

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS

March 15, 2023

[Cite as *03/15/2023 Case Announcements, 2023-Ohio-773.*]

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## MERIT DECISIONS WITH OPINIONS

**2022-0191. State ex rel. Ware v. Parikh, Slip Opinion No. 2023-Ohio-759.**

In Mandamus. Writ granted in part and denied in part and \$1,000 in statutory damages awarded.

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

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

Deters, J., not participating.

**2022-0811. State ex rel. Justice v. State, Slip Opinion No. 2023-Ohio-760.**

Franklin App. No. 22AP-53. Judgment affirmed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

## MERIT DECISIONS WITHOUT OPINIONS

### **2021-1276. State ex rel. Hutchison v. DeWine.**

In Mandamus. On state of Ohio's motion to intervene. Motion granted. Motions to dismiss of respondent Newark Police Department and respondents Deputy Warden Hobbs and Unit Manager Hernandez and intervening respondent state of Ohio granted. Renewed motions to dismiss of respondents Ohio Governor Mike DeWine et al.; Diane Menashe; and Licking County Court of Common Pleas Judges W. David Branstool and Thomas Marcelain, Prosecuting Attorney William Hayes, and Clerk of Courts Olivia C. Parkinson granted. Sua sponte, cause dismissed as to remaining respondents. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

### **2022-1516. Wagoner v. Montgomery Cty. Court of Common Pleas.**

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

Kennedy, C.J., and Fischer, DeWine, Stewart, and Deters, JJ., concur.

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

### **2022-1517. State ex rel. Simpson v. Melnick.**

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

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

### **2022-1522. Anderson v. Ohio Pub. Defender's Office.**

In Mandamus. On respondent's motion to dismiss. Motion granted. Relator's motion to show exhibits A to D denied as moot. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

### **2022-1541. State ex rel. Tingler v. VanEerten.**

In Mandamus. On relator's motion to waive affidavit requirement. Motion denied. Respondent's motion to dismiss granted. Relator's motion to strike and discharge counsel of record denied as moot. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2022-1546. State ex rel. Tingler v. Angler.**

In Mandamus. On relator's motion to waive affidavit requirement. Motion denied. Respondent's motion to dismiss granted. Relator's motion to strike and discharge counsel of record denied as moot. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2022-1552. State ex rel. Tingler v. Thompson.**

In Mandamus. On relator's motion to waive affidavit requirement. Motion denied. Respondent's motion to dismiss granted. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner and Deters, JJ., concur.

**2022-1557. State ex rel. Tingler v. Port Clinton Police Dept.**

In Mandamus. On relator's motion to waive affidavit requirement. Motion denied. Respondents' motions to dismiss granted. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2022-1558. State ex rel. Tingler v. Bucyrus Police Dept.**

In Mandamus. On relator's motion to waive affidavit requirement. Motion denied. Respondents' motions to dismiss granted. Relator's motion to strike and discharge counsel of record denied as moot. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2022-1564. State ex rel. Tingler v. Ottawa Cty. Sheriff's Office.**

In Mandamus. On respondents' motion to dismiss. Motions granted. Relator's motion to strike and discharge counsel of record denied as moot. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2022-1565. State ex rel. Tingler v. Kettering Police Dept.**

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

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2022-1567. State ex rel. Tingler v. Gmoser.**

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

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2022-1569. State ex rel. Tingler v. Lucas Cty. Coroner's Office.**

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

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2022-1570. State ex rel. Tingler v. Butler Cty. Sheriff's Office.**

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

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2022-1571. State ex rel. Tingler v. Mansfield Police Dept. Crime Lab.**

In Mandamus. Sua sponte, cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2022-1572. State ex rel. Tingler v. Evans.**

In Mandamus. On respondent's motion for judgment on pleadings. Motion granted. Relator's motion to strike and disqualify counsel of record denied as moot. Respondent's motion for leave to file an amended answer, motion to declare relator a vexatious litigator, and motion to strike relator's motion to strike and disqualify counsel of record denied as moot. Cause dismissed.

Donnelly, Stewart, Brunner, and Deters, JJ., concur.

Fischer, J., would deny respondent's motion for leave on the merits.

Kennedy, C.J., concurs in part and dissents in part and would grant respondent's motion to strike.

DeWine, J., concurs in part and dissents in part and would deny relator's motion to strike and respondent's motion to strike on the merits and grant respondent's motion for leave.

**2022-1575. State ex rel. Tingler v. Bowling Green Police Dept.**

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

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2022-1577. State ex rel. McDougald v. Burkhart.**

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

Kennedy, C.J., and Fischer, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

DeWine, J., dissents and would deny respondent's motion, grant relator's motion, and grant an alternative writ.

**2022-1587. State ex rel. Tingler v. Williams Cty. Prosecutor's Office.**

In Mandamus. On respondent's motion to dismiss. Motion granted. Relator's motion to strike and disqualify counsel denied as moot. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2022-1589. State ex rel. Tingler v. Medina Police Dept.**

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

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2022-1592. State ex rel. Tingler v. Noble Cty. Prosecutor's Office.**

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

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2022-1596. State ex rel. Tingler v. Ottawa Cty. Probation Dept.**

In Mandamus. On respondents' motions to dismiss. Motions granted. Relator's motion to strike and disqualify counsel denied as moot. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2022-1605. State ex rel. Tingler v. Port Clinton Police Dept.**

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

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2022-1606. State ex rel. Tingler v. Office of Disciplinary Counsel.**

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

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2022-1607. State ex rel. Tingler v. Ottawa Cty. Sheriff's Office.**

In Mandamus. On respondents' motions to dismiss. Motions granted. Relator's motion to strike and disqualify counsel denied as moot. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2022-1608. State ex rel. Tingler v. Noble Cty. Prosecutor's Office.**

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

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2022-1609. State ex rel. Tingler v. Bur. of Criminal Investigation.**

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

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2022-1610. State ex rel. Tingler v. Ravenna Police Dept.**

In Mandamus. Sua sponte, cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2022-1611. State ex rel. Tingler v. Portage Cty. Sheriff's Office.**

In Mandamus. On respondents' motions to dismiss. Motions granted. Relator's motion to withdraw granted. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2022-1615. State ex rel. Tingler v. Ross Cty. Prosecutor's Office.**

In Mandamus. On respondent's motion to dismiss. Motion granted. Relator's motion to strike and discharge counsel of record denied as moot. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2022-1616. State ex rel. Tingler v. Upper Sandusky Police Dept.**

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

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2022-1618. State ex rel. Tingler v. Office of Disciplinary Counsel.**

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

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2022-1619. State ex rel. Tingler v. DeWine.**

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

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2022-1620. State ex rel. Tingler v. Akron Police Dept.**

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

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2022-1621. State ex rel. Tingler v. Cleveland Police Dept.**

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

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2022-1622. State ex rel. Tingler v. Port Clinton Police Dept.**

In Mandamus. On respondents' motions to dismiss. Motions granted. Relator's motion to strike and disqualify counsel denied as moot. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2022-1629. State ex rel. Tingler v. Cuyahoga Cty. Sheriff's Office.**

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

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2022-1630. State ex rel. Tingler v. Williams Cty. Sheriff's Office.**

In Mandamus. On respondent's motion to dismiss. Motion granted. Relator's motion to strike and disqualify counsel denied as moot. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2022-1631. State ex rel. Gomez v. Martin.**

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

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2022-1638. State ex rel. Tingler v. Port Clinton Police Dept.**

In Mandamus. On respondent's motion to dismiss. Motion granted. Relator's motion to strike and disqualify counsel denied as moot. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2022-1639. State ex rel. Tingler v. Fremont Police Dept.**

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

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2022-1647. State ex rel. Tingler v. Huron Cty. Clerk of Courts.**

In Mandamus. On respondent's motion to dismiss. Motion granted. Respondent's motion to declare relator a vexatious litigator denied as moot; relator has been declared a vexatious litigator in 2022-1534, *State ex rel. Tingler v. Franklin Cty.*



*Prosecutor's Office*; 2022-1612, *State ex rel. Tingler v. Franklin Cty. Prosecutor's Office*; and 2022-1624, *State ex rel. Tingler v. Franklin Cty. Prosecutor's Office*. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2023-0003. State ex rel. Tingler v. Perkins Twp. Police Dept.**

In Mandamus. On motion for judgment on pleadings of respondent Perkins Township Police Department. Motion granted. Respondent Bureau of Adult Detention's motion to dismiss granted. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2023-0022. State ex rel. Tingler v. Cuyahoga Cty. Prosecutor's Office.**

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

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2023-0023. State ex rel. Tingler v. Cuyahoga Cty. Prosecutor's Office.**

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

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

**2023-0037. State ex rel. Scott v. Clark Cty. Clerk of Courts.**

In Mandamus. On respondent's motion for judgment on pleadings. Motion granted. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

## MOTION AND PROCEDURAL RULINGS

**1989-1291. State v. Sneed.**

Stark App. No. CA6976. On joint motion to vacate scheduled execution date. Motion granted.

**2022-1271. Rosenthal v. Cuyahoga Cty. Court of Common Pleas, Div. of Domestic Relations.**

In Mandamus and Prohibition. On relator's supplemental motion to stay proceedings in the trial court. Motion denied.

Brunner, J., would deny the motion as moot.

Donnelly, J., not participating.

**2022-1285. State ex rel. Griffin v. Cocroft.**

In Habeas Corpus. On petitioner's request for vacation of judgment entry and opinion of December 13, 2022. Motion denied. Petitioner's motion in objection denied.

**2022-1457. State ex rel. Cincinnati Enquirer v. Bloom.**

In Mandamus and Prohibition. On respondent's motion to dismiss amended complaint. Motion denied. Sua sponte, respondent ordered to file answer to amended complaint within 14 days.

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.

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

Deters, J., not participating.

**2022-1548. State ex rel. Payne v. Rose.**

In Mandamus. 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.

Kennedy, C.J., and DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

Fischer, J., dissents.

**2022-1601. State v. Wagner.**

Lake App. No. 2021-L-101, [2022-Ohio-4051](#). On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause held for the decision in 2022-1037, *State v. Hurt*; cause consolidated with 2022-1626, *State v. Wagner*; and briefing schedule stayed.

Fischer, J., would not hold the cause.

**2022-1637. State v. Heflin.**

Wood App. No. WD-22-006. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause held for the decision in 2022-0603, *State v. Daniel*, and briefing schedule stayed.

**2023-0008. In re Complaint of Burress-El v. Duke Energy Ohio, Inc.**

Public Utilities Commission, No. 21-298-GA-CSS. On appellee Public Utilities Commission of Ohio's motion to dismiss. Motion granted. Appellant's response to strike motion to dismiss and memorandum in support with counterclaims denied as moot. Sua sponte, cause dismissed as to appellee Duke Energy Ohio, Inc. Cause dismissed.

Deters, J., not participating.

**2023-0073. Fifth Third Bank, Natl. Assn. v. Hillman.**

Delaware App. No. 22-CAE-06-0050, [2022-Ohio-4338](#). On appellants' emergency motion for stay pending appeal. Motion denied.

Brunner, J., dissents.

**2023-0126. Kyser v. Summit Cty. Children Servs.**

Summit App. No. 30080, [2022-Ohio-3467](#). On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the conflict question as stated on page 5 of the court of appeals' January 27, 2023 entry: "Does the prescribed 30-day period under R.C. 2505.07 commence with the mailing of the notice of the agency's order or with the date of receipt?" The conflict cases are *Sturdivant v. Toledo Bd. of Edn.*, 157 Ohio App.3d 401, 2004-Ohio-2878, 811 N.E.2d 581 (6th Dist.); *DHSC, L.L.C. v. Ohio Dept. of Job & Family Servs.*, 10th Dist. Franklin No. 11AP-424, 2012-Ohio-1014; and *Manholt v. Maplewood Joint Vocational School Dist. Bd. of Edn.*, 11th Dist. Portage No. 91-P-2410, 1992 WL 207800 (Aug. 21, 1992). Sua sponte, cause consolidated with 2022-1419, *Kyser v. Summit Cty. Children Servs.* and briefing in case Nos. 2022-1419 and 2023-0126 consolidated.

DeWine, J., dissents.

Brunner, J., not participating.

**2023-0230. Estate of Tomlinson v. Mega Pool Warehouse, Inc.**

Delaware App. No. 22 CAE 03 0020, [2023-Ohio-229](#). On appellants' motion for stay of proceedings and execution. Motion denied.

**APPEALS ACCEPTED FOR REVIEW**

**2022-1419. Kyser v. Summit Cty. Children Servs.**

Summit App. No. 30080, [2022-Ohio-3467](#). Sua sponte, cause consolidated with 2023-0126, *Kyser v. Summit Cty. Children Servs.* and briefing in case Nos. 2022-1419 and 2023-0126 consolidated.

Fischer, Donnelly and Deters, JJ., dissent.

Matthew Byrne, J., of the Twelfth District Court of Appeals, sitting for Brunner, J.

**2022-1626. State v. Wagner.**

Lake App. No. 2021-L-101, [2022-Ohio-4051](#). Sua sponte, cause held for the decision in 2022-1037, *State v. Hurt*; cause consolidated with 2022-1601, *State v. Wagner*; and briefing schedule stayed.

Fischer, J., dissents.

**RECONSIDERATION OF PRIOR DECISIONS**

**2020-1126. State v. Burns.**

Cuyahoga App. No. 108468, [2020-Ohio-3966](#). Reported at \_\_ Ohio St.3d \_\_, 2022-Ohio-4606, \_\_ N.E.3d \_\_. On motion for reconsideration as to Count 29 only. Motion denied.

Kennedy, C.J., and DeWine and Deters, JJ., dissent.

**2021-0980. Doe v. Greenville City Schools.**

Darke App. No. 2020-CA-4, [2021-Ohio-2127](#). Reported at \_\_ Ohio St.3d \_\_, 2022-Ohio-4618, \_\_ N.E.3d \_\_. On motion for reconsideration. Motion denied.

Kennedy, C.J., and DeWine and Deters, JJ., dissent.