

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS

June 8, 2011

[Cite as *06/08/2011 Case Announcements*, 2011-Ohio-2686.]

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## MERIT DECISIONS WITH OPINIONS

**2010-0240. In re D.B., Slip Opinion No. 2011-Ohio-2671.**

Licking App. No. 2009 CA 00024, 2009-Ohio-6841. Judgment of the court of appeals reversed, and cause remanded to the trial court.

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

Cupp, J., concurs in the judgment, syllabus, and opinion of the court on the basis of the due process analysis only.

**2010-0897. State v. Wilson, Slip Opinion No. 2011-Ohio-2669.**

Cuyahoga App. No. 91971, 2010-Ohio-1196. Judgment of the court of appeals affirmed, and cause remanded to the trial court.

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

Lanzinger, J. concurs separately.

Pfeifer, J., concurs in part and dissents in part.

**2010-1203. Cleveland Hts. v. Lewis, Slip Opinion No. 2011-Ohio-2673.**

Cuyahoga App. No. 92917, 187 Ohio App.3d 786, 2010-Ohio-2208. Certified question answered in the negative, and judgment of the court of appeals affirmed.

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

Lanzinger, J., concurs in judgment only.

**2010-1805. Disciplinary Counsel v. Hoppel, Slip Opinion No. 2011-Ohio-2672.**

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 09-068. Richard Vincent Hoppel, Attorney Registration No. 0063000, is suspended from the practice of law in Ohio for two years, with 18 months stayed on conditions.

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

## **MERIT DECISIONS WITHOUT OPINIONS**

### **2010-1977. In re Application of R.E. Burger Units 4 & 5.**

Public Utilities Commission, No. 09-194-OEL-REN. On motion to dismiss. 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.

### **2011-0836. Blackshear v. Santiago.**

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

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

Pfeifer, Lanzinger, and McGee Brown, JJ., dissent and would order a return on the writ.

## **MOTION AND PROCEDURAL RULINGS**

### **2010-1335. Am. Chem. Soc. v. Leadscope, Inc.**

Franklin App. No. 08AP-1026, 2010-Ohio-2725. On motion to dismiss appeal and motion to strike merit brief. Motions denied.

### **2010-1483. State v. Scott.**

Cuyahoga App. No. 91890, 2010-Ohio-3057. On motion for bail pending appeal. Motion denied.

### **2010-1899. State v. Brown.**

Hamilton App. No. C-100050, 2010-Ohio-4599. On demand for findings of fact and conclusions of law. Demand denied.

### **2010-1975. State v. Lampkin.**

Lucas App. No. L-09-1270, 2010-Ohio-4934 and 2010-Ohio-5988. On motion for relief from stay. Motion denied.

Pfeifer and Lanzinger, JJ., dissent.

**2010-2232. State v. Lampkin.**

Lucas App. No. L-09-1270, 2010-Ohio-4934 and 2010-Ohio-5988. On motion for relief from stay. Motion denied.

Lanzinger, J., dissents.

**2011-0184. State ex rel. Ricks v. Trim.**

In Habeas Corpus. On motion for clarity of dismissal. Motion denied.

**2011-0229. Ali v. Kasich.**

In Habeas Corpus. On motion for default judgment. Motion denied.

**2011-0529. Myers v. Brown.**

Stark App. No. 2010-CA-00238, 2011-Ohio-892. 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, and briefing schedule stayed.

**2011-0621. Lawrence v. Youngstown.**

Mahoning App. No. 09 MA 189, 2011-Ohio-998. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated at page 4 of the court of appeals' Journal Entry filed April 8, 2011:

“R.C. 4123.90 requires the action to be filed within one hundred eighty days ‘immediately following the discharge, demotion, reassignment, or punitive action taken’ and requires the employer to receive written notice of the claimed violation within ninety days ‘immediately following the discharge, demotion, reassignment, or punitive action taken.’ Does the quoted portion of the statute mean the time limits begin to run on the effective date of discharge or when considering R.C. 4123.95’s directive for liberal construction does R.C. 4123.90 mean the time limits begin to run upon receiving notice of the discharge?”

Pfeifer and McGee Brown, JJ., dissent.

The conflict cases are *Mechling v. K-Mart Corp.* (1989), 62 Ohio App.3d 46, and *O’Rourke v. Collingwood Health Care, Inc.* (Apr. 15, 1988), Lucas App. No. L-87-345.

**2011-0629. State v. Lewis.**

Fayette App. No. CA2010-08-017, 2011-Ohio-415. On motion for leave to file delayed appeal. Motion granted.

O’Connor, C.J., and Lundberg Stratton and McGee Brown, JJ., dissent.

**2011-0635. State v. Brock.**

Hancock App. No. 5-10-26. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

**2011-0656. State v. Frazier.**

Stark App. No. 2010 CA 00042, 2011-Ohio-434. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Cupp, JJ., dissent.

**2011-0657. State v. Phillips.**

Cuyahoga App. No. 94881, 2011-Ohio-475. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Cupp, JJ., dissent.

**2011-0659. State v. Westbrook.**

Scioto App. No. 09CA3277, 2010-Ohio-2692. On motion for leave to file delayed appeal. Motion denied.

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

**2011-0660. State v. Irwin.**

Mahoning App. No. 09 MA 137, 2011-Ohio-999. On motion for leave to file delayed appeal. Motion granted.

O'Connor, C.J., dissents.

**2011-0661. Deutsche Bank Natl. Trust Co. v. Richardson.**

Darke App. No. 2010-CA-3, 2011-Ohio-1123. On motion for stay of court of appeals' judgment. Motion denied.

Cupp, J., dissents.

**2011-0677. State v. Garrett.**

Stark App. No. 2010 CA 00210, 2011-Ohio-691. On motion for leave to file delayed appeal. Motion denied.

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

**2011-0678. State v. Holmes.**

Licking App. No. 11-CA-0011. On motion for leave to file delayed appeal. Motion denied.

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

**2011-0685. State v. Davis.**

Montgomery App. No. 23858, 2011-Ohio-1280. On motion for stay of court of appeals' judgment. Motion denied.

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

**2011-0692. State v. Rarden.**

Butler App. No. CA2010-04-095. On motion for leave to file delayed appeal. Motion granted.

O'Connor, C.J., and Lanzinger and McGee Brown, JJ., dissent.

**2011-0701. State v. Miller.**

Portage App. No. 2009-P-0090, 2011-Ohio-1161. On motion for stay of court of appeals' judgment. Motion denied.

Cupp and McGee Brown, JJ., dissent.

**2011-0707. State v. DeMastry.**

Fairfield App. No. 10-CA-13, 2011-Ohio-1320. On motion for stay of court of appeals' judgment and trial court sentence. Motion denied.

**2011-0717. State v. Ward.**

Seneca App. No. 13-10-11, 2011-Ohio-254. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Cupp, JJ., dissent.

**APPEALS ACCEPTED FOR REVIEW**

**2011-0170. U.S. Bank, N.A. v. Perry.**

Cuyahoga App. No. 94757, 2010-Ohio-6171. Discretionary appeal accepted; cause held for the decision in 2011-0218, *U.S. Bank, N.A. v. Duvall*, Cuyahoga App. No. 94174, 2010-Ohio-6478; and briefing schedule stayed.

Pfeifer, J., dissents.

**2011-0442. Clager v. State.**

Licking App. No. 10-CA-49, 2010-Ohio-6074. Discretionary appeal accepted; cause held for the decision in 2009-0088, *State v. Williams*, Warren App. No. CA2008-02-029, 2008-Ohio-6195; and briefing schedule stayed.

Pfeifer, J., dissents.

**APPEALS NOT ACCEPTED FOR REVIEW**

**2010-1974. State ex rel. O'Brien v. Messina.**

Franklin App. No. 10AP-37, 2010-Ohio-4741.

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

Pfeifer, J., dissents.

**2011-0020. State v. Slider.**

Washington App. No. 09CA41, 2010-Ohio-5952.

**2011-0037. State v. Hartman.**

Summit App. No. 25055, 2010-Ohio-5734.

Pfeifer, J., dissents.

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

**2011-0417. State v. Pavlich.**

Erie App. No. E-10-011, 2011-Ohio-802.

O'Donnell, J., dissents.

**2011-0424. State v. Harris.**

Champaign App. No. 2009-CA-36.

**2011-0425. State v. Spillman.**

Richland App. No. 2010-CA-63, 2011-Ohio-310.

**2011-0426. State v. Jackson.**

Lucas App. No. L-10-1227, 2011-Ohio-494.

**2011-0429. State v. Allsup.**

Hardin App. No. 6-10-09, 2011-Ohio-404.

**2011-0430. State v. Allsup.**

Hardin App. Nos. 6-10-06 and 6-10-07, 2011-Ohio-405.

**2011-0434. State v. Valsadi.**

Wood App. No. WD-09-064.

**2011-0435. Neinast v. Fairfield Cty. Dist. Library.**

Fairfield App. No. 2010 CA 011, 2010-Ohio-5569. Discretionary appeal not accepted. Motions to strike and to hold denied as moot.

**2011-0436. Rocky River v. Ghaster.**

Cuyahoga App. No. 94559, 2011-Ohio-600.

Lundberg Stratton, J., dissents.

**2011-0437. Deutsche Bank Natl. Trust Co. v. Taylor.**

Summit App. No. 25281, 2011-Ohio-435.

**2011-0440. Kellough v. State Bd. of Edn.**

Franklin App. No. 10AP-419, 2011-Ohio-431.

**2011-0444. Columbus v. Hawkins.**

Franklin App. No. 09AP-1062, 2010-Ohio-4091. Discretionary appeal not accepted. Motion to dismiss denied as moot.

O'Donnell, J., dissents.

**2011-0447. State v. Dix.**

Cuyahoga App. No. 94791, 2011-Ohio-472.

**2011-0448. State v. Billiter.**

Tuscarawas App. No. 10AP080028, 2011-Ohio-637.

**2011-0452. State v. Wyland.**

Cuyahoga App. No. 94463, 2011-Ohio-455.

O'Donnell, J., dissents.

**2011-0453. Credit Based Asset Serv. v. Vecchio.**

Summit App. No. 25663.

**2011-0454. Countrywide-Home Loans, Inc. v. Reece.**

Warren App. No. CA2010-08-078, 2011-Ohio-541.

**2011-0457. Estate of Barney v. Manning.**

Cuyahoga App. No. 94947, 2011-Ohio-480.

O'Donnell, J., dissents and would accept the appeal on Proposition of Law Nos. I and II.

**2011-0458. State v. Moore.**

Cuyahoga App. No. 94277, 2011-Ohio-449.

**2011-0462. Hicks v. Mennonite Mut. Ins. Co.**

Miami App. No. 10-CA-17, 2011-Ohio-499.

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

**2011-0465. Ebbing v. Associated Builders & Contrs.**

Warren App. No. CA2010-12-118.

**2011-0467. Cwik v. Cwik.**

Hamilton App. No. C-090843, 2011-Ohio-463, 2011-Ohio-463.

**2011-0469. State v. Manus.**

Cuyahoga App. No. 94631, 2011-Ohio-603.

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

**2011-0473. State v. Taylor.**

Cuyahoga App. No. 95041, 2011-Ohio-839.

**2011-0474. Wachovia Bank Natl. Assn. v. Cermak.**

Portage App. No. 2010-P-0062, 2011-Ohio-523.

**2011-0475. King v. King.**

Medina App. No. 10CA0009-M, 2011-Ohio-513.

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

Lanzinger, J., dissents.

**2011-0480. Martinez v. Greene.**

Cuyahoga App. No. 95311, 2011-Ohio-1359.

**2011-0482. State v. Lanier.**

Hamilton App. No. C-080162, 2011-Ohio-898.

O'Donnell, J., dissents.

**2011-0484. Akron v. Peoples.**

Summit App. No. 25398, 2011-Ohio-579.

**2011-0490. State v. McCrory.**

Wood App. Nos. WD-09-074 and WD-09-090, 2011-Ohio-546.

**2011-0492. State v. Revely.**



Hamilton App. No. C-100130.

**2011-0493. de Cavel v. DCHW, L.L.C.**

Hamilton App. No. C-100221, 2011-Ohio-549.

**2011-0500. State ex rel. DeWine v. Helms.**

Summit App. No. 24754, 2011-Ohio-569.

**2011-0506. State v. Wilson.**

Allen App. No. 1-09-64.

**2011-0510. State v. Leffler.**

Hardin App. No. 6-07-22.

**2011-0521. State v. Williams.**

Lucas App. No. L-10-1205, 2011-Ohio-806.

**2011-0532. State v. Bowman.**

Franklin App. Nos. 10AP-403 and 10AP-553, 2010-Ohio-6351.

Lundberg Stratton, J., dissents and would accept the appeal and remand the cause for application of *State v. Johnson*, 128 Ohio St.3d 153, 2010-Ohio-6314, 942 N.E.2d 1061.

McGee Brown, J., dissents.

**2011-0535. State v. Barnes.**

Sandusky App. No. S-10-025, 2011-Ohio-799.

**2011-0537. U.S. Bank, N.A. v. Cwik.**

Hamilton App. No. C-100237.

**2011-0539. In re B.M.S.**

Franklin App. No. 10AP-748, 2011-Ohio-714.

**2011-0540. State v. Wells.**

Cuyahoga App. No. 94956, 2011-Ohio-723.

**2011-0553. State v. Blakney.**

Cuyahoga App. No. 95025, 2011-Ohio-932.

**2011-0558. State v. Pesci.**

Cuyahoga App. No. 94904, 2011-Ohio-1058.

**2011-0562. Shepherd v. Richland Cty. Child Support Enforcement Agency.**  
Richland App. No. 10CA38, 2010-Ohio-4780.

**2011-0578. State v. Thomas.**  
Hamilton App. No. C-100259.

**2011-0589. State v. Phillips.**  
Hamilton App. No. C-090318.  
O'Donnell, J., dissents.

**2011-0590. State v. Robinson.**  
Cuyahoga App. No. 94429, 2011-Ohio-189.

**2011-0591. State v. Glenn.**  
Hamilton App. No. C-090205, 2011-Ohio-829.

**2011-0593. State v. Nichols.**  
Cuyahoga App. No. 96341.

**2011-0601. State v. Casner.**  
Franklin App. No. 10AP-489, 2011-Ohio-1190.  
O'Connor, C.J., dissents.

**2011-0604. State v. Parker.**  
Hamilton App. No. C-100329.

**2011-0609. State v. Alvarez-Luna.**  
Butler App. No. CA2011-01-010.  
Lundberg Stratton, J., dissents.

**2011-0612. State v. Meincke.**  
Cuyahoga App. No. 96300.

**2011-0628. State v. Long.**  
Summit App. No. 25249, 2011-Ohio-1050.

**2011-0680. State v. Crump.**  
Franklin App. No. 10AP-151.

## RECONSIDERATION OF PRIOR DECISIONS

### **2010-0564. Elyria v. Lorain Cty. Budget Comm.**

Board of Tax Appeals, Nos. 2003-M-1533, 2004-M-1166, and 2005-M-1301. Reported at \_\_\_ Ohio St.3d \_\_\_, 2011-Ohio-1482, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.

### **2010-0611 and 2010-0858. Welsh Dev. Co. v. Warren Cty. Regional Planning Comm.**

Warren App. No. CA2009-07-101, 186 Ohio App.3d 56, 2010-Ohio-592. Reported at \_\_\_ Ohio St.3d \_\_\_, 2011-Ohio-1604, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.

### **2011-0050. Szuch v. King.**

Erie App. No. E-09-069, 2010-Ohio-5896. Reported at 128 Ohio St.3d 1446, 2011-Ohio-1618, 944 N.E.2d 695. On motion for reconsideration. Motion denied.  
Pfeifer, Lundberg Stratton, and Lanzinger, JJ., dissent.

### **2011-0108. Cincinnati v. Su.**

Hamilton App. No. C-100609. Reported at 128 Ohio St.3d 1459, 2011-Ohio-1829, 945 N.E.2d 522. On motion for reconsideration. Motion denied.  
Lundberg Stratton, J., dissents.