

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

November 1, 2017

[Cite as *11/01/2017 Case Announcements*, 2017-Ohio-8371.]

MERIT DECISIONS WITH OPINIONS

2015-1517. [State ex rel. Singer v. Fairland Local School Dist. Bd. of Edn.](#), Slip Opinion No. 2017-Ohio-8368.

In Mandamus. Writ denied.

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

O'Neill, J., dissents, with an opinion.

2016-1453. [State ex rel. Sevayega v. Gallagher](#), Slip Opinion No. 2017-Ohio-8369.

Cuyahoga App. No. 104225, 2016-Ohio-5421. Judgment affirmed.

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

O'Donnell, J., not participating.

MERIT DECISIONS WITHOUT OPINIONS

2017-1127. [Miller v. Wiedenbein](#).

In Mandamus. On respondent's motion to dismiss. Motion granted. Cause dismissed.

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

Fischer, J., dissents and would grant an alternative writ.

2017-1152. Allen v. Haviland.

In Mandamus. On respondent's motion to dismiss. Motion granted. Cause dismissed.

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

2017-1170. State ex rel. Fikes v. Mock.

In Prohibition. On respondent's motion to dismiss. Motion granted. Cause dismissed. On relator's motion for stay of proceedings. Motion denied as moot.

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

Fischer, J., not participating.

2017-1176. Rock v. Collins.

In Mandamus. On respondent's motion to dismiss. Motion granted. Cause dismissed. On relator's motion to consolidate cases. Motion denied as moot.

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

2017-1178. Spann v. Eppinger.

In Habeas Corpus. Sua sponte, cause dismissed.

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

2017-1183. Butcher v. Portage Cty. Court of Common Pleas.

In Mandamus. On respondent's motion to dismiss. Motion granted. Cause dismissed.

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

2017-1250. State ex rel. Wynn v. Richards.

In Habeas Corpus. Sua sponte, cause dismissed. On petitioner's motion to expedite. Motion denied as moot.

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

MOTION AND PROCEDURAL RULINGS

2012-1644. State v. Jackson.

Trumbull App. No. 01-CR-794. On appellant's application for reopening pursuant to S.Ct.Prac.R. 11.06. Application denied.

William A. Klatt, J., of the Tenth District Court of Appeals, sitting for O'Neill, J.

2017-0331. State ex rel. Rogers v. Dept. of Rehab. & Corr.

In Mandamus. On relator's motion for in camera review of records at issue. Motion granted in part. Respondent shall submit the unedited videos responsive to relator's request to the court under seal for in camera inspection. Request to make videos available to relator's counsel denied. On relator's motion to expedite or in the alternative to set a schedule. Motion denied. Sua sponte, alternative writ granted. The following briefing schedule is set for presentation of evidence and filing of briefs pursuant to S.Ct.Prac.R. 12.05. The parties shall file any evidence they intend to present within 20 days; relator shall file a brief within 10 days of the filing of the evidence; respondent shall file a brief within 20 days after the filing of relator's brief; and relator may file a reply brief within 7 days after the filing of respondent's brief.

O'Donnell, J., dissents and would deny all motions and dismiss the cause.

2017-0469. Chagrin Realty, Inc. v. Testa.

Board of Tax Appeals, No. 2011-2523. On responses to show-cause order. Appellant/cross-appellee has shown cause why the appeal should not be dismissed. On appellant/cross-appellee's motion to supplement record. Motion granted.

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

2017-1015. State ex rel. Keith v. Dept. of Rehab. & Corr.

Franklin App. No. 15AP-1080, 2017-Ohio-4406. On appellant's motion to consolidate case Nos. 2017-1015 and 2017-1214. Motion granted.

2017-1160. I.B. v. Olentangy Local School Dist. Bd. of Edn.

Certified Question of State Law, United States District Court, Southern District of Ohio, Eastern Division, No. 2:16-CV-837. On review of preliminary memoranda. The court will answer the following question:

"Does [R.C.] 2151.421 expressly impose civil liability on a school board, either for its own or its employee's failure to report, triggering the [R.C.] 2744.02(b)(5) exception to political subdivision immunity on a negligence per se claim based on [R.C.] 2151.421?"

It is ordered by the court that 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 9.07.

O'Donnell, J., dissents.

2017-1177. State v. Sekulic.

Stark App. No. 2016CA00135, 2017-Ohio-4259. On motion for leave to file delayed appeal. Motion granted. Appellant shall file a memorandum in support of jurisdiction within 30 days.

O'Donnell and French, JJ., dissent.

2017-1179. In re Adoption of M.S.A.

Mercer App. No. 10-17-01, 2017-Ohio-5771. On appellees' motion for declaration of frivolous action and for attorney's fees. Motion denied.

O'Neill, J., dissents.

2017-1184. State v. Carter.

Cuyahoga App. No. 104653, 2017-Ohio-5573. On motion for leave to file delayed appeal. Motion granted. Appellant shall file a memorandum in support of jurisdiction within 30 days.

O'Donnell, J., dissents.

2017-1186. State v. Prieto.

Mahoning App. No. 15 MA 0200, 2016-Ohio-8480. On motion for leave to file delayed appeal. Motion denied. Cause dismissed.

2017-1191. State v. Calhoun.

Summit App. No. 28557. On motion for leave to file delayed appeal. Motion denied. Cause dismissed.

2017-1195. State v. Agostini.

Warren App. Nos. CA2016-02-013 and CA2016-02-014, 2017-Ohio-4042. On motion for leave to file delayed appeal. Motion granted. Appellant shall file a memorandum in support of jurisdiction within 30 days.

O'Donnell and French, JJ., dissent.

2017-1211. Estate of Aukland v. Broadview NH, L.L.C.

Franklin App. Nos. 16AP-765 and 16AP-661, 2017-Ohio-7332. On review of an order certifying a conflict. It is determined that no conflict exists. Cause dismissed.

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

2017-1214. State ex rel. Keith v. Dept. of Rehab. & Corr.

Franklin App. No. 15AP-1080, 2017-Ohio-4406. On appellant's motion to consolidate case Nos. 2017-1015 and 2017-1214. Motion granted.

2017-1215. State v. Prieto.

Mahoning App. No. 15 MA 0213, 2017-Ohio-4156. On motion for leave to file delayed appeal. Motion denied. Cause dismissed.

2017-1218. State v. Ralston.

Highland App. No. 17CA1. On motion for leave to file delayed appeal. Motion denied. Cause dismissed.

Kennedy, J., dissents.

2017-1220. State v. Primm.

Cuyahoga App. No. 103548, 2016-Ohio-5237. On motion for leave to file delayed appeal. Motion denied. Cause dismissed.

Fischer, J., dissents.

2017-1235. Petty v. Blount-Petty.

Stark App. No. 2016CA00226, 2017-Ohio-7035. On appellant's motion for stay of execution of order. Motion denied.

O'Neill and Fischer, JJ., dissent.

2017-1242. State v. Taylor.

Richland App. No. 16CA66, 2017-Ohio-4059. On motion for leave to file delayed appeal. Motion granted. Appellant shall file a memorandum in support of jurisdiction within 30 days.

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

2017-1247. State v. Nevarez-Reyes.

Montgomery App. No. 27047, 2017-Ohio-2610. On motion for leave to file delayed appeal. Motion denied. Cause dismissed.

Kennedy and O'Neill, JJ., dissent.

2017-1263. State v. Alexander.

Cuyahoga App. No. 103754, 2016-Ohio-5707. On motion for leave to file delayed appeal. Motion denied. Cause dismissed.

2017-1274. State v. Turner.

Belmont App. No. 28298, 2017-Ohio-5560. On motion for leave to file delayed appeal. Motion denied. Cause dismissed.

Fischer, J., dissents.

2017-1287. Kalbaugh v. Kalbaugh.

Summit App. No. 28282, 2017-Ohio-4272. On review of an order certifying a conflict. It is determined that no conflict exists. Cause dismissed.

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

2017-1308. Greenscapes Home & Garden Prods., Inc. v. Testa.

Franklin App. No. 17AP-593. On appellant's petition to transfer jurisdiction. Motion denied. On motion to consider petition to transfer. Motion denied.

2017-1319. O'Brien v. Brown.

In Prohibition. On motion for stay. Motion denied.

French, J., not participating.

APPEALS ACCEPTED FOR REVIEW

2017-0448. Dundics v. Eric Petroleum Corp.

Mahoning App. No. 15 MA 0156, 2017-Ohio-640. Cause accepted on proposition of law No. I.

Kennedy and O'Neill, JJ., would accept the cause on all propositions of law. O'Donnell, Fischer, and DeWine, JJ., dissent.

APPEALS NOT ACCEPTED FOR REVIEW

2016-1822. State v. Montgomery.

Lucas App. No. L-15-1282, 2016-Ohio-7527.

2017-0277. Ohioans for Concealed Carry, Inc. v. Oberlin.

Lorain App. No. 15CA010781, 2017-Ohio-36. Appeal and cross-appeal not accepted.

Kennedy, J., dissents and would accept the cross-appeal. French, J., dissents.

2017-0287. State v. Hendon.

Summit App. Nos. 28067 and 28119, 2017-Ohio-352. Appellant's motion to strike denied as moot.

2017-0347. State v. Jordan.

Cuyahoga App. No. 103890, 2017-Ohio-381.

2017-0354. Multibank 2009-1 CML-ADC Venture, L.L.C. v. S. Bass Island Resort, Ltd.

Erie App. No. E-15-061, 2017-Ohio-344.
O'Donnell and O'Neill, JJ., dissent.

2017-0357. Wiegand v. Fabrizi Trucking & Paving Co., Inc.

Medina App. No. 16CA0015-M, 2017-Ohio-363.

2017-0365. Anderson v. Warren Local School Dist. Bd. of Edn.

Washington App. No. 16CA21, 2017-Ohio-436.
O'Donnell, J., dissents.

2017-0371. Besancon v. Cedar Lane Farms, Corp.

Wayne App. No. 16AP0003, 2017-Ohio-347.

2017-0373. Stevens v. S.W.L.H.S. Invest. Partners.

Lucas App. No. L-15-1129, 2017-Ohio-415.
Fischer, J., dissents and would accept the cause on proposition of law No. I.

2017-0376. State v. Zich.

Lucas App. No. L-15-1263, 2017-Ohio-414.

2017-0378. State v. Barnes.

Cuyahoga App. No. 104045, 2017-Ohio-383.

2017-0380. Calet v. E. Ohio Gas Co.

Summit App. No. 28036, 2017-Ohio-348.
French, J., dissents and would accept the cause on proposition of law No. I.

2017-0391. State v. Gray.

Cuyahoga App. No. 104140, 2016-Ohio-8320.

2017-0392. State v. Wells.

Warren App. No. CA2016-02-009, 2017-Ohio-420.

2017-0402. Watson v. Bradley.

Trumbull App. No. 2016-T-0031, 2017-Ohio-431.

O'Donnell, J., dissents.

2017-0404. State v. Vandersspool.

Cuyahoga App. Nos. 104444 and 104512, 2017-Ohio-962.

French, J., dissents.

2017-0409. State v. Aultman.

Champaign App. No. 2016-CA-14, 2017-Ohio-758.

2017-0411. William Powell Co. v. OneBeacon Ins. Co.

Hamilton App. No. C-160291, 2016-Ohio-8124.

Fischer and DeWine, JJ., not participating.

2017-0414. State v. Hall.

Franklin App. No. 16AP-473, 2017-Ohio-446.

2017-0427. State v. Page.

Montgomery App. No. 26670, 2017-Ohio-568.

2017-0432. Triton Services, Inc. v. Reed.

Warren App. Nos. CA2016-04-028 and CA2016-08-068, 2016-Ohio-7838.

2017-0434. State v. Davis.

Clinton App. No. CA2015-12-022, 2017-Ohio-495.

O'Neill, J., dissents.

2017-0438. Niotti-Soltesz v. Piotrowski.

Trumbull App. No. 2016-T-0072, 2017-Ohio-711.

2017-0445. Cosgrove v. Omni Manor, Inc.

Mahoning App. No. 15 MA 0207, 2017-Ohio-646.

Kennedy and French, JJ., dissent.

2017-0452. State v. Gray.

Montgomery App. No. 27207, 2017-Ohio-563.

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

2017-0453. State v. Aryee.

Seneca App. No. 13-16-18, 2016-Ohio-8405.

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

French and O'Neill, JJ., dissent.

2017-0457. State v. West.

Mahoning App. No. 16 MA 0131, 2017-Ohio-737.

2017-0459. State v. Kegley.

Crawford App. No. 3-16-20.

2017-0461. State v. Hudson.

Mahoning App. No. 15 MA 0134, 2017-Ohio-645.

2017-0462. Spellman Outdoor Advertising Servs., L.L.C. v. Dept. of Transp.

Franklin App. No. 16AP-343, 2017-Ohio-950.

2017-0463. Connors v. Target Automotive Group, Inc.

Cuyahoga App. No. 104230, 2017-Ohio-652.

DeWine, J., dissents.

2017-0470. Skindell v. Madigan.

Cuyahoga App. No. 103976, 2017-Ohio-398. Appellees' motion to strike denied.

O'Connor, C.J., dissents and would accept the cause on proposition of law No. I and grant appellees' motion to strike.

O'Donnell, J., dissents and would accept the cause and grant appellees' motion to strike.

2017-0513. State v. White.

Hamilton App. No. C-160283.

French, J., dissents and would accept the cause on proposition of law No. I.

O'Neill, J., dissents.

Fischer, J., not participating.

2017-0517. State v. Jirousek.

Geauga App. No. 2015-G-0039, 2016-Ohio-7743.

2017-0533. State v. Thiel.

Wyandot App. No. 16-16-01, 2017-Ohio-242.

2017-0642. State v. Bennett.

Scioto App. No. 16CA3765, 2017-Ohio-574.

2017-0697. State v. Sapp.

Clark App. No. 2015-CA-43, 2017-Ohio-1467.

2017-0905. State v. Kozic.

Mahoning App. No. 16 MA 0158, 2017-Ohio-4391.

2017-0926. Hanak v. Bush.

Mahoning App. No. 16 MA 0196, 2017-Ohio-4282.

2017-0931. State v. Durham.

Cuyahoga App. No. 105897.

2017-0935. State v. Ward.

Delaware App. No. 16 CAA 12 0055, 2017-Ohio-4284.

2017-0937. State v. Black.

Belmont App. No. 15 BE 0076, 2017-Ohio-4136.

2017-0939. State v. Hawkins.

Cuyahoga App. No. 105818.

2017-0940. State v. Hawkins.

Cuyahoga App. No. 105819.

2017-0941. State v. Hawkins.

Cuyahoga App. No. 105820.

2017-0944. State v. Williams.

Stark App. No. 2014CA0086.

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

2017-0946. State v. Kwambana.

Clermont App. No. CA2016-08-060, 2017-Ohio-1406.

2017-0952. State v. Robinson.

Summit App. No. 28278, 2017-Ohio-4168. Appellant's motion for judgment on the pleadings denied as moot.

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

2017-0954. State v. Campbell.

Adams App. No. 16CA1029, 2017-Ohio-4252.

2017-0959. Clinton v. MetroHealth Sys.

Cuyahoga App. No. 104957, 2017-Ohio-4073.

O'Donnell, J., dissents.

2017-0985. State v. Kiser.

Seneca App. No. 13-16-25, 2017-Ohio-4222.

2017-0991. State v. Houston.

Cuyahoga App. No. 104752, 2017-Ohio-4179.

2017-0994. State v. Morales.

Summit App. No. 28493, 2017-Ohio-4273.

2017-1021. State v. Oberacker.

Cuyahoga App. No. 81093, 2017-Ohio-5741.

2017-1022. State v. Jackson.

Montgomery App. No. 27172, 2017-Ohio-1304.

2017-1023. State v. Craig.

Athens App. No. 15CA22, 2017-Ohio-4342.

2017-1024. Kalbaugh v. Kalbaugh.

Summit App. No. 28282, 2017-Ohio-4272.

Kennedy and French, JJ., dissent.

2017-1027. State v. Lash.

Cuyahoga App. No. 104725, 2017-Ohio-4299.

O'Connor, C.J., dissents and would accept the cause on proposition of law No. II.

2017-1029. State v. Henley.

Montgomery App. No. 27326, 2017-Ohio-5828.

2017-1042. State v. Martin.

Franklin App. No. 17AP-6, 2017-Ohio-5657.

2017-1043. State v. Hall.

Ashtabula App. No. 2016-A-0069, 2017-Ohio-4376.

2017-1050. State v. Greenlee.

Montgomery App. No. 27039, 2017-Ohio-849.

2017-1052. State v. Johnson.

Montgomery App. No. 26961, 2017-Ohio-5498.

2017-1060. State v. Nieves.

Lorain App. No. 16CA011006, 2017-Ohio-5627.

2017-1063. State v. Griffin.

Summit App. No. 28586.

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

2017-1071. State v. Waller.

Hamilton App. No. C-160593.

Fischer, J., not participating.

2017-1077. State v. Foster.

Franklin App. No. 17AP-106, 2017-Ohio-5820.

O'Donnell, J., not participating.

2017-1089. State v. Drake.

Cuyahoga App. No. 105176, 2017-Ohio-4190.

2017-1097. State v. Galloway.

Lucas App. Nos. L-16-1179 and L-16-1180, 2017-Ohio-5841.

2017-1111. Estate of Aukland v. Broadview NH, L.L.C.

Franklin App. Nos. 16AP-661 and 16AP-765, 2017-Ohio-5602.

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

French and O'Neill, JJ., dissent.

2017-1132. State v. Lesure.

Cuyahoga App. No. 105922.

2017-1144. State v. Sands.

Lake App. No. 2017-L-009, 2017-Ohio-5860.

2017-1155. State v. Creech.

Scioto App. No. 16CA3730, 2017-Ohio-6951.

2017-1169. State v. Gurkovich.

Cuyahoga App. No. 102558, 2017-Ohio-7061.

2017-1182. State v. Campbell.

Hamilton App. No. C-090875.

O'Donnell, J., dissents.

Fischer, J., not participating.

2017-1193. State v. Dixon.

Montgomery App. No. 21823.

2017-1194. State v. Umstead.

Holmes App. No. 16 CA 004.

2017-1200. State v. Massey.

Lake App. No. 2016-L-030.

2017-1224. State v. Moody.

Montgomery App. No. 26926.

2017-1231. In re Adoption of G.A.R.

Hamilton App. No. C-160588, 2017-Ohio-5612.

O'Donnell, J., dissents.

Fischer, J., not participating.

2017-1262. In re M.D.C.

Franklin App. No. 16AP-646.