

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

June 22, 2011

[Cite as *06/22/2011 Case Announcements*, 2011-Ohio-2905.]

MERIT DECISIONS WITH OPINIONS

2010-0180. In re C.B., Slip Opinion No. 2011-Ohio-2899.

Cuyahoga App. No. 92775. Judgment of the court of appeals reversed, and cause remanded to the court of appeals.

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

O'Donnell, J., concurs in judgment only.

Pfeifer, J., dissents.

2010-0985. Pula v. Pula-Branch, Slip Opinion No. 2011-Ohio-2896.

Cuyahoga App. No. 93460, 2010-Ohio-912. Judgment of the court of appeals reversed, and cause remanded to the court of appeals.

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

2010-1166. Williams v. Ohio Dept. of Job & Family Servs., Slip Opinion No. 2011-Ohio-2897.

Cuyahoga App. No. 93594, 2010-Ohio-2222. Judgment of the court of appeals reversed.

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

2010-2203. Disciplinary Counsel v. Raso, Slip Opinion No. 2011-Ohio-2900.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 10-030. Frank Anthony Raso, Attorney Registration No. 0069270, is suspended from the practice of law in Ohio for six months.

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

MERIT DECISIONS WITHOUT OPINIONS

2011-0554. [State ex rel.] Pitts v. Court of Appeals, Sixth Appellate Dist.

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

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

O'Donnell, J., dissents and would grant an alternative writ.

2011-0560. State ex rel. Richardson v. Gallagher.

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

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

2011-0603. State ex rel. Earhart v. Court of Appeals, First Appellate Dist.

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

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

2011-0642. [State ex rel] Smith v. Beathard.

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

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

2011-0738. Marcum v. Tolsen.

In Habeas Corpus. On petition for writ of habeas corpus of James E. Marcum. Sua sponte, cause dismissed.

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

2011-0759. Moening v. Cook.

In Habeas Corpus. On petition for writ of habeas corpus of Paul K. Moening. Sua sponte, cause dismissed. Motion for appointment of counsel denied as moot.

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

2011-0786. Chapin v. Clipper.

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

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

Pfeifer, J., dissents and would order a return on the writ.

MOTION AND PROCEDURAL RULINGS

2010-1280. Turner v. Cuyahoga Cty.

In Habeas Corpus. On supplement for relief to vacate the sentence. Request denied.

2010-1881. Flynn v. Fairview Village Retirement Community, Ltd.

Cuyahoga App. No. 95695. On joint motion to consolidate oral argument date with 2010-2148, *Havel v. Villa St. Joseph*, Cuyahoga App. No. 94677, 2010-Ohio-5251. Motion denied.

Lundberg Stratton and McGee Brown, JJ., dissent.

2010-2123. Cireddu v. Clough.

Lake App. No. 2010-L-008, 2010-Ohio-5401. On motion for clarification. Motion denied.

2010-2148. Havel v. Villa St. Joseph.

Cuyahoga App. No. 94677, 2010-Ohio-5251. On joint motion to consolidate oral argument date with 2010-1881, *Flynn v. Fairview Village Retirement Community, Ltd.*, Cuyahoga App. No. 95695. Motion denied.

Lundberg Stratton and McGee Brown, JJ., dissent.

2011-0758. State v. Townsend.

Cuyahoga App. No. 94473, 2011-Ohio-86. On motion for leave to file delayed appeal. Motion denied.

2011-0805. State v. Irizarry.

Cuyahoga App. No. 93352, 2010-Ohio-3868. On motion for leave to file delayed appeal. Motion denied.

2011-0818. State v. Griffin.

Coshocton App. No. 09-CA-21, 2011-Ohio-1638. On motion for stay of court of appeals' decision. Motion granted.

Pfeifer and O'Donnell, JJ., dissent.

2011-0831. In re Adoption of M.B.

Summit App. No. 25304, 2011-Ohio-1215. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issues stated in the court of appeals' Journal Entry filed April 18, 2011:

“1. When a biological parent fails to provide any court ordered child support for one year, do small monetary gifts paid directly to the child constitute the provision of “maintenance and support of the minor as required by law or judicial decree” for purposes of R.C. 3107.07(A)?

“2. When reviewing a probate court's decision regarding whether or not a biological parent's financial contribution constitutes “maintenance and support of the minor as required by law or judicial decree” for purposes of R.C. 3107.07(A), is the standard of review de novo or whether the decision is contrary to the manifest weight of the evidence?”

Cupp, J., would recognize the first issue only.

The conflict case as to the first issue is *In re Adoption of McCarthy* (Jan. 17, 1992), Lucas App. No. L-91-199.

The conflict case as to the second issue is *In re Adoption of Kat P.*, Fairfield App. Nos. 09CA10 and 09CA11, 2009-Ohio-3852.

2011-0848. State v. Cooper.

Butler App. No. CA2010-05-113, 2011-Ohio-1630. On motion for stay of court of appeals' judgment. Motion denied.

APPEALS ACCEPTED FOR REVIEW

2011-0337. AT&T Communications of Ohio v. Lynch.

Cuyahoga App. No. 94320, 2011-Ohio-302. Discretionary appeal accepted. Discretionary cross-appeal not accepted.

Pfeifer, J., would also accept the cross-appeal.

McGee Brown, J., would also accept the cross-appeal on Proposition of Law No. I.

Lundberg Stratton, O'Donnell, and Cupp, JJ., dissent and would not accept the appeal.

2011-0486. State v. Emerson.

Cuyahoga App. No. 94413, 2011-Ohio-593. Discretionary appeal accepted on Proposition of Law Nos. I and II.

Lundberg Stratton and Lanzinger, JJ., would also accept the appeal on Proposition of Law No. III.

O'Donnell, J., would also accept the appeal on Proposition of Law Nos. III – VIII.

Pfeifer, Cupp, and McGee Brown, JJ., dissent.

2011-0515. In re T.D.

Clinton App. No. CA2010-01-002, 2011-Ohio-671. Discretionary appeal accepted; cause held for the decisions in 2008-1624, *In re Smith*, Allen App. No. 1-07-58, 2008-Ohio-3234, and 2009-0088, *State v. Williams*, Warren App. No. CA2008-02-029, 2008-Ohio-6195; and briefing schedule stayed.

Lanzinger and Cupp, JJ., would accept Proposition of Law No. II without holding.

2011-0569. State ex rel. Teamsters Local Union No. 436 v. Cuyahoga Cty. Comms.

Cuyahoga App. No. 94703, 2011-Ohio-820.

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

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

2011-0586. Core v. State.

Franklin App. No. 09AP-192, 191 Ohio App.3d 651, 2010-Ohio-6292. Discretionary appeal accepted on Proposition of Law No. II; cause held for the decision in 2009-0088, *State v. Williams*, Warren App. No. CA2008-02-029, 2008-Ohio-6195; and briefing schedule stayed.

Lanzinger and Cupp, JJ., would also accept the appeal on Proposition of Law No. I and hold the cause for the decision in 2010-1660, *State v. Palmer*, Franklin App. Nos. 09AP-956 and 09AP-957, 2010-Ohio-2421.

O'Connor, C.J., and Pfeifer and Lundberg Stratton, JJ., dissent.

2011-0686. State v. Keck.

Washington App. No. 09CA50, 2011-Ohio-1643. Discretionary appeal accepted; cause held for the decision in 2010-0659, *State v. Estrada-Lopez*, Butler App. No. CA2008-12-291, 186 Ohio App.3d 328, 2010-Ohio-732; and briefing schedule stayed.

Pfeifer, O'Donnell, and McGee Brown, JJ., dissent.

APPEALS NOT ACCEPTED FOR REVIEW

2011-0099. State v. Kovacic.

Lake App. No. 2010-L-018, 2010-Ohio-5663.

Pfeifer, J., dissents.

2011-0294. State v. Parker.

Lucas App. No. L-09-1298, 2010-Ohio-5892.

2011-0460. State v. Schleiger.

Preble App. No. CA2009-09-026.

O'Connor, C.J., dissents and would accept the appeal on Proposition of Law Nos. I and III.

2011-0477. Myers v. Steiner.

Summit App. No. 25166, 2011-Ohio-576.

O'Connor, J., dissents.

2011-0485. State v. Smith.

Ross App. No. 09CA3128, 2011-Ohio-664.

O'Donnell, J., dissents.

2011-0488. State v. Williams.

Cuyahoga App. No. 94261, 2011-Ohio-591. Discretionary appeal and cross-appeal not accepted.

2011-0494. State v. Wilson.

Cuyahoga App. No. 94691, 2011-Ohio-707.

2011-0496. State v. Goodson.

Cuyahoga App. No. 94954, 2011-Ohio-722.

O'Donnell, J., dissents.

Cupp and McGee Brown, JJ., dissent 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.

2011-0501. State v. Phelps.

Cuyahoga App. No. 94683, 2011-Ohio-706.

Pfeifer, J., dissents.

2011-0503. Ireton v. JTD Realty Invests., L.L.C.

Clermont App. No. CA2010-04-023, 2011-Ohio-670.

2011-0512. State v. O’Connell.

Lake App. No. 2010-L-030, 2011-Ohio-652.

2011-0513. State v. Moss.

Cuyahoga App. No. 94433, 2011-Ohio-702.

O’Donnell, J., dissents.

2011-0514. Kerger v. Dentsply Internatl., Inc.

Cuyahoga App. No. 94430, 2011-Ohio-84.

2011-0519. State v. Vance.

Franklin App. No. 10AP-321, 2011-Ohio-834.

2011-0522. Price v. Goodwill Industries of Akron, Ohio.

Richland App. No. 10CA92, 2011-Ohio-783.

O’Connor, C.J., and Pfeifer and O’Donnell, JJ., dissent.

2011-0524. State v. Moening.

Van Wert App. No. 15-11-01.

2011-0525. Cincinnati Enquirer v. Cincinnati Bd. of Edn.

Hamilton App. Nos. C-100404 and C-100409, 2011-Ohio-703.

O’Donnell, J., dissents.

2011-0527. State v. Williams.

Ross App. No. 10CA3162, 2011-Ohio-763.

2011-0528. State v. McShepard.

Lorain App. No. 10CA009793, 2011-Ohio-987.

O’Donnell, J., dissents.

2011-0533. State v. Sidibeh.

Franklin App. No. 10AP-331, 2011-Ohio-712.

2011-0534. Bur. of Workers’ Comp. v. Dernier.

Lucas App. No. L-10-1126, 2011-Ohio-150.

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

2011-0541. Prentiss v. Goff.

Cuyahoga App. No. 95251, 2011-Ohio-734.

2011-0542. Restivo v. Continental Airlines, Inc.

Cuyahoga App. No. 94926, 2011-Ohio-219.

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

2011-0543. Sylvester v. Keister.

Stark App. No. 2010-CA-00078, 2011-Ohio-778.

O'Donnell, J., dissents.

2011-0552. State v. Campbell.

Hamilton App. No. C-090875.

2011-0556. State v. Coon.

Cuyahoga App. No. 94505, 2011-Ohio-324.

Lundberg Stratton, J., dissents.

O'Donnell, J., dissents and would accept the appeal and hold the cause for the decision in 2011-0202, *State v. Qualls*, Meigs App. No. 10CA8, 2010-Ohio-5316.

2011-0557. State v. Dougherty.

Butler App. No. CA2010-02-036, 2011-Ohio-788. Discretionary appeal not accepted. Motion to dismiss denied as moot.

2011-0559. State v. Hill.

Richland App. No. 2009-CA-25.

2011-0565. State v. Pugh.

Stark App. No. 2010CA00173, 2011-Ohio-812.

2011-0566. Holt v. State.

Franklin App. No. 10AP-214, 2010-Ohio-6529.

O'Donnell, J., dissents.

2011-0567. Nelson v. Rodriguez.

Hancock App. No. 5-10-20, 2011-Ohio-996.

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

2011-0568. Lloyd v. Cleveland Clinic Found.
Cuyahoga App. No. 94957, 2011-Ohio-826.

2011-0573. State v. Scanlon.
Auglaize App. No. 2-08-18.

2011-0576. State v. Triplett.
Cuyahoga App. No. 94102, 2011-Ohio-816.

2011-0581. State v. Christie.
Defiance App. No. 4-10-04, 2011-Ohio-520.

2011-0587. Goodman v. 770 W. Broad AGA, L.L.C.
Franklin App. No. 10AP-154, 2011-Ohio-832.
Lundberg Stratton and Lanzinger, JJ., dissent.

2011-0610. Columbus v. Nearhood.
Franklin App. No. 10AP-694, 2011-Ohio-905.

2011-0614. State v. Swain.
Erie App. No. E-95-011.

2011-0616. State v. Vascik.
Lucas App. No. L-10-1130, 2011-Ohio-975.
O'Donnell, J., dissents.

2011-0626. State v. Parker.
Cuyahoga App. No. 95544, 2011-Ohio-1102.

2011-0630. State v. Parker.
Cuyahoga App. No. 93835, 2011-Ohio-1059.

2011-0631. State v. Cool.
Summit App. Nos. 25135 and 25214, 2011-Ohio-1560.
O'Connor, C.J., not participating.

2011-0633. State v. Tucker.
Cuyahoga App. No. 95289, 2011-Ohio-1368.

2011-0643. State v. Roberson.

Lorain App. No. 10CA009743, 2011-Ohio-988.

2011-0644. State v. Gonzalez.

Lucas App. No. L-10-1168, 2011-Ohio-1542.

2011-0646. State v. Hillman.

Franklin App. Nos. 10AP-424, 10AP-425, and 10AP-426. Discretionary appeal not accepted. Motion for findings denied as moot.

2011-0650. Carson v. Second Baptist Church.

Franklin App. No. 09AP-922, 2011-Ohio-1025.

2011-0655. State v. Boyles.

Hamilton App. No. C-100388.

2011-0658. State v. Brown.

Summit App. Nos. 25353 and 25355, 2011-Ohio-1043.

2011-0662. State v. Brown.

Summit App. No. 25287, 2011-Ohio-1041.

2011-0663. Rak-Ree Ents., Inc. v. Timmons.

Franklin App. Nos. 10AP-476, 10AP-556, 2011-Ohio-1090.

2011-0664. State v. Brown.

Cuyahoga App. No. 95048, 2011-Ohio-1096.

2011-0674. State v. Adams.

Cuyahoga App. No. 95042, 2011-Ohio-1070.

2011-0679. State v. Allen.

Montgomery App. No. 22835.

2011-0698. State v. Alexander.

Cuyahoga App. No. 95995, 2011-Ohio-1380.

2011-0699. State v. Chapman.

Hamilton App. No. C-100473.

2011-0704. Lewis v. Cleveland State Univ.

Franklin App. No. 10AP-606, 2011-Ohio-1192.

2011-0744. State v. Hollins.

Cuyahoga App. No. 96485.

2011-0832. In re C.L.

Butler App. Nos. CA2010-12-341 and CA2010-12-342, 2011-Ohio-1633.
Pfeifer, J., dissents.

RECONSIDERATION OF PRIOR DECISIONS

2011-0134. Drummond v. Drummond.

Fairfield App. No. 10-CA-20, 2010-Ohio-6139. Reported at 128 Ohio St.3d 1459, 2011-Ohio-1829, 945 N.E.2d 523. On motion for reconsideration. Motion denied.
McGee Brown, J., dissents.

2011-0216. Thornton v. Delatore.

Mahoning App. No. 09 MA 192, 2010-Ohio-6391. Reported at 128 Ohio St.3d 1461, 2011-Ohio-1829, 945 N.E.2d 524. On motion for reconsideration. Motion denied. Motions to strike the motion for reconsideration denied as moot.

2011-0220. State v. Hempfield.

Licking App. No. 10-CA-87, 2010-Ohio-6570. Reported at 128 Ohio St.3d 1482, 2011-Ohio-2055, 946 N.E.2d 240. On motion for reconsideration. Motion denied.

2011-0276. State v. Dickerson.

Cuyahoga App. No. 94567, 2010-Ohio-5787. Reported at 128 Ohio St.3d 1461, 2011-Ohio-1829, 945 N.E.2d 524. On motion for reconsideration. Motion denied.

2011-0317. [State ex rel.] Ezell v. Fuerst.

In Procedendo. Reported at 128 Ohio St.3d 1480, 2011-Ohio-2055, 946 N.E.2d 239. On motion for reconsideration. Motion denied.