

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

November 20, 2007

[Cite as *11/20/2007 Case Announcements*, 2007-Ohio-6173.]

MERIT DECISIONS WITH OPINIONS

2006-0952. Vitantonio, Inc. v. Baxter, Slip Opinion No. 2007-Ohio-6052.

Lake App. No. 2005-L-004, 2006-Ohio-1685. Judgment affirmed.

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

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

2006-1259. State ex rel. Coles v. Granville, Slip Opinion No. 2007-Ohio-6057.

In Mandamus. Writ granted.

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

O'Donnell, J., not participating.

2006-1814. Wilson v. Wilson, Slip Opinion No. 2007-Ohio-6056.

Wayne App. No. 05CA0078, 2006-Ohio-4151. Judgment reversed and cause remanded.

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

Lanzinger, J., concurs in judgment only.

2006-2396. State ex rel. Moore v. Internatl. Truck & Engine, Slip Opinion No. 2007-Ohio-6055.

Franklin App. No. 06AP-28, 2006-Ohio-6222. Judgment reversed and cause returned to the Industrial Commission.

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

2007-0579, 2007-0580, 2007-0584, 2007-0586, and 2007-0589. Lovell v. Levin, Slip Opinion No. 2007-Ohio-6054.

Board of Tax Appeals, Nos. 2006-M-782, 2006-H-548, 2006-T-1054, 2006-R-549, and 2006-A-781. Decisions affirmed.

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

O'Donnell, J., dissents for the reasons stated in his dissenting opinion in *Knust v. Wilkins*, 111 Ohio St.3d 331, 2006-Ohio-5791, 856 N.E.2d 243.

2007-1002. State ex rel. Todd v. Felger, Slip Opinion No. 2007-Ohio-6053.

Columbiana App. No. 06 CO 38, 2007-Ohio-2065. Judgment reversed and writ denied.

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

Lundberg Stratton, J., dissents.

MERIT DECISIONS WITHOUT OPINIONS

2006-2406. Thompson v. Jones-Kelley.

Franklin App. No. 05AP-476, 2006-Ohio-6000. On motion to dismiss the appeal as moot. Motion granted. Cause dismissed.

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

MOTION AND PROCEDURAL RULINGS

2007-0219. Ackison v. Anchor Packing Co.

Lawrence App. No. 05CA46, 2006-Ohio-7099. This cause is pending before the court as an appeal from the Court of Appeals for Lawrence County. Upon consideration of Owens-Illinois, Inc.'s motion to strike appellee's merit brief and appendix,

It is ordered by the court that the motion is granted as to Appendices H, I, M and N, which are hereby stricken. The motion to strike is denied in all other respects.

O'Donnell, J., would also strike Appendices F and L.
Pfeifer, Lundberg Stratton, and Cupp, JJ., dissent.

2007-0415. Ackison v. Anchor Packing Co.

Lawrence App. No. 05CA46, 2006-Ohio-7099. This cause is pending before the court as an appeal from the Court of Appeals for Lawrence County. Upon

consideration of Owens-Illinois, Inc.'s motion to strike appellee's merit brief and appendix,

It is ordered by the court that the motion is granted as to Appendices H, I, M and N, which are hereby stricken. The motion to strike is denied in all other respects.

O'Donnell, J., would also strike Appendices F and L.
Pfeifer, Lundberg Stratton, and Cupp, JJ., dissent.

2007-0507. Albrecht v. Treon.

Certified Question of State Law, United States District Court, Southern District of Ohio, Western Division, No. 1:06CV274. This cause came before the court on the certification of a state law question from the United States District Court for the Southern District of Ohio, Western Division. Upon consideration of the joint motion of petitioners and amici curiae in support of petitioners to allow amici to participate in oral argument,

It is ordered by the court that the motion is granted, and the amici curiae in support of petitioners are permitted to argue the entire fifteen minutes allotted to petitioners.

2007-1282. Gasper Twp. Bd. of Trustees v. Preble Cty. Budget Comm.

Board of Tax Appeals, No. 2004-T-1152. This cause is pending before the court as an appeal from the Board of Tax Appeals. Upon consideration of appellees' motion to supplement the record,

It is ordered by the court that the motion is granted. The documentation attached to appellees' motion to supplement shall be deemed part of the record in this case.

2007-1396. State v. Elwell.

Lorain App. No. 06CA008923, 2007-Ohio-3122. This cause is pending before the court as a discretionary appeal and claimed appeal of right. On July 30, 2007, appellant filed a notice of pending motion to certify a conflict. Whereas appellant has not notified this court of the decision on the pending motion to certify a conflict,

It is ordered by the court, sua sponte, that appellant show cause within fourteen days of the date of this entry why this court should not proceed to consider the jurisdictional memoranda in this appeal pursuant to S.Ct.Prac.R. III(6).

2007-2124. In re L.J.

Clermont App. No. CA2007-07-080, 2007-Ohio-5498. This cause is pending before the court as a discretionary appeal and claimed appeal of right. Upon review of the appeal it appears that the case involves the termination of parental rights. Accordingly,

It is ordered by the court, sua sponte, that this case shall proceed according to the Rules of Practice of the Supreme Court of Ohio governing the termination of parental rights or adoption of a minor child. Appellee's memorandum in response shall be filed no later than 20 days from the date of this entry.

2007-2153. Ikharo v. Franklin Cty. Prosecutor.

Franklin App. No. 07AP-380, 2007-Ohio-5582. This cause was filed as a discretionary appeal and claimed appeal of right. Upon consideration of appellant's jurisdictional memorandum, it is determined by the court that this cause originated in the court of appeals and should proceed as an appeal of right pursuant to S.Ct.Prac.R. II(1)(A)(1).

It is ordered by the court that the Clerk shall issue an order for the transmission of the record from the Court of Appeals for Marion County, and the parties shall brief this case in accordance with S.Ct.Prac.R. VI.

DISCIPLINARY CASES

2007-1570. Butler Cty. Bar Assn. v. Portman.

This matter is pending before the court upon the filing on August 21, 2007, of a report by the Board of Commissioners on Grievances and Discipline recommending that respondent be permanently disbarred. On October 17, 2007, respondent filed a motion to supplement the record. Relators filed separate responses to the motion. Upon consideration thereof,

It is ordered by the court that respondent's motion is hereby granted.

Moyer, C.J., dissents.

2007-1955. Disciplinary Counsel v. Roderick.

On October 24, 2007, and pursuant to Gov.Bar R. V(5a)(A)(1)(b), relator, Disciplinary Counsel, filed with this court a motion for interim remedial suspension pursuant to Gov.Bar R. V(5a), alleging that respondent, Richard Clement Roderick Jr., Attorney Registration No. 0025098, last known business address in Gallipolis, Ohio, has committed numerous violations of the Code of Professional Responsibility and that he poses a substantial threat of serious harm to his clients and the public. Respondent has not filed a response.

Upon consideration thereof and pursuant to Gov.Bar R. V(5a)(B), it is ordered and decreed that an interim remedial suspension be immediately entered

against respondent and that the suspension be effective as of the date of this entry, pending final disposition of disciplinary proceedings predicated on the conduct threatening the serious harm.

It is further ordered that respondent immediately cease and desist from the practice of law in any form and is hereby forbidden to appear on behalf of another before any court, judge, commission, board, administrative agency, or other public authority.

It is further ordered that effective immediately, he be forbidden to counsel or advise or prepare legal instruments for others or in any manner perform legal services for others.

It is further ordered that he is hereby divested of each, any, and all of the rights, privileges, and prerogatives customarily accorded to a member in good standing of the legal profession of Ohio.

It is further ordered that pursuant to Gov.Bar R. X(3)(G), respondent shall complete one credit hour of continuing legal education for each month, or portion of a month, of the suspension. As part of the total credit hours of continuing legal education required by Gov.Bar R. X(3)(G), respondent shall complete one credit hour of instruction related to professional conduct required by Gov.Bar R. X(3)(A)(1) for each six months, or portion of six months, of the suspension.

It is further ordered that respondent shall not be reinstated to the practice of law in Ohio until (1) respondent complies with the requirements for reinstatement set forth in the Supreme Court Rules for the Government of the Bar of Ohio; (2) respondent complies with this and all other orders issued by this court; (3) respondent complies with the Supreme Court Rules for the Government of the Bar of Ohio; and (4) this court orders respondent reinstated.

It is further ordered, sua sponte, by the court that within 90 days of the date of this order, respondent shall reimburse any amounts that have been awarded by the Clients' Security Fund pursuant to Gov.Bar R. VIII(7)(F). It is further ordered, sua sponte, by the court that if, after the date of this order, the Clients' Security Fund awards any amount against the respondent pursuant to Gov.Bar R. VIII(7)(F), the respondent shall reimburse that amount to the Clients' Security Fund within 90 days of the notice of such award.

It is further ordered that on or before 30 days from the date of this order, respondent shall:

1. Notify all clients being represented in pending matters and any co-counsel of respondent's suspension and consequent disqualification to act as an attorney after the effective date of this order and, in the absence of co-counsel, also notify the clients to seek legal service elsewhere, calling attention to any urgency in seeking the substitution of another attorney in respondent's place;

2. Regardless of any fees or expenses due, deliver to all clients being represented in pending matters any papers or other property pertaining to the client, or notify the clients or co-counsel, if any, of a suitable time and place where the papers or other property may be obtained, calling attention to any urgency for obtaining such papers or other property;
3. Refund any part of any fees or expenses paid in advance that are unearned or not paid, and account for any trust money or property in his possession or control;
4. Notify opposing counsel in pending litigation or, in the absence of counsel, the adverse parties of his disqualification to act as an attorney after the effective date of this order, and file a notice of disqualification of respondent with the court or agency before which the litigation is pending for inclusion in the respective file or files;
5. Send all such notices required by this order by certified mail with a return address where communications may thereafter be directed to respondent;
6. File with the Clerk of this court and the Disciplinary Counsel of the Supreme Court an affidavit showing compliance with this order, showing proof of service of notices required herein, and setting forth the address where the affiant may receive communications; and
7. Retain and maintain a record of the various steps taken by respondent pursuant to this order.

It is further ordered that respondent shall keep the Clerk and the Disciplinary Counsel advised of any change of address where respondent may receive communications.

It is further ordered, sua sponte, that all documents filed with this court in this case shall meet the filing requirements set forth in the Rules of Practice of the Supreme Court of Ohio, including requirements as to form, number, and timeliness of filings.

It is further ordered, sua sponte, that service shall be deemed made on respondent by sending this order, and all other orders in this case, by certified mail to the most recent address respondent has given to the Office of Attorney Services.

It is further ordered that the Clerk of this court issue certified copies of this order as provided for in Gov.Bar R. V(8)(D)(1), that publication be made as provided for in Gov.Bar R. V(8)(D)(2), and that respondent bear the costs of publication.

MISCELLANEOUS DISMISSALS

2007-0810. State ex rel. Gebhart v. Indus. Comm.

Franklin App. No. 06AP-362, 2007-Ohio-1496. This cause is pending before the court as an appeal from the Court of Appeals for Franklin County. Upon consideration of appellant's application for dismissal,

It is ordered by the court that the application for dismissal is granted. Accordingly, this cause is dismissed.

2007-1776. Cincinnati Community Kollel v. Levin.

Board of Tax Appeals, Nos. 2004-K-1441 and 2004-K-1442. This cause is pending before the court as an appeal from the Board of Tax Appeals. It appears from the records of this court that appellant has not filed a merit brief, due November 13, 2007, in compliance with the Rules of Practice of the Supreme Court and therefore has failed to prosecute this cause with the requisite diligence. Upon consideration thereof,

It is ordered by the court that this cause is dismissed sua sponte.

MISCELLANEOUS ORDERS

In re: Report of the Commission on
Continuing Legal Education.

John Robert Evers
(#0065724)
Respondent.

Case No. CLE-02-65724

O R D E R

This matter originated in this court on the filing of a report by the Commission on Continuing Legal Education (the "commission") pursuant to Gov.Bar R. X(6)(A)(1)(b) and (A)(2)(d). The commission recommended the imposition of sanctions against certain attorneys, including the above-named respondent, for failure to comply with the provisions of Gov.Bar R. X, Attorney Continuing Legal Education, for the 2000-2001 reporting period.

On April 10, 2003, pursuant to Gov.Bar R. X(6)(B)(3), this court entered an order adopting the commission's recommendation related to the 2000-2001 reporting period, suspending the respondent from the practice of law, and imposing a monetary sanction upon the respondent.

On October 18, 2007, the commission filed a motion to modify sanction, requesting that the order of April 10, 2003, pertaining to the above-named respondent, be modified to order a monetary sanction only. Upon consideration thereof,

IT IS ORDERED by the court that the motion to modify sanction is granted.

IT IS FURTHER ORDERED by the court that the entry of April 10, 2003, is modified as follows: respondent's suspension from the practice of law is vacated and the monetary sanction of \$750.00 remains. The court acknowledges that the sanction has been paid by respondent.

MEDIATION REFERRALS

The following cases have been referred to mediation pursuant to S.Ct.Prac.R. XIV(6):

2007-1990. State ex rel. DaimlerChrysler Corp. v. Indus. Comm.
Franklin App. No. 06AP-895, 2007-Ohio-5093.

2007-2116. State ex rel. Dolgencorp, Inc. v. Indus. Comm.
Franklin App. No. 06AP-1217, 2007-Ohio-5087.