

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

July 5, 2012

[Cite as *07/05/2012 Case Announcements*, 2012-Ohio-3054.]

MERIT DECISION WITH OPINIONS

2011-1423. In re Application of Poignon, Slip Opinion No. 2012-Ohio-2915.

On Report by the Board of Commissioners on Character and Fitness, No. 492.

Daniel Paul Poignon, of Monclova, Ohio, is forever precluded from reapplying for the privilege of practicing law in Ohio.

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

O'Donnell and Cupp, JJ., not participating.

2012-0511. State ex rel. Culgan v. Collier, Slip Opinion No. 2012-Ohio-2916.

Medina App. No. 11CA0097-M. Judgment affirmed.

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

MERIT DECISIONS WITHOUT OPINIONS

2012-0708. Lawrence v. Cook.

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

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

Lundberg Stratton, J., dissents and would grant an alternative writ.

2012-0711. Marcum v. Hocking Cty. Mun. Court.

In Mandamus. On answer of respondent and motion to dismiss. Motion to dismiss granted. Motion to expedite and motion for emergency stay of proceedings denied as moot. Cause dismissed.

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

2012-0715. Harper v. Jeffersonian Newspaper Co.

On original action complaint and 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.

2012-0740. Bevins v. Metz.

In Mandamus and 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.

2012-0755. State ex rel. Akemon v. Hildebrant.

In Mandamus. On relator's motion to amend complaint. On respondents' motion to dismiss. Motion to dismiss granted. Motion to amend complaint denied as moot. Cause dismissed.

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

2012-0769. State ex rel. Brown v. Cooper.

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.

2012-0817. State ex rel. Helfrich v. Markus.

In Mandamus and Prohibition. 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.

2012-0855. State ex rel. McIntyre v. Clipper.

In Habeas Corpus. On petition for writ of habeas corpus of Lewis Leroy McIntyre Jr. 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

2011-1708. Smith v. Landfair.

Summit App. No. 25371, 194 Ohio App.3d 468, 2011-Ohio-3043. This cause is pending before the court as a discretionary appeal and claimed appeal of right.

Upon consideration of the joint motion of appellant and amicus curiae, the Ohio Horseman's Council, to participate in oral argument, it is ordered by the court that the motion is granted. Amicus curiae, the Ohio Horseman's Council, shall share the time allotted to appellant.

2012-0838. State v. Scott.

Madison App. No. CA2010-06-012, 2010-Ohio-5065. On motion for leave to file delayed appeal. Motion denied.

2012-0845. State v. Hayes.

Hamilton App. No. C-110853. On motion for leave to file delayed appeal. Motion denied.

2012-0853. State v. Schmidt.

Mercer App. No. 10-10-04, 2010-Ohio-4809. On motion for leave to file delayed appeal. Motion denied.

2012-0858. State v. Akemon.

Hamilton App. No. C-110855. On motion for leave to file delayed appeal. Motion denied.

2012-0867. Fifth Third Mtge. Co. v. Bihn.

Montgomery App. No. 24691, 2012-Ohio-637. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause held for the decision in 2011-1201 and 2011-1362, *Fed. Home Loan Mtge. Corp. v. Schwartzwald*, Greene App. No. 2010 CA 41, 2011-Ohio-2681.

McGee Brown, J., not participating.

2012-0874. State v. Gephart.

Clermont App. No. CA2012-02-009. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and O'Donnell, JJ., dissent.

2012-0879. State v. Boiner.

Cuyahoga App. No. 97163. On motion for leave to file delayed appeal. Motion denied.

2012-0885. State v. Beatty-Jones.

Montgomery App. No. 24245, 2011-Ohio-3719. On motion for leave to file delayed appeal. Motion denied.

2012-0891. State v. Fite.

Adams App. No. 10CA888, 2011-Ohio-507. On motion for leave to file delayed appeal. Motion denied.

2012-0907. State v. Jarrels.

Clermont App. No. CA2011-07-055, 2012-Ohio-1124. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Cupp, JJ., dissent.

2012-0935. Dismuke v. Grier.

Montgomery App. No. 24676. On motion for stay of judgment pending appeal. Motion denied.

APPEALS ACCEPTED FOR REVIEW

2012-0413. Boice v. Ottawa Hills.

Lucas App. No. L-09-1253, 2011-Ohio-5681. Discretionary appeal accepted.

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

Discretionary cross-appeal not accepted.

Pfeifer and O'Donnell, JJ., dissent.

2012-0556. Doe v. Bruner.

Clinton App. No. CA2011-07-013, 2012-Ohio-761.

Pfeifer, J., dissents.

2012-0565. Dunbar v. State.

Cuyahoga App. No. 97364, 2012-Ohio-707. Discretionary appeal accepted on Proposition of Law No. I.

Lundberg Stratton, Cupp, and McGee Brown, JJ., would also accept the appeal on Proposition of Law No. II.

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

2012-0613. Freshwater v. Mt. Vernon City School Dist. Bd. of Edn.

Knox App. No. 2011-CA-000023, 2012-Ohio-889. Discretionary appeal accepted on Proposition of Law Nos. I and II.

Pfeifer, O'Donnell, and Cupp, JJ., would also accept Proposition of Law No. III.

Lundberg Stratton, Lanzinger, and McGee Brown, JJ., dissent.

2012-0620. Stewart v. Vivian.

Clermont App. No. CA2011-06-050, 2012-Ohio-228. Discretionary appeal accepted on Proposition of Law Nos. I and II.

Pfeifer and Lanzinger, JJ., would also accept Proposition of Law Nos. III and IV.

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

2012-0628. State v. Athon.

Hamilton App. No. C-110236, 2012-Ohio-765.

Pfeifer and O'Donnell, JJ., dissent.

2012-0631. State v. Buelow.

Montgomery App. No. 24570, 2012-Ohio-832. Discretionary appeal accepted; cause held for the decision in 2011-2126, *State v. Howard*, Montgomery App. No. 24680, 2011-Ohio-5693.

Pfeifer and O'Donnell, JJ., dissent.

2012-0830. State v. Davis.

Summit App. No. 25826, 2012-Ohio-1440.

Pfeifer and Cupp, JJ., dissent.

APPEALS NOT ACCEPTED FOR REVIEW

2012-0261. State v. Dillingham.

Butler App. No. CA2011-03-043, 2011-Ohio-6348.

2012-0312. State v. Ruehlmann.

Hamilton App. No. C-100784, 2011-Ohio-6717.

Pfeifer and O'Donnell, JJ., dissent.

2012-0569. Wells Fargo Ins. Servs. USA, Inc. v. Gingrich.

Butler App. No. CA2011-05-085, 2012-Ohio-677.

Lundberg Stratton, J., dissents.

2012-0571. Melampy v. Evans Landscaping, Inc.
Butler App. No. CA2011-03-045, 2012-Ohio-675.
O'Connor, C.J., dissents.

2012-0573. Gates v. Praul.
Franklin App. No. 10AP-784, 2011-Ohio-6230.

2012-0574. State v. Davis.
Washington App. No. 10CA9, 2011-Ohio-6776.
Lanzinger, J., dissents.

2012-0575. Bruce v. Bruce.
Marion App. No. 9-10-57, 2012-Ohio-45.
Lanzinger, J., dissents.

2012-0579. State v. Henderson.
Trumbull App. No. 2010-T-0095, 2012-Ohio-740.

2012-0580. Cleveland v. Brown.
Cuyahoga App. No. 96964, 2012-Ohio-702.
O'Donnell, J., dissents.

2012-0585. State v. Reyes.
Mercer App. No. 10-11-20.

2012-0596. State v. Lester.
Auglaize App. No. 2-11-20, 2012-Ohio-135.

2012-0598. Mota v. Gruszczynski.
Cuyahoga App. No. 97089, 2012-Ohio-275.
O'Connor, C.J., and O'Donnell, J., dissent.

2012-0600. State v. Lester.
Auglaize App. No. 2-11-02.

2012-0607. State ex rel. Fair v. Canton.
Stark App. No. 2011 CA 00132, 2012-Ohio-779.
Pfeifer, J., dissents.

2012-0609. State ex rel. Mansfield Motorsports Speedway, L.L.C. v. Dropsey.
Richland App. No. 11CA65, 2012-Ohio-968.
Pfeifer and O'Donnell, JJ., dissent.

2012-0610. State v. Waite.
Cuyahoga App. No. 96954, 2012-Ohio-489.

2012-0615. State v. Hough.
Cuyahoga App. No. 91691.

2012-0616. Gindling v. Shiff.
Hamilton App. No. C-100669, 2012-Ohio-764.
Pfeifer, J., dissents.

2012-0617. K.B.B. v. P.J.H.
Cuyahoga App. No. 97003, 2012-Ohio-811.

2012-0618. State v. Bell.
Ashland App. No. 11-COA-019, 2012-Ohio-851.

2012-0619. Meadows v. Air Craft Wheels, L.L.C.
Cuyahoga App. No. 96782, 2012-Ohio-269. Discretionary appeal not accepted.
Motion to dismiss denied as moot.
Pfeifer, J., dissents.
Cupp, J., dissents and would accept the appeal and hold the cause for 2011-2013, *Hewitt v. L.E. Myers Co.*, Cuyahoga App. No. 96138, 2011-Ohio-5413.

2012-0625. State v. Roehl.
Defiance App. No. 4-11-24.

2012-0626. State v. Holly.
Hamilton App. Nos. C-110233, C-110234, and C-110235.
O'Donnell, J., dissents.

2012-0629. Bauer v. White.
Trumbull App. No. 2011-T-0071, 2012-Ohio-1135.

2012-0630. Kaiser v. Franklin Cty. Aud.
Franklin App. No. 10AP-909, 2012-Ohio-820.

2012-0632. State v. Vielma.

Paulding App. No. 11-11-03, 2012-Ohio-875.

2012-0634. Sherwin-Williams Co. v. Motley Rice, L.L.C.

Cuyahoga App. No. 96927, 2012-Ohio-809.

2012-0638. State v. Havergne.

Cuyahoga App. No. 96951, 2012-Ohio-810.

2012-0640. Auckerman v. Rogers.

Greene App. No. 2011-CA-23, 2012-Ohio-23.

2012-0642. State v. Bates.

Guernsey App. No. 11CA000016, 2012-Ohio-1080.

2012-0643. State v. Sandoval.

Sandusky App. No. S-11-006, 2012-Ohio-1117.

2012-0649. State v. Petrone.

Stark App. No. 2011CA00067, 2012-Ohio-911.

2012-0652. Gordon v. Gen. Motors Corp.

Trumbull App. No. 2010-T-0121, 2012-Ohio-863.

2012-0653. Ohio Ins. Guar. Assn. v. Pikkell.

Cuyahoga App. No. 97263, 2012-Ohio-930.

McGee Brown, J., dissents.

2012-0657. State v. West.

Hamilton App. No. C-110337.

O'Donnell, J., dissents.

2012-0662. State v. Craycraft.

Clermont App. Nos. CA2011-04-030 and CA2011-04-029.

2012-0663. Citimortgage, Inc. v. Dudek.

Summit App. No. 25806, 2012-Ohio-899.

O'Connor, C.J., dissents.

2012-0664. State v. Johns.

Ashtabula App. No. 2011-A-0003, 2012-Ohio-864.

2012-0666. State v. Bozek.

Portage App. No. 2011-P-0101, 2012-Ohio-870.

2012-0676. Harris v. Ohio Dept. of Rehab. & Corr.

Ross App. No. 11CA3296.

2012-0679. Wickline v. Hoyer.

Franklin App. No. 11AP-694, 2012-Ohio-945.

2012-0689. U.S. Bank N.A. v. Wilkens.

Cuyahoga App. No. 96617, 2012-Ohio-1038.

Pfeifer and O'Donnell, JJ., dissent.

2012-0693. Eastminster Presbytery v. Stark & Knoll.

Summit App. No. 25653, 2012-Ohio-900.

O'Donnell, J., dissents.

2012-0705. State v. Peace.

Hancock App. No. 5-12-14.

2012-0726. State v. Blair.

Delaware App. No. 11CAA070069, 2012-Ohio-1112.

2012-0736. State v. Petefish.

Mahoning App. No. 11 MA 70, 2012-Ohio-1502.

2012-0746. Cincinnati Ins. Co. v. Song.

Cuyahoga App. No. 97379, 2012-Ohio-1062.

O'Donnell, J., dissents.

2012-0748. State v. Calhoun.

Ashtabula App. No. 2010-A-0057, 2012-Ohio-1128.

2012-0753. State v. Tran.

Franklin App. No. 11AP-146, 2012-Ohio-1072.

2012-0763. State v. Majid.
Cuyahoga App. No. 96855, 2012-Ohio-1192.

2012-0781. State v. Johnson.
Cuyahoga App. No. 96983, 2012-Ohio-1344.
O'Donnell, J., dissents.

2012-0786. State v. Florence.
Montgomery App. No. 25009.
O'Donnell, J., dissents.

2012-0788. State v. Jester.
Butler App. No. CA2010-10-264, 2012-Ohio-544.

2012-0820. State v. Robinson.
Mahoning App. No. 10 MA 128, 2012-Ohio-1686.
O'Donnell, J., dissents.

2012-0826. State v. Banks.
Summit App. No. 25969, 2012-Ohio-1323.

2012-0827. State v. Lacey.
Mahoning App. No. 11 MA 68, 2012-Ohio-1697.

2012-0836. State v. Myles.
Hamilton App. No. C-110504.

2012-0671. State v. Slagle.
Highland App. Nos. 10CA4 and 10CA5.

2012-0707. State v. Stacey.
Seneca App. No. 13-08-44.

RECONSIDERATION OF PRIOR DECISIONS

2011-0212. State v. Lloyd.
Holmes App. No. 09 CA 12, 2010-Ohio-6562. Reported at __ Ohio St.3d __,
2012-Ohio-2015, __ N.E.2d __. On motion for reconsideration, motion for
supplemental briefing, and motion for oral argument. Motions denied.
O'Donnell and Cupp, JJ., dissent.

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

Cuyahoga App. No. 94320, 2011-Ohio-302. Reported at __ Ohio St.3d __, 2012-Ohio-1975, __ N.E.2d __. On motion for reconsideration. Motion denied.

2012-0174. Norris v. Philander Chase Corp.

Knox App. No. 11-CA-10, 2011-Ohio-6545. Reported at 131 Ohio St.3d 1539, 2012-Ohio-2025, 966 N.E.2d 894. On motion for reconsideration. Motion denied.
Pfeifer, J., dissents.

2012-0243. Rieger v. Marsh.

Montgomery App. No. 24581, 2011-Ohio-6808. Reported at 131 Ohio St.3d 1540, 2012-Ohio-2025, 966 N.E.2d 894. On motion for reconsideration. Motion denied.

2012-0247. Lawton v. Hawley.

Franklin App. No. 11AP-521. Reported at 131 Ohio St.3d 1540, 2012-Ohio-2025, 966 N.E.2d 894. On motion for reconsideration and motion for oral argument. Motions denied.

2012-0269. State v. Dukes.

Portage App. No. 2010-P-0027, 2011-Ohio-6849. Reported at 131 Ohio St.3d 1541, 2012-Ohio-2025, 966 N.E.2d 894. On motion for reconsideration. Motion denied.

2012-0282. State ex rel. Jackson v. Warden of Marion Cty. Corr. Inst.

Marion App. No. 9-11-37. Reported at 131 Ohio St.3d 1541, 2012-Ohio-2025, 966 N.E.2d 895. On motion for reconsideration. Motion denied.

2012-0292. Norris v. Philander Chase Corp.

Knox App. No. 11-CA-12, 2012-Ohio-5. Reported at 131 Ohio St.3d 1541, 2012-Ohio-2025, 966 N.E.2d 895. On motion for reconsideration. Motion denied.
Pfeifer, J., dissents.

2012-0313. McGrath v. State.

Franklin App. No. 11AP-482, 2011-Ohio-6391. Reported at 131 Ohio St.3d 1541, 2012-Ohio-2025, 966 N.E.2d 895. On motion for reconsideration. Motion denied.

2012-0371. State v. Hines.

Montgomery App. No. 24346, 2012-Ohio-207. Reported at __ Ohio St.3d __, 2012-Ohio-2263, __ N.E.2d __. On motion for reconsideration. Motion granted to

the following extent: Discretionary appeal accepted; cause held for the decision in 2011-2134, *State v. Gardner*, Montgomery App. No. 24308, 2011-Ohio-5692; and briefing schedule stayed.

Pfeifer and Lanzinger, JJ., dissent.

2012-0373. Cotton v. Davidson.

In Procedendo. Reported at 131 Ohio St.3d 1536, 2012-Ohio-2025, 966 N.E.2d 891. On motion for reconsideration. Motion denied.

2012-0403. Moffett v. Sandusky Cty. Sheriff.

In Mandamus. Reported at 131 Ohio St.3d 1536, 2012-Ohio-2025, 966 N.E.2d 891. On motion for reconsideration. Motion denied.