

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS

August 17, 2010

[Cite as *08/17/2010 Case Announcements*, 2010-Ohio-3825.]

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## MERIT DECISIONS WITH OPINIONS

### **In re Sexual Offender Reclassification Cases, Slip Opinion No. 2010-Ohio-3753.**

Dispositions of currently pending appeals and certified conflicts are entered based on the decision in *State v. Bodyke*, \_\_\_ Ohio St.3d \_\_\_, 2010-Ohio-2424, \_\_\_ N.E.2d \_\_\_.

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

## MOTION AND PROCEDURAL RULINGS

### **2009-0045, State v. Swank.**

Lake App. No. 2008-L-019, 2008-Ohio-6059. It is ordered, sua sponte, that this cause is no longer held for the decision in 2008-2502, *State v. Bodyke*, \_\_\_ Ohio St.3d \_\_\_, 2010-Ohio-2424, \_\_\_ N.E.2d \_\_\_.

It is further ordered by the court that this cause is now held on Propositions of Law III, IV, and V for the decisions in 2008-1624, *In re Smith*, Allen App. No. 1-07-58, 2008-Ohio-3234, 2009-0088, *State v. Williams*, Warren App. No. CA2008-02-029, 2008-Ohio-6195, and 2009-0189, *In re Adrian R.*, Licking App. No. 08CA17, 2008-Ohio-6581, and the briefing schedule remains stayed.

### **2009-0150, State v. Countryman.**

Washington App. No. 08CA12, 2008-Ohio-6700. It is ordered, sua sponte, that this cause is no longer held for the decision in 2008-2502, *State v. Bodyke*, \_\_\_ Ohio St.3d \_\_\_, 2010-Ohio-2424, \_\_\_ N.E.2d \_\_\_.

It is further ordered by the court that this cause is now held for the decisions in 2008-1624, *In re Smith*, Allen App. No. 1-07-58, 2008-Ohio-3234, 2009-0088, *State v. Williams*, Warren App. No. CA2008-02-029, 2008-Ohio-6195, and 2009-0189, *In re Adrian R.*, Licking App. No. 08CA17, 2008-Ohio-6581, and the briefing schedule remains stayed.

**2009-0273, State v. Mentser.**

Warren App. Nos. CA2008-06-075 and CA2008-06-076. It is ordered, sua sponte, that this cause is no longer held for the decision in 2008-2502, *State v. Bodyke*, \_\_\_ Ohio St.3d \_\_\_, 2010-Ohio-2424, \_\_\_ N.E.2d \_\_\_.

It is further ordered by the court that this cause is now held for the decisions in 2008-1624, *In re Smith*, Allen App. No. 1-07-58, 2008-Ohio-3234, 2009-0088, *State v. Williams*, Warren App. No. CA2008-02-029, 2008-Ohio-6195, and 2009-0189, *In re Adrian R.*, Licking App. No. 08CA17, 2008-Ohio-6581, and the briefing schedule remains stayed.

**2009-0454, State v. Fisher.**

Summit App. No. 24116, 2009-Ohio-332. It is ordered, sua sponte, that this cause is no longer held for the decision in 2008-2502, *State v. Bodyke*, \_\_\_ Ohio St.3d \_\_\_, 2010-Ohio-2424, \_\_\_ N.E.2d \_\_\_.

It is further ordered by the court that this cause is now held for the decisions in 2008-1624, *In re Smith*, Allen App. No. 1-07-58, 2008-Ohio-3234, 2009-0088, *State v. Williams*, Warren App. No. CA2008-02-029, 2008-Ohio-6195, and 2009-0189, *In re Adrian R.*, Licking App. No. 08CA17, 2008-Ohio-6581, and the briefing schedule remains stayed.

**2009-0560, State v. Rabel.**

Cuyahoga App. No. 91280, 2009-Ohio-350. It is ordered, sua sponte, that this cause is no longer held for the decision in 2008-2502, *State v. Bodyke*, \_\_\_ Ohio St.3d \_\_\_, 2010-Ohio-2424, \_\_\_ N.E.2d \_\_\_.

It is further ordered by the court that this cause is now held for the decisions in 2008-1624, *In re Smith*, Allen App. No. 1-07-58, 2008-Ohio-3234, 2009-0088, *State v. Williams*, Warren App. No. CA2008-02-029, 2008-Ohio-6195, and 2009-0189, *In re Adrian R.*, Licking App. No. 08CA17, 2008-Ohio-6581, and the briefing schedule remains stayed.

**2009-0645, Holcomb v. State.**

Logan App. Nos. 8-08-23, 8-08-24, 8-08-25, and 8-08-26, 2009-Ohio-782. It is ordered, sua sponte, that this cause is no longer held for the decision in 2008-2502, *State v. Bodyke*, \_\_\_ Ohio St.3d \_\_\_, 2010-Ohio-2424, \_\_\_ N.E.2d \_\_\_.

It is further ordered by the court that this cause is now held for the decisions in 2008-1624, *In re Smith*, Allen App. No. 1-07-58, 2008-Ohio-3234, 2009-0088, *State v. Williams*, Warren App. No. CA2008-02-029, 2008-Ohio-6195, and 2009-0189, *In re Adrian R.*, Licking App. No. 08CA17, 2008-Ohio-6581, and the briefing schedule remains stayed.

**2009-0777, State v. Gilfillan.**

Franklin App. No. 08AP-317, 2009-Ohio-1104. It is ordered, sua sponte, that this cause is no longer held for the decision in 2008-2502, *State v. Bodyke*, \_\_\_ Ohio St.3d \_\_\_, 2010-Ohio-2424, \_\_\_ N.E.2d \_\_\_.

It is further ordered by the court that this cause is now held on Proposition of Law VIII for the decisions in 2008-1624, *In re Smith*, Allen App. No. 1-07-58, 2008-Ohio-3234, 2009-0088, *State v. Williams*, Warren App. No. CA2008-02-029, 2008-Ohio-6195, and 2009-0189, *In re Adrian R.*, Licking App. No. 08CA17, 2008-Ohio-6581, and the briefing schedule remains stayed.

**2009-0840, State v. Hartman.**

Cuyahoga App. No. 91040, 2009-Ohio-1069. It is ordered, sua sponte, that this cause is no longer held for the decision in 2008-2502, *State v. Bodyke*, \_\_\_ Ohio St.3d \_\_\_, 2010-Ohio-2424, \_\_\_ N.E.2d \_\_\_.

It is further ordered by the court that this cause is now held on Propositions of Law II and III for the decisions in 2008-1624, *In re Smith*, Allen App. No. 1-07-58, 2008-Ohio-3234, 2009-0088, *State v. Williams*, Warren App. No. CA2008-02-029, 2008-Ohio-6195, and 2009-0189, *In re Adrian R.*, Licking App. No. 08CA17, 2008-Ohio-6581, and the briefing schedule remains stayed.

**2009-0863, State v. Omiecinski.**

Cuyahoga App. No. 90510, 2009-Ohio-1066. It is ordered, sua sponte, that this cause is no longer held for the decision in 2008-2502, *State v. Bodyke*, \_\_\_ Ohio St.3d \_\_\_, 2010-Ohio-2424, \_\_\_ N.E.2d \_\_\_.

It is further ordered by the court that this cause is now held on Propositions of Law II-V for the decisions in 2008-1624, *In re Smith*, Allen App. No. 1-07-58, 2008-Ohio-3234, 2009-0088, *State v. Williams*, Warren App. No. CA2008-02-029, 2008-Ohio-6195, and 2009-0189, *In re Adrian R.*, Licking App. No. 08CA17, 2008-Ohio-6581, and the briefing schedule remains stayed.

It is further ordered that the motion to vacate the briefing stay is denied.

**2009-1024, State v. Blanchard.**

Cuyahoga App. No. 90935, 2009-Ohio-1357. It is ordered, sua sponte, that this cause is no longer held for the decision in 2008-2502, *State v. Bodyke*, \_\_\_ Ohio St.3d \_\_\_, 2010-Ohio-2424, \_\_\_ N.E.2d \_\_\_.

It is further ordered by the court that this cause is now held on Propositions of Law II, III, and IV for the decisions in 2008-1624, *In re Smith*, Allen App. No. 1-07-58, 2008-Ohio-3234, 2009-0088, *State v. Williams*, Warren App. No. CA2008-02-029, 2008-Ohio-6195, and 2009-0189, *In re Adrian R.*, Licking App. No. 08CA17, 2008-Ohio-6581, and the briefing schedule remains stayed.

**2009-1049, Toney v. State.**

Cuyahoga App. Nos. 91582, 91583, 91584, 91585, 91588, 91589, 91590, 91591,91592, 91593, 91594, 91595, 91596, 91870, 91871, and 91872, 2009-Ohio-1881. It is ordered, sua sponte, that this cause is no longer held for the decision in 2008-2502, *State v. Bodyke*, \_\_\_ Ohio St.3d \_\_\_, 2010-Ohio-2424, \_\_\_ N.E.2d \_\_\_.

It is further ordered by the court that this cause is now held for the decisions in 2008-1624, *In re Smith*, Allen App. No. 1-07-58, 2008-Ohio-3234, 2009-0088, *State v. Williams*, Warren App. No. CA2008-02-029, 2008-Ohio-6195, and 2009-0189, *In re Adrian R.*, Licking App. No. 08CA17, 2008-Ohio-6581, and the briefing schedule remains stayed.

**2009-1227, State v. Franklin.**

Franklin App. No. 08AP-900, 2009-Ohio-2664. It is ordered, sua sponte, that this cause is no longer held for the decision in 2008-2502, *State v. Bodyke*, \_\_\_ Ohio St.3d \_\_\_, 2010-Ohio-2424, \_\_\_ N.E.2d \_\_\_.

It is further ordered by the court that this cause is now held on Propositions of Law I and II for the decisions in 2008-1624, *In re Smith*, Allen App. No. 1-07-58, 2008-Ohio-3234, 2009-0088, *State v. Williams*, Warren App. No. CA2008-02-029, 2008-Ohio-6195, and 2009-0189, *In re Adrian R.*, Licking App. No. 08CA17, 2008-Ohio-6581, and the briefing schedule remains stayed.

**2009-1419, State v. Irvin.**

Ross App. No. 08CA3057, 2009-Ohio-3128. It is ordered, sua sponte, that this cause is no longer held for the decision in 2008-2502, *State v. Bodyke*, \_\_\_ Ohio St.3d \_\_\_, 2010-Ohio-2424, \_\_\_ N.E.2d \_\_\_.

It is further ordered by the court that this cause is now held for the decisions in 2008-1624, *In re Smith*, Allen App. No. 1-07-58, 2008-Ohio-3234, 2009-0088, *State v. Williams*, Warren App. No. CA2008-02-029, 2008-Ohio-6195, and 2009-0189, *In re Adrian R.*, Licking App. No. 08CA17, 2008-Ohio-6581, and the briefing schedule remains stayed.

**2009-1493, State v. Gresham.**

Montgomery App. No. 22766, 2009-Ohio-3305. It is ordered, sua sponte, that this cause is no longer held for the decision in 2008-2502, *State v. Bodyke*, \_\_\_ Ohio St.3d \_\_\_, 2010-Ohio-2424, \_\_\_ N.E.2d \_\_\_.

It is further ordered by the court that this cause is now held on Proposition of Law II for the decisions in 2008-1624, *In re Smith*, Allen App. No. 1-07-58, 2008-Ohio-3234, 2009-0088, *State v. Williams*, Warren App. No. CA2008-02-029, 2008-Ohio-6195, and 2009-0189, *In re Adrian R.*, Licking App. No. 08CA17, 2008-Ohio-6581, and the briefing schedule remains stayed.

**2009-1588, State v. Marks.**

Ashtabula App. No. 2008-A-0048, 2009-Ohio-3790. It is ordered, sua sponte, that this cause is no longer held for the decision in 2008-2502, *State v. Bodyke*, \_\_\_ Ohio St.3d \_\_\_, 2010-Ohio-2424, \_\_\_ N.E.2d \_\_\_.

It is further ordered by the court that this cause is now held for the decisions in 2008-1624, *In re Smith*, Allen App. No. 1-07-58, 2008-Ohio-3234, 2009-0088, *State v. Williams*, Warren App. No. CA2008-02-029, 2008-Ohio-6195, and 2009-0189, *In re Adrian R.*, Licking App. No. 08CA17, 2008-Ohio-6581, and the briefing schedule remains stayed.

**2009-1604, State v. Day.**

Adams App. Nos. 08CA865 and 08CA866, 2009-Ohio-3755. It is ordered, sua sponte, that this cause is no longer held for the decision in 2008-2502, *State v. Bodyke*, \_\_\_ Ohio St.3d \_\_\_, 2010-Ohio-2424, \_\_\_ N.E.2d \_\_\_.

It is further ordered by the court that this cause is now held on Proposition of Law I for the decisions in 2008-1624, *In re Smith*, Allen App. No. 1-07-58, 2008-Ohio-3234, 2009-0088, *State v. Williams*, Warren App. No. CA2008-02-029, 2008-Ohio-6195, and 2009-0189, *In re Adrian R.*, Licking App. No. 08CA17, 2008-Ohio-6581, and the briefing schedule remains stayed.

**2009-1716, State v. Irvin.**

Ross App. No. 08CA3056, 2009-Ohio-4181. It is ordered, sua sponte, that this cause is no longer held for the decision in 2008-2502, *State v. Bodyke*, \_\_\_ Ohio St.3d \_\_\_, 2010-Ohio-2424, \_\_\_ N.E.2d \_\_\_.

It is further ordered by the court that this cause is now held for the decisions in 2008-1624, *In re Smith*, Allen App. No. 1-07-58, 2008-Ohio-3234, 2009-0088, *State v. Williams*, Warren App. No. CA2008-02-029, 2008-Ohio-6195, and 2009-0189, *In re Adrian R.*, Licking App. No. 08CA17, 2008-Ohio-6581, and the briefing schedule remains stayed.

**2009-1811, McGuire v. State.**

Richland App. No. 08 CA 227, 2009-Ohio-4397. It is ordered, sua sponte, that this cause is no longer held for the decision in 2008-2502, *State v. Bodyke*, \_\_\_ Ohio St.3d \_\_\_, 2010-Ohio-2424, \_\_\_ N.E.2d \_\_\_.

It is further ordered by the court that this cause is now held for the decisions in 2008-1624, *In re Smith*, Allen App. No. 1-07-58, 2008-Ohio-3234, 2009-0088, *State v. Williams*, Warren App. No. CA2008-02-029, 2008-Ohio-6195, and 2009-0189, *In re Adrian R.*, Licking App. No. 08CA17, 2008-Ohio-6581, and the briefing schedule remains stayed.

**2009-1844, State v. Howard.**

Ross App. No. 08CA3086, 2009-Ohio-4496. It is ordered, sua sponte, that this cause is no longer held for the decision in 2008-2502, *State v. Bodyke*, \_\_\_ Ohio St.3d \_\_\_, 2010-Ohio-2424, \_\_\_ N.E.2d \_\_\_.

It is further ordered by the court that this cause is now held for the decisions in 2008-1624, *In re Smith*, Allen App. No. 1-07-58, 2008-Ohio-3234, 2009-0088, *State v. Williams*, Warren App. No. CA2008-02-029, 2008-Ohio-6195, and 2009-0189, *In re Adrian R.*, Licking App. No. 08CA17, 2008-Ohio-6581, and the briefing schedule remains stayed.

**2009-1858, State v. Menton.**

Mahoning App. No. 07 MA 70, 2009-Ohio-4640. It is ordered, sua sponte, that this cause is no longer held for the decision in 2008-2502, *State v. Bodyke*, \_\_\_ Ohio St.3d \_\_\_, 2010-Ohio-2424, \_\_\_ N.E.2d \_\_\_.

It is further ordered by the court that this cause is now held on Proposition of Law V for the decisions in 2008-1624, *In re Smith*, Allen App. No. 1-07-58, 2008-Ohio-3234, 2009-0088, *State v. Williams*, Warren App. No. CA2008-02-029, 2008-Ohio-6195, and 2009-0189, *In re Adrian R.*, Licking App. No. 08CA17, 2008-Ohio-6581, and the briefing schedule remains stayed.

**2009-2200, State v. Kenney.**

Franklin App. No. 09AP-231, 2009-Ohio-5584. It is ordered, sua sponte, that this cause is no longer held for the decision in 2008-2502, *State v. Bodyke*, \_\_\_ Ohio St.3d \_\_\_, 2010-Ohio-2424, \_\_\_ N.E.2d \_\_\_.

It is further ordered by the court that this cause is now held for the decisions in 2008-1624, *In re Smith*, Allen App. No. 1-07-58, 2008-Ohio-3234, 2009-0088, *State v. Williams*, Warren App. No. CA2008-02-029, 2008-Ohio-6195, and 2009-0189, *In re Adrian R.*, Licking App. No. 08CA17, 2008-Ohio-6581, and the briefing schedule remains stayed.

**2010-0289, Caes v. State.**

Warren App. No. CA2009-07-095, 2009-Ohio-6920. It is ordered, sua sponte, that this cause is no longer held for the decision in 2008-2502, *State v. Bodyke*, \_\_\_ Ohio St.3d \_\_\_, 2010-Ohio-2424, \_\_\_ N.E.2d \_\_\_.

It is further ordered by the court that this cause is now held for the decisions in 2008-1624, *In re Smith*, Allen App. No. 1-07-58, 2008-Ohio-3234, 2009-0088, *State v. Williams*, Warren App. No. CA2008-02-029, 2008-Ohio-6195, and 2009-0189, *In re Adrian R.*, Licking App. No. 08CA17, 2008-Ohio-6581, and the briefing schedule remains stayed.

**2010-0329, State v. Taylor.**

Athens App. No. 09CA22, 2010-Ohio-141. It is ordered, sua sponte, that this cause is no longer held for the decision in 2008-2502, *State v. Bodyke*, \_\_\_ Ohio St.3d \_\_\_, 2010-Ohio-2424, \_\_\_ N.E.2d \_\_\_.

It is further ordered by the court that this cause is now held for the decisions in 2008-1624, *In re Smith*, Allen App. No. 1-07-58, 2008-Ohio-3234, 2009-0088, *State v. Williams*, Warren App. No. CA2008-02-029, 2008-Ohio-6195, and 2009-0189, *In re Adrian R.*, Licking App. No. 08CA17, 2008-Ohio-6581, and the briefing schedule remains stayed.

**APPEALS ACCEPTED FOR REVIEW**

**2010-0627, State v. Boehnke.**

Warren App. No. CA2009-06-070, 2010-Ohio-737. Discretionary appeal accepted; cause held for the decisions in 2008-1624, *In re Smith*, Allen App. No. 1-07-58, 2008-Ohio-3234, 2009-0088, *State v. Williams*, Warren App. No. CA2008-02-029, 2008-Ohio-6195, and 2009-0189, *In re Adrian R.*, Licking App. No. 08CA17, 2008-Ohio-6581, and briefing schedule stayed.

**APPEALS NOT ACCEPTED FOR REVIEW**

**2010-0391. State v. Adams.**

Franklin App. No. 09AP-141, 2010-Ohio-171. Discretionary appeal not accepted. Motion to consolidate denied as moot.

**2010-0506. State v. Paul.**

Franklin App. No. 09AP-593. Discretionary appeal not accepted. Motion to consolidate denied as moot.

## RECONSIDERATION OF PRIOR DECISIONS

**2008-2502. State v. Bodyke, Slip Opinion No. 2010-Ohio-3737.**

Huron App. Nos. H-07-040, H-07-041, and H-07-042, 2008-Ohio-6387. Reported at \_\_\_ Ohio St.3d \_\_\_, 2010-Ohio-2424, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration and/or clarification. Motion denied. See opinion.

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

O'Donnell and Cupp, JJ., dissent.

**2009-1282. Zanesville v. Rouse, Slip Opinion No. 2010-Ohio-3754.**

Muskingum App. No. CT08-0035, 2009-Ohio-2689. Reported at 126 Ohio St.3d 1, 2010-Ohio-2218, 929 N.E.2d 1044. On motion for reconsideration. Motion granted. See opinion.

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

Pfeifer, J., dissents.

**2010-1013. Hartford Fire Ins. Co. v. Seifert.**

Cuyahoga App. No. 93291, 2010-Ohio-2346. Reported at 125 Ohio St.3d 1505, 2010-Ohio-3284, 929 N.E.2d 1071. On motion for reconsideration. Motion granted, and appellant shall file a memorandum in support of jurisdiction within 30 days of the date of this entry.