

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

October 19, 2011

[Cite as *10/19/2011 Case Announcements*, 2011-Ohio-5358.]

MERIT DECISIONS WITH OPINIONS

2010-2254. Cincinnati Bar Assn. v. Dearfield, Slip Opinion No. 2011-Ohio-5295.

On Certified Report of the Board of Commissioners on Grievances and Discipline, No. 10-036. G. Timothy Dearfield of Loveland, Ohio, Attorney Registration No. 0039684, is suspended from the practice law in Ohio for one year with the entire suspension stayed on condition.

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

2011-0455. State ex rel. Baroni v. Colletti, Slip Opinion No. 2011-Ohio-5351. Summit App. No. 25334. Judgment affirmed.

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

Pfeifer, J., dissents.

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

2011-0571. State ex rel. Striker v. Cline, Slip Opinion No. 2011-Ohio-5350. Richland App. No. 09CA107, 2011-Ohio-983. Judgment affirmed.

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

MERIT DECISIONS WITHOUT OPINIONS

2011-1404. Leak v. Matia.

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.

2011-1417. Jones v. Nastoff.

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.

2011-1491. State ex rel. Gunner v. Clipper.

In Habeas Corpus. On petition for writ of habeas corpus of Michael J. Gunner. Sua sponte, cause dismissed.

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

MOTION AND PROCEDURAL RULINGS

2011-1299. Mackowiak v. Mackowiak.

Fayette App. No. CA2010-04-009, 2011-Ohio-3013. On motion for stay. Motion denied.

2011-1482. State v. Collier.

Cuyahoga App. No. 95572, 2011-Ohio-2791. On motion for delayed appeal. Motion denied.

McGee Brown, J., dissents

2011-1496. State v. Brack.

Stark App. No. 2010CA00061, 2011-Ohio-2949. On motion for delayed appeal. Motion denied.

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

2011-1504. State v. Hobbs.

Summit App. No. 25379, 2011-Ohio-3192. The court determines that a conflict exists. The parties are to brief the following issue set forth in the court of appeals' entry dated August 5, 2011:

“May a law enforcement officer, serving a dual-role as an officer and deputy clerk of a local municipal court, act as a neutral and detached magistrate for purposes of Crim.R. 4(A)?”

O'Connor, C.J., dissents.

The conflict cases are *State v. Garrett*, Cuyahoga App. Nos. 87112 and 87123, 2006-Ohio-6020 and *State v. Robinson* (Oct. 24, 1985), Cuyahoga App. Nos. 49501, 49518 and 49577.

2011-1522. State v. English.

Hamilton App. No. C-100401. On motion for delayed appeal. Motion denied.
Pfeifer, J., dissents.

2011-1532. State v. Hunter.

Franklin App. No. 10AP-1005, 2011-Ohio-3654. On motion for stay. Motion denied.

2011-1540. State v. McCarroll.

Cuyahoga App. No. 96868. On motion for delayed appeal. Motion denied.
Pfeifer, Cupp, and McGee Brown, JJ., dissent.

APPEALS ACCEPTED FOR REVIEW

2011-0778. State v. Noling.

Portage C.P. No. 95CR220.

2011-1089. Horvath v. Ish.

Summit App. No. 25442, 2011-Ohio-2239.

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

2011-1092. State v. Lail.

Montgomery App. No. 24118, 2011-Ohio-2312. Discretionary appeal accepted and cause held for the decision in 2011-0215, *In re M.W.*, Cuyahoga App. No. 94737, 2010-Ohio-6362; and briefing schedule stayed.

Cupp, J., would accept the appeal on Proposition of Law No. I only and hold the cause for *In re M.W.*; and dissents as to Proposition of Law No. II.

Lundberg Stratton, J., dissents.

2011-1162. Troyer v. Janis.

Franklin App. No. 10AP-434, 2011-Ohio-2538.

APPEALS NOT ACCEPTED FOR REVIEW

2011-0874. Chesler v. Dollar Bank, Fed. Sav. Bank.

Cuyahoga App. No. 95435, 193 Ohio App.3d 343, 2011-Ohio-1743.
Lundberg Stratton and McGee Brown, JJ., dissent.

2011-0987. State v. Annable.

Cuyahoga App. No. 94775, 2011-Ohio-2029.
Lundberg Stratton, J., dissents and would accept the cross-appeal.

2011-1046. Wingates, L.L.C. v. South-Western City Schools Bd. of Edn.
Franklin App. No. 10AP-846, 2011-Ohio-2372.

2011-1051. State v. McGrath.

Cuyahoga App. No. 93445, 2010-Ohio-4477.

2011-1056. State v. Smith.

Cuyahoga App. No. 95505, 2011-Ohio-2400.

2011-1073. Young v. Cuyahoga Cty. Bd. of Mental Retardation & Developmental Disabilities.

Cuyahoga App. No. 95955, 2011-Ohio-2291.
O'Connor, C.J., and Lanzinger, J., dissent and would accept the appeal on Proposition of Law No. I.

2011-1074. State v. Harris.

Hamilton App. No. C-100470, 2011-Ohio-2729.

2011-1076. Houdek v. ThyssenKrupp Materials N.A., Inc.

Cuyahoga App. No. 95399, 2011-Ohio-1694.
Lundberg Stratton, Lanzinger, and Cupp, JJ., dissent.

2011-1078. Johnson v. Cleveland City School Dist.

Cuyahoga App. No. 94214, 2011-Ohio-2778.
Lundberg Stratton, Lanzinger, and Cupp, JJ., dissent.

2011-1079. Bank of Am., N.A. v. Omega Design/Build Group, L.L.C.

Hamilton App. No. C-100018, 2011-Ohio-1650.
O'Connor, C.J., dissents and would accept the appeal on Proposition of Law No. I.

2011-1080. State v. Ruark.

Franklin App. No. 10AP-50, 2011-Ohio-2225.

2011-1082. State v. Perry.

Summit App. No. 25271, 2011-Ohio-2242.

2011-1083. Cleveland v. Cunningham.

Cuyahoga App. No. 95267, 2011-Ohio-2276.

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

2011-1084. State v. Scurry.

Summit App. No. 25116, 2011-Ohio-2243.

Cupp, J., dissents.

2011-1085. Cuyahoga Metro. Hous. Auth. v. Rabb.

Cuyahoga App. No. 95658, 2011-Ohio-2287.

2011-1086. State v. King.

Richland App. No. 08-CA-335.

2011-1087. Smith v. State.

Franklin App. No. 10AP-646, 2011-Ohio-2415.

O'Donnell and Lanzinger, J., dissent and would accept the appeal and hold the cause for the decision in 2010-1660, *State v. Palmer*, Franklin App. Nos. 09AP-956 and 09AP-957, 2010-Ohio-2421.

2011-1088. State v. Ogden.

Franklin App. No. 09AP-640, 2011-Ohio-1589.

Lanzinger, J., dissents and would accept the appeal and hold the cause for the decision in 2010-1660, *State v. Palmer*, Franklin App. Nos. 09AP-956 and 09AP-957, 2010-Ohio-2421.

2011-1090. In re G.S.

Cuyahoga App. Nos. 96158, 96159, and 96160, 2011-Ohio-2158.

2011-1091. Cleveland Hts. v. Ricks.

Cuyahoga App. No. 96350.

2011-1093. State v. Phillips.

Summit App. No. 25408, 2011-Ohio-1348.

Lanzinger, J., dissents and would accept the appeal and remand the case for application of *State v. Davis*, Slip Opinion No. 2011-Ohio-5028.

2011-1098. Dzina v. Dzina.

Cuyahoga App. No. 94748, 2011-Ohio-2668.

O'Donnell, J., dissents.

2011-1099. State v. Kondush.

Cuyahoga App. No. 95526, 2011-Ohio-1963.

2011-1100. 4747 Mann, L.L.C. v. Cuyahoga Cty. Bd. of Revision.

Cuyahoga App. No. 95596, 2011-Ohio-2593.

Pfeifer, J., dissents.

2011-1101. Target Industries v. Stubbs.

Cuyahoga App. No. 95101, 2011-Ohio-1563.

Lanzinger and Cupp, JJ., dissent.

2011-1102. State v. Grenoble.

Preble App. No. CA2010-09-011, 2011-Ohio-2343.

2011-1103. State v. Wise.

Hamilton App. No. C-100533.

2011-1106. State v. Reddy.

Cuyahoga App. No. 95814, 2011-Ohio-2927.

2011-1108. Art v. Erwin.

Franklin App. No. 10AP-747, 2011-Ohio-2371.

2011-1112. State v. Harsh.

Butler App. No. CA2007-03-083.

2011-1113. Leak v. State Med. Bd. of Ohio.

Franklin App. No. 09AP-1215, 2011-Ohio-2483.

McGee Brown, J., not participating.

2011-1117. Cornell v. Clerac, Inc.

Cuyahoga App. No. 96517.

Pfeifer, J., dissent.

Motion to strike denied as moot.

2011-1118. State v. Pierce.

Richland App. No. 10 CA 52, 2011-Ohio-2361.
O'Donnell, J., dissents.

2011-1121. State v. Tuleta.

Cuyahoga App. No. 94992, 2011-Ohio-1923.

2011-1122. Strodbeck v. Lake Hosp. Sys., Inc.

Lake App. No. 2010-L-053, 2011-Ohio-2327.

2011-1123. Howard v. Girard.

Trumbull App. No. 2010-T-0096, 2011-Ohio-2331.

2011-1127. State v. White.

Franklin App. No. 10AP-34, 2011-Ohio-2364.

2011-1128. Morrissette v. DFS Servs., L.L.C.

Franklin App. No. 10AP-633, 2011-Ohio-2369.

2011-1129. State v. Capers.

Lorain App. No. 10CA009801, 2011-Ohio-2443.

2011-1130. EAC Properties, L.L.C. v. Brightwell.

Franklin App. No. 10AP-853, 2011-Ohio-2373.

2011-1132. Summit Cty. Children Servs. Bd. v. Ohio State Personnel Bd. of Review.

Franklin App. No. 10AP-780, 2011-Ohio-2543.
Lundberg Stratton, J. dissents.

2011-1134. State v. Adams.

Union App. No. 14-11-08.

2011-1135. Eysoldt v. Proscan Imaging.

Hamilton App. No. C-100528, 2011-Ohio-2359.
Lundberg Stratton and Lanzinger, J. dissent.

2011-1137. State v. Petitto.

Cuyahoga App. No. 95276, 2011-Ohio-2391.

2011-1138. Boggs v. Baum.

Franklin App. No. 10AP-864, 2011-Ohio-2489.

2011-1140. State v. Black.

Columbiana App. No. 11 CO 8.

2011-1141. State v. Dority.

Erie App. No. E-09-027, 2011-Ohio-2438.

2011-1142. State v. Williams.

Cuyahoga App. No. 95483, 2011-Ohio-2397.

2011-1144. State v. Ajumu.

Cuyahoga App. No. 95285, 2011-Ohio-2520.

O'Donnell, J., dissents.

2011-1145. State v. Anderson.

Hamilton App. No. C-110030.

2011-1147. State v. Fredrick Hall.

Hamilton App. No. C-100097, 2011-Ohio-2527.

2011-1148. State v. Schaim.

Hamilton App. No. C-100704.

2011-1152. State v. Mitchell.

Butler App. No. CA2010-05-107, 2011-Ohio-2465.

2011-1153. Litigation Mgt., Inc. v. Bourgeois.

Cuyahoga App. No. 95730, 2011-Ohio-2794.

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

Pfeifer, J., dissents.

2011-1155. State v. Ridley.

Hamilton App. No. C-100301, 2011-Ohio-2477.

2011-1156. State v. Knauff.

Adams App. No. 10CA900, 2011-Ohio-2725.

2011-1157. Schabel v. Troyan.

Geauga App. Nos. 2010G2953 and 2010G2954, 2011-Ohio-2452.

2011-1158. State ex rel. DeWine v. Tri-State Group, Inc.

Belmont App. No. 07-BE-38, 2011-Ohio-2719.

2011-1160. State v. Preston.

Jackson App. No. 10CA4.

2011-1161. State v. Hamilton.

Scioto App. No. 09CA3330, 2011-Ohio-2783.

2011-1163. Grove City v. Buck.

Franklin App. 10AP-1039, 2011-Ohio-1549.

O'Donnell, J., dissents.

2011-1164. Lima v. Bowersock.

Allen App. No. 1-11-22.

2011-1165. State v. Thomas.

Cuyahoga App. No. 95754, 2011-Ohio-2542.

2011-1167. State v. Bedinghaus.

Hamilton App. No. C-100478.

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

2011-1168. Vassil v. Gross & Gross, L.L.C.

Cuyahoga App. No. 94919, 2011-Ohio-1920.

O'Donnell, J., dissents.

2011-1169. State v. Ortega-Martinez.

Cuyahoga App. No. 95656, 2011-Ohio-2540.

O'Donnell, J., dissents and would accept the appeal and hold the cause for the decision in 2011-0442, *Clager v. State*, Licking App. No. 10-CA-49, 2010-Ohio-6074.

Cupp, J., dissents.

2011-1171. Ortega-Martinez v. State.

Cuyahoga App. No. 95930, 2011-Ohio-3069.

O'Donnell, J., dissents and would accept the appeal and hold the cause for the decision in 2011-0442, *Clager v. State*, Licking App. No. 10-CA-49, 2010-Ohio-6074.

Cupp, J., dissents.

2011-1173. State v. Greenlee.

Hamilton App. No. C-100739.

2011-1174. State v. Miller.

Stark App. No. 2011-CA-00074, 2011-Ohio-3039.

2011-1175. State v. Maerlender.

Cuyahoga App. No. 95071, 2011-Ohio-2515.

2011-1295. State v. Fairbanks.

Ashland App. No. 10 COA 004.

O'Donnell, J., dissents.

2011-1334. State v. Parsons.

Auglaize App. No. 2-10-27.

2011-1372. State v. Demus.

Montgomery App. No. 23801.

2011-1458. State v. Garrett.

Stark App. No. 2010-CA-00210.

RECONSIDERATION OF PRIOR DECISIONS

2009-1064, 2009-1065, 2009-1067, 2009-1071, and 2009-1072. Martin Marietta Magnesia Specialties, L.L.C. v. Pub. Util. Comm.

Public Utilities Commission, Nos. 08-893-EL-CSS, 08-145-EL-CSS, 08-146-EL-CSS, 08-67-EL-CSS, 08-254-EL-CSS. Reported at __ Ohio St.3d __, 2011-Ohio-4189, __ N.E.2d __. On motion for reconsideration. Motion denied.

2011-0668. State v. McWhorter.

Cuyahoga App. No. 95108, 2011-Ohio-1074. Reported at 129 Ohio St.3d 1450, 2011-Ohio-4217, 951 N.E.2d 1046. On motion for reconsideration. Motion denied.

Lundberg Stratton and O'Donnell, JJ., dissent and would accept the appeal and remand the case for application of *State v. Davis*, Slip Opinion No. 2011-Ohio-5028.

2011-0691. Dawson Ins., Inc. v. Freund.

Cuyahoga App. No. 94660, 2011-Ohio-1552. Reported at 129 Ohio St.3d 1450, 2011-Ohio-4217, 951 N.E.2d 1047. On motion for reconsideration. Motion granted and appeal accepted on Proposition of Law No. I; and cause held for the decision in 2010-2180, *Arnott v. Arnott*, Highland App. No. 09CA25, 2010-Ohio-5392; and briefing schedule stayed.

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

2011-0705. State ex rel. Davila v. E. Liverpool.

Columbiana App. No. 10 CO 16, 2011-Ohio-1347. Reported at 129 Ohio St.3d 1450, 2011-Ohio-4217, 951 N.E.2d 1047. On motion for reconsideration. Motion denied.

2011-0713. Bykova v. Cuyahoga Cty. Dept. of Children & Family Servs.

Cuyahoga App. No. 95484, 2011-Ohio-1250. Reported at 129 Ohio St.3d 1450, 2011-Ohio-4217, 951 N.E.2d 1047. On motion for reconsideration. Motion denied.

2011-0729. State v. Dent.

Cuyahoga App. No. 94823, 2011-Ohio-1235. Reported at 129 Ohio St.3d 1451, 2011-Ohio-4217, 951 N.E.2d 1047. On motion for reconsideration. Motion denied.

O'Donnell and Lanzinger, JJ., dissent.

2011-0748. State v. Sherman.

Cuyahoga App. No. 95716, 2011-Ohio-1810. Reported at 129 Ohio St.3d 1451, 2011-Ohio-4217, 951 N.E.2d 1047. On motion for reconsideration. Motion denied.

2011-0882. Bevins v. Cooper.

In Procedendo. Reported at 129 Ohio St.3d 1443, 2011-Ohio-4217, 951 N.E.2d 1041. Motion denied.

2011-0898. State v. Tayse.

Summit App. No. 23978. Reported at 129 Ohio St.3d 1453, 2011-Ohio-4217, 951 N.E.2d 1049. On motion for reconsideration. Motion denied.

2011-1020. State ex rel. Akemon v. Hildebrandt.

In Mandamus. Reported at 129 Ohio St.3d 1444, 2011-Ohio-4217, 951 N.E.2d 1042. On motion for reconsideration. Motion denied.

2011-1205. State ex rel. Lowe v. Pienda.

In Habeas Corpus. Reported at 129 Ohio St.3d 1445, 2011-Ohio-4217, 951 N.E.2d 1043. On motion for reconsideration. Motion denied. On motion for order granting release. Motion denied.