

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

September 6, 2023

[Cite as *09/06/2023 Case Announcements*, 2023-Ohio-3100.]

MERIT DECISIONS WITH OPINIONS

2022-0750. *AJZ’s Hauling, L.L.C. v. TruNorth Warranty Programs of N. Am.*, Slip Opinion No. **2023-Ohio-3097**.

Cuyahoga App. No. 109632, **2021-Ohio-1190**. Judgment reversed and cause remanded.

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

2022-1523. *State ex rel. Griffin v. Szoke*, Slip Opinion No. **2023-Ohio-3096**.

In Mandamus. Writ denied as moot. Relator’s request for statutory damages denied. Relator’s motion to place this court on notice denied as moot.

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

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

2022-1632. *State ex rel. Smith v. Triggs*, Slip Opinion No. **2023-Ohio-3098**.

Hamilton App. No. C-220498. Judgment affirmed.

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

Fischer and Deters, JJ., not participating.

2023-0469. Disciplinary Counsel v. Romer, Slip Opinion No. 2023-Ohio-3099. On Certified Report by the Board of Professional Conduct, No. 2022-035. Shawn Alexander Romer, Attorney Registration No. 0084251, last known business address in Independence, Ohio, indefinitely suspended from the practice of law with no credit for the time served under his interim felony suspension.

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

MERIT DECISIONS WITHOUT OPINIONS

2023-0099. State ex rel. Brimfield Twp. v. Ohio Aud.

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.

2023-0262. Emerson v. Auto Warehousing Co.

In Mandamus and Prohibition. On motions to dismiss of respondents Gray Media Group, Inc., Auto Warehousing Company, Mercy St. Charles Hospital, Premier Bank and Manager, and FCA US, L.L.C. Motions granted. Relator's objection filed July 17, 2023, denied as moot. Sua sponte, cause dismissed as to remaining respondents. Cause dismissed.

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

2023-0326. State ex. rel. Massillon Administration Bldg. v. Elum.

Stark App. No. 2022CA00153, [2023-Ohio-1829](#). On appellee's motion to dismiss appeal. Motion granted. Appellant's motion for oral argument denied. Appellee's motion to supplement motion to dismiss granted. Cause dismissed.

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

2023-0361. Emerson v. Northend Properties JS.

In Mandamus. On relator's objection filed July 17, 2023. Objection denied as moot. Sua sponte, cause dismissed.

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

2023-0365. Emerson v. Local 421.

In Mandamus and Prohibition. On motions to dismiss of respondents Toledo Police, Local 421, and Monroe Department of Public Services. Motions granted. Respondent Monroe Department of Public Services' request to declare relator a vexatious litigator granted. Relator, Joseph Emerson, found to be a vexatious litigator under S.Ct.Prac.R. 4.03(B). Accordingly, Joseph Emerson prohibited from continuing or instituting legal proceedings in this court without first obtaining leave. Any request for leave shall be submitted to the clerk of this court for the court's review. Relator's objection filed July 17, 2023, denied as moot. Sua sponte, cause dismissed as to remaining respondents. Cause dismissed.

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

2023-0482. State ex rel. Jackson v. Foley.

In Mandamus. On respondent's motion to dismiss. Motion granted. Relator's motion for peremptory writ denied as moot. Relator's motion for leave to amend complaint denied. Cause dismissed.

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

Brunner, J., concurs but would deny the motion for peremptory writ on the merits.

2023-0513. In re Application of Kingwood Solar I, L.L.C.

Power Siting Board No. 21-117-EL-BGN. On appellee/cross-appellant Ohio Power Siting Board's motion to dismiss. Motion granted. Sua sponte, 2023-0693, *In re Application of Kingwood Solar I, L.L.C.*, dismissed for lack of jurisdiction. *See Senior Citizens Coalition v. Pub. Util. Comm.*, 40 Ohio St.3d 329, 533 N.E.2d 353 (1988). Appellant/cross-appellee's motion to consolidate appeals denied as moot. Cause dismissed.

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

DeWine, J., not participating.

2023-0534. State ex rel. Borges v. Ohio Elections Comm.

In Prohibition and Procedendo. On respondents' motion to dismiss. Motion granted as to Count 1 of the complaint. Sua sponte, respondents ordered to file an answer to Count 2 of the complaint within 14 days. Sua sponte, alternative writ granted as to Count 2 of the complaint. 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 of the filing of

the answer to the complaint, 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.

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

Deters, J., not participating.

2023-0618. State ex rel. Bradford v. Ohio State Penitentiary.

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

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

Fischer, J., concurs and would sua sponte declare relator to be a vexatious litigator.

Kennedy, C.J., and Brunner, J., concur in part and dissent in part and would grant an alternative writ.

2023-0678. State ex rel. Scott v. Rastatter.

In Mandamus and Procedendo. 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.

2023-0686. Bloodworth v. Ohio Dept. of Rehab. & Corr.

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

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

Kennedy, C.J., dissents and would grant an alternative writ.

2023-0693. In re Application of Kingwood Solar I, L.L.C.

Power Siting Board, No. 21-117-EL-BGN. Sua sponte, cause dismissed for lack of jurisdiction. *See Senior Citizens Coalition v. Pub. Util. Comm.*, 40 Ohio St.3d 329, 533 N.E.2d 353 (1988).

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

DeWine, J., not participating.

2023-0700. Pearson v. Purcell.

In Prohibition. On motions to dismiss of respondents Terrance Bazeley and Magistrate Jacqueline Purcell and Judge Joshua Berkowitz. Motions granted. Sua sponte, cause dismissed as to respondent David Kerr. Cause dismissed.

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

2023-0702. State ex rel. Nixon v. Doherty.

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

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

2023-0728. State ex rel. Nixon v. Yost.

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

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

Brunner, J., concurs but would grant the motion on mootness grounds.

2023-0729. State ex rel. Nixon v. Scahill.

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

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

2023-0732. Mays v. State.

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

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

2023-0737. Lloyd v. Tepe.

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

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

2023-0744. Heinz v. State.

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

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

2023-0746. Brigner v. Lang.

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

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

2023-0748. State ex rel. Brown v. O'Farrell.

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

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

2023-0767. State ex rel. Allah-U-Akbar v. Bracy.

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.

2023-0792. Finnell v. Mock.

In Prohibition. On relator's request for leave to supplement record. Request denied. Respondents' motion to dismiss granted. Cause dismissed.

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

Fischer, J., not participating.

2023-0796. State ex rel. Nixon v. Pittman.

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

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

Fischer, J., concurs and would sua sponte declare relator to be a vexatious litigator.

2023-0806. State ex rel. Nixon v. Pokorny.

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

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

Fischer, J., concurs and would sua sponte declare relator to be a vexatious litigator.

Brunner, J., would sua sponte dismiss the cause as moot.

MOTION AND PROCEDURAL RULINGS

2022-0617. State ex rel. Adkins v. Cantrell.

In Mandamus. On relator's motion to take judicial notice. Motion denied.

2022-1167. State v. Crawford.

Cuyahoga App. No. 110986, [2022-Ohio-2673](#). On appellant's motion for a stay of the proceedings filed pro se. Motion denied.

2022-1518. State ex rel. Sands v. Lake Cty. Common Pleas Court.

Marion App. No. 9-22-36. On appellant's motion requesting status of habeas corpus action pending before this court. Motion denied as moot.

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

Public Utilities Comm. No. 21-298-GA-CSS. On appellant's amended, second amended, and third amended averments of jurisdiction. Amended averments denied.

Deters, J., not participating.

2023-0190. State ex rel. Wells v. Lakota Local Schools Bd. of Edn.

In Mandamus. On respondents' motion to dismiss. Motion denied as moot. Relator's motion for leave to file amended complaint instanten denied as moot. Under Civ.R. 15(A), relator was not required to seek leave to file an amended complaint. Relator's amended complaint deemed filed on June 16, 2023. Sua sponte, respondents ordered to file a response, if any, to the amended complaint within 21 days.

2023-0572. State v. Jones.

Hamilton App. No. C-220007, [2023-Ohio-844](#). On appellee's amended motion for stay. Motion denied. Appellee's motion to dismiss denied.

2023-0610. State ex rel. Obetz v. Stinziano.

In Mandamus and Prohibition. On respondents' motion to dismiss. Motion denied. Sua sponte, respondents ordered to file an answer to the 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 of the filing of the answer to the complaint, 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.

2023-0624. Poland v. Ohio Parole Bd.

Richland App. No. 22 CA 0065, [2023-Ohio-694](#). On appellant's motion for court to find that this case contains issues capable of repetition yet evading review. Motion denied.

2023-0629. State ex rel. Jerome Twp. Bd. of Trustees v. Smarra.

In Mandamus. Sua sponte, respondent ordered to file an answer to the 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 of the filing of the answer to the complaint, 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.

2023-0699. State ex rel. Ames v. Three Rivers Local School Dist. Records Comm.

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, and Deters, JJ., concur in part and dissent in part and would sua sponte dismiss the cause as to requested-record category Nos. 2 and 4.

2023-0725. State ex rel. Martre v. Toledo Police Dept.

In Mandamus. Sua sponte, respondents ordered to file an answer to the 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 of the filing of the answer to the complaint, 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.

2023-0726. State ex rel. Martre v. Lima Police Dept.

In Mandamus. Sua sponte, respondents ordered to file an answer to the 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 of the filing of the answer to the complaint, 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.

2023-0804. State v. McConnell.

Muskingum App. No. CT2022-0025, [2023-Ohio-654](#). On review of order certifying a conflict. The court determines that no conflict exists. Cause dismissed.

Fischer, J., dissents.

2023-0810. State v. Hall.

Sandusky App. No. S-22-016. 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.

Fischer, DeWine, and Deters, JJ., dissent.

2023-0839. State v. Mays.

Lucas App. No. L-21-1228, [2023-Ohio-1908](#). On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the conflict question as stated in *State v. Mays*, 6th Dist. Lucas No. L-21-1228, 2023-Ohio-1908, ¶ 72: "Can the requirement in R.C. 2945.75(A)(2) that a 'guilty verdict shall state either the degree of the offense of which the offender is found guilty, or that such additional [aggravating] element or elements are present' be satisfied by a verdict form that cites the statutory sections, permitting the defendant to be

convicted of the higher-level offense?” (Brackets sic.) The conflict case is *State v. Gregory*, 3d Dist. Hardin No. 6-12-02, 2013-Ohio-853.
DeWine and Deters, JJ., dissent.

APPEALS NOT ACCEPTED FOR REVIEW

2023-0515. State v. McConnell.

Muskingum App. No. CT2022-0025, [2023-Ohio-654](#).
Donnelly and Brunner, JJ., dissent.

2023-0724. Avalon Test Equip. Leasing, Inc. v. Emerald Design & Constr., L.L.C.

Cuyahoga App. No. 112186, [2023-Ohio-1375](#).
Fischer, Donnelly, and Brunner, JJ., dissent.

2023-0766. State v. Kilgore.

Lorain App. No. 21CA011826, [2023-Ohio-1786](#).
Fischer, Donnelly, and Brunner, JJ., dissent.