

# The Supreme Court of Ohio

---

## CASE ANNOUNCEMENTS

June 9, 2010

[Cite as *06/09/2010 Case Announcements*, 2010-Ohio-2510.]

---

## MERIT DECISIONS WITH OPINIONS

**2009-0121. In re Guardianship of Spangler, Slip Opinion No. 2010-Ohio-2471.**

Geauga App. Nos. 2007-G-2800 and 2007-G-2802, 2008-Ohio-6978. Judgment of the court of appeals affirmed in part and vacated in part, and cause remanded to the court of appeals.

Lundberg Stratton, O'Connor, Lanzinger, and Cupp, JJ., concur.

Pfeifer and O'Donnell, JJ., concur in part and dissent in part.

Brown, C.J., not participating.

**2009-0305. Banford v. Aldrich Chem. Co., Inc., Slip Opinion No. 2010-Ohio-2470.**

Montgomery App. No. 22600, 180 Ohio App.3d 107, 2008-Ohio-6837. Judgment of the court of appeals reversed.

Lundberg Stratton, O'Donnell, Lanzinger, and Cupp, JJ., concur.

Pfeifer and O'Connor, JJ., concur in part and dissent in part.

Brown, C.J., not participating.

**2009-2068. State ex rel. Hamilton Cty. Bd. of Commrs. v. Hamilton Cty. Court of Common Pleas, Slip Opinion No. 2010-Ohio-2467.**

In Prohibition. Writ denied.

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

Brown, C.J., not participating.

**2009-2243. Morgan Stanley Dean Witter Commercial Fin. Servs., Inc. v. Sutula, Slip Opinion No. 2010-Ohio-2468.**

Cuyahoga App. No. 93156, 185 Ohio App.3d 152, 2009-Ohio-6109. Judgment of the court of appeals reversed.

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

**2010-0254. Cleveland Metro. Bar Assn. v. Sherman, Slip Opinion No. 2010-Ohio-2469.**

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 09-066. David C. Sherman, Attorney Registration No. 0031000, is suspended from the practice of law in Ohio for nine months, stayed on condition.

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

Brown, C.J., not participating.

**MERIT DECISIONS WITHOUT OPINIONS**

**2010-0557. El v. McGinty.**

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

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

**2010-0575. State ex rel. Worthy v. Pittman.**

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

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

**2010-0615. State ex rel. Johnson v. Heath.**

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

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

**2010-0704. Casey v. Saffold.**

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

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

## **MOTION AND PROCEDURAL RULINGS**

### **2009-0444. [State ex rel.] Johnson v. Ward.**

In Mandamus. On amended renewed motion to vacate dismissal and to reinstate the appeal and request for hearing. Motion and request denied.

### **2010-0261. State ex rel. Carr v. Croft.**

In Mandamus. On motion for findings of facts and conclusion of law. Motion denied.

### **2010-0438. State ex rel. Eshleman v. Fornshell.**

In Prohibition and Mandamus. On motion for attorney's fees. Motion denied.

### **2010-0523. State ex rel. Bradley v. Buckeye Local School Dist. Bd. of Edn.**

In Mandamus. On complaint in mandamus of Michael Bradley. Sua sponte, an alternative writ is granted, and the following briefing schedule is set for presentation of evidence and filing of briefs pursuant to S.Ct.Prac.R. 10.6:

The parties shall file any evidence they intend to present within 20 days of the date of this entry; relator shall file a brief within ten days of 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 seven days after filing of respondent's brief.

### **2010-0526. Buckingham, Doolittle & Burroughs, L.L.P. v. Healthcare Imaging Solutions L.L.C.**

Summit App. No. 24699, 2010-Ohio-418. On motion to stay execution of judgment pending appeal. Motion denied.

Brown, C.J., and O'Donnell, J., dissent and would grant the motion conditioned upon bond.

### **2010-0678. State v. Deresse.**

Licking App. No. 09 CA 11, 2009-Ohio-6725. On motion for leave to file delayed appeal. Motion denied.

Brown, C.J., and Pfeifer, J., dissent.

### **2010-0682. State v. Baldwin.**

Hamilton App. No. C-081237, 2009-Ohio-5348. On motion for leave to file delayed appeal. Motion denied.

Brown, C.J., dissents.

**2010-0684. State v. Doliboa.**

Warren App. No. CA2007-07-088, 2008-Ohio-5297. On motion for leave to file delayed appeal. Motion denied.

Brown, C.J., dissents.

**2010-0697. State v. Triplett.**

Lucas App. No. L-04-1135, 2006-Ohio-5465. On motion for leave to file delayed appeal. Motion denied.

Lundberg Stratton, J., dissents.

**2010-0703. State v. Frashuer.**

Summit App. No. 24769, 2010-Ohio-634. On motion for leave to file delayed appeal. Motion granted.

O'Connor and Lanzinger, JJ., dissent.

**2010-0718. State v. Pinkney.**

Cuyahoga App. No. 91861, 2010-Ohio-237. On motion for leave to file delayed appeal. Motion granted.

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

**2010-0733. State v. White.**

Stark App. No. 2009 CA 00053, 2009-Ohio-4151. On motion for leave to file delayed appeal. Motion denied.

Brown, C.J., dissents.

**2010-0742. State v. Houston.**

Montgomery App. No. 22755, 2009-Ohio-2179. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

**2010-0743. State v. Heft.**

Logan App. No. 8-09-08, 2009-Ohio-5908. On motion for stay of court of appeals' judgment. Motion denied.

**2010-0810. Terry v. Sperry.**

Mahoning App. No. 08-MA-227, 2010-Ohio-1299. On motion for stay of court of appeals' judgment. Motion granted.

Brown, C.J., and Lundberg Stratton and O'Donnell, JJ., would also require a \$25,000 appeal bond.

### **APPEALS ACCEPTED FOR REVIEW**

#### **2010-0536. In re T.L.**

Medina App. No. 09CA0018-M, 2010-Ohio-402. Discretionary appeal accepted; cause held for the decision in 2008-1693, *State v. Arnold*, Franklin App. No. 07AP-789, 2008-Ohio-3471; and briefing schedule stayed.

### **APPEALS NOT ACCEPTED FOR REVIEW**

#### **2009-2299. State v. Cook.**

Lucas App. No. L-08-1301, 184 Ohio App.3d 382, 2009-Ohio-4917.

Brown, C.J., and Lundberg Stratton and Lanzinger, JJ., dissent and would accept the appeal and consolidate the cause with 2009-2122, *State v. Cook*, Lucas App. No. L-08-1301, 184 Ohio App.3d 382, 2009-Ohio-4917.

#### **2010-0153. State v. Perkins.**

Montgomery App. No. 23036, 2009-Ohio-6696.

#### **2010-0231. State v. Wilson.**

Mahoning App. No. 08 MA 51, 2009-Ohio-7012.

O'Donnell, J., dissents.

#### **2010-0236. State v. Haugh.**

Ross App. No. 08CA3083, 2009-Ohio-6961. Discretionary appeal not accepted. Motion to strike all pleadings filed by appellant denied as moot.

#### **2010-0294. State v. Noe.**

Lucas App. Nos. L-06-1393 and L-09-1193, 2009-Ohio-6978. Discretionary appeal and cross-appeal not accepted.

Brown, C.J., dissents and would accept the appeal on Proposition of Law No. IX and hold the appeal for the decision in 2009-1997, *State v. Hodge*, Hamilton App. No. C-080968, and would also accept the cross-appeal.

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

O'Connor and Lanzinger, JJ., not participating.

**2010-0403. State v. Smith.**

Cuyahoga App. No. 92320, 2009-Ohio-5692.

**2010-0422. McGreevy v. Bassler.**

Franklin App. No. 09AP-381, 2010-Ohio-126.

O'Donnell, J., dissents.

**2010-0423. State v. Ayala.**

Delaware App. No. 09 CAA 12 0106.

**2010-0428. State v. Schwieterman.**

Mercer App. No. 10-09-12, 2010-Ohio-102.

**2010-0431. Jankowski v. Monclova-Maumee-Toledo Joint Economic Dev. Zone Bd. of Directors.**

Lucas App. No. L-09-1130, 185 Ohio App.3d 568, 2010-Ohio-181.

Brown, C.J., and Lundberg Stratton, J., dissent.

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

**2010-0441. Marketing Assoc., Inc. v. Gottlieb.**

Cuyahoga App. No. 92292, 2010-Ohio-59.

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

**2010-0444. Currier v. Penn-Ohio Logistics.**

Trumbull App. No. 2009-T-0049, 2010-Ohio-195.

Cupp, J., dissents and would accept the appeal and hold the cause for the decision in 2010-0024, *Westfield Ins. Co. v. Hunter*, Butler App. Nos. CA2009-05-134 and CA2009-06-157, 2009-Ohio-5642.

**2010-0445. Westphal v. Cracker Barrell Old Country Store, Inc.**

Lorain App. No. 09CA009602, 2010-Ohio-190.

**2010-0446. Natl. Solid Wastes Mgt. Assn. v. Stark-Tuscarawas-Wayne Joint Solid Waste Mgt. Dist.**

Stark App. No. 2008CA00011, 2010-Ohio-228.

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

**2010-0451. In re J.V.**

Cuyahoga App. No. 92869, 2010-Ohio-71.

Lundberg Stratton, J., dissents.

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

**2010-0454. State v. Johns.**

Cuyahoga App. No. 92627, 2010-Ohio-68.

**2010-0455. State v. Woody.**

Cuyahoga App. No. 92929, 2010-Ohio-72.

**2010-0457. State v. Aleman.**

Cuyahoga App. No. 94337.

**2010-0460. State v. King.**

Lucas App. No. L-08-1126, 2010-Ohio-290.

**2010-0462. State v. Siller.**

Cuyahoga App. No. 94417.

**2010-0464. State v. Reed.**

Montgomery App. No. 23357, 2010-Ohio-299.

**2010-0465. State v. Adkins.**

Delaware App. No. 09 CAA 02 0012, 2010-Ohio-307.

Brown, C.J., and O'Connor and O'Donnell, JJ., dissent and would accept the appeal on Proposition of Law No. II.

**2010-0473. Shimp v. Faflik.**

Summit App. No. 25121.

**2010-0475. Massengale-Hasan v. Ohio Dept. of Job & Family Servs.**

Cuyahoga App. No. 92951, 2010-Ohio-251.

**2010-0476. State v. Seagraves.**

Delaware App. No. 09 CAA 04 0033, 2010-Ohio-308.

**2010-0480. In re I.S.P.**

Washington App. No. 09CA37, 2010-Ohio-410.

**2010-0482. Kennedy v. Kennedy.**

Lorain App. No. 09CA009645, 2010-Ohio-404.

**2010-0485. State v. Boles.**

Montgomery App. No. 23037, 2010-Ohio-278.

**2010-0487. State v. McClellan.**

Allen App. No. 1-09-21, 2010-Ohio-314.

**2010-0494. Malone v. Torres.**

Cuyahoga App. No. 92878, 2010-Ohio-157.

**2010-0495. State v. Resor.**

Huron App. No. H-08-028, 2010-Ohio-397.

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

**2010-0497. State v. Johns.**

Cuyahoga App. No. 93226, 2010-Ohio-162.

Pfeifer and O'Donnell, JJ., dissent.

**2010-0498. State v. Roberts.**

Cuyahoga App. No. 92789, 2010-Ohio-156.

O'Connor, J., dissents.

**2010-0500. Jontony v. Colegrove.**

Cuyahoga App. No. 94640.

O'Donnell, J., dissents.

**2010-0502. State v. Smith.**

Trumbull App. No. 2009-T-0103, 2010-Ohio-317.

**2010-0503. Ulrich v. Mercedes Benz USA, L.L.C.**

Summit App. No. 24740, 2010-Ohio-348.

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

**2010-0504. State v. Ogletree.**

Cuyahoga App. No. 94481.

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

**2010-0507. U.S. Bank, N.A. v. Wilkens.**  
Cuyahoga App. No. 93088, 2010-Ohio-262.

**2010-0512. Harshman II Dev. Co., L.L.C. v. Meijer Stores Ltd. Partnership.**  
Montgomery App. No. 23355, 2010-Ohio-381.

**2010-0513. State v. Morgan.**  
Shelby App. No. 17-10-03.  
Cupp, J., not participating.

**2010-0515. Walker v. Ohio State Univ. Bd. of Trustees.**  
Franklin App. No. 09AP-748, 2010-Ohio-373.

**2010-0519. Smith v. Redecker.**  
Athens App. No. 08CA33, 2010-Ohio-505.

**2010-0520. Whitley v. Progressive Preferred Ins. Co.**  
Hamilton App. No. C-090284, 2010-Ohio-356.  
Pfeifer and O'Connor, JJ., dissent.

**2010-0521. Whitley v. Progressive Preferred Ins. Co.**  
Hamilton App. No. C-090240, 2010-Ohio-356.  
Pfeifer and O'Connor, JJ., dissent.

**2010-0522. State v. Fisher.**  
Cuyahoga App. No. 93047, 2010-Ohio-74.

**2010-0524. State v. Wynn.**  
Cuyahoga App. No. 93057, 2010-Ohio-519.

**2010-0528. State v. O'Neal.**  
Muskingum App. No. 08 CA 42.

**2010-0533. State v. Ben.**  
Cuyahoga App. No. 92129, 2010-Ohio-238.

**2010-0635. State v. Gilmore.**  
Cuyahoga App. Nos. 92106, 92107, 92108, and 92109.  
Cupp, J., dissents and would accept the appeal on Proposition of Law No. II.

**2010-0538. Ohio Environmental Dev. Ltd. Partnership v. Ohio Environmental Protection Agency.**

Franklin App. No. 09AP-683, 2010-Ohio-414.

**2010-0546. Cooper v. Securities Serv. Network, Inc.**

Lucas App. No. L-09-1127, 2010-Ohio-463.

**2010-0547. State v. Brooks.**

Montgomery App. No. 23386, 2010-Ohio-1119.

**2010-0551. State v. Ulmer.**

Scioto App. No. 09CA3283, 2010-Ohio-695. Discretionary appeal not accepted. Motion for admission pro hac vice of Marvin Barnett by Richard M. Nash Jr. granted.

**2010-0553. State v. Wilson.**

Cuyahoga App. No. 92148, 2010-Ohio-550.

**2010-0554. State v. Flory.**

Cuyahoga App. No. 94046.

**2010-0558. State v. Golson.**

Montgomery App. No. 22927, 2010-Ohio-560.

**2010-0560. State v. Shackelford.**

Montgomery App. No. 22891, 2010-Ohio-845.

**2010-0570. In re Adoption of L.C.H.**

Scioto App. Nos. 09CA3318, 09CA3319, and 09CA3324, 2010-Ohio-643. Discretionary appeal and cross-appeal not accepted. Motion to strike denied as moot.

**2010-0607. State v. Betts.**

Cuyahoga App. No. 92780, 2010-Ohio-438.

**2010-0612. State v. Jones.**

Summit App. No. 24469, 2010-Ohio-879.

**2010-0622. State v. Phillips.**

Summit App. No. 24198, 2008-Ohio-6795.

**2010-0642. State v. Dodds.**

Hamilton App. No. C-090370.

**RECONSIDERATION OF PRIOR DECISIONS**

**2009-1689. State ex rel. N.A. v. Cross.**

Medina App. No. 08CA0045-M. Reported at 125 Ohio St.3d 6, 2010-Ohio-1471, 925 N.E.2d 614. On motion for reconsideration. Motion denied.

O'Donnell, J., dissents.

**2009-2120. State ex rel. Tate v. Calabrese.**

Cuyahoga App. No. 93741, 2009-Ohio-5389. Reported at 125 Ohio St.3d 28, 2010-Ohio-1431, 925 N.E.2d 962. On motion for reconsideration. Motion denied.

**2009-2165. State ex rel. Pollock v. Lillian & Betty Ratner School, Inc.**

In Mandamus. Reported at 124 Ohio St.3d 1535, 2010-Ohio-1557, 924 N.E.2d 840. On motion for reconsideration. Motion denied.

**2010-0114. Nationwide Mut. Ins. Co. v. Briggs.**

Stark App. No. 2009 CA 00108, 2009-Ohio-6452. Reported at 124 Ohio St.3d 1541, 2010-Ohio-1557, 924 N.E.2d 844. On motion for reconsideration. Motion for reconsideration granted. The discretionary appeal is accepted, and briefing shall proceed pursuant to the Supreme Court Rules of Practice.

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

**2010-0147. State v. Haschenburger.**

Mahoning App. No. 08-MA-223, 2009-Ohio-6527. Reported at 124 Ohio St.3d 1542, 2010-Ohio-1557, 924 N.E.2d 844. On motion for reconsideration. Motion denied.

Brown, C.J., dissents.