

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

February 1, 2012

[Cite as *02/01/2012 Case Announcements*, 2012-Ohio-331.]

MERIT DECISIONS WITHOUT OPINIONS

2011-1992. Bennett v. Durkin.

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.

2011-1993. Hubaker v. Culotta.

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.

2011-2033. State ex rel. Campbell v. Winkler.

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.

2011-2072. Burns v. Timmerman-Cooper.

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

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

2011-2139. Billiter v. Banks.

In Habeas Corpus. On petition for writ of habeas corpus of Fred Billiter. 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

2011-1790. Hillman v. Brown.

Franklin App. No. 11AP-22. On motion to proceed to judgment. Motion denied.

2011-1995. DeVries Dairy, L.L.C. v. White Eagle Coop. Assn.

Certified Question of State Law, Northern District of Ohio, Western Division, No. 3:09CV207. On review of preliminary memorandum pursuant to S.Ct.Prac.R. 18.6. The court will answer the following question:

Under the applicable circumstances, does Ohio recognize a cause of action for tortious acts in concert under the Restatement (2d) of Torts, § 876?

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

2011-2076. State v. Rainey.

Montgomery App. No. 23070. On motion for delayed appeal. Motion denied.

2011-2119. State v. Wiley.

Franklin App. No. 10AP-679, 2011-Ohio-3595. On motion for delayed appeal. Motion denied.

Pfeifer and McGee Brown, JJ., dissent.

2011-2135. State v. Hernandez.

Franklin App. No. 11AP-202, 2011-Ohio-5407. On motion for delayed appeal. Motion granted.

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

2011-2137. State v. Crosby.

Clermont App. Nos. CA2010-10-081 and CA2011-02-013, 2011-Ohio-4907. On motion for delayed appeal. Motion denied.

Pfeifer and Cupp, JJ., dissent.

2011-2151. State v. Snelling.

Richland App. No. 10CA94, 2011-Ohio-3222. On motion for delayed appeal. Motion denied.

2011-2156. Sparks v. Sparks.

Warren App. No. CA2010-10-096, 2011-Ohio-5746. On motion for stay. Motion denied.

2011-2157. State v. Anderson.

Stark App. No. 2003CA00349, 2004-Ohio-5474. On motion for delayed appeal. Motion denied.

2011-2163. State v. Palmer.

Franklin App. No. 10AP-998. On motion for delayed appeal. Motion denied.

APPEALS ACCEPTED FOR REVIEW

2011-1754. State v. White.

Fairfield App. No. 2010-CA-60, 2011-Ohio-4526. Discretionary appeal accepted; cause held for the decision in 2011-0033, *State v. Johnson*, Butler App. No. CA2009-12-307, 190 Ohio App.3d 750, 2010-Ohio-5808; and briefing schedule stayed.

2011-1757. Ohio Trucking Assn. v. Stickrath.

Franklin App. No. 10AP-673, 2011-Ohio-4361.

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

Pfeifer, J., dissents.

2011-1807. State v. Jefferson.

Cuyahoga App. No. 95950, 2011-Ohio-4637. Discretionary appeal accepted; cause held for the decision in 2011-0033, *State v. Johnson*, Butler App. No. CA2009-12-307, 190 Ohio App.3d 750, 2010-Ohio-5808; and briefing schedule stayed.

2011-1850. Girard v. Youngstown Belt Ry. Co.

Trumbull App. No. 2010-T-0079, 2011-Ohio-4699.

O'Donnell, J., dissents.

2011-1882. State v. Roberts.

Guernsey App. No. 10CA000047, 2011-Ohio-4969.

2011-1923. State v. Bowling.

Hamilton App. No. 95376, 2011-Ohio-1936.

Discretionary appeal accepted; cause held for the decision in 2011-1066, *State v. Brunning*, Cuyahoga App. No. CA2009-12-307, 190 Ohio App.3d 750, 2010-Ohio-5808; and briefing schedule stayed.

Pfeifer and O'Donnell, JJ., dissent.

2011-1931. State v. Sayles.

Butler App. Nos. CA2011-01-005 and CA2011-01-006. Discretionary appeal accepted; cause held for the decision in 2011-0033, *State v. Johnson*, Butler App. No. CA2009-12-307, 190 Ohio App.3d 750, 2010-Ohio-5808; and briefing schedule stayed.

APPEALS NOT ACCEPTED FOR REVIEW

2011-1437. State v. Johnson.

Hamilton App. No. C-090620, 195 Ohio App.3d 59, 2011-Ohio-3143.

2011-1457. Mays v. Toledo Hosp.

Lucas App. No. L-11-1145. Discretionary appeal not accepted. On consideration of appellant's motions for judicial notice, to proceed on the original record filed in the trial court and the court of appeals, to consolidate with 2011-1485, to vacate the trial court's opinion and judgment of July 27, 2011, to reverse the court of appeals judgment of August 18, 2011, to remand the case for further proceedings, for determination that a conflict exists and/or finding that appellant has demonstrated a conflict, it is ordered by the court that appellant's motions are denied.

On consideration of the motion of appellee Toledo Hospital for sanctions pursuant to S.Ct.Prac.R. 14.5(A), and the motion of Mercy St. Anne's Hospital for sanctions for frivolous action, it is ordered by the court that the motions are denied.

Lundberg Stratton, J., would grant the motion for sanctions of Toledo Hospital and Mercy St. Anne's Hospital.

2011-1485. Mays v. Toledo Hosp.

Lucas App. No. L-11-1145. Discretionary appeal not accepted. On consideration of appellant's motions to proceed on the original record filed in the trial court and the court of appeals, to reverse the court of appeals judgment of August 18, 2011, to remand cause for further proceedings, and for determination that a conflict exists and/or finding that appellant has demonstrated a conflict, it is ordered by the court that appellant's motions are denied.

On consideration of the motion of appellee Toledo Hospital for sanctions pursuant to S.Ct.Prac.R. 14.5(A) and the motion of Mercy St. Anne's Hospital for sanctions for frivolous action, it is ordered by the court that the motions are denied.

Lundberg Stratton, J., would grant the motion for sanctions of Toledo Hospital and Mercy St. Anne's Hospital.

2011-1747. Gordon v. Ohio State Univ.

Franklin App. No. 10AP-1058, 2011-Ohio-5057.

Pfeifer, J., dissents.

McGee Brown, J., not participating.

2011-1748. Cole v. Ohio Dept. of Job & Family Servs.

Franklin App. No. 10AP-1163, 2011-Ohio-3164.

2011-1753. Piliero v. Piliero.

Franklin App. No. 10AP-1142, 2011-Ohio-4364.

McGee Brown, J., dissents.

2011-1769. Arbino v. Cincinnati Bell.

Hamilton App. No. C-110586. Discretionary appeal not accepted. Motions denied as moot.

2011-1772. Grimm v. Lynch.

Cuyahoga App. No. 96712, 2011-Ohio-5189.

O'Donnell, J., dissents.

2011-1773. Home S. & L. Co. v. Avery Place, L.L.C.

Delaware App. No. 11 CAE 02 0014, 2011-Ohio-4525.

Lanzinger, J., dissents.

2011-1784. State v. Nolde.

Defiance App. No. 4-11-10.

2011-1789. State v. Harper.

Guernsey App. No. 2010-CA-44, 2011-Ohio-4568.

2011-1797. State v. Clark.

Lucas App. No. L-10-1092, 2011-Ohio-4681.

2011-1799. Ohio Cas. Ins. Co. v. Mansfield Plumbing Prods., L.L.C.

Ashland App. No. 2011-COA-009, 2011-Ohio-4523.
Pfeifer, J., dissents.

2011-1800. State v. Baylock.

Montgomery App. No. 24475, 2011-Ohio-4865.

2011-1801. State v. Moore.

Montgomery App. No. 24378, 2011-Ohio-4546.

2011-1803. State v. Folley.

Montgomery App. No. 24221, 2011-Ohio-4539.
O'Donnell, J., dissents.

2011-1808. State v. Ulery.

Clark App. No. 2010 CA 89, 2011-Ohio-4549.

2011-1816. Mun. Constr. Equip. Operators' Labor Council v. Cleveland.

Cuyahoga App. No. 96771, 2011-Ohio-5190.

2011-1817. State v. Brody.

Lake App. Nos. 2010-L-095, 2010-L-096, and 2010-L-097, 2011-Ohio-4884.

2011-1821. State v. Simpson.

Hamilton App. No. C-100789, 2011-Ohio-4578.

2011-1823. Woehler v. Mineer.

Clermont App. No. CA2011-05-042.
O'Donnell, J., dissents.

2011-1824. State v. Williams.

Franklin App. No. 10AP-1042, 2011-Ohio-4595.

2011-1825. State v. Dukes.

Cuyahoga App. No. 97151.
O'Donnell, J., not participating.

2011-1827. State v. Houston.

Sandusky App. No. S-10-027, 2011-Ohio-4689.

2011-1830. State v. Brown.

Franklin App. No. 10AP-1204, 2011-Ohio-4766.

2011-1831. State v. Lewis.

Tuscarawas App. No. 2011 AP 01 0001, 2011-Ohio-4603.

Pfeifer and O'Donnell, JJ., dissent.

2011-1832. Christian v. Wal-Mart Stores E., L.P.

Holmes App. No. 11CA002, 2011-Ohio-3512.

2011-1837. Youngstown v. Huffman.

Mahoning App. No. 10 MA 72, 2011-Ohio-4753.

2011-1838. State v. Kozlosky.

Cuyahoga App. No. 95861, 2011-Ohio-4814.

2011-1840. Prater v. Bui.

Franklin App. No. 10AP-990, 2011-Ohio-2876.

2011-1841. State v. Quintanilla.

Franklin App. No. 10AP-703, 2011-Ohio-4593.

Pfeifer and Lundberg Stratton, JJ., dissent.

2011-1846. In re S.Y.

Tuscarawas App. No. 2011 AP 04 0018, 2011-Ohio-4621.

Pfeifer and Lundberg Stratton, JJ., dissent.

2011-1847. State v. Priest.

Montgomery App. No. 24225, 2011-Ohio-4694.

O'Donnell, J., dissents.

2011-1857. State v. Zdzierak.

Hamilton App. No. C-110073.

2011-1858. State v. Matthews.

Clermont App. No. CA2011-02-009.

2011-1859. State v. Jaros.

Lucas App. No. L-10-1101, 2011-Ohio-5037.

2011-1860. Copley v. Westfield Group.

Medina App. No. 10CA0054-M, 2011-Ohio-4708.

2011-1861. State v. Urso.

Trumbull App. No. 2011-T-0005, 2011-Ohio-4702.

2011-1862. In re T.L.

Medina App. No. 09CA0018-M, 2011-Ohio-4709.

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

2011-1863. State v. Hollis.

Hamilton App. No. C-100742.

2011-1865. State v. Milton.

Summit App. No. 25668, 2011-Ohio-4773.

2011-1866. Home S. & L. Co. of Youngstown v. Vandeleur Investors, L.L.C.

Franklin App. No. 10AP-1180, 2011-Ohio-4765.

2011-1868. In re J.A.J.

Cuyahoga App. No. 96506, 2011-Ohio-4828.

2011-1874. State v. Wright.

Montgomery App. No. 24276, 2011-Ohio-4874.

2011-1875. State v. Gill.

Cuyahoga App. No. 96150, 2011-Ohio-5174.

2011-1876. State v. Foreman.

Hancock App. No. 5-11-14.

2011-1877. State v. Fussell.

Cuyahoga App. No. 95906, 2011-Ohio-4815.

2011-1878. Signature Bank, N.A. v. Oakmont Family Medicine, L.L.C.

Wood App. No. WD-10-076, 2011-Ohio-4862.

2011-1879. State v. Velazquez.

Cuyahoga App. No. 95978, 2011-Ohio-4818.

2011-1881. Hollish v. Maners.

Knox App. No. 2011CA000005, 2011-Ohio-4823.

2011-1885. State v. Cubic.

Medina App. No. 10CA0082-M, 2011-Ohio-4990.

2011-1888. State v. Rucker.

Summit App. No. 25657, 2011-Ohio-5007.

2011-1889. Daniels v. Schottenstein Stores Corp.

Cuyahoga App. No. 96447, 2011-Ohio-4959.

O'Donnell, J., dissents.

2011-1890. Von Gunten v. Wal-Mart Stores E., Inc.

Stark App. No. 2011CA00037, 2011-Ohio-4976.

O'Donnell, J., dissents.

2011-1891. Crowe v. FirstEnergy Corp.

Holmes App. No. 10CA023, 2011-Ohio-5092.

2011-1892. State v. Kelley.

Summit App. No. 24660, 2011-Ohio-4999.

2011-1894. State v. Williams.

Franklin App. No. 10AP-922, 2011-Ohio-4923.

O'Connor, C.J., dissents.

2011-1901. Craven v. Aultman College of Nursing & Health Sciences.

Stark App. No. 2011-CA-00022, 2011-Ohio-4974.

O'Donnell, J., dissents.

2011-1907. State v. Pruitt.

Hamilton App. No. C-100587, 2011-Ohio-4948.

2011-1914. State v. Pate.

Cuyahoga App. No. 95382, 2011-Ohio-5172.

2011-1920. Fifth Third Bank v. Pezzo Constr., Inc.

Franklin App. No. 11AP-251, 2011-Ohio-5064.

2011-1924. State v. Alexander.
Hamilton App. No. C-100593, 2011-Ohio-4911.
O'Donnell, J., dissents.

2011-1934. State v. Simpson.
Cuyahoga App. No. 96154, 2011-Ohio-4955.

2011-1935. Brown v. Charlton.
Cuyahoga App. No. 96430, 2011-Ohio-4958.

2011-1960. In re Robert M.
Cuyahoga App. No. 96278, 2011-Ohio-5177.

2011-1961. State v. Ashby.
Cuyahoga App. No. 96119, 2011-Ohio-5160.
O'Connor, C.J., and O'Donnell, J., dissent

2011-1965. State v. Lee.
Cuyahoga App. No. 95776, 2011-Ohio-4634.

2011-1970. State v. Bowling.
Cuyahoga App. No. 96616, 2011-Ohio-5279.

2011-1982. State v. Gonzalez.
Cuyahoga App. No. 96102, 2011-Ohio-5253.

2011-2004. Goering v. Lacher.
Hamilton App. No. C-110106, 2011-Ohio-5464.

2011-2029. State v. Perry.
Summit App. No. 25271.

2011-2052. State v. King.
Cuyahoga App. No. 95233, 2011-Ohio-5492.

2011-2170. In re M.M.
Logan App. No. 8-11-11, 2011-Ohio-6105.

RECONSIDERATION OF PRIOR DECISIONS

2011-1381. State ex rel. Hayes v. Winkler.

Hamilton App. No. C-110365. Reported at __ Ohio St.3d __, 2011-Ohio-6046, __ N.E.2d __. On motion for reconsideration. Motion denied.

2011-1470. Lewanski Dev., L.L.C. v. HD Strongsville Portfolio, L.P.

Cuyahoga App. No. 95453, 194 Ohio App.3d 372, 2011-Ohio-3055. Reported at __ Ohio St.3d __, 2011-Ohio-6124, 957 N.E.2d 1168. On motion for reconsideration. Motion denied.

O'Donnell, J., dissents.

2011-1476. Buckley v. Solon.

Cuyahoga App. No. 95805, 2011-Ohio-3468. Reported at __ Ohio St.3d __, 2011-Ohio-6124, 957 N.E.2d 1168. On motion for reconsideration. Motion denied.

O'Donnell, J., dissents.

2011-1527. State v. Yacchari.

Clermont App. No. CA2010-12-098, 2011-Ohio-3911. Reported at __ Ohio St.3d __, 2011-Ohio-6124, 957 N.E.2d 1169. On motion for reconsideration. Motion denied.

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

2011-1532. State v. Hunter.

Franklin App. No. 10AP-1005, 2011-Ohio-3654. Reported at __ Ohio St.3d __, 2011-Ohio-6124, 957 N.E.2d 1169. On motion for reconsideration. Motion denied.