

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

August 25, 2010

[Cite as *08/25/2010 Case Announcements*, 2010-Ohio-3855.]

MERIT DECISIONS WITH OPINIONS

2007-1261 and 2007-2425. State v. Ketterer, Slip Opinion No. 2010-Ohio-3831.

Butler C.P. No. CR-2003-03-309. Judgment of the trial court reversed in part, and cause remanded for imposition of postrelease control.

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

Lundberg Stratton, J., dissents.

Brown, C.J., not participating.

2009-2267. Disciplinary Counsel v. Robinson, Slip Opinion No. 2010-Ohio-3829.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 09-013. David Jerome Robinson, Attorney Registration No. 0059369, is suspended from the practice of law in Ohio for one year.

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

O'Connor and Lanzinger, JJ., dissent and would suspend respondent from the practice of law in Ohio for two years.

Brown, C.J., not participating.

2010-0355. In re Application of Zatik, Slip Opinion No. 2010-Ohio-3828.

On Report by the Board of Commissioners on Character and Fitness, No. 425. The application of Alexander Johnathin Zatik for admission to the practice of law in Ohio is disapproved, but he may apply for the July 2012 bar examination.

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

Brown, C.J., not participating.

2010-0796. Ohio State Bar Assn. v. Lienguard, Inc., Slip Opinion No. 2010-Ohio-3827.

On Final Report by the Board on the Unauthorized Practice of Law, No. UPL 09-03. Allan R. Popper and Lienguard, Inc., are permanently enjoined from acts constituting the practice of law in Ohio.

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

MERIT DECISIONS WITHOUT OPINIONS

2010-0941. State ex rel. Duncan v. Court of Appeals, Fifth Appellate Dist.

In Mandamus and Procedendo. 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.

2010-0954. [State ex rel.] Johnson v. Weiss.

In Prohibition. On respondents' answer and motion for judgment on the pleadings. Motion for judgment on the pleadings granted. Motions for stay and to strike denied as moot. Cause dismissed.

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

2010-1003. [State ex rel.] Hardy v. Wolfe.

In Mandamus and 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.

2010-1015. [State ex rel.] Lenard v. Russo.

In Procedendo. 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.

2010-1020. [State ex rel.] Perkins v. Court of Appeals, Second Appellate Dist.

In Mandamus. On motion to dismiss. Motion to dismiss granted. Cause dismissed. Request for oral argument denied as moot.

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

2010-1038. State ex rel. Craig v. Leis.

In Mandamus and Prohibition. On motion to dismiss. Motion to dismiss granted. Cause dismissed. Motions to consolidate and for settlement conference denied as moot.

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

2010-1056. Ramsey v. Beightler.

In Habeas Corpus. On petition for writ of habeas corpus of Ronnie Lee Ramsey. Sua sponte, cause dismissed. Motion for appointment of counsel denied as moot.

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

2010-1062. [State ex rel.] Johnson v. Court of Appeals, First Appellate Dist.

In Procedendo. 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.

2010-1065. Fannin v. Shewalter.

In Habeas Corpus. On petition for writ of habeas corpus of Glen Fannin. Sua sponte, cause dismissed. Motion for judicial notice denied as moot.

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

2010-1085. Crotts v. Smith.

In Habeas Corpus. On petition for writ of habeas corpus of Steven Crotts. Sua sponte, cause dismissed. Motion for discovery denied as moot.

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

2010-1098. Henderson v. Saffold.

In Habeas Corpus. On petition for writ of habeas corpus of Paul S. Henderson and motion to amend petition. Motion to amend petition granted. Sua sponte, cause dismissed. Motion for judgment denied as moot.

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

2010-1119. State ex rel. Will v. Burge.

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.

2010-1134. State ex rel. Columbus S. Power Co. v. Bessey.

In Prohibition. On answer of respondent. On S.Ct.Prac.R. 10.5 determination, cause dismissed based on mootness. Motion to consolidate denied as moot.

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

2010-1155. State ex rel. Columbus S. Power Co. v. Bessey.

In Prohibition. On answer of respondent. On S.Ct.Prac.R. 10.5 determination, cause dismissed based on mootness. Motion to consolidate denied as moot.

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

2010-1215. Fannin v. Shewalter.

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

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

2010-1218. Smith v. Shewalter.

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

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

MOTION AND PROCEDURAL RULINGS

2005-1316. State v. Frazier.

Lucas C.P. No. CR04-1509. On application for reopening under S.Ct.Prac.R. 11.6. Motion denied because appellant failed to comply with the 90-day filing deadline in S.Ct.Prac.R. 11.6(A).

2009-1806. State ex rel. Merrill v. Ohio Dept. of Natural Resources.

Lake App. Nos. 2008-L-007 and 2008-L-008, 2009-Ohio-4256. On motion for admission pro hac vice of Darryl J. Paquette by Stephen P. Carney and motion for admission pro hac vice of B. Eric Restucia, Peter Manning, and Robert Reichel by Benjamin C. Mizer. Motions granted.

2009-1915. State v. Jay.

Cuyahoga App. No. 91827, 2009-Ohio-4364. On motion for stay of sentence. Motion denied.

2009-2127. [State ex rel.] Evans v. Sheward.

In Mandamus. On motion to clarify the court's April 14, 2010 entry. Motion denied.

2009-2280. Cleveland v. State.

Cuyahoga App. No. 92663, 185 Ohio App.3d 59, 2009-Ohio-5968. On motion for admission pro hac vice of William F. Abrams, David Cannon, Karen Lu, and Christopher Chang by James N. Kline. Motion granted.

2010-0276. In re Mullen.

Hamilton App. Nos. C-090285 and C-090407, 2009-Ohio-6934. On motion for admission pro hac vice of Christopher R. Clark by Lisa T. Meeks. Motion granted.

2010-0387. [State ex rel.] Evans v. French.

In Mandamus. On motion to clarify the court's May 5, 2010 entry. Motion denied.

2010-0393. Powell Measles v. Indus. Comm.

Cuyahoga App. No. 93071, 2010-Ohio-161. On motion for admission pro hac vice of Emily Schlesinger by Benjamin C. Mizer. Motion granted.

2010-0728. State ex rel. Am. Civil Liberties Union of Ohio, Inc. v. Cuyahoga Cty. Bd. of Commrs.

In Mandamus. This cause originated in this court on the filing of a complaint for a writ of mandamus. Upon consideration of the motion for judgment on the pleadings of Cuyahoga County Transition Executive Committee et al., the motion to dismiss of Cuyahoga County Board of Commissioners et al., relator's motion to strike the affidavit attached to answer and motion to deny or dismiss motion for judgment on the pleadings, and motion for leave to file amended complaint,

It is ordered by the court that the motion for leave to file amended an complaint is granted; the motions for judgment on the pleadings, to dismiss, and to strike are denied.

It is further ordered by the court, sua sponte, that 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 10 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 7 days after filing of respondents' brief.

2010-0740. Berry v. Lucas Cty. Bd. of Commrs.

Certified Question of State Law, United States District Court, Northern District of Ohio, Western Division, No. 3:08CV3005. On review of preliminary memoranda pursuant to S.Ct.Prac.R. 18.6. The court will answer the following question:

“May a prisoner reimbursement policy adopted by a board of county commissioners pursuant to [R.C.] 341.19 require a convicted criminal offender to reimburse the county for the costs it incurred as a result of the offender's confinement in a local detention facility prior to the commencement of sentence?”

Lanzinger, J., dissents.

2010-0951. Mentor Exempted Village School Dist. Bd. of Edn. v. Mohat.

Certified Question of State Law, United States District Court, Northern District of Ohio, Eastern Division, No. 1:09 CV 688. On review of preliminary memoranda pursuant to S.Ct.Prac.R. 18.6. The court will answer the following modified question as stated in the petitioners' memorandum:

“Whether, under Ohio law an action filed on behalf of a decedent before an estate is legally established by someone who is not a legally appointed administrator or personal representative (i.e., is without the capacity to sue on the decedent's behalf), are barred by the statute of limitations if later, after the running of the statute of limitations but before resolution of the claims, an estate is legally established and an administrator or personal representative is duly appointed and named in the Complaint – or whether the formation of the estate and the appointment of the administrator relates back to the original filing of the claims?”

O'Donnell, J., dissents.

2010-1053. Dublin v. Bansek.

Franklin App. No. 10AP-14, 2010-Ohio-2372. On motion for stay. Motion denied.

2010-1057. State v. Cannon.

Hamilton App. No. C-090907. On motion for leave to file delayed appeal. Motion denied.

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

2010-1063. State v. McGovern.

Erie App. No. E-08-066, 2010-Ohio-1361. On motion for leave to file delayed appeal. Motion denied.

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

2010-1066. State v. Tebelman.

Putnam App. No. 12-09-01, 2010-Ohio-481. On motion for leave to file delayed appeal. Motion denied.

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

2010-1067. State v. McCord.

Cuyahoga App. No. 93127, 2010-Ohio-1979. On motion for bail. Motion denied.

Pfeifer, J., dissents.

2010-1072. State v. Britton.

Delaware App. No. 09 CAA 02 0016, 2010-Ohio-2061. On motion for leave to file delayed appeal. Motion granted.

O'Connor, J., dissents.

2010-1089. State v. Phillips.

Cuyahoga App. No. 94347. On motion for leave to file delayed appeal. Motion denied.

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

2010-1090. State v. Hudson.

Montgomery App. No. 23328. On motion for leave to file delayed appeal. Motion granted.

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

2010-1106. State v. Parsley.

Franklin App. No. 09AP-612, 2010-Ohio-1689. On motion for leave to file delayed appeal. Motion granted.

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

2010-1118. State v. McCrary.

Montgomery App. No. 23360, 2010-Ohio-2011. On motion for leave to file delayed appeal. Motion granted.

O'Connor and Lanzinger, JJ., dissent.

2010-1156. State v. Woodson.

Cuyahoga App. No. 93476, 2010-Ohio-1671. On motion for leave to file delayed appeal. Motion granted.

O'Connor and Lanzinger, JJ., dissent.

2010-1177. State v. Britta.

Lake App. No. 2009-L-017, 2010-Ohio-971. On motion for leave to file delayed appeal. Motion granted.

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

2010-1185. State v. McGrath.

Cuyahoga App. No. 77896. On motion for leave to file delayed appeal. Motion denied.

2010-1198. State v. Tinsley.

Cuyahoga App. Nos. 92335 and 92339, 2010-Ohio-2083. On motion for leave to file delayed appeal. Motion granted.

O'Connor and Lanzinger, JJ., dissent.

2010-1228. State v. Heft.

Logan App. No. 8-10-05. On motion to stay execution of judgment. Motion denied.

2010-1236. King v. ProMedica Health Sys., Inc.

Lucas App. No. L-09-1282, 2010-Ohio-2578. On motion for stay of court of appeals' judgment. Motion granted.

Pfeifer and Lanzinger, JJ., dissent.

2010-1270. State v. Alexander.

Franklin App. No. 10AP-124. On motion for stay. Motion denied.

2010-1310. State v. Chappell.

Cuyahoga App. No. 93298, 2010-Ohio-2465. On motion to stay proceedings. Motion denied.

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

2010-1315. State v. Gould.

Lucas App. No. L-08-1383, 2010-Ohio-3437. On motion for stay of court of appeals' judgment pending appeal. Motion granted.

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

APPEALS ACCEPTED FOR REVIEW

2010-0780. In re Messmer.

Wyandot App. No. 16-09-17, 2010-Ohio-1088. Discretionary appeal accepted on Proposition of Law Nos. I and II and held for the decisions in 2008-1624, *In re Smith*, Allen App. No. 1-07-58, 2008-Ohio-3234, and 2009-0189, *In re Adrian R.*, Licking App. No. 08CA17, 2008-Ohio-6581, and briefing schedule stayed. Discretionary appeal accepted on Proposition of Law No. III for briefing and oral argument.

2010-0803. State v. Baughman.

Allen App. No. 1-09-38, 2010-Ohio-1259. Discretionary appeal accepted on Proposition of Law No. III; cause held for the decision in 2009-1997, *State v. Hodge*, Hamilton App. No. C-080968; and briefing schedule stayed.

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

2010-0809. Smith v. McBride.

Franklin App. No. 09AP-571, 2010-Ohio-1222.

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

2010-0810. Terry v. Sperry.

Mahoning App. No. 08-MA-227, 2010-Ohio-1299.

Lundberg Stratton, J., dissents.

2010-0897. State v. Wilson.

Cuyahoga App. No. 91971, 2010-Ohio-1196.

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

2010-0924. Starkey v. Builders FirstSource Ohio Valley, L.L.C.

Hamilton App. No. C-081279, 2010-Ohio-1571.

Pfeifer and O'Donnell, JJ., dissent.

2010-0937. State v. Damron.

Franklin App. No. 09AP-807, 2010-Ohio-1821. Discretionary appeal accepted on Proposition of Law Nos. I and II.

Brown, C.J., and Pfeifer and Lundberg Stratton, JJ., would also accept the appeal on Proposition of Law No. III.

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

2010-1005. State v. Ntarumotima.

Hamilton App. No. C-090479. Discretionary appeal accepted; cause held for the decision in 2009-1997, *State v. Hodge*, Hamilton App. No. C-080968; and briefing schedule stayed.

Pfeifer and Lundberg Stratton, JJ., dissent.

2010-1010. State v. Waite.

Cuyahoga App. No. 92895, 2010-Ohio-1748. Discretionary appeal accepted; cause held for the decision in 2009-1997, *State v. Hodge*, Hamilton App. No. C-080968; and briefing schedule stayed.

Pfeifer and Lundberg Stratton, JJ., dissent.

APPEALS NOT ACCEPTED FOR REVIEW

2010-0311. State v. Tooson.

Montgomery App. No. 23290, 2009-Ohio-6269.

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

2010-0312. State v. O'Neil.

Portage App. No. 2008-P-0090, 2009-Ohio-7000.

2010-0317. State v. Gotel.

Lake App. No. 2009-L-051, 2009-Ohio-6516.

2010-0318. State v. Hitchcock.

Cuyahoga App. No. 92263, 2009-Ohio-6455.

2010-0468. State v. Bowshier.

Clark App. No. 2008 CA 101, 2009-Ohio-6387.

2010-0489. State v. Anderson.

Cuyahoga App. No. 92568, 2010-Ohio-66.

2010-0517. State ex rel. Greenacres Found. v. Ghosh.

Hamilton App. No. C-100126. Discretionary appeal not accepted.

Lundberg Stratton, J., dissents.

Motions to dismiss appeal denied as moot.

2010-0555. State v. Rose.

Butler App. No. CA2008-04-109.

Brown, C.J., and Cupp, J., dissent and would accept the appeal and hold the cause for the decision in 2009-1997, *State v. Hodge*, Hamilton App. No. C-080968.

2010-0623. Tipp City v. Dakin.

Miami App. No. 09CA06, 186 Ohio App.3d 558, 2010-Ohio-1013. Discretionary appeal and cross-appeal not accepted.

Cupp, J., dissents.

Motion for admission pro hac vice of Jeremy S. Rogers by Robert M. Harrelson granted.

2010-0757. Zanesville, L.L.C. v. Motorists Mut. Ins. Co.

Muskingum App. No. CT2009-0030.

O'Donnell, J., dissents.

2010-0768. US Bank, N.A. v. Suggs.

Cuyahoga App. No. 94537.

2010-0777. Tesca v. Hoffman.

Richland App. No. 2009-CA-0058, 2010-Ohio-1114.

2010-0778. State v. Ingram.

Mahoning App. No. 09 MA 98, 2010-Ohio-1093.

2010-0785. Wachovia Natl. Bank of Delaware, N.A. v. Ball.

Huron App. No. H-08-022, 2010-Ohio-1479. Discretionary appeal not accepted. Motion for admission pro hac vice of Stuart T. Rossman and Matthew Brinegar by Andrew D. Neuhauser and Stanley A. Hirtle granted.

2010-0786. State v. Hatton.

Pickaway App. No. 09CA4, 2010-Ohio-1245.

Lanzinger, J., dissents.

2010-0787. State v. Harris.

Lorain App. Nos. 09CA009605, 09CA009606, and 09CA009607, 2010-Ohio-1081.

2010-0788. Barnickel v. Auto Owners Ins. Co.
Butler App. No. CA2009-09-223, 2010-Ohio-1100.
O'Donnell, J., dissents.

2010-0791. State v. Zukowski.
Franklin App. No. 10AP-87.

2010-0797. State v. Vari.
Mahoning App. No. 07-MA-142, 2010-Ohio-1300.

2010-0800. State v. McGowan.
Jefferson App. No. 09 JE 24, 2010-Ohio-1309.

2010-0801. State v. Skorvanek.
Lorain App. No. 08CA009400, 2010-Ohio-1079.

2010-0802. Gehm v. Tri-Cty., Inc.
Lorain App. No. 09CA009693, 2010-Ohio-1080.

2010-0808. State v. Hicks.
Summit App. No. 24708,
O'Donnell, J., dissents.

2010-0812. Nye v. Ellis.
Licking App. No. 09-CA-0080, 2010-Ohio-1462.
Lundberg Stratton and O'Donnell, JJ., dissent.

2010-0814. Nash v. Cleveland Clinic Found.
Cuyahoga App. No. 92564, 2010-Ohio-10. Discretionary appeal not accepted.
Motion to strike memorandum in response denied as moot.
Pfeifer, J., dissents.

2010-0815. In re C.J.
Cuyahoga App. No. 94210, 2010-Ohio-3202.
Pfeifer, J., dissents.

2010-0816. Ohio Farmers Ins. Co. v. Akron.

Medina App. No. 09CA0013-M, 2010-Ohio-1348.
Lundberg Stratton, J., dissents.

2010-0817. Wakefield v. John Russell Constr. Co.
Jefferson App. No. 09-JE-19, 2010-Ohio-1294.

2010-0818. Salem v. Korleski.
Franklin App. No. 09AP-620, 2010-Ohio-1145.
Pfeifer, Lundberg Stratton, and O'Donnell, JJ., dissent.

2010-0825. State v. Aller.
Union App. No. 14-09-32.

2010-0829. Planey v. Planey.
Mahoning App. No. 08-MA-203, 2010-Ohio-1295.

2010-0831. Dysart v. Estate of Dysart.
Miami App. No. 2009 CA 24, 2010-Ohio-1238.

2010-0832. State v. Snyder.
Licking App. No. 09-CA-79, 2010-Ohio-1643.

2010-0833. State v. Cox.
Franklin App. No. 09AP-818, 2010-Ohio-1227.

2010-0835. Stumpff v. Harris.
Montgomery App. No. 23354, 2010-Ohio-1241.

2010-0837. State v. Pratt.
Cuyahoga App. No. 93123, 2010-Ohio-1426.

2010-0839. Wolfe v. Bison Baseball, Inc.
Franklin App. No. 09AP-905, 2010-Ohio-1390.

2010-0841. Francis Davis Corp. v. Mac Auto Mart, Inc.
Cuyahoga App. No. 93532, 2010-Ohio-1064.

2010-0846. State v. Greathouse.
Cuyahoga App. No. 93187, 2010-Ohio-1209.

Brown, C.J., dissents and would accept the appeal and consolidate the cause with 2010-0867, *State v. Lockett*, Ross App. No. 09CA3109, 2010-Ohio-1444.

2010-0856. Park Natl. Bank v. Cattani, Inc.

Warren App. No. CA2009-09-128, 2010-Ohio-1291.

Pfeifer and Lundberg Stratton, JJ., dissent.

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

2010-0857. Huff v. FirstEnergy Corp.

Trumbull App. No. 2009-T-0080, 2010-Ohio-1456.

Lundberg Stratton and Cupp, JJ., dissent.

Lanzinger, J., not participating.

2010-0859. State ex rel. Fatur v. Eastlake.

Lake App. No. 2009-L-037, 2010-Ohio-1448.

Lanzinger and Cupp, JJ., dissent.

2010-0860. State v. Kaufman.

Mahoning App. No. 08 MA 57, 2010-Ohio-1536. Discretionary appeal and cross-appeal not accepted.

O'Donnell, J., dissents.

2010-0862. State v. O'Neal.

Medina App. No. 09CA0045-M, 2010-Ohio-1252.

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

2010-0863. State v. Allen.

Seneca App. No. 13-09-25, 2010-Ohio-1257.

Brown, C.J., dissents.

2010-0867. State v. Lockett.

Ross App. No. 09CA3109, 2010-Ohio-1444.

Brown, C.J., dissents and would accept the appeal and consolidate the cause with 2010-0846, *State v. Greathouse*, Cuyahoga App. No. 93187, 2010-Ohio-1209.

2010-0868. Konik v. Motorists Mut. Ins. Co.

Portage App. No. 2009-P-0019, 2010-Ohio-1452.

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

2010-0869. Twitty v. Bowe.

Franklin App. No. 09AP-953, 2010-Ohio-1391.

2010-0871. Murtha v. Ravines of McNaughton Condominium Assn.

Franklin App. No. 09AP-709, 2010-Ohio-1325.

2010-0873. E.F. v. Oberlin City School Dist.

Lorain App. No. 09CA009640, 2010-Ohio-1370.

Lundberg Stratton, J., dissents.

2010-0875. Rader v. Fifth Third Bancorp.

Franklin App. No. 09AP-821, 2010-Ohio-1327.

2010-0876. State v. Boyd.

Athens App. No. 09CA14, 2010-Ohio-1605.

2010-0880. State v. Lang.

Cuyahoga App. No. 92099, 2010-Ohio-433.

2010-0881. Ohio Carpenters' Pension Fund v. U.S. Bank Natl. Assn.

Cuyahoga App. No. 93295, 2010-Ohio-911. Discretionary appeal not accepted.

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

Motion to strike memorandum in response denied as moot.

2010-0882. Bankers Trust Co. of California v. Wright.

Fulton App. No. F-09-009, 2010-Ohio-1697.

Pfeifer, J., dissents.

2010-0885. In re Z.B.

Medina App. No. 09CA0039-M, 2010-Ohio-1345.

O'Donnell, J., dissents.

2010-0886. State v. Henry.

Lake App. No. 2008-L-178, 2010-Ohio-1446.

2010-0887. State v. Morris.

Franklin App. No. 09AP-751, 2010-Ohio-1383.

O'Donnell, J., dissents.

2010-0888. Fifth Third Bank, N.A. v. Maple Leaf Expansion, Inc.

Mahoning App. No. 09 MA 112, 2010-Ohio-1537.

2010-0889. Haley v. DCO Internatl., Inc.

Summit App. No. 24820, 2010-Ohio-1343.

Brown, C.J., dissents.

2010-0890. State v. Freeman.

Lucas App. No. L-09-1086, 2010-Ohio-1357.

2010-0891. State v. Alexander.

Franklin App. No. 09AP-855, 2010-Ohio-1388.

2010-0894. State v. Wright.

Montgomery App. Nos. 23330, 23403, 23404, and 23521, 2010-Ohio-1899.

2010-0898. Owners Ins. Co. v. Westfield Ins. Co.

Allen App. No. 1-09-60, 2010-Ohio-1499.

2010-0905. Portfolio Recovery Assoc., L.L.C. v. Dahlin.

Knox App. No. 10CA3.

O'Donnell, J., dissents.

2010-0909. Coleman v. Am. Gen. Fin. Servs.

Cuyahoga App. No. 94533.

Brown, C.J., dissents.

2010-0911. Trautman v. Union Ins. Co.

Hancock App. No. 5-09-34, 2010-Ohio-1504.

2010-0912. Nieman v. Bunnell Hill Dev. Co., Inc.

Butler App. No. CA2009-04-109, 2010-Ohio-1519.

2010-0914. State v. Thomas.

Hamilton App. No. C-090508. Discretionary appeal not accepted.

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

Appellant's pro se motions denied as moot.

2010-0917. State v. Morgan.

Brown App. Nos. CA2009-07-029 and CA2009-08-033, 2010-Ohio-1720.

2010-0919. State v. Bosley.

Hamilton App. No. C-090330, 2010-Ohio-1570.

Brown, C.J., dissents and would accept the appeal on Proposition of Law Nos. I-IV and VI.

Pfeifer and Lundberg Stratton, J., dissent.

2010-0921. State v. Orr.

Hamilton App. No. C-090644.

Brown, C.J., dissents and would accept the appeal on Proposition of Law No. VI and hold the cause for the decision in 2009-1481, *State v. Johnson*, Hamilton App. Nos. C-080156 and C-080158, 2009-Ohio-2568.

2010-0922. State v. Miles.

Franklin App. No. 09AP-883, 2010-Ohio-1589.

2010-0923. State v. Heft.

Logan App. No. 8-10-02.

2010-0926. Powell v. Toledo Pub. Schools.

Lucas App. No. L-09-1140, 2010-Ohio-1602.

Lundberg Stratton, J., dissents.

Lanzinger, J., not participating.

2010-0928. Gwinn v. Ohio Elections Comm.

Franklin App. No. 09AP-792, 2010-Ohio-1587. Discretionary appeal not accepted.

Pfeifer, J., dissents.

Brown, C.J., not participating.

Motions to strike, to disqualify, and to amend denied as moot.

2010-0934. In re Estate of Liggons.

Lucas App. No. L-08-1427, 2010-Ohio-1624.

Pfeifer and Lundberg Stratton, JJ., dissent.

2010-0935. State v. Plemmons-Greene.

Cuyahoga App. No. 92267, 2010-Ohio-655.

2010-0936. State v. Smith.

Cuyahoga App. No. 91715, 2010-Ohio-1655.

2010-0939. Deutsche Bank Natl. Trust Co. v. Taylor.

Summit App. No. 25281. Discretionary appeal not accepted. Motion to strike appeal and supporting memorandum denied as moot.

2010-0945. Wells Fargo Bank, N.A. v. Fusco Properties, L.L.C.

Cuyahoga App. No. 92689, 2010-Ohio-1417. Discretionary appeal not accepted.
O'Donnell, J., dissents.

Motion for admission pro hac vice of Brian J. Murray by Chad Readler granted.

2010-0946. Mason v. Guerard.

Holmes App. No. 09 CA 8, 2010-Ohio-1834.

2010-0947. State v. Johnson.

Clark App. No. 08-CA-34.

2010-0948. Chovan v. DeHoff Agency, Inc.

Stark App. No. 2009CA00114, 2010-Ohio-1646.

2010-0949. State v. Hill.

Franklin App. No. 09AP-398, 2010-Ohio-1687. Discretionary appeal not accepted. Motion to find appellee in contempt denied. Motion to strike memorandum in response denied as moot.

2010-0950. State v. Garcia.

Butler App. No. CA2009-11-275.

2010-0952. State v. Brown.

Hamilton App. No. C-100123.

2010-0953. Dawson v. Giant Eagle, Inc.

Cuyahoga App. No. 93337, 2010-Ohio-1060. Discretionary appeal not accepted.
Brown, C.J., and O'Donnell, J., dissent.

Motion for admission pro hac vice of Bernard D. Marcus and James S. Larrimer by Patricia W. Henk granted.

2010-0956. Ohio Turnpike Comm. v. Spellman Outdoor Advertising Servs., L.L.C.

Erie App. No. E-09-038, 2010-Ohio-1705.

2010-0957. State v. Smith.

Butler App. No. CA2009-02-038, 2010-Ohio-1721.

Brown, C.J., and O'Connor, J., dissent and would accept the appeal on Proposition of Law Nos. I and II.

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

2010-0958. State v. Crosby.

Cuyahoga App. No. 92807.

2010-0959. State v. Silva.

Franklin App. No. 07AP-986, 2009-Ohio-699.

2010-0972. State v. Wolf.

Lake App. Nos. 2009-L-081 and 2009-L-082, 2010-Ohio-2152.

2010-0976. State v. Cassell.

Franklin App. Nos. 08AP-1093 and 08AP-1094, 2010-Ohio-1881.

2010-0979. State v. Espino.

Preble App. No. CA2009-08-021.

2010-0980. Bush v. Ashland Cty.

Ashland App. No. 09-CA-25, 2010-Ohio-1732.

2010-0982. State v. Ashbrook.

Hamilton App. Nos. C-090579 and C-090580.

Brown, C.J., and O'Donnell, J., dissent and would accept the appeal on Proposition of Law No. I and hold the cause for the decision in 2009-1997, *State v. Hodge*, Hamilton App. No. C-080968.

2010-0986. Helms v. Koncelik.

Franklin App. Nos. 09AP-628 and 09AP-634, 2010-Ohio-1782.

2010-0996. State v. Ulery.

Clark App. No. 2009-CA-5.

2010-0997. State v. Spears.

Summit App. No. 24953, 2010-Ohio-1965.

2010-0998. In re Walker.

Hamilton App. No. C-090443.

2010-0999. In re J.C.

Washington App. No. 09CA44, 2010-Ohio-1785.

Brown, C.J., dissents.

2010-1004. State v. Fryerson.

Cuyahoga App. No. 91960, 2010-Ohio-1852.

2010-1006. State v. Harris.

Cuyahoga App. Nos. 93343 and 93344, 2010-Ohio-1865.

2010-1008. State v. Beechler.

Clark App. No. 09-CA-54, 2010-Ohio-1900.

2010-1014. State v. Hall.

Cuyahoga App. No. 92952, 2010-Ohio-1665.

2010-1022. State v. Stamper.

Butler App. No. CA2009-04-115, 2010-Ohio-1939.

2010-1023. State v. Barnes.

Cuyahoga App. No. 92512, 2010-Ohio-1659.

Brown, C.J., dissents and would accept the appeal on Proposition of Law No. III.

2010-1026. State v. Molen.

Montgomery App. No. 23381, 2010-Ohio-1908.

2010-1031. State v. Smith.

Cuyahoga App. No. 93534, 2010-Ohio-1869.

2010-1035. State v. Moss.

Franklin App. No. 10AP-232.

2010-1043. Schultz v. Duffy.

Cuyahoga App. No. 93215, 2010-Ohio-1750.

Pfeifer, J., dissents.

2010-1075. State v. Perry.
Stark App. No. 2010CA00089.

2010-1107. State v. Fortner.
Franklin App. No. 08AP-191.

2010-1123. State v. Rodriguez.
Wood App. No. WD-08-011.

2010-1146. State v. Keeling.
Hamilton App. Nos. C-080971 and C-081041.

2010-1160. State v. Dearmond.
Clark App. No. 2007-CA-93.

2010-1221. State v. Jennings.
Mahoning App. No. 08-MA-181.

2010-1224. In re T.R.
Summit App. Nos. 25179 and 25213, 2010-Ohio-2431.

2010-1239. State v. Frost.
Mahoning App. No. 08 MA 44, 2010-Ohio-3281.

2010-1274. In re K.A. G-M.
Warren App. No. CA2010-01-002. Discretionary appeal not accepted. Motions to strike, to dismiss the appeal, for sanctions, and to declare appellant a vexatious litigator denied.

RECONSIDERATION OF PRIOR DECISIONS

2009-0015. Spitznagel v. State Bd. of Edn.
Franklin App. No. 07AP-757, 2008-Ohio-6080. Reported at ___ Ohio St.3d ___, 2010-Ohio-2715, ___ N.E.2d ___. On motion for reconsideration. Motion denied. O'Donnell and Cupp, JJ., dissent.

2009-2287. State ex rel. Layshock v. Moorehead.
Trumbull App. No. 2009-T-0076, 2009-Ohio-6039. Reported at 124 Ohio St.3d 1471, 2010-Ohio-354, 921 N.E.2d 244. On motion for reconsideration. Motion denied.

2010-0451. In re J.V.

Cuyahoga App. No. 92869, 2010-Ohio-71. Reported at 125 Ohio St.3d 1448, 2010-Ohio-2510, 927 N.E.2d 1128. On motion for reconsideration. Motion denied.

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

2010-0465. State v. Adkins.

Delaware App. No. 09 CAA 02 0012, 2010-Ohio-307. Reported at 125 Ohio St.3d 1448, 2010-Ohio-2510, 927 N.E.2d 1128. On motion for reconsideration. The motion is granted to the following extent: The discretionary appeal is accepted on Proposition of Law No. II.

Lundberg Stratton, J., would also grant the motion as to Proposition of Law No. I.

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

2010-0487. State v. McClellan.

Allen App. No. 1-09-21, 2010-Ohio-314. Reported at 125 Ohio St.3d 1449, 2010-Ohio-2510, 927 N.E.2d 1128. On motion for reconsideration. Motion denied. Motion for findings of fact and conclusions of law denied as moot.

2010-0498. State v. Roberts.

Cuyahoga App. No. 92789, 2010-Ohio-156. Reported at 125 Ohio St.3d 1449, 2010-Ohio-2510, 927 N.E.2d 1128. On motion for reconsideration. Motion denied.

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

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

Lucas App. No. L-09-1127, 2010-Ohio-463. Reported at 125 Ohio St.3d 1450, 2010-Ohio-2510, 927 N.E.2d 1129. On motion for reconsideration. Motion denied.

2010-0547. State v. Brooks.

Montgomery App. No. 23386, 2010-Ohio-1119. Reported at 125 Ohio St.3d 1450, 2010-Ohio-2510, 927 N.E.2d 1129. On motion for reconsideration. Motion denied.

2010-0584. Abubaker v. Zukowski.

Franklin App. No. 10AP-148. Reported at 125 Ohio St.3d 1463, 2010-Ohio-2753, 928 N.E.2d 738. On motion for reconsideration. Motion denied.

2010-0652. State v. Krug.

Lake App. No. 2008-L-085. Reported at 125 Ohio St.3d 1464, 2010-Ohio-2753, 928 N.E.2d 739. On motion for reconsideration. Motion denied.

Lanzinger, J., not participating.

2010-0688. State ex rel. Goins v. Nastoff.

In Mandamus and Procedendo. Reported at 125 Ohio St.3d 1459, 2010-Ohio-2753, 928 N.E.2d 736. On motion for reconsideration. Motion denied.

Lanzinger, J., dissents.