

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

June 21, 2017

[Cite as *06/21/2017 Case Announcements #2, 2017-Ohio-4396.*]

MERIT DECISIONS WITH OPINIONS

2016-1240. *In re Application of Callam*, Slip Opinion No. 2017-Ohio-4361.

On Report by the Board of Commissioners on Character and Fitness, No. 636. Michael Alexander Callum, Attorney Registration No. 0092109, application for admission to the practice of law disapproved and license to practice law revoked, reapplication for admission permitted after June 21, 2019.

Kennedy, French, O’Neill, Fischer, and DeWine, JJ., concur.

O’Donnell, J., concurs in part and dissents in part, with an opinion joined by O’Connor, C.J.

2016-1820. *Columbus Bar Assn. v. Lindner*, Slip Opinion No. 2017-Ohio-4362.

On Certified Report by the Board of Professional Conduct, No. 2015-058. Kristina Marie Lindner, Attorney Registration No. 0088516, indefinitely suspended from the practice of law.

O’Connor, C.J., and O’Donnell, Kennedy, French, O’Neill, and DeWine, JJ., concur.

Fischer, J., not participating.

MERIT DECISIONS WITHOUT OPINIONS

2016-1011. *Kerns v. Simmers*.

In Mandamus. Sua sponte, the court orders that the parties shall file supplemental briefs that address the following issues:

1. The applicability to this action of the “takings” provisions of Article I, Section 19 of the Ohio Constitution and the 5th and 14th Amendments to the United States Constitution; and

2. Whether there is an adequate remedy at law available to relators in lieu of this mandamus action.

Relators shall file a supplemental brief within 20 days and respondents shall file a supplemental brief within 15 days of the filing of relators’ brief. No requests or stipulations for extension of time to file briefs are permitted and the clerk of court shall refuse to file any requests or stipulations for extension of time.

Oral argument shall be scheduled in this case after the filing of the supplemental briefs.

2017-0235. Armstrong v. Wainwright.

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

O’Connor, C.J., and O’Donnell, Kennedy, French, O’Neill, Fischer, and DeWine, JJ., concur.

2017-0325. State ex rel. Williams v. Fifth Dist. Court of Appeals.

In Procedendo. On complaint in procedendo of Agatha Martin Williams. On S.Ct.Prac.R. 12.04 determination, cause dismissed.

O’Connor, C.J., and O’Donnell, Kennedy, French, O’Neill, Fischer, and DeWine, JJ., concur.

2017-0443. State ex rel. Peterson v. Carr.

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

O’Connor, C.J., and O’Donnell, Kennedy, French, O’Neill, Fischer, and DeWine, JJ., concur.

2017-0450. Simmons v. Miller.

In Mandamus. On answer of respondent. On S.Ct.Prac.R. 12.04 determination, cause dismissed.

O’Connor, C.J., and O’Donnell, Kennedy, French, O’Neill, Fischer, and DeWine, JJ., concur.

2017-0506. Pianowski v. Coleman.

In Habeas Corpus. Sua sponte, cause dismissed.

O’Connor, C.J., and O’Donnell, Kennedy, French, O’Neill, Fischer, and DeWine, JJ., concur.

2017-0527. State ex rel. Staats v. State.

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

O'Connor, C.J., and O'Donnell, Kennedy, French, O'Neill, Fischer, and DeWine, JJ., concur.

2017-0603. Turner v. Monroe.

In Habeas Corpus. Sua sponte, cause dismissed.

O'Connor, C.J., and O'Donnell, Kennedy, French, O'Neill, Fischer, and DeWine, JJ., concur.

MOTION AND PROCEDURAL RULINGS

2017-0484. State v. Moore.

Erie App. No. E-16-030, 2017-Ohio-673. On review of order certifying a conflict.

The court determines that no conflict exists within the meaning of S.Ct.Prac.R.

8.02. Cause dismissed.

O'Connor, C.J., and O'Neill and DeWine, JJ., dissent.

2017-0520. State v. Clay.

Mahoning App. No. 08 MA 2, 2009-Ohio-1204. On motion for leave to file delayed appeal. Motion denied.

2017-0521. State v. Letcher.

Hamilton App. No. C-120816. On motion for leave to file delayed appeal. Motion denied.

DeWine, J., not participating.

2017-0523. State v. Ross.

Ottawa App. No. OT-16-004, 2017-Ohio-675. On motion for leave to file delayed appeal. Motion denied.

Kennedy, O'Neill, and Fischer, JJ., dissent.

2017-0525. State v. Rice.

Ashtabula App. No. 2015-A-0071, 2017-Ohio-501. On motion for leave to file delayed appeal. Motion denied.

Kennedy, O'Neill, and Fischer, JJ., dissent.

2017-0528. Bey v. State.

Lucas App. No. L-16-1088, 2017-Ohio-404. On motion to stay judgment and

dismiss costs. Motion denied.

2017-0539. State v. Dubose.

Lucas App. No. L-15-1194, 2016-Ohio-7883. On motion for leave to file delayed appeal. Motion denied.

O'Neill, J., dissents.

2017-0546. State v. Winbush.

Clark App. No. 2016-CA-1, 2017-Ohio-696. On motion for leave to file delayed appeal. Motion granted. Appellant shall file a memorandum in support of jurisdiction within 30 days of the date of this entry.

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

2017-0557. State v. Boles.

Montgomery App. No. 18762. On motion for leave to file delayed appeal. Motion denied.

2017-0560. State v. McCall.

Cuyahoga App. No. 104479, 2017-Ohio-296. On motion for leave to file delayed appeal. Motion denied.

O'Neill, J., dissents.

2017-0571. State v. Kirby.

Summit App. No. 27986, 2016-Ohio-8138. On motion for leave to file delayed appeal. Motion denied.

O'Neill, J., dissents.

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

2017-0577. State v. Leonard.

Ross App. No. 16CA3573, 2017-Ohio-1541. On motion for stay of court of appeals' judgment. Motion granted and posted bond continued.

O'Donnell and DeWine, JJ., dissent.

2017-0583. State v. Herring.

Cuyahoga App. No. 104441, 2017-Ohio-743. On motion for leave to file delayed appeal. Motion denied.

O'Neill and DeWine, JJ., dissent.

2017-0585. State v. Lytle.

Franklin App. No. 13AP-866, 2015-Ohio-1133. On motion for leave to file delayed

appeal. Motion denied.

2017-0591. State v. McManaway.

Hocking App. No. 16CA8, 2016-Ohio-7470. On motion for leave to file delayed appeal. Motion denied.

O'Neill, J., dissents.

2017-0595. State v. Churchill.

Franklin App. Nos. 16AP-460, 16AP-461, and 16AP-462. On motion for leave to file delayed appeal. Motion denied.

Fischer and DeWine, JJ., dissent.

2017-0678. State v. D.F.

Montgomery App. No. 27032, 2017-Ohio-2882. On motion for stay of court of appeals' judgment. Motion granted. Judgment stayed pending appeal to this court.

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

APPEALS ACCEPTED FOR REVIEW

2016-1486. Sunoco Pipeline, L.P. v. Teter.

Harrison App. Nos. 16 HA 0002 and 16 HA 0005, 2016-Ohio-7073. Discretionary appeal accepted on proposition of law No. I.

Kennedy and French, JJ., would also accept the appeal on proposition of law Nos. II, III, and IV.

O'Neill, J., would also accept the appeal on proposition of law Nos. II and III.

O'Donnell, Fischer, and DeWine, JJ., dissent.

2017-0483. State v. Moore.

Erie App. No. E-16-030, 2017-Ohio-673.

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

APPEALS NOT ACCEPTED FOR REVIEW

2016-1214. State v. Mundt.

Noble App. No. 13 NO 0406, 2016-Ohio-4802.

2016-1622. State v. Curtis.

Allen App. No. 1-15-55, 2016-Ohio-6978.
O’Neill, J., dissents.

2016-1632. Locigno v. 425 W. Bagley, Inc.

Cuyahoga App. No. 103379, 2016-Ohio-5924.
O’Donnell, Kennedy, and O’Neill, JJ., dissent.

2016-1633. State v. Hayes.

Montgomery App. No. 26379, 2016-Ohio-7241.
O’Donnell, J., dissents and would accept the cause on proposition of law No. I.

2016-1639. State v. Goins.

Cuyahoga App. No. 103874, 2016-Ohio-5930.

2016-1640. Heartland of Urbana OH, L.L.C. v. McHugh Fuller Law Group, P.L.L.C.

Champaign App. No. 2016-CA-3, 2016-Ohio-6959.

2016-1641. Checkers Pub, Inc. v. Sofios.

Wood App. No. WD-15-054, 2016-Ohio-6963.

2016-1643. State v. Scott.

Cuyahoga App. No. 103696, 2016-Ohio-5929.
O’Connor, C.J., dissents, would accept the cause on proposition of law No. I, and would reverse the judgment of the court of appeals on the authority of *State v. Underwood*, 124 Ohio St.3d 365, 2010-Ohio-1, 922 N.E.2d 923, and *State v. Rogers*, 143 Ohio St.3d 385, 2015-Ohio-2459, 38 N.E.3d 860.
Kennedy, J., dissents.

2016-1647. State v. Magnone.

Clark App. No. 2015-CA-94, 2016-Ohio-7100.

2016-1653. Bretz v. Nagy.

Portage App. No. 2015-P-0082, 2016-Ohio-3008.

2016-1658. Kitson v. Gordon Food Serv.

Medina App. No. 15CA0078-M, 2016-Ohio-7079.

2016-1660. State ex rel. Huttman v. Parma.
Cuyahoga App. No. 103691, 2016-Ohio-5624.

2016-1664. Griggs v. Thompson.
Franklin App. No. 16AP-229, 2016-Ohio-7138.

2016-1665. Gordon v. Erie Islands Resort & Marina.
Ottawa App. No. OT-15-035, 2016-Ohio-7107.

O'Donnell, J., dissents and would accept the cause on proposition of law No. I.
Kennedy, J., dissents.

2016-1671. Simons v. Buldas.
Lucas App. No. L-15-1316, 2016-Ohio-7111.

2016-1672. In re A.B.
Hamilton App. No. C-150743.
Kennedy, French, and O'Neill, JJ., dissent.
William A. Klatt, J., of the Tenth District Court of Appeals, sitting for Fischer,
J.

2016-1675. In re T.U.
Montgomery App. No. 26942, 2016-Ohio-7104.

2016-1677. In re L.J.W.
Ashland App. No. 16 COA 013, 2016-Ohio-7054.

2016-1683. Mason v. Mason Professional Firefighters, IAFF Local 4049.
Warren App. No. CA2015-12-111, 2016-Ohio-7194.
Kennedy and O'Neill, JJ., dissent.

2016-1684. State v. Thompson.
Trumbull App. No. 2015-T-0087, 2016-Ohio-7154.

2016-1686. Spellman Outdoor Advertising Servs., L.L.C. v. Turnpike & Infrastructure Comm.
Portage App. No. 2015-P-0081, 2016-Ohio-7152.
O'Donnell, J., dissents.
Fischer, J., not participating.

2016-1687. Bryan v. Valley Care Health Sys. of Ohio.

Mahoning App. No. 2015-T-0130, 2016-Ohio-7156.

O'Neill, J., dissents.

2016-1696. State v. Bronson.

Hamilton App. No. C-150461.

Fischer, J., not participating.

2016-1705. Johnston v. State.

Franklin App. No. 12AP-1022, 2016-Ohio-4761.

2016-1707. State v. Bluhm.

Franklin App. No. 15AP-938, 2016-Ohio-7126.

2016-1710. Snyder v. Grant.

Cuyahoga App. No. 103796, 2016-Ohio-5247.

O'Donnell, J., dissents.

2016-1711. State v. Sowers.

Perry App. No. 16 CA 00002, 2016-Ohio-7500.

O'Connor, C.J., dissents.

2016-1714. L.G. Harris Family Ltd. Partnership I v. 905 S. Main St. Englewood, L.L.C.

Montgomery App. No. 26682, 2016-Ohio-7242.

2016-1733. State v. Easley.

Franklin App. Nos. 16AP-10 and 16AP-9, 2016-Ohio-7271.

2016-1741. State v. Hardman.

Hamilton App. No. C-150549.

Fischer and DeWine, JJ., not participating.

2016-1749. In re Estate of Faldon.

Erie App. No. E-15-071, 2016-Ohio-7337.

Kennedy, J., dissents.

2016-1756. State v. Miller.

Butler App. No. CA2016-01-007, 2016-Ohio-7360.

2016-1758. State v. Smith.

Licking App. No. 16-CA-15, 2016-Ohio-7390.

2016-1765. Phelps v. Saffian.

Cuyahoga App. No. 103549, 2016-Ohio-5514.

2016-1774. State v. Vaughn.

Summit App. No. 27902, 2016-Ohio-7384.

Fischer, J., dissents.

2016-1786. State v. Moore.

Cuyahoga App. No. 104082, 2016-Ohio-7226.

2016-1890. State v. Williams.

Lorain App. No. 16CA010900, 2016-Ohio-7345.

O'Neill, J., dissents.

2017-0137. State v. Xu.

Delaware App. No. 15 CAA 11 0094, 2016-Ohio-8238.

2017-0138. State v. Xu.

Delaware App. No. 15 CAA 11 0091, 2016-Ohio-8237.

2017-0165. Benchmark Bank v. Kimberly Office Park, L.L.C.

Franklin App. No. 15AP-770, 2016-Ohio-8338.

2017-0167. State v. Kozić.

Mahoning App. No. 15 MA 0215, 2016-Ohio-8556.

2017-0168. State v. Burrell.

Fayette App. No. CA2016-04-005, 2016-Ohio-8454.

2017-0181. State v. Boware.

Summit App. No. 27975, 2016-Ohio-7024.

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

2017-0190. State v. Johnson.

Delaware App. No. 16 CAA 08 0033, 2016-Ohio-7731.

2017-0194. State v. Seal.

Highland App. No. 16CA14, 2017-Ohio-116.

2017-0195. State v. Cochran.

Clark App. No. 2016-CA-33, 2017-Ohio-217.

2017-0203. State v. Miller.

Columbiana App. No. 14 CO 0047, 2016-Ohio-8544.

2017-0215. State v. Jackson.

Cuyahoga App. No. 104645, 2017-Ohio-107.

2017-0218. Wolfe v. Accountancy Bd.

Franklin App. No. 16AP-453, 2016-Ohio-8542.

2017-0222. State v. Andrews.

Lake App. No. 2016-L-048, 2016-Ohio-8517.

2017-0229. State v. Canada.

Franklin App. No. 16AP-7, 2016-Ohio-5948.

2017-0231. Rocky River v. Collins.

Cuyahoga App. No. 104180, 2017-Ohio-14.

2017-0232. State v. Smith.

Hamilton App. No. C-150691.

Fischer and DeWine, JJ., not participating.

2017-0248. State v. Pulliam.

Scioto App. No. 16CA3759, 2017-Ohio-127.

2017-0249. State v. Gray.

Richland App. No. 2011 CA 112.

2017-0257. State v. Catney.

Cuyahoga App. No. 104141, 2017-Ohio-90.

2017-0259. Ebbing v. Stewart.

Butler App. No. CA2016-05-085, 2016-Ohio-7645.

2017-0282. State v. Lunder.

Cuyahoga App. No. 103653, 2017-Ohio-84.

2017-0291. Czyz v. Best Choice Moving, Inc.

Guernsey App. No. 16-CA-23. Emergency motion for injunction denied as moot.

2017-0292. State v. Moore.

Stark App. No. 2016CA00211, 2017-Ohio-602.

2017-0300. State v. Cooks.

Clark App. No. 2016-CA-40, 2017-Ohio-218.

2017-0303. State v. Buck.

Summit App. No. 27597, 2017-Ohio-273.

2017-0306. State v. Reece.

Montgomery App. No. 27081, 2017-Ohio-222.
Fischer, J., dissents.

2017-0310. State v. Adams.

Lawrence App. No. 16CA23, 2017-Ohio-519.
O'Neill and Fischer, JJ., dissent.

2017-0313. State v. Armengau.

Franklin App. No. 16AP-355, 2017-Ohio-197.

2017-0318. State v. King.

Franklin App. Nos. 15AP-930, 15AP-931, and 15AP-933, 2016-Ohio-1247.
O'Donnell, J., not participating.

2017-0320. State v. Fairrow.

Montgomery App. No. 26936, 2017-Ohio-220.

2017-0337. State v. Brigner.

Athens App. No. 16CA25.

2017-0361. State v. Ferguson.

Franklin App. No. 16AP-307, 2017-Ohio-556.

2017-0364. State v. Lofton.

Pickaway App. No. 16CA8, 2017-Ohio-757.

2017-0500. State v. Upkins.

Shelby App. No. 17-16-04. Motion to consolidate case denied.

Fischer, J., dissents and would accept the appeal and hold the cause for decision in 2016-1742, *State v. Upkins*.

2017-0501. State v. Durham.

Cuyahoga App. Nos. 103352 and 103382, 2017-Ohio-954.

2017-0526. In re H.D.

Warren App. No. CA2016-11-098, 2017-Ohio-1333.

2017-0594. In re Adoption of N.T.R.

Franklin App. No. 16AP-589, 2017-Ohio-265.

RECONSIDERATION OF PRIOR DECISIONS

2015-1756. McGowan v. Medpace, Inc.

Hamilton App. Nos. C-140634 and C-140652, 2015-Ohio-3743. Reported at __ Ohio St.3d __, 2017-Ohio-1340, __ N.E.3d __. On motion for reconsideration. Motion denied.

Cannon, J., dissents and would grant the motion in part and would reconsider the decision to dismiss the cause as having been improvidently accepted.

Brunner, J., dissents.

Timothy P. Cannon, J., of the Eleventh District Court of Appeals, sitting for Fischer, J.

Jennifer L. Brunner, J., of the Tenth District Court of Appeals, sitting for DeWine, J.

2016-0252. State ex rel. Bradford v. Dinkelacker.

Hamilton App. No. C-150714. Reported at __ Ohio St.3d __, 2017-Ohio-1342, __ N.E.3d __. On motion for reconsideration. Motion denied.

Fischer and DeWine, JJ., not participating.

2016-0750. Perry v. Sloan.

Ashtabula App. No. 2015-A-0064, 2016-Ohio-1605. Reported at __ Ohio St.3d __, 2017-Ohio-1404, __ N.E.3d __. On motion for reconsideration. Motion denied.

2016-1369. State v. Amegatcher.

Delaware App. No. 15 CAC 10 0081, 2016-Ohio-5198. Reported at 148 Ohio St.3d 1443, 2017-Ohio-1427, 72 N.E.3d 657. On motion for reconsideration. Motion denied.

2016-1405. Wetzel v. Auto Owners Ins. Co.

Darke App. No. 2015-CA-25, 2016-Ohio-5355. Reported at 148 Ohio St.3d 1443, 2017-Ohio-1427, 72 N.E.3d 657. On motion for reconsideration. Motion denied.

2017-0258. State v. Taylor.

Cuyahoga App. No. 104284, 2016-Ohio-8311. Reported at 148 Ohio St.3d 1442, 2017-Ohio-1427, 72 N.E.3d 656. On motion for reconsideration. Motion denied.