

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

June 6, 2007

[Cite as *06/06/2007 Case Announcements, 2007-Ohio-2632.*]

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## MERIT DECISIONS WITH OPINIONS

### **2005-1964. Welling v. Weinfeld, 2007-Ohio-2451.**

Stark App. No. 2004CA00340, 2005-Ohio-4721. Judgment reversed and cause remanded.

Moyer, C.J., Sweeney, Pfeifer, Lundberg Stratton and O'Donnell, JJ., concur.

O'Connor and Lanzinger, JJ., dissent and would dismiss the cause as having been improvidently accepted.

James J. Sweeney, J., of the Eighth Appellate District, was assigned to sit for Resnick, J., whose term ended on January 1, 2007.

Cupp, J., whose term began on January 2, 2007, did not participate in the consideration or decision of this case.

### **2006-0373. Miller v. First Internatl. Fid. & Trust Bldg., Ltd., 2007-Ohio-2457.**

Lucas App. No. L-05-1311, 2006-Ohio-187. Judgment affirmed.

Moyer, C.J., Pfeifer, O'Connor and Cupp, JJ., concur.

Lundberg Stratton, O'Donnell and Lanzinger, JJ., dissent.

### **2006-1688. State ex rel. Mun. Constr. Equip. Operators' Labor Council v. Cleveland, 2007-Ohio-2452.**

Cuyahoga App. No. 86263, 2006-Ohio-4273. Judgment affirmed.

Moyer, C.J., Pfeifer, Lundberg Stratton, O'Connor, O'Donnell, Lanzinger and Cupp, JJ., concur.

### **2006-2121. State ex rel. Obojski v. Perciak, 2007-Ohio-2453.**

Cuyahoga App. No. 87007, 2006-Ohio-5238. Judgment affirmed.

Moyer, C.J., Pfeifer, Lundberg Stratton, O'Connor, O'Donnell, Lanzinger and Cupp, JJ., concur.

**2006-2341. Disciplinary Counsel v. Friedman, 2007-Ohio-2477.**

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 05-078. Benjamin Stuart Friedman, Attorney Registration No. 0074348, is suspended from the practice of law in Ohio for two years, with six months stayed on conditions, followed by probation.

Moyer, C.J., Pfeifer, Lundberg Stratton, O'Connor, O'Donnell, Lanzinger and Cupp, JJ., concur.

**2007-0081. State ex rel. Sneed v. Anderson, 2007-Ohio-2454.**

Lorain App.No. 06CA009051. Judgment affirmed.

Moyer, C.J., Pfeifer, Lundberg Stratton, O'Connor, O'Donnell, Lanzinger and Cupp, JJ., concur.

**MERIT DECISIONS WITHOUT OPINIONS**

**2006-2358. State ex rel. Patterson v. Indus. Comm.**

Franklin App. No. 05AP-1247. On motions of Industrial Commission of Ohio and Greater Cleveland Regional Transit Authority to dismiss appeal. Motions granted. Cause dismissed.

Moyer, C.J., Pfeifer, Lundberg Stratton, O'Connor, O'Donnell, Lanzinger and Cupp, JJ., concur.

**2007-0488. State ex rel. Bryant v. Summit Cty. Court of Common Pleas.**

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

Moyer, C.J., Pfeifer, Lundberg Stratton, O'Connor, Lanzinger and Cupp, JJ., concur.

O'Donnell, J., dissents and would grant an alternative writ.

**2007-0505. State ex rel. Jones v. Court of Appeals, Sixth Appellate Dist.**

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

Moyer, C.J., Pfeifer, Lundberg Stratton, O'Connor, O'Donnell, Lanzinger and Cupp, JJ., concur.

**2007-0554. Collins v. Lyons.**

Erie App. No. E-07-006, 2007-Ohio-745. On motion to dismiss appeal. Motion granted. Cause dismissed.

Moyer, C.J., Pfeifer, Lundberg Stratton, O'Connor, O'Donnell, Lanzinger and Cupp, JJ., concur.

**2007-0555. Flint v. Internatl. Multifoods, Inc.**

Lorain App. No. 06CA008918, 2007-Ohio-679. On review of order certifying a conflict. The court determines that no conflict exists. This cause is therefore dismissed.

Pfeifer, O'Connor, O'Donnell, Lanzinger and Cupp, JJ., concur.

Moyer, C.J., and Lundberg Stratton, J., dissent.

**2007-0564. State ex rel. Borkowski v. Markus.**

In Mandamus and Procedendo. On motion to dismiss of John S. Shaffer and relator's motions for judgment on pleadings, to consolidate, and for issuance of alterative writ. Motion to dismiss granted. All other motions denied. Cause dismissed.

Moyer, C.J., Pfeifer, Lundberg Stratton, O'Connor, O'Donnell, Lanzinger and Cupp, JJ., concur.

**2007-0629. Wepler v. Jeffreys.**

In Habeas Corpus. On petition for writ of habeas corpus of Joseph Wepler. Sua sponte, cause dismissed.

Moyer, C.J., Pfeifer, Lundberg Stratton, O'Connor, O'Donnell, Lanzinger and Cupp, JJ., concur.

**2007-0631. State ex rel. Jennings v. Akron.**

In Mandamus. On respondent's motion to dismiss and relator's motion for new trial. Motion to dismiss granted. Motion for new trial denied. Cause dismissed.

Moyer, C.J., Pfeifer, Lundberg Stratton, O'Connor, O'Donnell, Lanzinger and Cupp, JJ., concur.

**2007-0635. North v. Collins.**

In Habeas Corpus. On petition for writ of habeas corpus of Leslie R. North. Sua sponte, cause dismissed.

Moyer, C.J., Pfeifer, Lundberg Stratton, O'Connor, O'Donnell, Lanzinger and Cupp, JJ., concur.

**2007-0638. State ex rel. Ashipa v. Kubicki.**

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

Moyer, C.J., Pfeifer, Lundberg Stratton, O'Connor, O'Donnell, Lanzinger and Cupp, JJ., concur.

**2007-0645. Christian v. Gansheimer.**

In Habeas Corpus. On petition for writ of habeas corpus of Alan Christian and petitioner's motion to compel discovery. Sua sponte, cause dismissed. Motion to compel discovery denied as moot.

Moyer, C.J., Pfeifer, Lundberg Stratton, O'Connor, O'Donnell, Lanzinger and Cupp, JJ., concur.

**2007-0653. State ex rel. Pullins v. Eyster.**

In Procedendo and Prohibition. On motion to dismiss. Motion to dismiss granted. Cause dismissed.

Moyer, C.J., Pfeifer, Lundberg Stratton, O'Connor, O'Donnell, Lanzinger and Cupp, JJ., concur.

**MOTION AND PROCEDURAL RULINGS**

**1987-1674. State v. Broom.**

Cuyahoga App. No. 51237. On motion to set execution date and motion to stay ruling on motion to set execution date. Motion to stay ruling on the motion to set execution date is denied, and the motion to set execution date is granted.

It is further ordered by the court that appellant's sentence be carried into execution by the Warden of the Southern Ohio Correctional Facility or, in his absence, by the Deputy Warden on Thursday, October 18, 2007, in accordance with the statutes so provided.

It is further ordered that a certified copy of this entry and a warrant under seal of this court be duly certified to the Warden of the Southern Ohio Correctional Facility and that said Warden shall make due return thereof to the Clerk of the Court of Common Pleas for Cuyahoga County.

Lanzinger, J., dissents.

**2003-1572. State ex rel. Howard v. Indus. Comm.**

Franklin App. No. 97AP-860. On motion for leave to file a response to status report and orders issued December 14, 2005, January 5, 2007, and March 28, 2007. Motion denied.

Cupp, J., not participating.

**2006-1913. Borkowski v. Abood.**

Lucas App. No. L-05-1425, 169 Ohio App.3d 31, 2006-Ohio-4913. On motion to consolidate with 2007-0564, *State ex rel. Borkowski v. Markus*. Motion denied.

**2006-1914. Groch v. Gen. Motors Corp.**

Certified Question of State Law, United States District Court, Northern District of Ohio, Western Division, No. 3:06-CV-1604. On motion for admission pro hac vice of Mark A. Behrens by Victor E. Schwartz. Motion granted.

**2007-0329. State ex rel. Holt v. Columbus.**

In Mandamus. On answer of respondent. Alternative writ is granted and the following briefing schedule is set for presentation of evidence and filing of briefs pursuant to S.Ct.Prac.R. X.:

The parties shall file any evidence they intend to present within 20 days of the date of this entry; relator shall file a brief within ten days of 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 seven days after filing of respondent's brief.

**2007-0507. Albrecht v. Treon.**

Certified Question of State Law, United States District Court, Southern District of Ohio, Western Division, No. 1:06CV274. On review of preliminary memoranda pursuant to S.Ct.Prac.R. XVIII (6). The court will answer the following question:

“Whether the next of kin of a decedent, upon whom an autopsy has been performed, have a protected right under Ohio law in the decedent's tissues, organs, blood or other body parts that have been removed and retained by the coroner for forensic examination and testing.”

O'Donnell, J., dissents.

**2007-0593. Wohl v. Swinney.**

Butler App. No. CA2006-05-123, 2007-Ohio-592. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated at page 3 of the court of appeals' Entry filed March 22, 2007:

“Whether the definition of ‘insured’ as ‘any other person occupying your covered auto who is not a named insured or insured family member for uninsured motorist's coverage under another policy’ is ambiguous and should be construed against the insurer to provide coverage for a permissive operator of a covered vehicle who is not a named insured or insured family member.”

O'Donnell, J., dissents.

The conflict case is *Safeco Ins. v. Motorists Mut. Ins. Co.*, Cuyahoga App. No. 86124, 2006-Ohio-2063.

**2007-0595. State v. Cabrales.**

Hamilton App. No. C-050682, 2007-Ohio-857. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated in the court of appeals' Entry filed March 29, 2007:

“Are the offenses of trafficking in a controlled substance in violation of R.C. 2925.03(A)(2) and possession of a controlled substance in violation of R.C. 2925.11(A) allied offenses of similar import when the same controlled substance is involved in both offenses?”

O'Donnell, J., dissents.

Lanzinger, J., not participating.

The conflict cases include, inter alia, *State v. Greitzer*, Portage App. No. 2003-P-0110, 2005-Ohio-4037.

Sua sponte, cause consolidated with 2007-0651, *State v. Cabrales*, Hamilton App. No. C-050682, 2007-Ohio-857.

**2007-0625. State v. Henderson.**

Summit App. No. 23512. On motion for leave to file delayed appeal. Motion denied.

Moyer, C.J., and Pfeifer, J., dissent.

**2007-0627. State v. Stadmire.**

Cuyahoga App. No. 81188, 2003-Ohio-873. On motion for leave to file delayed appeal. Motion denied.

**2007-0632. State v. Withers.**

Franklin App. Nos. 06AP-302 and 06AP-303, 2006-Ohio-6989. On motion for leave to file delayed appeal. Motion granted.

O'Donnell and Cupp, JJ., dissent.

**2007-0663. State v. Keyes.**

Meigs App. No. 05CA16, 2006-Ohio-5032. On motion for leave to file delayed appeal. Motion denied.

Cupp, J., dissents.

**2007-0669. State v. Strickland.**

Summit App. No. 22980, 2007-Ohio-52. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, Lundberg Stratton and Cupp, JJ., dissent.

**2007-0670. State v. Vogt.**

Stark App. No. 2006CA00183, 2007-Ohio-488. On motion for leave to file delayed appeal. Motion granted.

O'Connor, O'Donnell and Lanzinger, JJ., dissent.

**2007-0672. State v. Walker.**

Medina App. No. 06CA0006-M, 2006-Ohio-5479. On motion for leave to file delayed appeal. Motion denied.

**2007-0677. State v. Thomas.**

Franklin App. No. 06AP-339. On motion for leave to file delayed appeal. Motion denied.

**2007-0684. Rogers v. Dayton.**

Montgomery App. No. 21593, 2007-Ohio-673. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated at page 6 of the court of appeals' Decision and Entry filed April 11, 2007:

“Under R.C. 3937.18(K)(3)(2000), is a political subdivision ‘self-insured within the meaning of the financial responsibility law’ of Ohio if the political subdivision has not qualified as a self-insurer under R.C. Chapter 4509?”

Pfeifer, O'Donnell and Lanzinger, JJ., dissent.

The conflict case is *Safe Auto Ins. Co. v. Corson*, 155 Ohio App.3d 736, 2004-Ohio-249.

Sua sponte, cause consolidated with 2007-0549, *Rogers v. Dayton*, Montgomery App. No. 21593, 2007-Ohio-673.

**2007-0730. State v. McCree.**

Cuyahoga App. No. 87951, 2007-Ohio-268. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, Lundberg Stratton and Cupp, JJ., dissent.

**2007-0741. State v. Wilson.**

Union App. No. 14-06-19, 2006-Ohio-6930. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, O'Connor and O'Donnell, JJ., dissent.

**2007-0756. Dunham v. Dunham.**

Franklin App. No. 05AP-584, 2007-Ohio-1167. On motion to stay enforcement of trial court's decision. Motion denied.

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

**2007-0796. Tyus v. Grand Pointe Health Community.**

Cuyahoga App. No. 88763. On motion for stay of court of appeals' judgment. Motion denied.

Moyer, C.J., dissents.

**2007-0817. Burdge v. Supervalu Holdings, Inc.**

Hamilton App. No. C-060194, 2007-Ohio-1318. On motion for stay of execution of court of appeals' judgment. Motion denied.

**2007-0838. Beckler v. Bacon.**

Hamilton App. No. C-060228. On motion for stay of court of appeals' judgment. Motion denied.

**2007-0840. Burdge v. Supervalu Holdings, Inc.**

Hamilton App. No. C-060194. On motion for stay of court of appeals' judgment. Motion denied.

**APPEALS ACCEPTED FOR REVIEW**

**2007-0140. Barnes v. Univ. Hosp. of Cleveland.**

Cuyahoga App. Nos. 87247, 87285, 87710, 87903 and 87946, 2006-Ohio-6266. Discretionary appeal of MedLink of Ohio and The MedLink Group, Inc. accepted on Proposition of Law Nos. I and III. Appeal of Lexington Insurance Company and cross-appeal not accepted.

Moyer, C.J., would also accept the MedLink appeal on Proposition of Law Nos. II and V.

Lundberg Stratton and O'Donnell, JJ., would also accept the MedLink appeal on all other Propositions of Law, the Lexington appeal, and the cross-appeal.

Motion for admission pro hac vice of Lori S. Nugent, Kathie D. King, and Maya Hoffman by Steven G. Janik granted.

**2007-0184. State v. Brown.**

Cuyahoga App. No. 87651, 2006-Ohio-6267. Discretionary appeal accepted on Proposition of Law Nos. I and II.

Pfeifer, O'Donnell and Lanzinger, JJ., dissent.

Discretionary cross-appeal accepted on Proposition of Law No. VI and held for the decision in 2006-0151, *State v. Carswell*, Warren App. No. CA2005-04-047, 2005-Ohio-6547; and briefing schedule stayed.

Lundberg Stratton, O'Connor and Cupp, JJ., would also accept the cross-appeal on Proposition of Law No. III.

Pfeifer and Lanzinger, JJ., dissent.

**2007-0339. Hahn v. Redmond.**

Summit App. No. 23491. Discretionary appeal accepted; cause held for the decision in 2006-1528 and 2006-1589, *Hubbell v. Xenia*, Greene App. No. 2005 CA 99, 2006-Ohio-3369; and briefing schedule stayed.

Pfeifer, J., dissents.

**2007-0375. State v. Gardner.**

Montgomery App. No. 21357, 2007-Ohio-182.

O'Connor, J., would also hold the cause for the decision in 2006-2135, *State v. Wamsley*, Columbiana App. No. 05 CO 11, 2006-Ohio-5303.

Pfeifer, Lanzinger and Cupp, JJ., dissent.

**2007-0376. Hageman v. Southwest Gen. Health Ctr.**

Cuyahoga App. No. 87826, 2006-Ohio-6765. Discretionary appeal of Barbara A. Belovich accepted.

Pfeifer and Lanzinger, JJ., dissent.

Discretionary appeal of Kenneth C. Hageman not accepted.

Lundberg Stratton, J., dissents.

**2007-0442. Swaisgood v. Puder.**

Erie App. No. E-06-033, 2007-Ohio-307. Discretionary appeal accepted; cause held for the decision in 2007-0035 and 2007-0112, *Turner v. Ohio Bell Tel. Co.*, Cuyahoga App. No. 87541, 2006-Ohio-6168; and briefing schedule stayed. Motion to consolidate denied.

Cupp, J., would accept the appeal and consolidate the cause with 2007-0035 and 2007-0112, *Turner v. Ohio Bell Tel. Co.*

Pfeifer, J., dissents.

**2007-0549. Rogers v. Dayton.**

Montgomery App. No. 21593, 2007-Ohio-673. Discretionary appeal accepted and cause consolidated with 2007-0684, *Rogers v. Dayton*, Montgomery App. No. 21593, 2007-Ohio-673.

Moyer, C.J., would accept the appeal on Proposition of Law Nos. I and II only.

Pfeifer and O'Donnell, JJ., dissent.

**2007-0651. State v. Cabrales.**

Hamilton App. No. C-050682, 2007-Ohio-857. Discretionary appeal accepted on Proposition of Law No. IV and cause consolidated with 2007-0595, *State v. Cabrales*, Hamilton App. No. C-050682, 2007-Ohio-857.

Pfeifer and O'Donnell, JJ., dissent.

Lanzinger, J., not participating.

**APPEALS NOT ACCEPTED FOR REVIEW**

**2006-2339. State v. Neff.**

Trumbull App. No. 2006-T-0076, 2006-Ohio-4539.

**2007-0005. State v. Barger.**

Champaign App. No. 2006-CA-12, 2006-Ohio-5559.

**2007-0097. State v. Gumm.**

Hamilton App. Nos. C-050647, C-050704 and C-050752, 169 Ohio App.3d 650, 2006-Ohio-6451. Discretionary appeal and cross-appeal not accepted.

Pfeifer, J., dissents.

Lanzinger, J., dissents and would accept the appeal and cross-appeal and hold the cause for the decision in 2006-0295, *State v. White*, Summit App. No. 22591, 2005-Ohio-6990.

**2007-0142. State v. Copley.**

Wayne App. No. 06CA0011, 2006-Ohio-6478.

Pfeifer and O'Donnell, JJ., dissent.

**2007-0261. Reimund v. Hanna.**

Hancock App. No. 5-06-09, 2006-Ohio-6848. Discretionary appeal and cross-appeal not accepted.

Pfeifer and Lundberg Stratton, JJ., dissent.

Cupp, J., not participating.

**2007-0272. State v. Ouch.**

Franklin App. No. 06AP-488, 2006-Ohio-6949. Discretionary appeal and cross-appeal not accepted.

**2007-0284. State v. Ewing.**

Summit App. No. 23392.

**2007-0285. Oswald v. Meyer Builders/Douglas Homes Ltd.**

Hamilton App. No. C-060038.

**2007-0327. State v. Thornton.**

Cuyahoga App. No. 87720, 2006-Ohio-6270.

**2007-0331. State v. Patterson.**

Clark App. No. 05CA0128, 2007-Ohio-29.

O'Donnell and Cupp, JJ., dissent.

**2007-0345. State v. McCaleb.**

Greene App. No. 05CA155, 2006-Ohio-4652.

Lundberg Stratton, J., dissents.

**2007-0348. State v. Fussell.**

Cuyahoga App. No. 87739, 2006-Ohio-6438.

**2007-0349. MacDowell v. DeCarlo.**

Summit App. No. 23281, 2007-Ohio-249.

**2007-0357. State v. Smith.**

Summit App. No. 23006, 2007-Ohio-51.

Moyer, C.J., dissents and would accept the appeal on Proposition of Law No. I.

**2007-0360. Scuba v. Nader.**

Cuyahoga App. No. 89347.

**2007-0362. State v. James.**

Cuyahoga App. No. 89266.

**2007-0364. State v. Buelow.**

Clark App. No. 06-CA-29, 2007-Ohio-131.

**2007-0365. State v. Berry.**

Lucas App. No. L-05-1048, 2007-Ohio-94.

**2007-0366. State v. Russell.**

Montgomery App. No. 21458, 2007-Ohio-137.

**2007-0369. In re Estate of Boyer.**

Franklin App. No. 06AP-1185.

**2007-0372. State v. Kramer.**

Portage App. No. 2006-P-0055, 2007-Ohio-467.

**2007-0377. J & H Willco Inc. v. Ohio Liquor Control Comm.**

Franklin App. No. 06AP-885, 2007-Ohio-169.

**2007-0378. Strasel v. Seven Hills OB-GYN Assoc., Inc.**

Hamilton App. Nos. C-050341 and C-050364, 2007-Ohio-171.

Lundberg Stratton, J., dissents and would accept the appeal on Proposition of Law Nos. I, II, III, IV, and V.

O'Donnell, J., dissents and would accept the appeal on Proposition of Law No. I.

**2007-0380. State v. Leach.**

Hamilton App. No. C-050163.

**2007-0381. United Internatl. of Cincinnati, Inc. v. Mazak Corp.**

Hamilton App. No. C-060839.

**2007-0382. State v. Sanchez.**

Defiance App. No. 4-06-31, 2007-Ohio-218.

Cupp, J., not participating.

**2007-0384. State v. Lopez.**

Ottawa App. No. OT-05-059, 2007-Ohio-202.

**2007-0385. State v. Richards.**

Hamilton App. No. C-050938, 2007-Ohio-172.

**2007-0386. Harris v. Ohio Adult Parole Auth.**

Franklin App. No. 06AP-374, 2007-Ohio-142.

**2007-0387. Phillips v. Cochrum.**

Summit App. No. 23349, 2007-Ohio-247.

**2007-0388. Whitaker v. Tekulve.**

Hamilton App. No. C-060211.

**2007-0389. Pepper v. Bd. of Edn. of Toledo Pub. Schools.**

Lucas App. No. L-06-1199, 2007-Ohio-203.

Pfeifer, J., dissents.

**2007-0390. Liberty Savings Bank v. Jones.**

Lucas App. No. L-06-1124, 2007-Ohio-198.

**2007-0393. Aero Fulfillment Servs., Inc. v. Tartar.**

Hamilton App. No. C-060071, 2007-Ohio-174.

Lundberg Stratton, J., dissents.

O'Donnell, J., dissents and would accept the appeal on Proposition of Law No. I.

**2007-0396. State v. Wentling.**

Wyandot App. No. 16-06-03, 2007-Ohio-217.

Cupp, J., not participating.

**2007-0399. State v. McKinney.**

Hamilton App. No. C-061071.

**2007-0400. State v. Quinones.**

Cuyahoga App. No. 87517, 2007-Ohio-70.

O'Donnell, J., dissents.

**2007-0404. State v. Minor.**

Hamilton App. No. C-060043, 2007-Ohio-312.

**2007-0405. State v. Theisler.**

Trumbull App. No. 2005-T-0106, 2007-Ohio-213.

**2007-0406. State v. Williams.**

Lake App. Nos. 2005-L-213 and 2005-L-214, 2007-Ohio-212.

**2007-0407. State v. Lakes.**

Montgomery App. No. 21490, 2007-Ohio-325.

**2007-0409. State v. Thomas.**

Hamilton App. No. C-050769.

**2007-0412. State v. Brooks.**

Lake App. No. 2005-L-200, 2007-Ohio-344.

O'Connor, J., dissents.

**2007-0413. State v. Ruby.**

Summit App. No. 23219, 2007-Ohio-244.

**2007-0416. State v. Landrum.**

Hamilton App. No. C-061083.

**2007-0419. Seaway Acceptance Corp. v. Ligtfoot.**

Cuyahoga App. No. 87970, 2007-Ohio-405.

Moyer, C.J., and Cupp, J., dissent.

**2007-0420. Muehrcke v. Housel.**

Cuyahoga App. Nos. 85643 and 85644, 2005-Ohio-5440.

Pfeifer, J., dissents.

**2007-0424. Baus v. Lowe.**

Cuyahoga App. No. 87765, 2007-Ohio-275.

**2007-0425. State v. Bell.**

Hamilton App. No. C-050539, 2007-Ohio-310.

**2007-0429. State v. Brown.**

Greene App. No. 06-CA-0028, 2007-Ohio-316.

**2007-0430. State v. Cochran.**

Geauga App. No. 2006-G-2697, 2007-Ohio-345.

**2007-0433. State v. Boland.**

Cuyahoga App. No. 89224.

**2007-0437. State v. Williams.**

Hamilton App. No. C-070045.

**2007-0439. State v. Scott.**

Morgan App. No. 06 CA 1, 2007-Ohio-303.

**2007-0440. State v. Trewartha.**

Franklin App. No. 06AP-654, 2007-Ohio-299.

**2007-0444. Durbin v. Kokosing Constr. Co., Inc.**

Licking App. No. 2006CA00017, 2007-Ohio-554.

**2007-0446. Hahn v. Safeguard Property, Inc.**

Licking App. No. 06CA161.

**2007-0451. State v. Oliver.**

Trumbull App. No. 2006-T-0075, 2007-Ohio-339.

O'Connor, J., not participating.

**2007-0464. Malster v. Ware.**

Franklin App. No. 06AP-1255. Discretionary appeal not accepted. Motion for sanctions denied.

**2007-0465. State v. Ferrell.**

Stark App. No. 2006 CA 00236, 2007-Ohio-491.

**2007-0466. State v. Hall.**

Cuyahoga App. No. 87059, 2007-Ohio-414.

**2007-0467. State v. Smith.**

Pickaway App. No. 06CA7, 2007-Ohio-502.

**2007-0473. State v. Cham.**

Franklin App. Nos. 05AP-1288 and 06AP-182, 2007-Ohio-378.

**2007-0474. State v. Darks.**

Franklin App. Nos. 05AP-982, 05AP-983 and 05AP-984, 2006-Ohio-3144.

Moyer, C.J., and Cupp, J., dissent and would accept the appeal and hold the cause for the decision in 2006-1245 and 2006-1383, *State v. Payne*, Franklin App. No. 05AP-517, 2006-Ohio-2552.

Lundberg Stratton, J., dissents and would accept the appeal on Proposition of Law Nos. I and II and hold the cause for the decision in *State v. Payne*.

**2007-0477. State v. Henderson.**  
Franklin App. No. 06AP-645, 2007-Ohio-382.

**2007-0495. Morgan v. Beck.**  
Franklin App. No. 06AP-947.

**2007-0497. State v. Hardison.**  
Summit App. No. 23050, 2007-Ohio-366.

**2007-0506. State v. Alshahid.**  
Hamilton App. No. C-060007.

**2007-0523. State v. Sanders.**  
Hamilton App. No. C-060408.

**2007-0524. Jones v. Cleveland Hts.**  
Cuyahoga App. No. 87957, 2007-Ohio-270.

**2007-0551. Wohl v. Swinney.**  
Butler App. No. CA2006-05-123, 2007-Ohio-592.  
Lundberg Stratton, J., dissents.

**2007-0624. State v. Agosto.**  
Cuyahoga App. No. 87283, 2006-Ohio-5011 and 2007-Ohio-848.

## **RECONSIDERATION OF PRIOR DECISIONS**

**2006-2325. State v. Finney.**  
Fulton App. No. F-06-009, 2006-Ohio-5770. Reported at 113 Ohio St.3d 1442, 2007-Ohio-1266, 863 N.E.2d 658. On motion for reconsideration. Motion denied.  
Moyer, C.J., dissents.

**2006-2391. State v. Schweitzer.**  
Auglaize App. No. 2-06-25, 2006-Ohio-6087. Reported at 113 Ohio St.3d 1466, 2007-Ohio-1722, 864 N.E.2d 653. On motion for reconsideration. Motion denied.  
Cupp, J., not participating.

**2007-0026. Proctor v. Costal Bros.**

Trumbull App. No. 2005-T-0111, 2006-Ohio-6343. Reported at 113 Ohio St.3d 1467, 2007-Ohio-1722, 864 N.E.2d 653. On motion for reconsideration. Motion denied.

Pfeifer, J., dissents.

**2007-0105. State ex rel. Summers v. Wright.**

In Mandamus. Reported at 113 Ohio St.3d 1438, 2007-Ohio-1266, 863 N.E.2d 655. On motion for reconsideration. Motion denied.