

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

March 2, 2011

[Cite as *03/02/2011 Case Announcements, 2011-Ohio-828.*]

MERIT DECISIONS WITHOUT OPINIONS

2010-1966. State ex rel. George v. Betleski.

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.

2010-2142. [State ex rel.] Wolfe v. Hall.

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.

2010-2152. State ex rel. Davila v. Court of Appeals, Third Appellate Dist.

In Mandamus and Prohibition. Motion for leave to intervene granted. Motion to strike denied. On S.Ct.Prac.R. 10.5 determination and consideration of respondents' motion to dismiss and intervening respondents' motion for judgment on the pleadings, the motions to dismiss and for judgment on the pleadings are granted. Cause dismissed.

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

2010-2171. State ex rel. Sanborn v. Bd. of Tax Appeals.

In Mandamus and Procedendo. Motion to dismiss granted. Motion for leave to amend denied. Cause dismissed.

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

2010-2243. State ex rel. Billiter v. Cashier's Office.

In Mandamus. On motions to dismiss. Motions to dismiss granted. Cause dismissed.

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

2010-2269. [State ex rel.] Henderson v. Gallagher.

In Procedendo. On respondent's motion to dismiss and relator's motion for judgment. Motion to dismiss granted. Motions for judgment and default judgment denied. Cause dismissed.

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

2011-0027. [State ex rel.] Henderson v. Finnegan.

In Procedendo. On respondent's motion to dismiss and relator's motion for judgment. Motion to dismiss granted. Motions for judgment and default judgment denied. Motion to strike denied as moot. Cause dismissed.

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

MOTION AND PROCEDURAL RULINGS

2009-1873. Hillman v. Edwards.

Franklin App. Nos. 08AP-1063 and 08AP-1064, 2009-Ohio-5087. Motions for relief from judgment, for finding pursuant to Civ.R. 52, and to proceed to judgment denied.

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

In Prohibition. On motion to reinstate case. Motion denied.

2010-1473. Hillman v. Edwards.

Franklin App. Nos. 10AP-58 and 10AP-59, 2010-Ohio-3524. Motions for relief from judgment, for finding pursuant to Civ.R. 52, and to proceed to judgment denied.

2010-1668. [State ex rel.] Rowser v. State.

In Mandamus. On motion to review municipal court docket. Motion denied.

2010-2141. [State ex rel.] Wolfe v. Ross Corr. Inst.

In Mandamus. Motion to strike is denied. Relator shall have ten days from the date of this order to file a memorandum in opposition to respondents' motion to dismiss.

O'Connor, C.J., and Lanzinger, J., dissent and would grant the motion to dismiss.

2010-2180. Arnott v. Arnott.

Highland App. No. 09CA25, 2010-Ohio-5392. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated at page 3 of the court of appeals' Entry filed December 10, 2010:

"What is the proper standard for appellate review of purely legal issues that must be resolved after the trial court has decided a complaint for declaratory judgment presents a justiciable question under Revised Code Chapter 2721, i.e., must an appellate court afford deference to a trial court's interpretation or application of the law?"

Lanzinger, J., dissents.

The conflict case is *Maxwell v. Fry*, Butler App. No. CA2007-11-284, 2009-Ohio-1650.

2011-0052. Artisan Mechanical, Inc. v. Beiser.

Butler App. No. CA2010-02-039, 2010-Ohio-5427. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated at page 2 of the court of appeals' Entry filed December 14, 2010:

"When there is a factual dispute between the parties over the existence of a valid settlement agreement, is the trial court required to conduct an evidentiary hearing regardless of whether it enforces or denies enforcement of the agreement and enters judgment pursuant to the Ohio Supreme Court decision in *Rulli v. Fan Co.*, 79 Ohio St.3d 374?"

The conflict cases are *Michelle M.S. v. Eduardo H.T.*, Erie App. No. E-05-053, 2006-Ohio-2119, and *Moore v. Johnson* (Dec. 11, 1997), Franklin App. No. 96APE11-1579.

2011-0055. State v. McDowall.

Franklin App. Nos. 09AP-443 and 09AP-444, 2009-Ohio-6902. On motion for leave to file delayed appeal. Motion denied.

2011-0062. State v. Bradley.

Van Wert App. No. 15-10-03, 2010-Ohio-5422. On motion for leave to file delayed appeal. Motion granted.

Lundberg Stratton, J., dissents.

2011-0069. State v. Stone.

Cuyahoga App. No. 92949, 2010-Ohio-3308. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2011-0085. State v. Behanan.

Butler App. No. CA2009-10-266, 2010-Ohio-4403. On motion for leave to file delayed appeal. Motion denied.

Cupp and McGee Brown, JJ., dissent.

2011-0090. State v. Montgomery.

Ashtabula App. No. 2009-A-0057, 2010-Ohio-4555. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Cupp, JJ., dissent.

2011-0099. State v. Kovacic.

Lake App. No. 2010-L-018, 2010-Ohio-5663. On amended motion for leave to file delayed appeal. Motion granted.

O'Connor, C.J., dissents.

2011-0100. State v. Boynton.

Cuyahoga App. No. 93784, 2010-Ohio-4670. On motion for leave to file delayed appeal. Motion denied.

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

2011-0107. In re J.V.

Cuyahoga App. No. 94820, 2010-Ohio-5490. On motion for leave to file delayed appeal. Motion granted.

2011-0118. Keynote Property v. Chibinda.

Butler App. No. CA2010-09-251. On motion for stay of court of appeals' order. Motion denied.

2011-0212. State v. Lloyd.

Holmes App. No. 09 CA 12, 2010-Ohio-6562. On motion for stay of court of appeals' judgment and to maintain trial court's stay of sentence. Motion granted.

O'Donnell, J., dissents.

APPEALS ACCEPTED FOR REVIEW

2010-1660. State v. Palmer.

Franklin App. Nos. 09AP-956 and 09AP-957, 2010-Ohio-2421.

O'Connor, C.J., would accept the appeal on Proposition of Law Nos. I and II only and hold the cause for the decision in 2009-0088, *State v. Williams*, Warren App. No. CA2008-02-029, 2008-Ohio-6195.

Lundberg Stratton and Cupp, JJ., would also hold the cause for the decision in 2009-0088, *State v. Williams*.

2010-2158. State v. Carlisle.

Cuyahoga App. No. 93266, 2010-Ohio-3407.

O'Donnell and Lanzinger, JJ., would also hold the cause for the decision in 2009-2028, *State v. Davis*, Licking App. No. 09-CA-0019, 2009-Ohio-5175.

Pfeifer and Lundberg Stratton, JJ., dissent.

2010-2260. State v. Hood.

Cuyahoga App. No. 93854, 2010-Ohio-5477.

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

APPEALS NOT ACCEPTED FOR REVIEW

2010-1398. State v. Sanders.

Portage App. No. 2009-P-0053, 2010-Ohio-2525.

2010-1608. Diamond v. Arabica Coffee One Corp.

Cuyahoga App. No. 93740, 2010-Ohio-3090.

Pfeifer, J., dissents.

2010-1847. State v. Tuggle.

Lucas App. No. L-09-1317, 2010-Ohio-4162. Discretionary appeal and cross-appeal not accepted.

O'Connor, C.J., and O'Donnell, J., dissent and would accept the cross-appeal and remand the cause to the court of appeals for application of *State v. Fischer*, ___ Ohio St.3d ___, 2010-Ohio-6238.

2010-1971. State v. Hubbs.

Columbiana App. No. 09 CO 24, 2010-Ohio-4849.

O'Donnell and Cupp, JJ., dissent.

2010-1985. Mubashshir v. Sheldon.

Marion App. No. 9-10-39, 2010-Ohio-4808.

2010-1986. Wills v. Brunsman.

Warren App. No. CA2010-06-052.

McGee Brown, J., dissents.

2010-1992. State v. Moon.

Cuyahoga App. No. 93673, 2010-Ohio-4483.

2010-1997. State v. Coats.

Mercer App. Nos. 10-10-05 and 10-10-06, 2010-Ohio-4822.

2010-2005. State v. Buckley.

Hamilton App. No. C-090424.

2010-2007. Culler v. Culler.

Richland App. No. 2010 CA 0042, 2010-Ohio-5095.

2010-2011. Columbus v. Flowers.

Franklin App. No. 10AP-32, 2010-Ohio-5081.

2010-2037. State v. Jaffal.

Cuyahoga App. No. 93142, 2011-Ohio-419.

2010-2039. State v. Easley.

Franklin App. Nos. 08AP-755 and 08AP-756. Discretionary appeal not accepted. Motion to dismiss and motion to strike denied as moot.

2010-2041. Conneaut v. Babcock.

Ashtabula App. Nos. 2009-A-0042 and 2009-A-0043, 2010-Ohio-4941.

2010-2044. State ex rel. Ohio Dept. of Edn. v. Ministerial Day Care Assn.

Cuyahoga App. No. 94062, 2010-Ohio-5009.

2010-2045. State v. Huffman.

Sandusky App. No. S-10-016, 2010-Ohio-5026.

2010-2047. State v. Baughman.

Allen App. No. 1-10-34, 2010-Ohio-4951.

2010-2048. State v. Cotton.

Cuyahoga App. No. 93779, 2010-Ohio-5003.

2010-2051. State v. Williamson.

Marion App. No. 9-10-11, 2010-Ohio-5060.

2010-2052. State v. Lewis.

Hamilton App. No. C-090612.

2010-2057. State v. Barb.

Cuyahoga App. No. 94054, 2010-Ohio-5239.

2010-2063. State v. Anderson.

Clermont App. No. CA2010-03-019.

Lundberg Stratton and McGee Brown, JJ., dissent.

2010-2064. State v. Young.

Cuyahoga App. No. 93218, 2010-Ohio-5115.

2010-2066. State v. Lovett.

Hamilton App. No. C-090884.

2010-2079. State v. Ross.

Cuyahoga App. No. 94165, 2010-Ohio-5243.

2010-2080. State v. Daniels.

Hamilton App. No. C-090566, 2010-Ohio-5258.

2010-2081. Fuller v. Moore.

Franklin App. No. 10AP-297, 2010-Ohio-5444.

2010-2082. State v. Washington.

Scioto App. No. 09CA3303, 2010-Ohio-5366.

2010-2083. State v. Riggans.

Allen App. No. 1-10-42.

2010-2085. In re Guardianship of Moton.

Richland App. No. 2010CA0082.

2010-2089. E.B.P., Inc. v. 623 W. St. Clair Ave., L.L.C.

Cuyahoga App. No. 93587, 2010-Ohio-4005.

McGee Brown, J., dissents.

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

2010-2092. Condominiums at Stonebridge Owners' Assn. v. Patton.

Cuyahoga App. No. 94139, 2010-Ohio-3616.

Pfeifer, J., dissents.

2010-2098. State v. Rodriguez.

Wood App. No. WD-08-013, 2009-Ohio-4280.

2010-2103. State v. Leary.

Hamilton App. No. C-100106.

2010-2104. State v. Davis.

Hamilton App. No. C-090220, 2010-Ohio-5125.

Pfeifer and McGee Brown, JJ., dissent.

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

2010-2105. State v. Dean.

Portage App. No. 2010-P-0003, 2010-Ohio-5185.

2010-2106. State v. Watkins.

Franklin App. No. 09AP-669, 2010-Ohio-4187.

Cupp, J., dissents.

McGee Brown, J., dissents and would accept the appeal and hold the cause for the decision in 2009-0088, *State v. Williams*, Warren App. No. CA2008-02-029, 2008-Ohio-6195.

2010-2109. State v. Payton.

Erie App. Nos. E-09-070 and E-09-071, 2010-Ohio-5178.

2010-2110. State v. Bains.

Cuyahoga App. No. 94330, 2010-Ohio-5143.

Pfeifer and O'Donnell, JJ., dissent.

2010-2111. State v. Linnan.

Cuyahoga App. No. 94620, 2010-Ohio-5145.

2010-2112. State v. Varholick.

Cuyahoga App. No. 94187, 2010-Ohio-5132.

2010-2113. State v. Felton.

Cuyahoga App. No. 92295, 2010-Ohio-4105.

2010-2122. State v. Carter.

Allen App. No. 1-10-01, 2010-Ohio-5189.

2010-2123. Cireddu v. Clough.

Lake App. No. 2010-L-008, 2010-Ohio-5401.

2010-2124. Taylor Bros., L.L.C. v. Mandel.

Hamilton App. No. C-100032, 2010-Ohio-5204.

2010-2127. State v. Garrett.

Hamilton App. No. C-090592, 2010-Ohio-5431.

O'Connor, C.J., and Lanzinger, J., dissent and would accept the appeal on Proposition of Law No. VII and remand the cause to the court of appeals for application of *State v. Johnson*, ___ Ohio St.3d ___, 2010-Ohio-6314.

2010-2143. Columbus v. Cooper.

Franklin App. No. 10AP-325, 2010-Ohio-5210.

2010-2147. Shelly Co. v. Crown Ents., Inc.

Cuyahoga App. No. 95597.

O'Connor, C.J., dissents.

2010-2153. State v. Arde.

Montgomery App. No. 23882, 2010-Ohio-5274.

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

2010-2167. Silver v. Jewish Home of Cincinnati.

Warren App. No. CA2010-02-015, 2010-Ohio-5314.

2010-2177. State v. Black.

Stark App. No. 2010CA00136, 2010-Ohio-5338.

2010-2179. Arnott v. Arnott.

Highland App. No. 09CA25, 2010-Ohio-5392.

Pfeifer, J., dissents.

Lundberg Stratton and O'Donnell, JJ., dissent and would accept the appeal on Proposition of Law No. I.

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

2010-2186. State v. Lewers.

Stark App. No. 2009-CA-00289, 2010-Ohio-5336.

Pfeifer, J., dissents.

2010-2195. State v. White.

Stark App. No. 2010CA00033, 2010-Ohio-5344.

2010-2204. State v. Elson.

Richland App. No. 2008CA0051, 2009-Ohio-1481.

O'Donnell, J., dissents.

2010-2210. State v. Brown.

Summit App. No. 25099, 2010-Ohio-5327.

2010-2211. State v. Gau.

Ashtabula App. No. 2010-A-0013, 2010-Ohio-5516.

2010-2213. State v. Reddy.

Cuyahoga App. No. 92924, 2010-Ohio-5759.

2010-2214. State v. Lloyd.

Warren App. No. CA2007-04-052.

2010-2215. State v. Gates.

Cuyahoga App. No. 93789, 2010-Ohio-5348.

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

2010-2216. State v. Cantie.

Cuyahoga App. No. 93864, 2010-Ohio-5350.

2010-2217. State v. Nagel.
Williams App. No. WM-09-018.

2010-2226. State v. Hill.
Richland App. No. 2009-CA-26.
McGee Brown, J., dissents.

2010-2227. State v. Galloway.
Lucas App. No. L-10-1294. Discretionary appeal not accepted. Motion to consolidate denied as moot.

2010-2228. State v. Galloway.
Lucas App. No. L-10-1295. Discretionary appeal not accepted. Motion to consolidate denied as moot.

2010-2230. State v. Thomas.
Hamilton App. No. C-100321.
Cupp, J., dissents and would accept the appeal and remand the cause to the court of appeals for application of *State v. Johnson*, ___ Ohio St.3d ___, 2010-Ohio-6314.

2010-2258. State v. Townsend.
Cuyahoga App. No. 94754, 2010-Ohio-5147.

2010-2272. Briggs v. Turner.
Tuscarawas App. No. 10AP030010, 2010-Ohio-5695.

2010-2276. State v. Phillips.
Cuyahoga App. No. 94017, 2010-Ohio-5130.

2010-2278. State v. Graggs.
Franklin App. No. 10AP-249, 2010-Ohio-5716.

2010-2279. State v. Robinson.
Cuyahoga App. No. 94293, 2010-Ohio-5776.

2011-0015. State v. Wilson.
Cuyahoga App. Nos. 93859 and 93860, 2010-Ohio-5585.

2011-0017. State v. Onunwor.

Cuyahoga App. No. 93937, 2010-Ohio-5587.
Pfeifer, J., dissents.

2011-0044. State v. Gravely.
Franklin App. Nos. 09AP-440 and 09AP-441.

RECONSIDERATION OF PRIOR DECISIONS

2009-2358. Allstate Ins. Co. v. Campbell.
Franklin App. Nos. 09AP-306, 09AP-307, 09AP-308, 09AP-309, 09AP-318, 09AP-319, 09AP-320, and 09AP-321, 2009-Ohio-6055. Reported at ___ Ohio St.3d ___, 2010-Ohio-6312, ___ N.E.2d ___. On joint motion for reconsideration or clarification. Motion denied.

Lundberg Stratton and O'Donnell, JJ., dissent.
McGee Brown, J., not participating.

2010-1672. Pavelish v. Cincinnati.
Hamilton App. No. C-090812. Reported at 127 Ohio St.3d 1486, 2010-Ohio-6371, 939 N.E.2d 184. On motion for reconsideration. Motion denied.
McGee Brown, J., not participating.

2010-1776. State v. Willis.
Franklin App. No. 08AP-536, 2009-Ohio-325. Reported at 127 Ohio St.3d 1486, 2010-Ohio-6371, 939 N.E.2d 184. On motion for reconsideration. Motion denied.
McGee Brown, J., not participating.

2010-1830. State ex rel. McGrath v. Gallagher.
In Mandamus and Prohibition. Reported at 127 Ohio St.3d 1483, 2010-Ohio-6371, 939 N.E.2d 182. On motion for reconsideration. Motion denied.
McGee Brown, J., not participating.