

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

December 24, 2019

[Cite as *12/24/2019 Case Announcements*, 2019-Ohio-5289.]

MERIT DECISIONS WITH OPINIONS

2017-0770. Columbus Bar Assn. v. Striff, Slip Opinion No. 2019-Ohio-5285.

On Certified Report by the Board of Professional Conduct, No. 2017-019. Respondent, Christopher William Striff Jr., Attorney Registration No. 0085421, last known business address in Delta, Ohio, indefinitely suspended from the practice of law, with no credit for time served under interim suspension.

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

2018-1764. Disciplinary Counsel v. Cheselka, Slip Opinion No. 2019-Ohio-5286.

On Certified Report by the Board of Professional Conduct, No. 2017-050. Respondent, Michael Joseph Cheselka Jr., Attorney Registration No. 0076667, last known business address in Cleveland, Ohio, suspended from the practice of law for two years, with the second year stayed on conditions.

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

Kennedy, J., concurs in part and dissents in part, with an opinion joined by DeWine, J.

Donnelly and Stewart, JJ., not participating.

2019-0800. Disciplinary Counsel v. Walden, Slip Opinion No. 2019-Ohio-5287. On Certified Report by the Board of Professional Conduct, No. 2018-059. Respondent, Derek James Walden, Attorney Registration No. 0083730, last known business address in Columbus, Ohio, suspended from the practice of law for two years, with 18 months conditionally stayed.

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

2019-0804. Toledo Bar Assn v. Bishop, Slip Opinion No. 2019-Ohio-5288.

Board of Professional Conduct, No. 2018-054. Respondent, Jerry James Bishop II, Attorney Registration No. 0016287, last known business address in Toledo, Ohio, suspended from the practice of law in Ohio for two years, with the second year conditionally stayed.

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

MERIT DECISIONS WITHOUT OPINIONS

2019-0592. State ex rel. Stuart v. Greene.

In Mandamus. Sua sponte, alternative writ granted. The following briefing schedule is set for the 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 Kennedy, French, Fischer, DeWine, Donnelly, and Stewart, JJ., concur.

2019-0842. State ex rel. Skurla v. Miday.

In Prohibition. On respondent's motion to dismiss. Motion granted. Richard Plishka's motion to intervene denied. Cause dismissed.

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

Fischer, J., dissents.

2019-1138. State ex rel. Cramer v. Heldman.

In Prohibition. Sua sponte, cause dismissed for failure to state a claim.

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

2019-1192. State ex rel. Vision Group Holdings v. Dinkelacher.

In Prohibition. On relators' motion to stay proceedings in the court of common pleas. Motion denied. Motions of LCA-Vision, Inc., to intervene, for judgment on pleadings, and to strike relators' motion to stay proceedings denied.

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

2019-1212. State ex rel. McDougald v. Sehlmeier.

In Mandamus. On respondent's motion to dismiss. Motion denied. Relator's motions for leave to amend complaint and to file supplemental pleadings granted.

Sua sponte, alternative writ granted. The following briefing schedule is set for the 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.

Kennedy, French, DeWine, Donnelly, and Stewart, JJ., concur.

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

2019-1223. State v. Mixon.

Miscellaneous case. On respondent's motion to dismiss. Motion granted. Relator's motion for discovery denied as moot. Relator's "motion and writ" denied. Cause dismissed.

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

2019-1271. State ex rel. Davis v. Jones.

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

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

2019-1301. State ex rel. Townsend v. Gaul.

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

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

Stewart, J., not participating.

2019-1334. State ex rel. Yanasak v. Kimber.

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

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

2019-1340. State ex rel. Evans v. Vivo.

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

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

2019-1344. State ex rel. Hillman v. O'Brien.

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

O'Connor, C.J., and Kennedy, Fischer, DeWine, Donnelly, and Stewart, JJ., concur.

French, J., not participating.

2019-1346. State ex rel. Felton v. Miller.

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

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

2019-1358. Heisa v. Butler Cty. Sheriff Dept.

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

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

DeWine, J., dissents and would grant an alternative writ as to damages.

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

2019-1360. State ex rel. Clark v. D'Apolito.

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

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

2019-1361. State ex rel. Jones v. Hamilton Cty. Court of Common Pleas.

In Mandamus and Prohibition. On motion to dismiss of respondents Wells Fargo Bank, N.A., Thompson Hine L.L.P., the Hamilton County respondents, and Specialized Loan Servicing, L.L.C. Motion granted. Cause dismissed.

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

2019-1375. State ex rel. Hill v. Navarre.

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

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

2019-1409. State ex rel. Israfil v. Craig.

In Mandamus. On respondents' motion to dismiss. Motion granted. Relator's motion for preliminary injunction denied as moot. Cause dismissed.

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

Stewart, J., dissents and would deny the motion to dismiss, grant an alternative writ as to request No. 4, and deny the motion for preliminary injunction.

2019-1415. Dugas v. Adult Parole Auth.

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

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

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

2019-1447. Ohioans Against Corporate Bailouts, L.L.C. v. LaRose.

Certified Question of State Law, United States District Court, Southern District of Ohio, Eastern Division, No. 2:19-CV-4466. On review pursuant to S.Ct.Prac.R. 9.05, the court will answer the following questions: "(1) Whether the right to referendum set forth in Article II, Section 1 of the Ohio Constitution guarantees those circulating petitions in support of a referendum a full ninety days solely for the purpose of circulating petitions? (2) If so, whether R.C. 3519.01 violates the Ohio Constitution by shortening the ninety days to accommodate the fair-and-truthful review? (3) If the Ohio Constitution guarantees a petitioner ninety days to circulate petitions, whether the number of days attributable to a petitioner's own errors in submitting a referendum petition under R.C. 3519.01 is "credited" to the petitioner, or deducted from the ninety days? (4) Whether a petitioner who does not claim to

be “aggrieved” by the fair-and-truthful determination and thus fails to appeal the denial of a certification under R.C. 3519.01(C) is entitled to credit toward the ninety days for the time spent fixing deficiencies in a fair-and-truthful statement?
(5) Whether a petitioner gets credit toward the ninety days for the time before, or between, a petition submission when the Attorney General and Secretary of State do not have a petition to review and consider under R.C. 3519.01?”

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 Kennedy, Donnelly, and Stewart, JJ., concur.
French, Fischer, and DeWine, JJ., not participating.

MOTION AND PROCEDURAL RULINGS

2019-0273. In re Complaint of Wingo v. Nationwide Energy Partners, L.L.C.

Public Utilities Commission, No. 17-2002-EL-CSS. On intervening appellee’s motion to strike appellant’s merit brief and to dismiss proposition of law Nos. I through V. Motion granted in part and denied in part. Motion granted as to proposition of law No. V and granted in part as to proposition of law No. III. Proposition of law No. V and appellant’s challenge to intervening appellee’s affidavit dismissed. Remainder of motion denied.

Appellee’s motion to dismiss proposition of law Nos. V and VI granted in part and denied in part. Proposition of law No. V dismissed. Remainder of motion denied.

French, J., would also grant intervening appellee’s motion as to proposition of law Nos. I and IV and would dismiss those propositions of law.

2019-0493. State ex rel. AWMS Water Solutions, L.L.C. v. Zehringer.

Trumbull App. No. 2016-T-0085, 2019-Ohio-923. On appellants’ request for oral argument. Request granted.

2019-0594. State v. Groce.

Franklin App. No. 18AP-51, 2019-Ohio-1007. On appellee/cross-appellant’s motion to dissolve stay and set a briefing schedule. Motion granted. The parties shall brief this case in accordance with the Rules of Practice of the Supreme Court of Ohio.

O’Connor, C.J., and DeWine and Stewart, JJ., dissent.

2019-1347. State v. Tucker.

Lorain App. No. 14CA010704, 2016-Ohio-1354. On appellant's motion for delayed appeal. Motion denied.

Kennedy, Donnelly, and Stewart, JJ., dissent.

2019-1485. In re S.M.

Logan App. Nos. 8-18-46, 8-18-47, 8-18-55, and 8-18-56, 2019-Ohio-3721. On appellants' motion for stay of court of appeals' judgment. Motion denied.

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

2019-1502. State v. DeGarmo.

Muskingum App. No. CT2018-0061, 2019-Ohio-4050. On appellant's motion to stay. Motion denied.

Fischer and Donnelly, JJ., dissent.

2019-1588. State v. Diehl.

Wood App. No. WD-18-041, 2019-Ohio-3818. On appellant's motion for stay of court of appeals' judgment. Motion denied.

APPEALS ACCEPTED FOR REVIEW

2019-1104. State v. Gideon.

Allen App. Nos. 1-18-27, 1-18-28, and 1-18-29, 2019-Ohio-2482. Appeal and cross-appeal accepted.

Kennedy, J., would not accept the cross-appeal.

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

2019-1275. Smith v. Euclid.

Cuyahoga App. No. 107771, 2019-Ohio-3099. Appeal accepted on proposition of law No. I.

Fischer, DeWine, and Stewart, JJ., would accept the appeal on both propositions of law.

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

APPEALS NOT ACCEPTED FOR REVIEW

2019-1256. State v. Lewis.

Logan App. No. 8-19-08, 2019-Ohio-3031.

Fischer, Donnelly, and Stewart, JJ., dissent.

RECONSIDERATION OF PRIOR DECISIONS

2018-0097. Cleveland v. State.

Cuyahoga App. No. 105500, 2017-Ohio-8882. Reported at __ Ohio St.3d __, 2019-Ohio-3820, __ N.E.3d __. On motion for reconsideration. Motion denied.

O'Connor, C.J., and Donnelly and Stewart, JJ., dissent.

2019-0923. In re A.M.

Hamilton App. No. C-190027, 2019-Ohio-2028. Reported at 157 Ohio St.3d 1406, 2019-Ohio-3731, 131 N.E.3d 77. On motion for reconsideration. Motion granted. Appeal accepted on proposition of law No. I. The parties shall brief this case in accordance with the Rules of Practice of the Supreme Court of Ohio.

Kennedy, Fischer, and DeWine, JJ., dissent.