

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

September 30, 2015

[Cite as *09/30/2015 Case Announcements, 2015-Ohio-3958.*]

MERIT DECISIONS WITH OPINIONS

2014-0563. State v. South, Slip Opinion No. 2015-Ohio-3930.

Summit App. No. 26967, 2014-Ohio-374. Judgment affirmed in part and reversed in part, and cause remanded.

O'Connor, C.J., and Pfeifer, Lanzinger, French, and O'Neill, JJ., concur.

O'Donnell and Kennedy, JJ., concur in part and dissent in part.

AFFIDAVITS OF DISQUALIFICATION

The chief justice has released the following judicial disqualification opinion, which was previously issued as an entry in response to an affidavit of disqualification filed pursuant to R.C. 2701.03.

15-AP-046. In re Disqualification of Gaul, 2015-Ohio-3929 (decided June 9, 2015).

MERIT DECISIONS WITHOUT OPINIONS

2015-0064. State ex rel. Vance v. Kontos.

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

O'Connor, C.J., and Pfeifer, O'Donnell, Lanzinger, Kennedy, French, and O'Neill, JJ., concur.

2015-0552. Spencer v. Martin.

In Habeas Corpus. On motions for emergency stay and for expedited hearing. Motions denied. On fourth amended petition for writ of habeas corpus of Scott W. Spencer. Sua sponte, cause dismissed.

O'Connor, C.J., and Pfeifer, O'Donnell, Lanzinger, Kennedy, French, and O'Neill, JJ., concur.

2015-0754. State ex rel. Hill v. Coleman.

In Habeas Corpus. On motion to expedite. Motion denied. On petition for writ of habeas corpus of Tyrice Hill. Sua sponte, cause dismissed.

O'Connor, C.J., and Pfeifer, O'Donnell, Lanzinger, Kennedy, French, and O'Neill, JJ., concur.

2015-1163. Ward v. Horton.

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

O'Connor, C.J., and Pfeifer, O'Donnell, Lanzinger, Kennedy, French, and O'Neill, JJ., concur.

2015-1166. State ex rel. Dumas v. Donofrio.

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

O'Connor, C.J., and Pfeifer, O'Donnell, Lanzinger, Kennedy, French, and O'Neill, JJ., concur.

MOTION AND PROCEDURAL RULINGS

2015-1092. Benko v. Smyk.

Lake App. No. 2013-L-133, 2015-Ohio-1062. On review of order certifying a conflict. It is determined that no conflict exists within the meaning of S.Ct.Prac.R. 8.02. Cause dismissed.

O'Neill, J., dissents.

2015-1093. State v. Sergeant.

Lake App. No. 2013-L-125, 2015-Ohio-2603. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated in the court of appeals' entry dated June 30, 2015:

“In the context of a jointly-recommended sentence, is the trial court required to make consecutive-sentence findings under R.C. 2929.14(C) in order for its sentence to be authorized by law and thus not appealable?”

The conflict cases are *State v. Weese*, 2d Dist. Clark No. 2013-CA-61, 2014-Ohio-3267, and *State v. Pulliam*, 4th Dist. Scioto No. 14CA3609, 2015-Ohio-759.

2015-1182. In re Grand Jury Proceeding of John Doe.

Cuyahoga App. No. 102977. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated in the court of appeals' entry dated July 2, 2015:

“Whether an order denying a motion to quash a grand jury subpoena and ordering a party to testify and/or produce documents is an order granting or denying a provisional remedy within the meaning of R.C. 2505.02(A)(3)?”

The conflict cases are *In re Grand Jury Subpoena Duces Tecum*, 4th Dist. Athens App. No. 01CA55, 2002-Ohio-5600, and *State v. Boschulte*, 10th Dist. Franklin App. No. 02AP-1053, 2003-Ohio-1276.

Sua sponte, cause consolidated with 2015-1181, *In re Grand Jury Proceeding of John Doe*.

Pfeiffer and French, JJ., dissent.

2015-1187. In re Grand Jury Proceeding of John Doe.

Cuyahoga App. No. 102978. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause consolidated with 2015-1189, *In re Grand Jury Proceeding of John Doe*, and held for decision in 2015-1181 and 2015-1182, *In re Grand Jury Proceeding of John Doe*, and briefing schedule stayed.

Pfeifer and French, JJ., dissent.

2015-1221. State v. J.M.

Franklin App. No. 15AP-77, 2015-Ohio-2669. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated in the court of appeals' entry dated July 1, 2015:

“Whether a violation of R.C. 4503.11, concerning failure to register a motor vehicle, a fourth-degree misdemeanor, must be counted as an offense when determining eligible offender status under R.C. 2953.31?”

The conflict case is *State v. Clark*, 4th Dist. Athens No. 11CA8, 2011-Ohio-6354.

Pfeifer, J., dissents.

2015-1239. In re Grand Jury Proceeding of John Doe.

Cuyahoga App. No. 102979. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause consolidated with 2015-1240, *In re Grand Jury Proceeding of John Doe*, and held for decision in 2015-1181 and 2015-1182, *In re Grand Jury Proceeding of John Doe*, and briefing schedule stayed.

Pfeifer and French, JJ., dissent.

2015-1342. State v. Wright.

Lake App. No. 2013-L-089, 2015-Ohio-2601. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause consolidated with 2015-1341, *State v. Wright*, and held for decision in 2014-1557, *State v. Klembus*, and briefing schedule stayed.

2015-1252. Wells Fargo Bank, N.A. v. Allstate Ins. Co.

Certified Question of State Law, United States District Court, Northern District of Ohio, Eastern Division, No. 4:15-CV-239. On review of preliminary memorandum pursuant to S.Ct.Prac.R. 9.05. The court will answer the following question:

“Is ‘arson’ a subset of ‘fire’ or an act of ‘malicious mischief or vandalism’ when neither the ‘fire’ nor ‘malicious mischief or vandalism’ provisions in an insurance contract expressly include ‘arson’?”

Petitioner shall file its merit brief within 40 days, and the parties shall otherwise proceed in accordance with S.Ct.Prac.R. 16.02 through 16.04 and S.Ct.Prac.R. 9.07.

O’Connor, C.J., and O’Donnell, J., dissent.

2015-1267. State v. Collins.

Defiance App. Nos. 4-14-14, 4-14-15, and 4-14-16, 2015-Ohio-1886. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2015-1324. State v. Stepherson.

Franklin App. No. 94APA12-1805. On motion for leave to file delayed appeal. Motion denied.

2015-1348. State v. Banks.

Franklin App. No. 15AP-238. On motion for leave to file delayed appeal. Motion denied.

O’Donnell, J., not participating.

2015-1373. Smith v. Hein.

Hamilton App. No. C-140529, 2015-Ohio-2749. On motion for stay of court of appeals’ judgment. Motion denied.

APPEALS ACCEPTED FOR REVIEW

2014-1377. State v. Noling.

Portage App. No. 1995 CR 00220. Discretionary appeal accepted on Proposition of Law No. I.

Kennedy and French, JJ., would also accept the appeal on Proposition of Law No. IV.

Lanzinger, J., dissents.

O'Neill, J., not participating.

2015-0494. Cox v. Dayton Pub. Schools Bd. of Edn.

Montgomery App. No. 26382, 2015-Ohio-620. Discretionary appeal accepted on Proposition of Law No. VII.

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

O'Donnell and Kennedy, JJ., would accept the appeal on all Propositions of Law.

French, J., would also accept the appeal on Proposition of Law Nos. II and III. Pfeifer, Lanzinger, and O'Neill, JJ., dissent.

2015-0505. In re D.S.

Cuyahoga App. No. 101161, 2015-Ohio-518.

O'Donnell and Kennedy, JJ., dissent.

2015-0584. Wheeler v. Testa.

Pike App. No. 14CA853, 2015-Ohio-188. Discretionary appeal accepted and cause held for decision in 2014-1362, *Wheeler v. Testa*; and briefing schedule stayed.

2015-0619. In re Von.

Trumbull App. No. 2013-T-0085, 2015-Ohio-943.

Pfeifer, Lanzinger, and Kennedy, JJ., dissent.

2015-1181. In re Grand Jury Proceeding of John Doe.

Cuyahoga App. No. 102977. Sua sponte, cause consolidated with 2015-1182, *In re Grand Jury Proceeding of John Doe*.

Pfeifer, J., dissents.

2015-1189. In re Grand Jury Proceeding of John Doe.

Cuyahoga App. No. 102978. Sua sponte, cause consolidated with 2015-1187, *In re Grand Jury Proceeding of John Doe*, and held for decision in 2015-1181 and 2015-1182, *In re Grand Jury Proceeding of John Doe*, and briefing schedule stayed.

French, J., dissents and would accept jurisdiction on Proposition of Law Nos. I and II only.

Pfeifer, J., dissents.

2015-1240. In re Grand Jury Proceeding of John Doe.

Cuyahoga App. No. 102979. Sua sponte, cause consolidated with 2015-1239, *In re Grand Jury Proceeding of John Doe*, and held for decision in 2015-1181 and 2015-1182, *In re Grand Jury Proceeding of John Doe*, and briefing schedule stayed.

French, J., would allow briefing to proceed according to S.Ct.Prac.R. 16.02 through 16.04.

Pfiefer, J., dissents.

2015-1288. State v. Heinz.

Cuyahoga App. No. 102178, 2015-Ohio-2763.

2015-1341. State v. Wright.

Lake App. No. 2013-L-089, 2015-Ohio-2601. Sua sponte, cause consolidated with 2015-1342, *State v. Wright*, and held for decision in 2014-1557, *State v. Klembus*, and briefing schedule stayed.

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

APPEALS NOT ACCEPTED FOR REVIEW

2014-2149. State v. Mack.

Cuyahoga App. No. 100965, 2014-Ohio-4817.

O'Donnell, J., dissents.

2015-0499. State v. Moore.

Darke App. No. 2014-CA-13, 2015-Ohio-551.

Pfeifer, J., dissents.

2015-0512. State v. Porter.

Cuyahoga App. No. 100745, 2015-Ohio-589.

O'Donnell, J., dissents.

2015-0513. State v. Martin.

Cuyahoga App. No. 100753, 2015-Ohio-761.

O'Donnell, J., dissents.

2015-0514. State v. Fisher.

Cuyahoga App. No. 101365, 2015-Ohio-597.

2015-0520. Huston v. Huston.

Coshocton App. No. 2013CA0030, 2014-Ohio-5654.

2015-0525. State v. Eisermann.

Cuyahoga App. No. 100967, 2015-Ohio-591.

2015-0526. Kelly v. Aultman Physician Ctr.

Stark App. No. 2014CA00104, 2015-Ohio-628.

O'Neill, J., dissents.

2015-0527. Harris v. Liptak.

Cuyahoga App. No. 101591, 2015-Ohio-610.

2015-0534. State v. Spencer.

Marion App. No. 9-13-50, 2015-Ohio-52.

2015-0535. In re J.C.C.

Cuyahoga App. No. 101072, 2015-Ohio-592.

O'Donnell, J., dissents.

2015-0536. State v. Wainwright.

Cuyahoga App. No. 101210, 2015-Ohio-677.

2015-0537. Ballinger v. Ballinger.

Cuyahoga App. Nos. 100958, 101074, 101655, and 101812, 2015-Ohio-590.

2015-0544. Bank of Am., N.A. v. Duran.

Lucas App. No. L-14-1031, 2015-Ohio-630.

2015-0549. M & M Winfield, L.L.C. v. Huntington Mtge. Co.

Tuscarawas App. No. 2014 AP 07 0027, 2015-Ohio-583.

2015-0550. State v. Hicks.

Seneca App. No. 13-14-19, 2014-Ohio-5630.

2015-0557. State v. Jackson.

Cuyahoga App. No. 101543, 2015-Ohio-874.

O'Donnell, J., dissents.

Lanzinger, J., dissents and would accept the appeal and hold the cause for the decision in 2015-0473.

2015-0558. State v. Downen.

Cuyahoga App. No. 101020, 2015-Ohio-302.

2015-0561. Gulbrandsen v. Summit Acres, Inc.

Washington App. No. 14CA38.

2015-0563. Esterman v. Speedway, L.L.C.

Hamilton App. No. C-140287, 2015-Ohio-659.

2015-0581. State v. Grant.

Brown App. Nos. CA2014-03-005 and CA2014-03-006, 2015-Ohio-723.

2015-0588. Seman v. Lakewood Civ. Serv. Comm.

Cuyahoga App. No. 101277, 2015-Ohio-680.

O'Donnell, J., dissents.

2015-0615. Wall v. Kroger Co.

Hamilton App. No. C-140355, 2015-Ohio-734.

2015-0617. State v. Smith.

Hamilton App. Nos. C-130441 and C-130456.

2015-0623. Open Container, Ltd. v. C.B. Richard Ellis, Inc.

Franklin App. No. 14AP-133, 2015-Ohio-866.

2015-0634. Yost v. Sandusky.

Erie App. No. E-14-011, 2015-Ohio-805.

Pfeifer, J., dissents.

2015-0640. Colombo v. Mismas Law Firm, L.L.C.

Lake App. No. 2014-L-069, 2015-Ohio-812.

2015-0648. State v. Blair.

Butler App. No. CA2014-01-023, 2015-Ohio-818.

2015-0657. State v. Litten.

Summit App. No. 27414, 2015-Ohio-1250.

Lanzinger, J., dissents.

2015-0700. State v. Turner.

Summit App. No. 27532, 2015-Ohio-996.

O'Neill, J., dissents.

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

2015-0727. State v. Wells.

Hamilton App. No. C-1400357.

O'Donnell and O'Neill, JJ., dissent.

2015-0925. Miller v. Beauchamp.

Franklin App. No. 15AP-443.

2015-0983. State v. Allen.

Lucas App. No. L-14-1165, 2015-Ohio-1858.

2015-1042. State v. Mack.

Defiance App. No. 4-14-06.

2015-1043. State v. Bell.

Hamilton App. No. C-140345, 2015-Ohio-1711.

2015-1044. State v. Catron.

Cuyahoga App. No. 101839, 2015-Ohio-1836.

2015-1046. State v. Robinson.

Cuyahoga App. No. 101850, 2015-Ohio-1838.

2015-1052. State v. Coleman.

Allen App. No. 1-15-08, 2015-Ohio-1883.

2015-1075. State v. Cave.

Scioto App. No. 13CA3575, 2015-Ohio-2233.

2015-1076. State v. Lenhart.

Cuyahoga App. No. 99993, 2015-Ohio-1945.

2015-1079. State v. Justice.

Franklin App. No. 15AP-149.

2015-1081. State v. Justice.

Franklin App. No. 15AP-514.

2015-1089. State v. Owens.

Jefferson App. No. 14 JE 22, 2015-Ohio-1897.

2015-1090. State v. Dunkle.

Licking App. No. 15-CA-5, 2015-Ohio-1530.

2015-1095. Cichanowicz v. Cichanowicz.

Crawford App. No. 3-14-08.

2015-1098. State v. Haller.

Allen App. No. 1-15-02.

2015-1099. State v. Bower.

Shelby App. No. 17-14-14, 2015-Ohio-1889.

2015-1102. State v. F.R.

Stark App. No. 14AP-440, 2015-Ohio-1914.

2015-1109. State v. McGuire.

Allen App. No. 1-13-47, 2015-Ohio-1887.

O'Donnell, J., dissents.

2015-1113. State v. Kerr.

Ottawa App. No. OT-13-036, 2015-Ohio-2228.

2015-1123. State v. Rogers.

Jefferson App. No. 14 JE 26, 2015-Ohio-2093.

2015-1125. State v. Oteng.

Franklin App. No. 14AP-466, 2015-Ohio-1231.

2015-1128. State v. Victor.

Geauga App. Nos. 2014-G-3220 and 2014-G-3241.

2015-1133. State v. Cowan.

Cuyahoga App. No. 101995, 2015-Ohio-2271.

2015-1134. CitiMortgage, Inc. v. Evans.

Cuyahoga App. No. 101882, 2015-Ohio-1384.
O'Neill, J., dissents.

2015-1141. State v. Cowan.

Wood App. No. WD-14-026, 2015-Ohio-2101.

2015-1153. State v. Allen.

Lucas App. No. L-14-1165, 2015-Ohio-1858.

2015-1155. State v. Roundtree.

Lucas App. No. L-14-1052, 2015-Ohio-2230.

2015-1165. State v. Walker.

Richland App. No. 15CA11, 2015-Ohio-2077. Motion to expedite appeal denied as moot.

2015-1171. State v. Alvarado.

Lucas App. No. L-13-1225, 2015-Ohio-75.

2015-1175. Benko v. Smyk.

Lake App. No. 2013-L-133, 2015-Ohio-1062.

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

O'Neill, J., dissents.

2015-1183. State v. Parrott.

Warren App. No. CA2015-02-014.

2015-1185. State v. Patterson.

Stark App. No. 2014CA00220. Motion for stay denied as moot.

2015-1208. State v. Abdur-Rahman.

Hamilton App. No. C-140419.

2015-1211. State v. Hobbs.

Franklin App. No. 14AP-225, 2015-Ohio-2419.

2015-1220. State v. J.M.

Franklin App. No. 15AP-77, 2015-Ohio-2669.

O'Neill, J., dissents.

2015-1223. State v. White.

Cuyahoga App. No. 101576, 2015-Ohio-2387.

2015-1249. State v. Valdez.

Lorain App. No. 14CA010624, 2015-Ohio-2631.

2015-1306. In re S.C.

Summit App. No. 27676, 2015-Ohio-2623.

O'Donnell and O'Neill, JJ., dissent.

2015-1363. In re L.L.

Logan App. Nos. 8-14-25, 8-14-26, and 8-14-27, 2015-Ohio-2739. Motion for stay denied as moot.

O'Neill, J., dissents, and would accept jurisdiction and would grant the motion for stay.

2015-1370. State v. Mason.

Butler App. No. CA2004-06-154.

RECONSIDERATION OF PRIOR DECISIONS

2012-2008. In re Application of Ohio Power Co.

Public Utilities Commission, Nos. 11-4920-EL-RDR and 11-4921-EL-RDR. Reported at __ Ohio St.3d __, 2015-Ohio-2056, __ N.E.3d __. On motion for reconsideration. Motion denied.

Pfeifer and O'Donnell, JJ., dissent.

2014-0738. Akron v. Ohio Dept. of Ins.

Franklin App. Nos. 13AP-473, 13AP-484, and 13AP-496, 2014-Ohio-96. Reported at __ Ohio St.3d __, 2015-Ohio-2926, __ N.E.3d __. On motion for reconsideration. Motion denied.

Kennedy and French, JJ., dissent.

2014-1912. Bevins v. Richard.

Madison App. No. CA2014-08-017. Reported at __ Ohio St.3d __, 2015-Ohio-2832, __ N.E.3d __. On motion for reconsideration. Motion denied.

2015-0799. State ex rel. Johnson v. Calabrese.

Cuyahoga App. No. 102607, 2015-Ohio-1388. Reported at 143 Ohio St.3d 1426, 2015-Ohio-3110, 35 N.E.3d 534. On motion for reconsideration. Motion denied. O'Donnell and French, JJ., dissent.