

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

November 30, 2022

[Cite as *11/30/2022 Case Announcements*, 2022-Ohio-4268.]

MERIT DECISIONS WITH OPINIONS

2019-1381. State v. Garrett, Slip Opinion No. 2022-Ohio-4218.

Franklin C.P. No. 18CR168. Judgment affirmed and cause remanded. Sentence ordered to be carried into execution by the warden of the Southern Ohio Correctional Facility or, in his absence, by the deputy warden on Wednesday, January 27, 2027.

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

Duhart, J., concurs in part and dissents in part, with an opinion joined by Donnelly and Stewart, JJ.

Myron C. Duhart, J., of the Sixth District Court of Appeals, sitting for Brunner, J.

2021-0864. Maple Hts. v. Netflix, Inc., Slip Opinion No. 2022-Ohio-4174.

Certified Question of State Law, United States District Court, Northern District of Ohio, Eastern Division, No. 1:20-CV-01872. Certified state-law questions answered in the negative.

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

Kennedy, J., concurs in judgment only, with an opinion joined by Fischer and DeWine, JJ.

2021-1479. State ex rel. Walmart, Inc. v. Hixon, Slip Opinion No. 2022-Ohio-4187.

Franklin App. No. 19AP-323, **2021-Ohio-3802**. Judgment reversed.

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

Fischer, J., concurs in judgment only.

Kennedy, J., dissents, with an opinion joined by DeWine, J.

2022-0409. State ex rel. Andrews v. Lake Cty. Court of Common Pleas, Slip Opinion No. 2022-Ohio-4189.

In Prohibition, Mandamus, and Quo Warranto. Writs of prohibition and mandamus granted and writ of quo warranto denied as moot. Respondents' motion to dismiss first amended complaint denied.

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

Fischer, J., concurs with respect to the majority's denial of the writ of quo warranto and its conclusion that Lake County is not a proper party and otherwise dissents.

2022-0715. Disciplinary Counsel v. Ferfolia, Slip Opinion No. 2022-Ohio-4220.

On Certified Report of the Board of Professional Conduct, No. 2021-028. Donald Bryan Ferfolia Jr., Attorney Registration No. 0082049, last known business address in Brecksville, Ohio, suspended from the practice of law for one year, fully stayed on conditions.

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

DeWine, J., concurs in judgment only.

Kennedy, J., dissents, with an opinion.

MERIT DECISIONS WITHOUT OPINIONS

2021-1469. State ex rel. Balunek v. Marchbanks.

In Mandamus. On respondents' motion for judgment on pleadings. 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, respondents 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 respondents' brief.

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

Brunner, J., concurs and would sua sponte order the parties to inform the court as to the status of the probate case in Cuyahoga C.P. No. 2016-ADV-214882, and to include in their briefing what, if any, impact that matter has on relator's claim.

2022-0344. State ex rel. Martens v. Findlay.

In Mandamus. On relator's motion for default judgment. Motion denied. Relator's motion to strike memo opposing motion for default judgment denied. Respondents' motion to strike relator's motion to strike denied. Sua sponte, cause dismissed.

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

2022-0802. State ex rel. Youngstown Civ. Serv. Comm. v. Sweeney.

In Prohibition. On motion to dismiss of respondents Judge Maureen A. Sweeney and Mahoning County Court of Common Pleas. Motion granted as to Mahoning County Court of Common Pleas. Motion denied as to Judge Maureen A. Sweeney and 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, relators 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 relators' brief, and relators may file a reply brief within 7 days after the filing of respondent's brief. Respondent Michael R. Cox's amended motion to dismiss granted.

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

DeWine, J., would grant the motions to dismiss as to all respondents.

2022-0870. State ex rel. Pointer v. Byrd

In Mandamus. On respondent Nailah K. Byrd's motion to dismiss. Motion granted. Respondent James Bradford's motion to dismiss granted. Relator's motion to strike motion to dismiss denied. Respondent Maryellen O'Shaughnessy's motion to dismiss denied. *See, e.g., State ex rel. McDougald v. Greene*, 155 Ohio St.3d 216, 2018-Ohio-4200, 120 N.E.3d 216, ¶ 8 (the requirements of R.C. 2969.25 do not apply to original actions filed in the Supreme Court). Sua sponte, cause dismissed as to respondent Maryellen O'Shaughnessy. Cause dismissed.

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

2022-0875. State ex rel. Harding v. Costello.

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

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

2022-0933. State ex. rel. Carroll Cty. Republican PAC v. Donofrio.

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

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

2022-0945. State ex rel. McCarley v. Ohio Am. Water Co.

In Mandamus. On respondent's motion to dismiss original action and amended complaint. Motion granted. Relator's motion for default judgment and motion to strike respondents' motion to dismiss denied. Cause dismissed.

O'Connor, C.J., and Fischer, DeWine, Donnelly, and Brunner, JJ., concur.
Kennedy and Stewart, JJ., dissent and would grant an alternative writ.

2022-1002. State ex rel. Givens v. Newhart.

In Prohibition. On respondents' motion to dismiss. Motion granted. Relator's motion to strike motion to dismiss, motion to amend complaint, and motion to amend petition denied. Cause dismissed.

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

2022-1056. Griffin-Dudley v. Howe.

In Mandamus and Prohibition. On respondent's motion for judgment on pleadings. Motion granted. Relator's motion to strike and motion for default judgment denied. Cause dismissed.

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

2022-1066. State ex rel. Ware v. Ohio Dept. of Rehab. & Corr.

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

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

2022-1067. State ex rel. Blachere v. Brown.

In Prohibition. On respondent's motion to dismiss. Motion granted. Relator's motion for findings of fact and conclusions of law denied. Cause dismissed.

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

2022-1087. McNutt v. Kiggans.

In Mandamus and Procedendo. On respondent Brandon Waltenbaugh's motion to dismiss. Motion granted. Sua sponte, cause dismissed as to respondent Jeffrey Kiggans. Relators' motion Nos. 1 through 5, complaint for replevin, and motion for order of possession of property denied. Cause dismissed.

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

2022-1094. State ex rel. Mallory v. Spatny.

In Mandamus. On respondents' motion to dismiss. Motion granted. Relator's motion for default judgment denied. Cause dismissed.

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

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

2022-1102. Lamont v. State.

In Mandamus. On motions to dismiss of respondents Hamilton County Prosecutor's Office and Ohio Attorney General. Motions granted. Sua sponte, cause dismissed as to respondent Hamilton County Court of Common Pleas. Relator's "motion to strike/deny memorandum," "motion to strike/deny," and "motion to strike/deny for mistake" denied. Cause dismissed.

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

2022-1132. Khamisi v. Deters.

Miscellaneous case. On respondents' motion to dismiss original common-law action. Motion granted. Relator's "motion to vacate void judgments, jury demand and order" denied. Cause dismissed.

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

Fischer, J., not participating.

2022-1154. State ex rel. Howard v. Turner.

In Mandamus. On motion for leave to file omnibus complaint in mandamus and alternative/peremptory writ of mandamus. Relator permitted to file amended complaint within 21 days.

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

MOTION AND PROCEDURAL RULINGS

2021-0725. State ex rel. Mobley v. Ohio Dept. of Rehab. & Corr.

In Mandamus. On relator's motion for order of contempt of court and motion for postjudgment interest. Respondent ordered to show cause within 14 days why it should not be held in contempt of this court's June 1, 2022 judgment and why the court should not grant an award of postjudgment interest to be added to relator's award of statutory damages.

Fischer, J., dissents.

2022-0322. Krewina v. United Specialty Ins. Co.

Hamilton App. No. C-210163, **2021-Ohio-4425**. On appellee's motion to dismiss. Motion denied.

Donnelly, J., dissents.

2022-0592. Waterhouse v. Summit Cty. Common Pleas Court.

In Procedendo. On relator's motion to enter facts. Motion denied.

2022-0773. State v. Marshall.

Wood App. No. WD-21-043, **2022-Ohio-1533**. On appellant's motion to dismiss and vacate or, in the alternative, for substitution of parties. Motion to dismiss and vacate granted. Cause dismissed.

Fischer, J., dissents.

2022-1082. State v. Randolph.

Lucas App. No. L-21-1140, **2022-Ohio-2909**. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issues as stated in *State v. Randolph*, 2022-Ohio-2909, 194 N.E.3d 476, ¶ 41 (12th Dist.): "Can a rental property owner, or the owner's agent (landlord or agent), prohibit a person from entering onto the property such that a tenant of that property is prohibited from inviting that person to the tenant's residence or apartment? Must the owner of rental property, or an agent (landlord or agent), sacrifice possessory interests in the property to a tenant so the tenant can invite a banned or 'trespassed' person to the tenant's residence or apartment?" The conflict cases are *State v. Smith*, 2d Dist. Montgomery No. 25048, 2012-Ohio-4861, and *State v. Scott*, 2d Dist. Montgomery No. 19902, 2004-Ohio-271.

Brunner, J., dissents.

2022-1166. Ewing v. UC Health.

Hamilton App. No. C-210390, **2022-Ohio-2560**. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause held for the decision in 2022-0407 and 2022-0424, *Everhart v. Coshocton*; cause consolidated with 2022-1121, *Ewing v. UC Health*; and briefing schedule stayed.

2022-1247. Found. Medici v. Butler Inst. of Am. Art.

Trumbull App. No. 2020-T-0042, **2022-Ohio-2923**. On appellant's motion for stay of court of appeals' judgment. Motion denied as moot.

APPEALS ACCEPTED FOR REVIEW

2022-1121. Ewing v. UC Health.

Hamilton App. No. C-210390, **2022-Ohio-2560**. Sua sponte, cause held for the decision in 2022-0407 and 2022-0424, *Everhart v. Coshocton*; cause consolidated with 2022-1166, *Ewing v. UC Health*; and briefing schedule stayed.

Fischer and Donnelly, JJ., dissent.