

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS

March 15, 2017

[Cite as *03/15/2017 Case Announcements, 2017-Ohio-905.*]

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## MERIT DECISIONS WITH OPINIONS

**2016-1159. Disciplinary Counsel v. Barbera, Slip Opinion No. 2017-Ohio-882.**  
On Certified Report by the Board of Professional Conduct, No. 2015-070. Richard Barbera, Attorney Registration No. 0064044, is suspended from the practice of law for one year, with the entire suspension stayed on conditions.

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

Fischer, J., not participating.

**2016-1160. Disciplinary Counsel v. Moore, Slip Opinion No. 2017-Ohio-883.**  
On Certified Report by the Board of Professional Conduct, No. 2016-003. Amy Michelle Moore, Attorney Registration No. 0077647, is publicly reprimanded.

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

## MERIT DECISIONS WITHOUT OPINIONS

**2015-1997. Harris v. Fed. Bur. of Investigation.**

In Mandamus. Cause dismissed.

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

**2016-1581. Smith v. Portage Cty. Court of Common Pleas.**

In Habeas Corpus. Sua sponte, cause dismissed.

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

**2016-1582. State ex rel. Ganley Chevrolet, Inc. v. Sutula.**

In Mandamus and Prohibition. On motion to intervene as respondents. Motion granted. On motions to dismiss. Motions granted. Cause dismissed.

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

O'Donnell, J., dissents and would deny the motions to dismiss and grant an alternative writ.

**2016-1693. State ex rel. Griffin v. Doe.**

In Mandamus. On motion to dismiss. Motion granted. Cause dismissed. On respondent's motion to strike relator's motion for default judgment and relator's motion to strike respondent's motion to dismiss and motion for default judgment. Motions denied as moot.

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

**2016-1809. Fish v. Seventh Dist. Court of Appeals.**

Miscellaneous case. On motions to dismiss. Motions granted. Cause dismissed.

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

**2016-1853. State ex rel. Davie v. Clancy.**

In Prohibition. On motion to strike. Motion denied. On motion to dismiss. Motion granted. Cause dismissed.

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

**2016-1873. Oden v. Bogens.**

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

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

Fischer, J., not participating.

**2016-1885. State ex rel. Lawrence v. Judges Presiding Over Eighth Dist. Court of Appeals Case No. 100387.**

In Mandamus. On motion to dismiss. Motion granted. Cause dismissed.  
O'Connor, C.J., and Kennedy, French, Fischer, and DeWine, JJ., concur.  
O'Donnell and O'Neill, JJ., dissent and would grant an alternative writ.

**2016-1886. State ex rel. Boles v. Hall.**

In Mandamus and 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.

**2016-1893. Turner v. Lucci.**

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

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

**2017-0024. State ex rel. Cowan v. Gallagher.**

In Prohibition. On motion to stay. Motion denied. On motion to dismiss. Motion granted. Cause dismissed.

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

## **MOTION AND PROCEDURAL RULINGS**

**1989-0454. State v. Landrum.**

Ross App. No. 1330. On motion for relief pursuant to S.Ct.Prac.R. 4.01. Motion denied.

**1989-2128. State v. Jackson.**

Cuyahoga App. No. 55758. On motion for relief pursuant to S.Ct.Prac.R. 4.01. Motion denied.

**1990-1927. State v. Lorraine.**

Trumbull App. No. 3838. On motion for relief pursuant to S.Ct.Prac.R. 4.01. Motion denied.

**1994-1777. State v. Dunlap.**

Hamilton App. No. C930121. On motion for relief pursuant to S.Ct.Prac.R. 4.01. Motion denied.

**1998-0726. State v. Jackson.**

Franklin App. No. 97CR041902. On motion for relief pursuant to S.Ct.Prac.R. 4.01. Motion denied.

**2001-0253. State v. Bryan.**

Cuyahoga App. No. CR393660. On motion for relief pursuant to S.Ct.Prac.R. 4.01. Motion denied.

**2004-0504. State v. LaMar.**

Lawrence App. No. 95CA31. On motion for relief pursuant to S.Ct.Prac.R. 4.01. Motion denied.

**2014-0120. State v. Moore.**

Mahoning App. No. 08 MA 20. On motion to stay. Motion granted.  
O'Connor, C.J., and French, J., dissent.

**2016-1335. State ex rel. Stegall v. Stephens.**

Butler App. No. CA2016-06-109. On motion for relief from judgment. Motion denied.

**2017-0026. State v. Vigil.**

Cuyahoga App. No. 103940, 2016-Ohio-7485. 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 and French, JJ., dissent.

**2017-0033. State v. Phillips.**

Allen App. No. 1-15-43, 2016-Ohio-3105. On motion for leave to file delayed appeal. Motion denied.

**2017-0041. State v. Jabbaar.**

Cuyahoga App. No. 104922. On motion for leave to file delayed appeal. Motion denied.

**2017-0042. State v. Gaines.**

Trumbull App. No. 2015-T-0061, 2016-Ohio-1312. On motion for leave to file delayed appeal. Motion denied.

**2017-0060. State v. Whatley.**

Hamilton App. No. C-150471, 2016-Ohio-5713. On motion for leave to file delayed appeal. Motion denied.

O'Neill, J., dissents.

Fischer and DeWine, JJ., not participating.

**2017-0066. State v. Rice.**

Brown App. No. CA2016-03-005, 2016-Ohio-7185. On motion for leave to file delayed appeal. Motion denied.

Kennedy, J., dissents.

**2017-0067. State v. Suggs.**

Summit App. Nos. 27812, 27865, and 27866, 2016-Ohio-5692. 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'Donnell and DeWine, JJ., dissent.

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

**2017-0074. State v. Cargill.**

Cuyahoga App. No. 103902, 2016-Ohio-5932. On motion for leave to file delayed appeal. Motion denied.

**2017-0077. State v. Young.**

Cuyahoga App. No. 103551, 2016-Ohio-7477. On motion for leave to file delayed appeal. Motion denied.

**2017-0086. State v. Romeo.**

Mahoning App. No. 14 MA 0060, 2016-Ohio-5657. On motion for leave to file delayed appeal. Motion denied.

**2017-0089. State v. Wine.**

Guernsey App. No. 16CA12. On motion for leave to file delayed appeal. Motion denied.

**2017-0101. State v. Workman.**

Auglaize App. No. 2-16-03. On motion for leave to file delayed appeal. Motion denied.

**2017-0154. Horn v. Ohio Dept. of Ins.**

Lorain App. No. 15CA010892, 2017-Ohio-231. On motion to stay court of appeals' judgment. Motion denied.

Kennedy, J., dissents and would continue the stay with no bond required.

**2017-0159. State v. Dickerson.**

Cuyahoga App. No. 102461, 2017-Ohio-177. On motion for immediate stay of the court of appeals' judgment. Motion granted.

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

**2017-0242. State ex rel. Curtis v. Vital Statistics Registrar, Brown Cty. Health Dept.**

Brown App. No. CA2017-01-001. On motion for stay of court of appeals' judgment. Motion denied.

**APPEALS ACCEPTED FOR REVIEW**

**2016-1270. State v. Belton.**

Hamilton App. No. C-150358. Discretionary appeal accepted, cause held for decision in 2015-0677, *State v. Aalim*, and briefing schedule stayed.

DeWine, J., dissents.

Fischer, J., not participating.

**2016-1278. Cummings v. Harvey Abens Iosue Co., L.P.A.**

Cuyahoga App. No. 104541. Discretionary appeal accepted on Proposition of Law No. I and judgment vacated. Cause remanded to the court of appeals to consider the merits of appellant's appeal.

**2016-1281. Alford v. Collins-McGregor Operating Co.**

Washington App. No. 16CA9, 2016-Ohio-5082.

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

**2016-1307. LGR Realty, Inc. v. Frank & London Ins. Agency.**

Franklin App. No. 15AP-1072, 2016-Ohio-5044.

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

Fischer, J., not participating.

**2016-1348. Capital Care Network of Toledo v. Ohio Dept. of Health.**

Lucas App. No. L-15-1186, 2016-Ohio-5168.

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

**2017-0173. In re Adoption of P.L.H.**

Butler App. No. CA2016-09-185, 2016-Ohio-8453. Motion for stay denied.  
O'Donnell and DeWine, JJ., dissent.  
Kennedy, French, and Fischer, JJ., dissent from the denial of the motion for stay.

## **APPEALS NOT ACCEPTED FOR REVIEW**

### **2015-2047. State v. Bonnell.**

Cuyahoga App. No. 102630, 2015-Ohio-4590.

### **2016-1269. Vogt v. Total Renal Care, Inc.**

Cuyahoga App. No. 103102, 2016-Ohio-4955.

O'Donnell, J., dissents and would accept the appeal and the cross-appeal.  
Kennedy, J., dissents and would accept the appeal.

### **2016-1272. Senco Brands, Inc. v. Ohio Dept. of Job & Family Servs.**

Franklin App. No. 15AP-796, 2016-Ohio-4769.

O'Donnell and Kennedy, JJ., dissent.

### **2016-1282. State v. Brown.**

Montgomery App. No. 26937, 2016-Ohio-4973.

### **2016-1292. Blausey v. VanNess.**

Ottawa App. No. OT-15-029, 2016-Ohio-5068.

### **2016-1299. State v. Shuster.**

Morgan App. No. 15AP0017, 2016-Ohio-5030.

Fischer, J., not participating.

### **2016-1300. Meeker R & D, Inc. v. Evenflo Co., Inc.**

Portage App. Nos. 2014-P-0060 and 2015-P-0017, 2016-Ohio-2688.

### **2016-1306. State v. Taulbee.**

Fairfield App. No. 16-CA-10, 2016-Ohio-5445.

### **2016-1308. DAMSA, Ltd. v. Sandusky.**

Erie App. No. E-15-036, 2016-Ohio-5069.

### **2016-1318. Ferrara v. Vicchiarelli Funeral Servs., Inc.**

Cuyahoga App. No. 104084, 2016-Ohio-5144.  
O'Neill, J., dissents.

**2016-1322. Wisner v. Wisner.**

Hancock App. No. 5-15-31, 2016-Ohio-5095.  
Fischer, J., dissents.

**2016-1326. Deems v. EcoWater Systems, Inc.**

Summit App. No. 27645, 2016-Ohio-5022.

**2016-1330. Court Appointed Grdns. v. Children's Hosp. Med. Ctr.**

Hamilton App. No. C-150449, 2016-Ohio-5112.  
Fischer and DeWine, JJ., not participating.

**2016-1338. Schneider v. Kumpf.**

Montgomery App. No. 26955, 2016-Ohio-5161.

**2016-1339. Mackay v. Romanini.**

Cuyahoga App. No. 103876, 2016-Ohio-5251.

**2016-1341. State v. Carter.**

Adams App. No. 15CA1015, 2016-Ohio-5371.

**2016-1345. State v. Burton.**

Delaware App. No. 15CAA100083.

**2016-1349. State v. Clark.**

Lucas App. Nos. L-15-1160 and CR-2014-1651.

**2016-1350. tieBridge, Inc. v. Rahim, Inc.**

Cuyahoga App. No. 10387.

**2016-1353. Dave v. Dave.**

Portage App. No. 2016-P-0020, 2016-Ohio-5185.

**2016-1354. State v. Armstrong.**

Champaign App. No. 2015-CA-31, 2016-Ohio-5263.  
O'Neill, J., dissents.

**2016-1364. State v. Bressi.**



Summit App. No. 27575, 2016-Ohio-5211.

**2016-1376. State v. Allen.**

Hamilton App. No. C-150769, 2016-Ohio-5258.

**2016-1393. State v. Nelson.**

Hamilton App. No. C-150650, 2016-Ohio-5344.

O'Neill, J., dissents.

Fischer and DeWine, JJ., not participating.

**2016-1396. State v. Neumeister.**

Hamilton App. No. C-150531, 2016-Ohio-5293.

Fischer and DeWine, JJ., not participating.

**2016-1407. Kranbuhl-McKee v. Durrani.**

Butler App. No. CA2015-11-191, 2016-Ohio-5286.

O'Neill, J., dissents.

Fischer, J., not participating.

**2016-1418. Cairelli v. Brunner.**

Franklin App. No. 15 AP 854, 2016-Ohio-5535.

O'Donnell, J., dissents.

O'Neill, J., not participating.

**2016-1437. State v. Armstrong.**

Cuyahoga App. No. 103088, 2016-Ohio-2627. Motion to exceed page limitation denied as moot.

**2016-1443. State v. Snuggs.**

Henry App. No. 7-16-03, 2016-Ohio-5466.

**2016-1444. Norman v. O'Brien.**

Franklin App. No. 16AP-191, 2016-Ohio-5499.

**2016-1493. State v. Taylor.**

Montgomery App. No. 26896, 2016-Ohio-5541.

**2016-1507. Hattenbach v. Watson.**

Montgomery App. No. 27071, 2016-Ohio-5648.

**2016-1521. State v. Ripple.**

Hamilton App. No. C-150548.

Fischer and DeWine, JJ., not participating.

**2016-1525. State v. Fitzgerald.**

Allen App. No. 1-15-59.

**2016-1529. Masten v. Masten.**

Fairfield App. No. 16-CA-4, 2016-Ohio-5738.

**2016-1533. Souders v. Souders.**

Hamilton App. No. C-160657.

Fischer, J., not participating.

**2016-1537. State v. Baker.**

Auglaize App. No. 2-16-07, 2016-Ohio-5669.

**2016-1538. Dailey v. Bunting.**

Marion App. No. 9-16-15.

**2016-1543. State v. Jones.**

Cuyahoga App. No. 104189, 2016-Ohio-5712.

**2016-1547. State v. Alexander.**

Hamilton App. No. C-150502.

Fischer and DeWine, JJ., not participating.

**2016-1557. State v. Sheldon.**

Brown App. No. CA2016-04-010, 2016-Ohio-6984.

**2016-1562. State v. Bolton.**

Cuyahoga App. No. 103628, 2016-Ohio-5706.

**2016-1571. State v. Scott.**

Cuyahoga App. No. 103696, 2016-Ohio-5929.

O'Neill, J., dissents.

**2016-1574. State v. Jordan.**

Cuyahoga App. No. 103813, 2016-Ohio-5709.

**2016-1587. State v. Starks.**

Sandusky App. No. S-16-007, 2016-Ohio-7117.

**2016-1592. State v. Williamson.**

Cuyahoga App. No. 104294, 2016-Ohio-7053.

**2016-1593. State v. Robinson.**

Sandusky App. No. S-16-034. Motion for new trial and withdrawal of guilty plea denied.

**2016-1595. State v. Crank.**

Stark App. No. 2016CA00042, 2016-Ohio-7203.

**2016-1598. State v. Myers.**

Wood App. No. WD-16-007, 2016-Ohio-7112. Motion for leave to supplement the record denied as moot.

**2016-1623. State v. Moore.**

Stark App. No. 2016CA00094, 2016-Ohio-7380.

**2016-1624. State v. Oden.**

Hamilton App. No. C-150387.

Fischer and DeWine, JJ., not participating.

**2016-1662. State v. Holden.**

Hamilton App. No. C-160150, 2016-Ohio-7042.

Fischer, J., not participating.

**2016-1666. State v. Nelson.**

Lucas App. No. L-15-1190, 2016-Ohio-7115.

**2016-1667. State v. Anderson.**

Scioto App. No. 15CA3696, 2016-Ohio-7252.

**2016-1679. Farmer v. E. Knox Bd. of Edn.**

Knox App. No. 2016CA00014.

**2016-1697. Brickstone Properties, L.L.C. v. Epps.**

Hamilton App. No. 160185.

Fischer and DeWine, JJ., not participating.

**2017-0017. State v. Malone.**

Scioto App. No. 14CA3648.

**2017-0061. State v. Drescher.**

Stark App. No. 2015CA00020.

**2017-0085. In re C.K.**

Lucas App. Nos. L-16-1081 and L-16-1085, 2016-Ohio-8002.

**RECONSIDERATION OF PRIOR DECISIONS**

**2014-0454. State v. Watkins.**

Franklin App. Nos. 13AP-133 and 13AP-134, 2013-Ohio-5544. Reported at \_\_ Ohio St.3d \_\_, 2016-Ohio-8464, \_\_ N.E.3d \_\_. On motion for reconsideration. Motion denied.

O'Donnell and Kennedy, JJ., dissent.

**2015-0163. State ex rel. Cordell v. Pallet Cos., Inc.**

Franklin App. No. 13AP-1017, 2014-Ohio-5561. Reported at \_\_ Ohio St.3d \_\_, 2016-Ohio-8446, \_\_ N.E.3d \_\_. On motion for reconsideration. Motion denied.

O'Donnell and Kennedy, JJ., dissent.

**2015-0629. State v. Richardson.**

Montgomery App. No. 26191, 2015-Ohio-757. Reported at \_\_ Ohio St.3d \_\_, 2016-Ohio-8448, \_\_ N.E.3d \_\_. On motion for reconsideration. Motion denied.

**2015-0917. T. Ryan Legg Irrevocable Trust v. Testa.**

Board of Tax Appeals, No. 2013-A-1469. Reported at \_\_ Ohio St.3d \_\_, 2016-Ohio-8418, \_\_ N.E.3d \_\_. On motion for reconsideration. Motion denied.

**2015-1048. State v. Richardson.**

Montgomery App. No. 26191, 2015-Ohio-757. Reported at \_\_ Ohio St.3d \_\_, 2016-Ohio-8448, \_\_ N.E.3d \_\_. On motion for reconsideration. Motion denied.

**2015-1737. Bibler v. Stevenson.**

Hancock App. No. 5-14-29, 2015-Ohio-3717. Reported at \_\_ Ohio St.3d \_\_, 2016-Ohio-8449, \_\_ N.E.3d \_\_. On amended motion for reconsideration. Motion denied.

French, J., dissents.

**2016-0315. State v. Lee.**

Franklin App. No. 14AP-1009, 2016-Ohio-122. Reported at \_\_ Ohio St.3d \_\_, 2016-Ohio-8469, \_\_ N.E.3d \_\_. On motion for reconsideration. Motion granted and cause held for decision in 2015-0677, *State v. Aalim*.

Fischer, J., dissents.

**2016-1344. Payne v. State.**

In Habeas Corpus. Reported at 147 Ohio St.3d 1503, 2017-Ohio-261, 67 N.E.3d 822. On motion for reconsideration. Motion denied.

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