

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS

June 20, 2012

[Cite as *06/20/2012 Case Announcements*, 2012-Ohio-2729.]

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## MERIT DECISIONS WITH OPINIONS

**2011-1355. State ex rel. Maroon v. Ohio State Hwy. Patrol Retirement Sys., Slip Opinion No. 2012-Ohio-2679.**

Franklin App. No. 10AP-665. Judgment affirmed.

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

Pfeifer, J., concurs in judgment only.

**2011-0284 and 2011-1755. Disciplinary Counsel v. Whitfield, Slip Opinion No. 2012-Ohio-2708.**

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 10-078. James Jonathan Whitfield, Attorney Registration No. 0080720, is suspended from the practice of law in Ohio for two years with credit for time served under the interim felony suspension imposed on May 24, 2010, upon conditions.

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

O'Donnell, J., dissents and would indefinitely suspend respondent.

**2011-2034. Disciplinary Counsel v. Trieu, Slip Opinion No. 2012-Ohio-2714.**

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 11-067. Vinh Chi Trieu, Attorney Registration No. 0076557, is indefinitely suspended from the practice of law in Ohio.

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

**2011-2038. Cleveland Metro. Bar Assn. v. Kelly, Slip Opinion No. 2012-Ohio-2715.**

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 11-037. Thomas R. Kelly, Attorney Registration No. 0040319, is indefinitely suspended from the practice of law in Ohio.

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

Pfeifer and O'Donnell, JJ., dissent and would impose a two-year suspension, with one year stayed on condition, as recommended by the board.

**MERIT DECISIONS WITHOUT OPINIONS**

**2011-2100. Kokosing Constr. Co., Inc. v. Zanesville.**

In Mandamus. Relator's motion to amend complaint instanter granted. Respondents' motions for judgment on the pleadings granted and cause dismissed.

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

Pfeifer, J., dissents and would grant the writ.

**2012-0131. State ex rel. Lanham v. Bubp.**

In Mandamus. Relator's motion to disqualify the attorney general from representing respondent and motion for expedited oral argument denied. Respondent's motion to strike denied. Respondent's motion to dismiss granted and cause dismissed.

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

Lisa L. Sadler, J., of the Tenth Appellate District, sitting for O'Donnell, J.

Michael T. Hall, of the Second Appellate District, sitting for Cupp, J.

**2012-0203. State ex rel. Lanham v. DeWine.**

In Mandamus. Relator's motion to strike exhibits granted. Respondent's motion to dismiss denied. An alternative writ is granted, and a schedule is set for presentation of evidence and filing of briefs pursuant to S.Ct.Prac.R. 10.6. It is further ordered that the records that are the subject of this action shall be submitted as evidence under seal for in camera inspection.

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

Pfeifer, J., dissents and would grant respondent's motion to dismiss and dismiss the cause.

Lisa L. Sadler, J., of the Tenth Appellate District, sitting for O'Donnell, J.

Michael T. Hall, of the Second Appellate District, sitting for Cupp, J.

**2012-0560. State ex rel. Quillen v. Judges of the Third 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.

**2012-0622. State ex rel. Greene v. Villanueva.**

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.

**2012-0690. Greathouse v. Clerk of Court.**

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.

**2012-0714. Ridsen v. Gorman.**

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.

**2012-0771. State v. Manns.**

Richland App. No. 11-CA-28, 2012-Ohio-234. On review of order certifying a conflict. The court determines that no conflict exists. Cause dismissed.

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

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

## **MOTION AND PROCEDURAL RULINGS**

**2011-0033. State v. Johnson.**

Butler App. No. CA200912307. On joint motion for clarification of judgment entry. Motion granted. The March 13, 2012 order is vacated, and this cause is remanded to the court of appeals for application of *United States v. Jones*, \_\_\_ U.S. \_\_\_, 132 S.Ct. 945, 181 L.Ed.2d 911 (2012).

**2011-0908. Anderson v. Barclays Capital Real Estate, Inc.**

Certified Question of State Law, United States District Court, Northern District of Ohio, Western Division, Case No. 3:09-cv-02335-JGC. Cause is no longer held for the decision in 2011-0890, *Blank v. GMAC Mtge., L.L.C.* Petitioner shall file its merit brief within 40 days of the date of this entry and the parties shall otherwise proceed in accordance with S.Ct.Prac.R. 6.2 through 6.4 and S.Ct.Prac.R. 18.7.

**2011-0890. State ex rel. DeWine v. GMAC Mtge., L.L.C.**

Certified Question of State Law, United States District Court, Northern District of Ohio, Western Division, Case Nos. 3:10-cv-02537-JZ and 1:10-cv-02709-JZ. Cause stayed pending resolution of bankruptcy case. The parties shall notify this court immediately upon conclusion of the bankruptcy proceedings.

**2011-2075. State v. Steele.**

Hamilton App. No. C-100637. Cause consolidated with 2011-2178, *State v. Steele*, and shall be deemed a cross-appeal. The state of Ohio is designated appellant/cross-appellee and Julian Steele is designated appellee/cross-appellant.

Briefing in case Nos. 2011-2178 and 2011-2075 is consolidated. The parties shall file two originals of each of the briefs permitted under S.Ct.Prac.R. 6.5 and include both case numbers on the cover page of the briefs. The parties shall otherwise comply with the requirements of S.Ct.Prac.R. 6.5. The briefs filed pursuant to this entry shall supersede the briefs previously filed in 2011-2075.

Appellant/cross-appellee shall file its brief within 40 days of the date of this entry and briefing shall otherwise proceed as provided in S.Ct.Prac.R. 6.5.

**2011-2204. In re Application of Cleveland Elec. Illum. Co.**

Public Utilities Commission, Nos. 09-1947-EL-POR, 09-1948-EL-POR, 09-1949-EL-POR, 09-1942-EL-EEC, 09-1943-EL-EEC, 09-1944-EL-EEC, 09-580-EL-EEC, 09-581-EL-EEC, and 09-582-EL-EEC. On motion to dismiss. Motion to dismiss granted. Cause dismissed.

Pfeifer, J., dissents.

**2012-0578. Countrywide Home Loans Servicing, L.P. v. Nichpor.**

Wood App. No. WD-11-047, 2012-Ohio-1101. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated at page 6 of the court of appeals' decision filed March 16, 2012, as follows: "Whether a foreclosure action, in which a judgment of foreclosure has, in fact, been issued, can be dissolved in its entirety prior to the confirmation of sale, with the filing of a voluntary dismissal, filed by a party in accordance with Civ.R. 41(A)."

The conflict case is *Coates v. Navarro*, 2d Dist. Nos. 86-CA-11 and 86-CA-18, 1987 WL 8490 (Mar. 27, 1987).

**2012-0623. Parrish v. Jones.**

Sandusky App. No. 11CA3238, 2012-Ohio-1145. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issues stated at page 1 of the court of appeals' decision filed April 3, 2012, as follows: "Whether a trial court is required to consider the allegations contained in the pleadings, along with the opening statement, when ruling on a motion for directed verdict made at the close of opening statement."

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

The conflict case is *Blankenship v. Kennard*, 10th Dist. No. 92AP-415, 1993 WL 318825 (Aug. 17, 1993).

**2012-0760. State v. Crawley.**

Stark App. No. 2010-CA-00057, 2010-Ohio-5098. On motion for leave to file delayed appeal. Motion denied.

**2012-0779. State v. Evans.**

Washington App. No. 11CA16, 2012-Ohio-850. On motion for leave to file delayed appeal. Motion denied.

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

**2012-0795. State v. Washington.**

Cuyahoga App. No. 97758. On motion for leave to file delayed appeal. Motion denied.

**2012-0803. State v. Mitchell.**

Guernsey App. No. 11-CA-22. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

**2012-0809. State v. Dunn.**

Hamilton App. No. C-100053. On motion for leave to file delayed appeal. Motion denied.

**2012-0813. State v. Payne.**

Summit App. No. 25825, 2012-Ohio-1334. On motion to stay sentence. Motion denied.

Pfeifer and O'Donnell, JJ., dissent.

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

**2012-0822. State v. Blanda.**

Butler App. No. CA2010-03-050. On motion for stay of court of appeals' judgment. Motion denied.

**2012-0828. State v. Gilliam.**

Clark App. No. 09CA0075. On motion for stay of court of appeals' judgment. Motion granted.

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

**2012-0831. State v. Truitt.**

Hamilton App. No. C-110323, 2012-Ohio-461. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and McGee Brown, JJ., dissent.

## **APPEALS ACCEPTED FOR REVIEW**

**2011-2178. State v. Steele.**

Hamilton App. No. C-100637, 2011-Ohio-5479. Discretionary appeal accepted on Proposition of Law No. III. The clerk shall file the record in case No. 2011-2075 into this case.

Cause consolidated with 2011-2075, *State v. Steele*, and shall be deemed a cross-appeal. The state of Ohio is hereby designated appellant/cross-appellee and Julian Steele is designated appellee/cross-appellant.

It is further ordered by the court that the briefing in case Nos. 2011-2178 and 2011-2075 shall be consolidated. The parties shall file two originals of each of the briefs permitted under S.Ct.Prac.R. 6.5 and include both case numbers on the cover page of the briefs. The parties shall otherwise comply with the requirements of S.Ct.Prac.R. 6.5. The briefs filed pursuant to this entry shall supersede the briefs previously filed in 2011-2075.

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

Lundberg Stratton, J., would accept the appeal on all Propositions of Law.

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

**2012-0535. Cullen v. State Farm Mut. Auto. Ins. Co.**

Cuyahoga App. No. 95925, 2011-Ohio-6621.

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

**2012-0651. State v. Dzelajlija.**

Cuyahoga App. No. 95851, 2012-Ohio-913.

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

**APPEALS NOT ACCEPTED FOR REVIEW**

**2012-0365. Hunter v. Univ. of Cincinnati.**

Franklin App. No. 11AP-681.

**2012-0495. State v. Gipson.**

Erie App. No. E-10-038, 2012-Ohio-515.

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

**2012-0496. B&W Welding v. Grater.**

Sandusky App. No. S-10-054, 2011-Ohio-6498.

**2012-0499. Huntington Natl. Bank v. Val Homes, Inc.**

Geauga App. No. 2011-G-3021, 2012-Ohio-526.

**2012-0503. Galluzzo v. Galluzzo.**

Champaign App. No. 2011-CA-11, 2012-Ohio-502.

O'Donnell, J., dissents.

**2012-0505. Hostetler v. Cent. Farm & Garden, Inc.**

Tuscarawas App. No. 2010 AP 12 0046, 2012-Ohio-507.

**2012-0509. State v. Ross.**

Lorain App. No. 09CA009742, 2012-Ohio-536.

**2012-0515. Wallace v. Hipp.**

Lucas App. No. L-11-1052, 2012-Ohio-623.

**2012-0517. State v. Porter.**

Lucas App. No. L-12-1028.

**2012-0518. State v. Rodvold.**

Huron App. No. H-10-012, 2012-Ohio-619.

**2012-0520. State v. Bradley.**

Van Wert App. No. 15-12-05.

**2012-0525. Jones v. Smith Transport.**

Hocking App. No. 11CA11, 2012-Ohio-692.

O'Connor, C.J., dissents.

**2012-0527. Scali v. CSA HS UHHS Canton, Inc.**

Stark App. No. 2011-CA-00165, 2012-Ohio-577.

**2012-0531. Parrish v. Jones.**

Sandusky App. No. 11CA3238, 2012-Ohio-1145. Discretionary appeal and cross-appeal not accepted.

Lundberg Stratton, Lanzinger, and McGee Brown, JJ., dissent and would accept the discretionary appeal.

**2012-0532. In re Guardianship of Soltesz.**

Erie App. No. E-11-021.

**2012-0533. State v. Jones.**

Franklin App. No. 11AP-498, 2012-Ohio-559.

**2012-0536. Twinsburg v. Wesby.**

Summit App. No. 25813, 2012-Ohio-569.

O'Donnell, J., dissents.

**2012-0537. Mays v. Carl L. Mays Trust.**

Huron App. No. H-11-004, 2012-Ohio-618.

**2012-0538. Ford Motor Credit Co. v. Ryan & Ryan, Inc.**

Franklin App. No. 12AP-193.

**2012-0540. Estate of Mikulski v. Cleveland Elec. Illum. Co.**

Cuyahoga App. No. 96748, 2012-Ohio-588.

Cupp, J., dissents.

**2012-0542. State v. Dorsey.**

Licking App. No. 11 CA 39, 2012-Ohio-611.

Pfeifer and McGee Brown, JJ., dissent.

**2012-0544. State v. Myers.**

Perry App. No. 11-CA-7, 2012-Ohio-660.

**2012-0546. In re M.D.**

Knox App. No. 11-CA-9.

Lundberg Stratton, J., dissents.

**2012-0550. State v. Ivory.**

Cuyahoga App. No. 97429, 2012-Ohio-708.

**2012-0553. State v. Bohannon.**

Hamilton App. No. C-110458.

**2012-0554. State v. Cooper.**

Hamilton App. No. C-110027, 2012-Ohio-555.

**2012-0561. State v. Hutchings.**

Portage App. Nos. 2011-P-0019, 2011-P-0020, 2011-P-0021, and 2011-P-0022,  
2012-Ohio-649.

**2012-0562. State v. Aguirre.**

Portage App. No. 2010-P-0057, 2012-Ohio-644.

**2012-0583. State v. Dyer.**

Hancock App. No. 5-11-32.

**2012-0589. State v. Jones.**

Cuyahoga App. No. 95284, 2012-Ohio-696.

**2012-0590. State v. Murphy.**

Cuyahoga App. No. 95705, 2012-Ohio-1186.

**2012-0604. State v. Foster.**

Cuyahoga App. No. 95209, 2012-Ohio-916.

**2012-0606. State v. Casey.**

Medina App. No. 11CA0054-M, 2012-Ohio-744.

**2012-0611. State v. Mobley.**

Richland App. No. 11CA83, 2012-Ohio-969.

**2012-0612. State v. Lewis.**

Stark App. No. 2011CA00254, 2012-Ohio-1030.

**2012-0635. State v. Mays.**

Montgomery App. No. 24168, 2012-Ohio-838.

Lundberg Stratton, J., dissents.

**2012-0636. State v. Raber.**

Wayne App. No. 09CA0065.

**2012-0646. State v. Jones.**

Stark App. No. 2012CA00044.

**2012-0647. State v. Kronenberg.**

Cuyahoga App. No. 96797, 2012-Ohio-589.

Pfeifer, J., dissents.

**2012-0648. State v. Millette.**

Licking App. No. 11-CA-23.

**2012-0650. State v. Thomas.**

Cuyahoga App. No. 96146, 197 Ohio App.3d 176, 2011-Ohio-6073.

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

**2012-0658. State v. Yates.**

Cuyahoga App. No. 96774, 2012-Ohio-919.

**2012-0674. State v. Bradford.**

Cuyahoga App. No. 97283, 2012-Ohio-1058.

**2012-0675. State v. McIntyre.**

Summit App. Nos. 24934 and 24945, 2012-Ohio-1173.

**2012-0683. State v. Torres.**

Cuyahoga App. Nos. 96930 and 96931, 2012-Ohio-922.

**2012-0686. In re T.K.**

Summit App. No. 26076, 2012-Ohio-906.

Lanzinger, J., dissents.

**2012-0699. Watson v. Ohio Dept. of Rehab. & Corr.**

Franklin App. No. 11AP-606, 2012-Ohio-1017.

O'Donnell, J., dissents.

**2012-0701. State v. Hess.**

Montgomery App. No. 24453, 2012-Ohio-961.

**2012-0703. State v. Thompson.**

Cuyahoga App. No. 96929, 2012-Ohio-921.

**2012-0704. State v. Jones.**

Cuyahoga App. No. 96901, 2012-Ohio-920.

**2012-0712. State v. Byrd.**

Scioto App. No. 10CA3390, 2012-Ohio-1138.

**2012-0718. State v. Williams.**

Mahoning App. No. 11-MA-24, 2012-Ohio-1475.

**2012-0723. State v. Rosa.**

Cuyahoga App. No. 96587, 2012-Ohio-1042.

**2012-0802. State v. Glenn.**

Cuyahoga App. No. 94425, 2012-Ohio-1530.

**RECONSIDERATION OF PRIOR DECISIONS**

**2012-0135. State v. Vanac.**

Lake App. No. 2011-L-027, 2011-Ohio-6338. Reported at 131 Ohio St.3d 1510, 2012-Ohio-1710, 965 N.E.2d 311. On motion for reconsideration. Motion denied.

**2012-0169. Stammco, L.L.C. v. United Tel. Co. of Ohio.**

Fulton App. No. F-11-003, 2011-Ohio-6503. Reported at 131 Ohio St.3d 1511, 2012-Ohio-1710, 965 N.E.2d 311. On motion for reconsideration. Motion granted to the following extent: The discretionary appeal is accepted on Proposition of Law No. I. Motion to strike motion for reconsideration denied as moot.

O'Connor, C.J., would also grant the motion for reconsideration as to Proposition of Law No. II.

Lundberg Stratton and McGee Brown, JJ., would grant the motion for reconsideration as to all Propositions of Law.

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