

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS

September 26, 2018

[Cite as *09/26/2018 Case Announcements*, 2018-Ohio-3867.]

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## MERIT DECISIONS WITH OPINIONS

**2016-0902. Westerville City Schools Bd. of Edn. v. Franklin Cty. Bd. of Revision, Slip Opinion No. 2018-Ohio-3855.**

Board of Tax Appeals, Nos. 2015-828 and 2015-1165. Decision vacated and cause remanded.

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

**2016-1442. In re LMD Integrated Logistic Servs., Inc., Slip Opinion No. 2018-Ohio-3859.**

Franklin App. No. 15AP-545. Judgment affirmed.

O'Donnell, French, and Fischer, JJ., concur.

DeWine, J., concurs in judgment only, with an opinion joined by O'Connor, C.J., and DeGenaro, J.

Kennedy, J., dissents, with an opinion.

**2017-0792. GC Net Lease @ (3) (Westerville) Investors, L.L.C. v. Franklin Cty. Bd. of Revision, Slip Opinion No. 2018-Ohio-3856.**

Board of Tax Appeals, No. 2016-540. Decision vacated and cause remanded.

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

Kennedy, J., concurs in judgment only.

**2017-1417. Columbus Bar Assn. v. Okuley, Slip Opinion No. 2018-Ohio-3857.**

On Certified Report by the Board of Professional Conduct, No. 2017-017. John

Joseph Okuley, Attorney Registration No. 0076748, last known address in Columbus, Ohio, suspended from the practice of law for one year, six months stayed on conditions.

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

Russell J. Mock, J., of the First District Court of Appeals, sitting for O'Neill, J.

**2017-1741. Columbus Bar Assn. v. Rieser, Slip Opinion No. 2018-Ohio-3860.**

On Certified Report by the Board of Professional Conduct, No. 2017-006. David Paul Rieser, Attorney Registration No. 0025247, last known address in Columbus, Ohio, suspended from the practice of law for two years, one year stayed on conditions.

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

**2018-0251. Cleveland Metro. Bar Assn. v. Rosett, Slip Opinion No. 2018-Ohio-3861.**

On Certified Report by the Board of Professional Conduct, No. 2017-024. Wendy Sue Rosett, Attorney Registration No. 0055870, last known address in Shaker Heights, Ohio, suspended from the practice of law for one year, stayed on conditions.

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

**2018-0255. Akron Bar Assn. v. Glitzenstein, Slip Opinion No. 2018-Ohio-3862.**

On Certified Report by the Board of Professional Conduct, No. 2017-033. Jonell Rae Glitzenstein, Attorney Registration No. 0061889, last known address in Akron, Ohio, suspended from the practice of law for 18 months, stayed on conditions.

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

DeWine, J., not participating.

**MERIT DECISIONS WITHOUT OPINIONS**

**2018-0804. State ex rel. Wilson v. Mohr.**

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

dismissed. Relator's motion for order or relief denied.

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

**2018-0825. State ex rel. Frett v. Sutula.**

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

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

**2018-0826. State ex rel. Sage v. Robinson.**

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

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

**2018-0828. State ex rel. Madrigal v. English.**

In Mandamus. On respondents' motions to dismiss. Motions granted. Cause dismissed.

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

**2018-0839. Baldwin v. Univ. of Cincinnati Hosp. Med. Ctr.**

Miscellaneous case. On respondent's motion to dismiss. Motion granted. Cause dismissed. Relator's motion to amend complaint denied as moot.

O'Connor, C.J., and Fischer, DeWine, and DeGenaro, JJ., concur.

O'Donnell, Kennedy, and French, JJ., concur in granting respondent's motion to dismiss but would also grant relator's motion to amend complaint.

**2018-0844. State ex rel. Hargrove v. First Dist. Court of Appeals.**

In Mandamus. On respondents' motions to dismiss. Motions granted. Cause dismissed.

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

Fischer, J., not participating.

**2018-0862. State ex rel. Dabney v. Hamilton Cty. Common Pleas Court.**

In Prohibition. On respondents' motions to dismiss. Motions granted. Cause dismissed.

O'Connor, C.J., and O'Donnell, Kennedy, French, DeWine, and DeGenaro,

JJ., concur.

Fischer, J., not participating.

**2018-0865. State ex rel. King v. Wells.**

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

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

**2018-0884. State ex rel. Spears v. Breaux.**

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

O'Donnell, Kennedy, French, Fischer, DeWine, and DeGenaro, JJ., concur.

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

**2018-0885. State ex rel. Collins v. Robinson.**

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

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

**2018-0892. State ex rel. Godale v. Eleventh Dist. Court of Appeals.**

In Mandamus. On respondent's motion to dismiss. Motion granted. Cause dismissed. Relator's motion for leave to amend complaint granted.

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

O'Connor, C.J., and DeGenaro, J., concur in granting respondent's motion to dismiss but would deny relator's motion to amend complaint.

**2018-0896. State ex rel. Gerald v. O'Brien.**

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

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

**2018-0897. Berecz v. Kerenyi.**

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

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

**2018-0898. State ex rel. Gott v. Quilter.**

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

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

**2018-0906. Daniels v. Rothgery.**

In Mandamus. On respondent's motion to dismiss. Motion granted. Cause dismissed. Relator's motion to supplement record denied.

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

O'Donnell, J., dissents and would deny respondent's motion to dismiss, grant relator's motion to supplement record, and grant a peremptory writ.

**2018-0910. State ex rel. Allen v. Indus. Comm.**

In Mandamus. On respondent's motion to dismiss. Motion granted. Cause dismissed. Relator's amended motion to strike motion to dismiss and relator's motion for relief denied as moot.

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

**2018-0914. State ex rel. Roth v. Werren.**

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

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

**2018-0940. McAlpin v. Cuyahoga Cty. Court of Common Pleas.**

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

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

**2018-0964. State ex rel. Harris v. Kubicki.**

In Mandamus and Prohibition. On S.Ct.Prac.R. 12.04 determination. Cause dismissed.

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

**2018-0974. State v. Adams.**

In Prohibition. On respondent's motion to dismiss. Motion granted. Cause dismissed. Relator's motion to amend denied.

O'Connor, C.J., and O'Donnell, Fischer, and DeGenaro, JJ., concur.

Kennedy, French, and DeWine, JJ., concur in granting respondent's motion to dismiss but would also grant relator's motion to amend.

**2018-0982. Harmon v. Kate.**

In Mandamus and Prohibition. On respondents' motion to dismiss. Motion granted. Cause dismissed. Relators' motion to strike denied. Relators' motion for stay denied as moot.

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

**2018-0984. Baker v. Shanahan.**

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

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

O'Donnell, J., dissents and would deny respondent's motion to dismiss and grant an alternative writ.

Fischer, J., not participating.

**2018-0988. Williams v. D'Apolito.**

In Prohibition. On respondents' motion to dismiss. Motion granted. Cause dismissed. Relator's emergency motion for stay denied as moot.

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

**2018-0992. Johnson v. Goulding.**

In Mandamus. On respondent's motion to dismiss. 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 after 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'Connor, C.J., and O'Donnell, French, DeWine, and DeGenaro, JJ., concur.

Kennedy and Fischer, JJ., dissent.

**2018-0994. Armour v. Turner.**

In Habeas Corpus. On petitioner's motion for leave to amend. Motion granted. Sua sponte, cause dismissed.

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

**2018-0999. Smitley v. Eppinger.**

In Habeas Corpus. Sua sponte, cause dismissed.

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

**2018-1001. Nixon v. Doherty.**

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

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

**2018-1009. Williams v. D'Apolito.**

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

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

**2018-1015. State ex rel. Dillingham v. Gmoser.**

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

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

**2018-1018. State ex rel. Wilson v. Macko.**

In Habeas Corpus. On petitioner's request for leave to replace pages. Request granted. Sua sponte, cause dismissed.

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

**2018-1023. State v. Clark.**

In Habeas Corpus. Sua sponte, cause dismissed.

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

**2018-1024. Dixon v. Lucas Cty. Common Pleas Clerk.**

In Mandamus. On S.Ct.Prac.R. 12.04 determination. Cause dismissed.

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

**2018-1033. State ex rel. Higgins v. Bowerman.**

In Habeas Corpus. Sua sponte, cause dismissed.

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

**2018-1050. State ex rel. Lackey v. Robinson.**

In Habeas Corpus. Sua sponte, cause dismissed.

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

**2018-1072. Dixon v. Bowmen.**

In Habeas Corpus. Sua sponte, cause dismissed.

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

**2018-1082. State v. Nixon.**

In Habeas Corpus. Sua sponte, cause dismissed.

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

**2018-1085. Galluzzo v. Saint Paris.**

In Habeas Corpus. Sua sponte, cause dismissed.

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

**2018-1112. Browne v. Artex Oil Co.**

Guernsey App. No. 17 CA 20, 2018-Ohio-3746. On motion to dismiss. Motion granted. Cause dismissed.

O'Connor, C.J., and French, DeWine, and DeGenaro, JJ., concur.

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

**2018-1148. State ex rel. Anderson v. Marquis.**

In Habeas Corpus. Sua sponte, cause dismissed.

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



## MOTION AND PROCEDURAL RULINGS

### **1998-2061. State v. Franklin.**

Montgomery C.P. No. 97CR1139. On appellant's application for reopening under S.Ct.Prac.R. 11.06. Application denied.

### **2005-1313. State v. Ware.**

Summit App. No. 22232, 2005-Ohio-1822. On appellant's judicial notice and request to be heard. Request denied.

### **2017-1444. In re Application of Ohio Edison Co.**

Public Utilities Commission, No. 14-1297-EL-SSO. On motion for stay. Motion denied.

### **2017-1664. In re Application of Ohio Edison Co.**

Public Utilities Commission, No. 14-1297-EL-SSO. On motion for stay. Motion denied.

### **2018-0183. State v. Buttery.**

Hamilton App. No. C-160609, 2018-Ohio-9113. Sua sponte, cause no longer held for a decision in 2017-0087, *State v. Carnes*. Stay of briefing schedule lifted. The clerk shall issue an order for the transmittal of the record from the Court of Appeals for Hamilton County, and the parties shall brief this case in accordance with the Rules of Practice.

French and DeWine, JJ., dissent.

Fischer, J., not participating.

### **2018-0572. Cleveland v. Bur. of Workers' Comp.**

Cuyahoga App. No. 1056014, 2018-Ohio-846. On appellant's motion to lift stay and proceed to briefing. Motion granted. The clerk shall issue an order for the transmittal of the record from the Court of Appeals for Cuyahoga County, and the parties shall brief this case in accordance with the Rules of Practice.

O'Donnell, J., dissents.

### **2018-0948. State v. Miller.**

Cuyahoga App. No. 105363, 2018-Ohio-843. On appellee's motion for an order of release from custody or motion for appeal bond. Motion denied.

French and Fischer, JJ., dissent.

DeGenaro, J., not participating.

**2018-0976. State v. West.**

Scioto App. No. 17CA3810, 2018-Ohio-1784. On motion for leave to file delayed appeal. Motion denied.

Kennedy, Fischer, and DeGenaro, JJ., dissent.

**2018-0985. State v. Taylor.**

Franklin App. No. 17AP-329, 2018-Ohio-1528. On motion for leave to file delayed appeal. Motion denied.

DeWine and DeGenaro, JJ., dissent.

**2018-0993. State v. Bush.**

Perry App. No. 17-CA-00007, 2018-Ohio-1032. On motion for leave to file delayed appeal. Motion denied.

**2018-0998. State v. Baker.**

Montgomery App. No. 27596, 2017-Ohio-8602. On motion for leave to file delayed appeal. Motion denied.

**2018-1006. Clifton Steel Co. v. Trinity Equip. Co.**

Cuyahoga App. No. 105675, 2018-Ohio-2186. On appellant's motion for stay and to continue bond at \$10,000. Motion denied.

Kennedy and Fischer, JJ., dissent.

**2018-1052. State v. Shutes.**

Cuyahoga App. No. 105694, 2018-Ohio-2188. On motion for leave to file delayed appeal. Motion granted. Appellant shall file a memorandum in support of jurisdiction within 30 days. Motion for preparation of complete transcript of state expense denied.

O'Connor, C.J., and Kennedy and French, JJ., dissent and would deny leave to file delayed appeal.

**2018-1079. State v. Hopkins.**

Montgomery App. No. 27131, 2018-Ohio-1864. On motion for leave to file delayed appeal. Motion denied.

Kennedy and Fischer, JJ., dissent.

**2018-1108. State v. Davis.**

Cuyahoga App. No. 104574, 2018-Ohio-1147. On motion for leave to file delayed appeal. Motion denied.

Fischer and DeWine, JJ., dissent.

**2018-1111. State v. Hayes.**

Cuyahoga App. No. 104818, 2017-Ohio-7716. On motion for leave to file delayed appeal. Motion denied.

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

**2018-1113. McAdams v. Goldberg.**

In Prohibition. On relator's motion for emergency relief. Motion denied.

O'Donnell, J., dissents and would grant an alternative writ.

**APPEALS ACCEPTED FOR REVIEW**

**2018-0796. State v. Thomas.**

Franklin App. No. 16AP-852, 2018-Ohio-758. Appeal accepted on proposition of law Nos. II and III. Sua sponte, cause held for the decision in 2017-1135, *State v. Wintermeyer*, and briefing schedule stayed.

O'Connor, C.J., and French, J., would also accept the appeal on proposition of law No. I.

Fischer, J., would accept the appeal on all propositions of law.

O'Donnell and Kennedy, JJ., dissent.

**2018-0900. State v. Ramirez.**

Lucas App. No. L-17-1076, 2018-Ohio-1870. Appeal accepted on proposition of law No. I.

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

**2018-0942. Browne v. Artex Oil Co.**

Guernsey App. No. 17 CA 20. Appeal accepted on proposition of law No. I.

Kennedy and Fischer, JJ., would accept the appeal on all propositions of law.

O'Donnell, J., dissents.

**APPEALS NOT ACCEPTED FOR REVIEW**

**2018-0801. State v. Walker.**

Athens App. No. 16CA26.

**2018-0830. State v. Hersi.**

Medina App. No. 17CA0021-M.

**2018-0913. State v. Lewis.**

Hamilton App. No. C-160909, 2018-Ohio-1380.

French and Fischer, JJ., dissent.

**2018-0921. State v. White.**

Scioto App. No. 16CA3747.

**2018-0971. State v. Veley.**

Lucas App. No. L-16-1038.

**2018-1048. State v. Wilson.**

Richland App. No. 17CA31.

**RECONSIDERATION OF PRIOR DECISIONS**

**2018-0502. State v. Jones.**

Miami App. No. 2016-CA-22, 2018-Ohio-673. Reported at 153 Ohio St.3d 1403, 2018-Ohio-2380, 100 N.E.3d 422. On appellant's motion for reconsideration. Motion denied.

O'Donnell, J., dissents.

**2018-0598. Blain's Folding Serv., Inc. v. Cincinnati Ins. Co.**

Cuyahoga App. No. 105913, 2018-Ohio-959. Reported at 153 Ohio St.3d 1441, 2018-Ohio-2834, 102 N.E.3d 499. On appellant's motion for reconsideration. Motion denied.

DeGenaro, J., not participating.

**2018-0607. State v. Vance.**

Jackson App. No. 16CA11, 2018-Ohio-1313. Reported at 153 Ohio St.3d 1434, 2018-Ohio-2639, 101 N.E.3d 465. On appellant's motion for reconsideration. Motion denied. Appellant's motion for memorandum in response to the motion for reconsideration denied as moot.

**2018-0637. State v. Blanton.**

Adams App. No. 16CA1031, 2018-Ohio-1275. Reported at 153 Ohio St.3d 1442, 2018-Ohio-2834, 102 N.E.3d 500. On appellant's motion for reconsideration.

Motion denied.

**2018-0802. State v. Beard.**

Franklin App. No. 18AP-157, 2018-Ohio-3026. Reported at 153 Ohio St.3d 1454, 2018-Ohio-3026, 103 N.E.3d 832. On appellant's motion for reconsideration. Motion denied.

**PETITIONS TO TRANSFER**

**2018-0794. Willacy v. Cleveland Bd. of Income Tax Rev.**

Franklin App. No. 18AP-352 and Board of Tax Appeals, No. 2017-513. On petition to transfer jurisdiction of Hazel M. Willacy. Petition granted. The clerk shall issue an order for the transmittal of the record from the Court of Appeals for Franklin County and the Board of Tax Appeals, and the parties shall brief this case in accordance with the Rules of Practice.

O'Donnell, J., dissents.

**2018-0882. Rockies Express Pipeline, L.L.C. v. Testa.**

Franklin App. No. 18AP-362 and Board of Tax Appeals, No. 2016-1144. On petition to transfer jurisdiction. Petition granted. The clerk shall issue an order for the transmittal of the record from the Court of Appeals for Franklin County and the Board of Tax Appeals, and the parties shall brief this case in accordance with the Rules of Practice.