-4450. Discretionary appeal accepted on Proposition of Law Nos. I, II, III, IV, and V; cause held for the decision in 2008-2502, *State v. Bodyke*, Huron App. Nos. H-07-040, H-07-041, and H-07-042, 2008-Ohio-6387; and briefing schedule stayed.

2009-1858. State v. Menton.

Mahoning App. No. 07 MA 70, 2009-Ohio-4640. Discretionary appeal accepted on Proposition of Law No. V; cause held for the decision in 2008-2502, *State v. Bodyke*, Huron App. Nos. H-07-040, H-07-041, and H-07-042, 2008-Ohio-6387; and briefing schedule stayed.

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

APPEALS NOT ACCEPTED FOR REVIEW

2009-0063. State v. Lawson.

Clermont App. No. CA2007-12-116, 2008-Ohio-6066.

Pfeifer, J., dissents.

2009-1632. LeMar v. Ickes.

Wayne App. No. 08CA0036, 2009-Ohio-3650.

2009-1637. Hughley v. Kinsel.

Fairfield App. No. 2009 CA 00032, 2009-Ohio-4741.

2009-1641. Nevelle v. Neville.

Marion App. No. 9-08-37, 2009-Ohio-3817.

Pfeifer, J., dissents.

2009-1644. State v. Hall.

Allen App. No. 1-08-66, 2009-Ohio-3824.

2009-1647. Bacoccini v. Ice Industries, Inc.

Lucas App. No. L-08-1401, 2009-Ohio-3800.

O'Donnell, J., dissents.

2009-1654. State v. Lyles.

Allen App. No. 1-09-40.

O'Donnell, J., dissents and would accept the appeal, reverse the judgment of the court of appeals, and remand for application of *State ex rel. Culgan v. Medina Cty. Court of Common Pleas*, 119 Ohio St.3d 535, 2008-Ohio-4609.

Cupp, J., not participating.

2009-1665. Brandon v. Brandon.

Mercer App. No. 10-08-13, 2009-Ohio-3818.

2009-1669. Bailey v. Cleves.

Hamilton App. No. C-081099.

2009-1670. Fleisher v. Ford Motor Co.

Franklin App. No. 09AP-139, 2009-Ohio-3846 and 2009-Ohio-4847.

Pfeifer, J., dissents.

O'Connor, J., not participating.

2009-1672. In re Haggard.

Auglaize App. No. 2-08-20, 2009-Ohio-3821.

Moyer, C.J., and Pfeifer, J., dissent.

2009-1675. E. Cleveland v. Waters.

Cuyahoga App. No. 91631, 2009-Ohio-3591.

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

2009-1678. State v. McFarland.

Jefferson App. No. 08 JE 25, 2009-Ohio-4391.

2009-1683. Bryant v. Scooter Store.

Lucas App. No. L-08-1262, 2009-Ohio-3910.

2009-1687. State v. Lacy.

Hancock App. No. 5-09-27.

2009-1688. State v. Higgins.

Fairfield App. No. 08-CA-57, 2009-Ohio-3979.

2009-1694. Norton v. Richards.

Summit App. No. 24557, 2009-Ohio-3868.

Moyer, C.J., dissents.

2009-1701. State v. Miller.

Lucas App. No. L-08-1314, 2009-Ohio-3908.

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

2009-1703. State v. Reinert.

Montgomery App. No. 22947, 2009-Ohio-3953.

2009-1704. State v. Reinert.

Greene App. No. 08-CA-93, 2009-Ohio-3952.

2009-1727. State v. Zaslov.

Cuyahoga App. No. 91736, 2009-Ohio-3734.

Lundberg Stratton, J., dissents and would accept the appeal and hold the cause for the decision in 2009-1520, *State v. Kupay-Zimmerman*, Cuyahoga App. No. 92043, 2009-Ohio-3596.

Cupp, J., not participating.

2009-1731. Cincinnati v. Metz.

Hamilton App. No. C-080987.

2009-1732. State v. Davis.

Washington App. No. 09CA32.

2009-1733. State v. Combs.

Montgomery App. No. 22743, 2009-Ohio-4109.

2009-1734. Madison v. Raceway Park, Inc.

Lucas App. No. L-08-1279, 2009-Ohio-4068.

2009-1735. Engel v. Univ. of Toledo College of Medicine.

Franklin App. No. 09AP-53, 2009-Ohio-3957.

Moyer, C.J., and Cupp, J., dissent.

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

2009-1743. Huntsman v. State Bd. of Edn.

Stark App. No. 2008CA00220, 2009-Ohio-4282.

O'Donnell, J., dissents.

2009-1747. Williams v. Griffith.

Franklin App. No. 09AP-28, 2009-Ohio-4045.

2009-1764. State v. Houston.

Montgomery App. No. 22755.

2009-1767. In re L.Z.

Wayne App. No. 09CA0006. Discretionary appeal not accepted. Motion to dismiss denied as moot.

Pfeifer and O'Donnell, JJ., dissent.

2009-1781. State v. Gerhart.

Summit App. No. 24384, 2009-Ohio-4165.

2009-1791. State v. Samples.

Stark App. No. 2008 CA 00027.

2009-1800. State v. McCrary.

Hamilton App. No. C-080860, 2009-Ohio-4390.

2009-1802. In re D.P.

Summit App. No. 24591, 2009-Ohio-4335.

2009-1809. State v. Wright.

Franklin App. No. 08AP-1095, 2009-Ohio-4651.

2009-1812. State v. Gangloff.

Hamilton App. No. C-081047.

2009-1819. State v. Wheeler.

Franklin App. No. 08AP-503, 2009-Ohio-4380.

2009-1826. State v. Smith.

Highland App. No. 08CA15, 2009-Ohio-4539.

2009-1840. State v. Richardson.

Hamilton App. No. C-080435.

2009-1845. State v. Kasunick.

Lake App. No. 2008-L-056, 2009-Ohio-4449.

Pfeifer, Lundberg Stratton, and Cupp, JJ., dissent and would accept the appeal and hold the cause for the decision in 2008-2502, *State v. Bodyke*, Huron App. Nos. H-07-040, H-07-041, and H-07-042, 2008-Ohio-6387.

2009-1848. Campbell v. Bowersock.

Allen App. No. 1-09-39, 2009-Ohio-1833.

2009-1850. State v. Jackson.

Summit App. Nos. 24463 and 24501, 2009-Ohio-4336.

2009-1851. State v. Hill.

Hamilton App. No. C-080222.

2009-1854. State v. Rodriguez.

Butler App. No. CA2008-07-162, 2009-Ohio-4460.

2009-1859. State v. Davis.

Mahoning App. No. 08 MA 80, 2009-Ohio-4639.

2009-1894. State v. Poe.

Franklin App. No. 09AP-698.

2009-1933. In re T.D.

Preble App. No. CA2009-01-002, 2009-Ohio-4680.

2009-1975. State v. Wooten.

Stark App. No. 2008 CA 00103.

2009-1981. In re B.M.

Franklin App. Nos. 09AP-60, 09AP-61, 09AP-62, 09AP-63, and 09AP-64, 2009-Ohio-4846.

Moyer, C.J., and Pfeifer, J., dissent.

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

RECONSIDERATION OF PRIOR DECISIONS

2009-1130. Rielinger v. Rielinger.

Cuyahoga App. No. 90614, 2009-Ohio-1236. Reported at 123 Ohio St.3d 1423, 2009-Ohio-5340, 914 N.E.2d 1064. On motion for reconsideration. Motion denied.

2009-1275. Blauvelt v. Hamilton.

Butler App. No. CA2008-07-174, 2009-Ohio-2801. Reported at 123 Ohio St.3d 1425, 2009-Ohio-5340, 914 N.E.2d 1065. On motion for reconsideration. Motion denied.

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

2009-1319. JJAM Mgt., Inc. v. Lloyd's.

Cuyahoga App. No. 93010. Reported at 123 Ohio St.3d 1425, 2009-Ohio-5340, 914 N.E.2d 1065. On motion for reconsideration. Motion denied.

2009-1383. State v. Hudson.

Cuyahoga App. No. 89588, 2009-Ohio-3069. Reported at 123 Ohio St.3d 1426, 2009-Ohio-5340, 914 N.E.2d 1065. On motion for reconsideration. Motion for reconsideration granted to the following extent: The discretionary appeal is accepted; cause held for the decision in 2008-2037, *State v. Williams*, Cuyahoga App. No. 89726, 2008-Ohio-5149 and 2008-Ohio-5286; and briefing schedule stayed.

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