

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

September 22, 2021

[Cite as *09/22/2021 Case Announcements*, 2021-Ohio-3233.]

MERIT DECISIONS WITH OPINIONS

2020-0303. Johnson v. Abdullah, Slip Opinion No. 2021-Ohio-3304.

Hamilton App. No. C-180309, 2019-Ohio-4861. Judgment affirmed.

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

Stewart, J., concurs in judgment only.

2020-0511. In re Application of Duke Energy, Ohio, Inc., Slip Opinion No. 2021-Ohio-3301.

Power Siting Board, No. 16-0253-GA-BTX. Order affirmed.

O'Connor, C.J., and Hensal, DeWine, Donnelly, Stewart, and Brunner, JJ., concur.

Kennedy, J., concurs, with an opinion.

Jennifer L. Hensal, J., of the Ninth District Court of Appeals, sitting for Fischer, J.

2021-0440. Columbus Bar Assn. v. Polly-Murphy, Slip Opinion No. 2021-Ohio-3302.

On Certified Report by the Board of Professional Conduct, No. 2020-047. Michelle Lyn Polly-Murphy, Attorney Registration No. 0072091, last known business address in Columbus, Ohio, suspended from the practice of law for one year, fully stayed on conditions.

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

Fischer, J., dissents, with an opinion joined by O'Connor, C.J.

MERIT DECISIONS WITHOUT OPINIONS

2020-0121. Heisa v. Butler Cty. Sheriff's Office.

In Mandamus. On respondent's motion to dismiss for failure to state a claim and for mootness. Motion denied. Respondent ordered to file an answer to the complaint within 21 days.

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

2021-0381. Tully v. Saul.

In Mandamus. Sua sponte, cause dismissed.

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

2021-0494. State ex rel. Adkins v. Beathard.

In Mandamus. Sua sponte, alternative writ granted. The following 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.

Fischer, DeWine, Donnelly, and Brunner, JJ., concur.

O'Connor, C.J., and Kennedy and Stewart, JJ., dissent and would grant the writ.

2021-0580. Durkin v. Williams.

In Prohibition. On respondent's motion to dismiss. Motion denied. Sua sponte, alternative writ granted. The following 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, Fischer, Donnelly, Stewart, and Brunner, JJ., concur.

DeWine, J., dissents and would grant the motion.

2021-0594. State ex rel. Debbie’s Dispensary Ohio 4, L.L.C. v. Schierholt.

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

O’Connor, C.J., and Kennedy, DeWine, Donnelly, Stewart, and Brunner, JJ., concur.

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

2021-0607. State ex rel. Jefferson v. Toledo Police Dept.

In Mandamus. Sua sponte, cause dismissed.

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

2021-0695. Black v. Heath.

Miscellaneous case. On respondent Judge Taryn Heath’s motion to dismiss. Motion granted. Sua sponte, cause dismissed.

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

2021-0722. State ex rel. Polivka v. Frenchko.

In Quo Warranto. On respondent’s motion to dismiss. Motion granted. Cause dismissed.

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

Kennedy and Brunner, JJ., not participating.

2021-0745. Whorton v. Cognitians, L.L.C.

Miscellaneous case. On relator’s motion for oral argument. Motion denied. Relator’s motion for discovery denied. Respondents’ motions to dismiss granted. Cause dismissed.

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

2021-0753. Bridges v. Cuyahoga Cty. Prosecutor’s Office.

In Mandamus and Prohibition. On respondents’ motions to dismiss. Motions granted. Relator’s “motion for leave to file S.Ct.Prac.R. 17.02 of his filed mandamus and prohibition not to delay or affect any party” and “motion for leave to convey relator for court appearance on oral hearing and or any other hearing not to delay or to prejudice any party” denied. Cause dismissed.

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

2021-0767. State ex rel. Jackson v. Ohio Adult Parole Auth.

In Mandamus. On respondent's motion to dismiss. Motion granted. Relator's motion to supplement petition for writ of mandamus denied as moot. Cause dismissed.

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

2021-0805. In re Wesley v. Cuyahoga Cty. Court of Common Pleas.

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

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

2021-0816. State ex rel. Bradford v. Donofrio.

In Mandamus. On relator's motion to amend complaint. Motion denied. Respondents' motion to dismiss granted. Relator's motion to take judicial notice denied. Cause dismissed.

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

2021-0827. State ex rel. Bloodworth v. O'Shaughnessy.

In Mandamus. On relator's motion requesting entry of default judgment. Motion denied. Relator's motion for immediate issuance of a peremptory writ of mandamus denied. Sua sponte, cause dismissed.

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

2021-0853. State ex rel. Nyamusevya v. Franklin Cty. Court of Common Pleas.

In Procedendo and Prohibition. On relator's emergency verified motion for an alternative writ or temporary restraining order or preliminary injunction order. Motion denied. Relator's motion for objection to respondent's July 26, 2021 motion to dismiss denied as moot. Respondent's motion to dismiss amended complaint granted. Cause dismissed.

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

Brunner, J., not participating.

2021-0861. State ex rel. Suber v. Twelfth Dist. Court of Appeals.

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

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

2021-0880. State ex rel. Bowie v. Williams.

In Procedendo. On respondent's motion to dismiss. Motion granted. Relator's request for substitution of parties denied as futile. Cause dismissed.

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

Donnelly and Brunner, JJ., dissent and would grant an alternative writ and would grant the motion.

Fischer, J., not participating.

MOTION AND PROCEDURAL RULINGS

2014-1493. Foster v. Sheldon.

In Habeas Corpus. On petitioner's "Fourth Amendment retroactive application." Application denied.

Fischer, J., not participating.

2020-1466. State ex rel. Gil-Llamas v. Hardin.

In Mandamus. On relators' motion for award of attorney fees and expenses. Motion denied.

2021-0600. Farley v. Melton.

In Habeas Corpus. On petitioner's request to refile. Request denied. Petitioner's second request to refile denied.

2021-0735. State v. Gross.

Muskingum App. No. CT1996-0055. On appellant's motion for remand for evidentiary hearing. Motion denied as moot. Appellee's motion to dismiss for want of prosecution granted. Cause dismissed.

2021-0850. State v. Midgett.

Richland App. No. 2020 CA 0058, 2021-Ohio-2317. On appellant's motion for stay. Motion denied.

Brunner, J., dissents.

2021-0857. In re K.K.

Butler App. Nos. CA2020-12-130, CA2021-01-002, and CA2021-01-003, 2021-Ohio-1689. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue as stated on page 2 of the court of appeals' July 7, 2021 entry: "According to the language in place prior to the April 12, 2021 amendment, does res judicata bar a parent's argument on appeal from a permanent custody determination that the juvenile court failed to abide by the 90-day timeframe set forth in R.C. 2151.353(B)(1) when the parent failed to raise the argument to the juvenile court and failed to appeal an underlying abuse, neglect or dependency disposition?" The conflict case is *In re L.S.*, 4th Dist. Ross No. 20CA3719, 2021-Ohio-5516. Sua sponte, cause consolidated with 2021-0822, *In re K.K.*, and briefing in case Nos. 2021-0822 and 2021-0857 consolidated.

Donnelly and Brunner, JJ., dissent.

2021-0864. Maple Hts. v. Netflix, Inc.

Certified Question of State Law, United States District Court, Northern District of Ohio, Eastern Division, No. 1:20-CV-01872. On review pursuant to S.Ct.Prac.R. 9.05, the court will answer the following questions: (1) "Are Netflix and Hulu video service providers under Ohio law?" and (2) "Can Maple Heights sue Netflix and Hulu to enforce Ohio's video service provider provisions?" Petitioners shall file their 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.

2021-0925. State v. Moran.

Lake App. No. 2020-L-114 through 2020-L-117, 2021-Ohio-1987. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause consolidated with 2021-0902, *State v. Moran*, and held for the decision in 2020-1266, *State v. Maddox*, and briefing schedule stayed.

APPEALS ACCEPTED FOR REVIEW

2021-0742. State v. Jackson.

Hamilton App. No. C-200153, 2021-Ohio-1646.

2021-0800. Bliss v. Johns Manville Corp.

Lucas App. No. L-20-1091, 2021-Ohio-1673. Appeal accepted on proposition of law No. I.

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

2021-0822. In re K.K.

Butler App. Nos. CA2020-12-130, CA2021-01-002, and CA2021-01-003, 2021-Ohio-1689. Sua sponte, cause consolidated with 2021-0857, *In re K.K.*, and briefing in case Nos. 2021-0822 and 2021-0857 consolidated.

Donnelly and Brunner, JJ., dissent.

2021-0902. State v. Moran.

Lake App. Nos. 2020-L-114 through 2020-L-117, 2021-Ohio-1987. Sua sponte, cause consolidated with 2021-0925, *State v. Moran*, and held for the decision in 2020-1266, *State v. Maddox*, and briefing schedule stayed.

2021-0907. State v. Williams.

Hamilton App. No. C-210326. Sua sponte, court of appeals' judgment summarily reversed pursuant to R.C. 2953.21(D) and cause remanded to the court of appeals.

Fischer, J., would accept the appeal on proposition of law Nos. II and IV.

APPEALS NOT ACCEPTED FOR REVIEW

2021-0339. State v. Barnes.

Ross App. No. 19CA3687, 2020-Ohio-3943.

Donnelly and Brunner, JJ., dissent and would summarily reverse to correct the sentencing entry.

2021-0610. Tomechko v. Garrett.

Noble App. No. 20 NO 0473, 2021-Ohio-1377. Appeal and cross-appeal not accepted.

Kennedy, J., would accept the appeal.

Brunner, J., dissents and would accept the appeal on proposition of law No. I and would accept the cross-appeal.

2021-0683. State v. Tomlinson.

Cuyahoga App. 109615, 2021-Ohio-1301.

Donnelly and Brunner, JJ., dissent.