

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

December 3, 2008

[Cite as *12/03/2008 Case Announcements*, 2008-Ohio-6166.]

MERIT DECISIONS WITH OPINIONS

2007-1901. State ex rel. Jordan v. Indus. Comm., Slip Opinion No. 2008-Ohio-6137.

Franklin App. No. 06AP-908, 2007-Ohio-5157. Judgment affirmed.

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

2008-0760 and 2008-0763. Cleveland Bar Assn. v. Smith, Slip Opinion No. 2008-Ohio-6138.

On Certified Report by the Board of Commissioners on Grievances and Discipline, Nos. 07-051 and 07-083. Rene' Darlene Smith, Attorney Registration No. 0061284, is indefinitely suspended from the practice of law in Ohio in 2008-0760 and is suspended for two years, with one year stayed on conditions, in 2008-0763, with the sanctions to be served concurrently.

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

Moyer, C.J., and Lundberg Stratton and O'Connor, JJ., concur in the sanctions but would require that they be served consecutively.

2008-0771. Cuyahoga Cty. Bar Assn. v. Drain, Slip Opinion No. 2008-Ohio-6141.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 07-052. John Michael Drain Jr., Attorney Registration No. 0003656, is suspended from the practice of law in Ohio for six months, stayed on conditions.

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

2008-1152. Disciplinary Counsel v. Simmons, Slip Opinion No. 2008-Ohio-6142.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 07-047. Frank James Simmons Jr., Attorney Registration No. 0058498, is suspended from the practice of law in Ohio for one year, with six months stayed on condition.

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

2008-1174. Akron Bar Assn. v Watkins, Slip Opinion No. 2008-Ohio-6144.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 07-018. Thomas W. Watkins, Attorney Registration No. 0058702, is suspended from the practice of law in Ohio for six months, stayed on condition.

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

2008-1203. Cleveland Metro Bar Assn. v. McFaul, Slip Opinion No. 2008-Ohio-6145.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 07-084. Kevin T. McFaul, Attorney Registration No. 0033568, is suspended from the practice of law in Ohio for two years, stayed on conditions.

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

2008-1281. Patterson v. Ohio Adult Parole Auth., Slip Opinion No. 2008-Ohio-6147.

Richland App. No. 08-CA-33, 2008-Ohio-2620. Judgment affirmed.

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

MERIT DECISIONS WITHOUT OPINIONS

2008-1379. [State ex rel.] Huston v. Vinton Cty. Emergency Med. Servs.

In Mandamus. On relator's motion for leave to amend complaint and respondent's motion to dismiss. Motion for leave to amend complaint granted. Motion to dismiss granted. Cause dismissed.

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

2008-1564. State ex rel. Cincinnati Enquirer v. Jones-Kelley.

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

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

2008-1567. State ex rel. Third Fed. Savings & Loan Assn. of Cleveland v. Court of Appeals, Eighth Appellate Dist.

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

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

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

2008-1649. [State ex rel.] Watson v. Walsh.

In Mandamus. On complaint in mandamus of Everett Watson. On S.Ct.Prac.R. X(5) determination, cause dismissed.

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

2008-1655. State ex rel. Harris v. O'Connor.

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

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

2008-1731. [State ex rel.] Grundstein v. Spanagel.

In Prohibition. On relator's complaint, notice of changed conditions, and motion for stay and to issue alternative writ and respondents' motions to dismiss. Motion for stay and to issue alternative writ denied. Motions to dismiss granted. Cause dismissed.

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

2008-1748. State ex rel. Burnett v. Franklin Cty. Court of Common Pleas.

In Mandamus and Procedendo. On answer of respondents. On S.Ct.Prac.R. X(5) determination, cause dismissed.

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

2008-1752. [State ex rel.] Humr v. Vigluicci.

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

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

2008-1755. [State ex rel.] Ganley v. Court of Appeals, Ninth Appellate Dist.

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

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

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

2008-1810. [State ex rel.] Fooce v. Ohio State Univ.

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

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

2008-1815. [State ex rel.] Swain v. Holmes.

In Mandamus and Prohibition. On complaint in mandamus and prohibition of Joseph L. Swain. On S.Ct.Prac.R. X(5) determination, cause dismissed.

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

2008-1825. [State ex rel.] Cline v. Court of Appeals, Second Appellate Dist.

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

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

2008-1858. [State ex rel.] Grundstein v. Mason.

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

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

2008-1896. Abbe v. Wilson.

In Habeas Corpus. On petition for writ of habeas corpus of Amos Abbe and motion for injunction and/or temporary restraining order. Motion denied as moot. Sua sponte, cause dismissed.

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

2008-1904. [State ex rel.] Martin v. Coleman.

In Mandamus. On respondent's answer and relator's motion for sanctions. Motion for sanctions denied. On S.Ct.Prac.R. X(5) determination, cause dismissed.

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

2008-1922. [State ex rel.] Hargrove v. Hamilton Cty. Court of Common Pleas.

In Mandamus. On answer of respondent. On S.Ct.Prac.R. X(5) determination, cause dismissed.

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

2008-1923. State ex rel. Associated Builders & Contractors of Cent. Ohio v. Zurz.

In Mandamus and Prohibition. On answer of respondent Kimberly A. Zurz, Director, Ohio Department of Commerce, and motion to dismiss of Ohio Attorney General. Motion to dismiss granted. Cause dismissed.

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

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

2008-1969. Bolton v. Smith.

In Habeas Corpus. On petition for writ of habeas corpus of Roger Lee Bolton. Sua sponte, cause dismissed.

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

2008-2011. Pilgrim v. Karnes.

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

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

MOTION AND PROCEDURAL RULINGS

1994-0355. State v. Hill.

Hamilton App. No. C-920497. On motion to set execution date. Motion granted. It is further ordered 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 Tuesday, March 3, 2009, in accordance with the statutes so provided.

It is further ordered that a certified copy of this order and a warrant under the 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 of Hamilton County.

1998-1475. State v. Hartman.

Summit C.P. No. CR97-09-1987. On motion to set execution date. Motion granted. It is further ordered 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 Tuesday, April 7, 2009, in accordance with the statutes so provided.

It is further ordered that a certified copy of this order and a warrant under the 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 of Summit County.

O'Connor, J., not participating.

2008-0697. State ex rel. Weaver v. Bd. of Commrs. of Lake Cty.

In Mandamus. On request for oral argument. Request granted.

Pfeifer and O'Donnell, JJ., dissent.

2008-0703. Kelly v. May Assoc. Fed. Credit Union.

Summit App. No. 23423, 2008-Ohio-1507. On motion to dissolve stay. Motion granted.

2008-0780. Sheet Metal Workers' Internatl. Assn., Local Union No. 33 v. Gene's Refrig., Heating & Air Conditioning, Inc.

Medina App. No. 06CA0104-M, 2008-Ohio-1005. On motion for admission pro hac vice of Terry R. Yellig by Mark D. Tucker. Motion granted.

2008-1234. Rogers v. Planned Parenthood Cincinnati Region.

Certified Questions of State Law, United States Court of Appeals for the Sixth Circuit, Nos. 06-4422 and 06-4423. On motion for admission pro hac vice of Mailee R. Smith by Joel J. Kirkpatrick and motion for admission pro hac vice of Elisabeth A. Long by Benjamin C. Mizer. Motions granted.

2008-1294. Facundo v. Mukasey.

In Habeas Corpus. On motion for writ of replevin in cepit and notice of appeal. Motion denied.

2008-1308. State v. Smith.

Hamilton App. No. C-070216, 2008-Ohio-2469. On motion for leave to file a delayed cross-appeal. Motion granted.

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

2008-1837. In re Application of Duke Energy Ohio, Inc.

Public Utilities Commission, Nos. 07-589-GA-AIR, 07-590-GA-ALT, and 07-591-GA-AAM. On motion for admission pro hac vice of David C. Rinebolt by Colleen L. Mooney. Motion granted.

2008-1842. State ex rel. Myles v. Brunner.

In Mandamus. On motion for attorney fees and costs. Motion denied. Relator's filing fee and deposit for costs shall be refunded.

William H. Wolff Jr., J., of the Second Appellate District, sitting for Lundberg Stratton, J.

Lynn C. Slaby, J., of the Ninth Appellate District, sitting for O'Connor, J.

2008-1853. State v. Jones.

Mahoning App. No. 06 MA 109, 2008-Ohio-1541. On motion for leave to file delayed appeal. Motion denied.

2008-1878. State v. Runyon.

Butler App. No. CA2007-05-121. On motion for leave to file delayed appeal. Motion granted.

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

2008-1882. State v. Williams.

Marion App. No. 9-07-61, 2008-Ohio-3887. On motion for leave to file delayed appeal. Motion granted.

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

2008-1912. State v. Pompa.

Cuyahoga App. No. 90110, 2008-Ohio-3672. On motion for leave to file delayed appeal. Motion granted.

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

2008-1932. State v. Johnson.

Cuyahoga App. No. 90170. On motion for leave to file delayed appeal. Motion denied.

Moyer, C.J., dissents.

2008-1960. State v. Jackson.

Stark App. No. 2007-CA-00204, 2008-Ohio-3907. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

2008-1961. Murdock v. Hyde.

Butler App. No. CA2007-11-289, 2008-Ohio-4313. On motion for stay of court of appeals' judgment. Motion denied.

2008-1970. State v. Ingram.

Butler App. No. CA2007-10-247. On motion for leave to file delayed appeal. Motion granted.

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

2008-1975. State v. Brown.

Summit App. No. 23737, 2008-Ohio-2956. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2008-1976. State v. Gilmore.

Hamilton App. Nos. C-070521 and C-070522, 2008-Ohio-3475. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2008-1983. State v. Love.

Lake App. No. 99-L-051. On motion for leave to file delayed appeal. Motion denied.

2008-1987. State v. Harner.

Clinton App. No. CA2008-06-020. On motion for leave to file delayed appeal. Motion denied.

Lanzinger and Cupp, JJ., dissent.

2008-1992. State v. DeVaughns.

Montgomery App. No. 22349, 2008-Ohio-4010. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

2008-1993. State v. Watts.

Cuyahoga App. No. 90435, 2008-Ohio-3792. On motion for stay of court of appeals' judgment. Motion denied.

2008-2000. State v. Woyan.

Erie App. No. E-06-043, 2007-Ohio-6376. On motion for leave to file delayed appeal. Motion denied.

2008-2013. State v. Johnson.

Lucas App. No. L-06-1348, 2008-Ohio-2573. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2008-2024. State v. Jeter.

Erie App. No. E-06-054, 2007-Ohio-6127. On motion for leave to file delayed appeal. Motion denied.

2008-2042. State v. Whitaker.

Scioto App. No. 07CA3168, 2008-Ohio-4149. On motion for leave to file delayed appeal. Motion granted.

O'Connor and Cupp, JJ., dissent.

2008-2050. State v. Ferguson.

Franklin App. No. 07AP-640, 2008-Ohio-3827. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

2008-2072. Cleveland v. Abrams.

Cuyahoga App. Nos. 89904 and 89929, 2008-Ohio-4589. On motion for stay of court of appeals' judgment. Motion denied.

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

APPEALS ACCEPTED FOR REVIEW

2008-1255. State v. Singleton.

Cuyahoga App. No. 90042, 2008-Ohio-2351. Discretionary appeal accepted.

Moyer, C.J., and Lanzinger, J., would also hold the appeal for the decisions in 2007-0693, *State v. Bloomer*, Fulton App. No. F-06-012, 2007-Ohio-1039, 2007-1415, *State v. Mosmeyer*, Hamilton App. No. C-060747, and 2007-1439, *State v. Barnes*, Portage App. No. 2006-P-0089, 2007-Ohio-3362.

Cupp, J., would also hold the appeal for the decision in 2007-2373, *State v. Boswell*, Cuyahoga App. Nos. 88292 and 88293, 2007-Ohio-5718.

Pfeifer and O'Connor, JJ., dissent.

Discretionary cross-appeal not accepted.

2008-1350. Cepeda v. Lutheran Hosp.

Cuyahoga App. No. 90031, 2008-Ohio-2348. Discretionary appeal accepted; cause held for the decision in 2007-1832, *Roe v. Planned Parenthood Southwest Ohio Region*, Hamilton App. No. C-060557, 173 Ohio App.3d 414, 2007-Ohio-4318; and briefing schedule stayed.

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

2008-1452. State v. Cargile.

Cuyahoga App. No. 89964, 2008-Ohio-2783.

Pfeifer, J., dissents.

2008-1460. Youngstown v. Traylor.

Mahoning App. No. 07 MA 102, 2008-Ohio-2971.

Pfeifer and O'Connor, JJ., dissent.

2008-1463. Krieger v. Cleveland Indians Baseball Co.

Cuyahoga App. Nos. 89314, 89428, and 89463, 176 Ohio App.3d 410, 2008-Ohio-2183. Discretionary appeal accepted on Proposition of Law No. I.

Moyer, C.J., and Lundberg Stratton, J., would also accept the appeal on all other Propositions of Law.

Cupp, J., would also accept the appeal on Proposition of Law No. II.

Pfeifer and O'Donnell, JJ., dissent.

2008-1478. State ex rel. Associated Builders & Contractors of Cent. Ohio v. Franklin Cty. Bd. of Commrs.

Franklin App. No. 08AP-301, 2008-Ohio-2870. Discretionary appeal accepted on Proposition of Law No. III.

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

Pfeifer, Lanzinger, and Cupp, JJ., dissent.

2008-1480. Cincinnati City School Dist. Bd. of Edn. v. State Bd. of Edn.

Hamilton App. No. C-070494, 176 Ohio App.3d 678, 2008-Ohio-2845.

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

2008-1568. Greenspan v. Third Fed. Savings & Loan.

Cuyahoga App. No. 89850, 177 Ohio App.3d 372, 2008-Ohio-3528. Discretionary appeal accepted.

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

Motions for admission pro hac vice of Richard E. Shevitz and Vess A. Miller by Mark Schlachet granted.

2008-1578. In re T.F.

Summit App. No. 23979, 2008-Ohio-3106. Discretionary appeal accepted on Proposition of Law No. I; cause held for the decision in 2007-0291 and 2007-0472, *State v. D.H.*, Franklin App. No. 06AP-250, 169 Ohio App.3d 798, 2006-Ohio-6953; and briefing schedule stayed.

Lanzinger and Cupp, JJ., would also accept the appeal on Proposition of Law No. II.

Pfeifer, Lundberg Stratton, and O'Connor, JJ., dissent.

2008-1624. In re Smith.

Allen App. No. 1-07-58, 2008-Ohio-3234.

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

2008-1630. State v. Chiominto.

Lake App. No. 2007-L-138, 2008-Ohio-3393. Discretionary appeal accepted; cause held for the decision in 2007-2389, *State v. Thompson*, Fairfield App. No. 2007-CA-00006, 2007-Ohio-6098; and briefing schedule stayed.

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

2008-1725. State v. Lester.

Hamilton App. No. C-070383, 2008-Ohio-3570.

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

APPEALS NOT ACCEPTED FOR REVIEW

2008-0758. Estate of Thompson v. Club Car, Inc.

Richland App. No. 07 CA 70.

Moyer, C.J., and O'Connor, J., dissent and would accept the appeal on Proposition of Law Nos. I and II.

2008-0912. State v. Wheat.

Stark App. No. 2007 CA 00165, 2008-Ohio-671.

2008-1169. State v. Reeds.

Lake App. No. 2007-L-120, 2008-Ohio-1781.

2008-1173. State v. Collins.

Cuyahoga App. No. 89668, 2008-Ohio-2363.

2008-1322. State ex rel. Auto-Owners Ins. v. Wortham.

Montgomery App. No. 22540, 176 Ohio App.3d 611, 2008-Ohio-2873.

Pfeifer and O'Connor, JJ., dissent.

2008-1348. State v. Smith.

Hamilton App. No. C-060991, 2008-Ohio-2561. Discretionary appeal not accepted.

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

Discretionary cross-appeal not accepted.

Moyer, C.J., and Lundberg Stratton, J., dissent and would accept the cross-appeal and hold the cause for the decision in 2007-1812, *State v. Harris*, Hamilton App. No. C-060587.

Lanzinger, J., dissents and would accept the cross-appeal on Proposition of Law No. I and hold the cause for the decision in 2007-1812, *State v. Harris*.

2008-1408. Short v. Shelly & Sands, Inc.

Muskingum App. No. CT2007-0030, 2008-Ohio-2866.

2008-1410. State v. Barton.

Warren App. No. CA2006-10-127, 2008-Ohio-2736.

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

2008-1412. State v. Abernathy.

Scioto App. No. 07CA3160, 2008-Ohio-2949.

2008-1413. Coryell v. Bank One Trust Co., N.A.

Franklin App. No. 07AP-766, 2008-Ohio-2698.
O'Donnell, J., dissents.

2008-1415. Ortiz v. Frye.

Jefferson App. No. 06 JE 41, 2008-Ohio-2750.

2008-1419. Hitchcock v. Akron City Schools Bd. of Edn.

Summit App. No. 23632, 2008-Ohio-2668.

Lundberg Stratton, J., dissents.

2008-1423. State v. Francis.

Fayette App. No. CA2007-07-025.

2008-1430. Mulliken v. Mulliken.

Geauga App. No. 2007-G-2806, 2008-Ohio-2752.

2008-1431. State v. Clark.

Lake App. No. 2007-L-139, 2008-Ohio-2760.

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

2008-1432. State v. Tate.

Cuyahoga App. No. 91557.

2008-1433. State v. Evans.

Hamilton App. No. C-070555.

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

2008-1435. State v. Kolb.

Fulton App. No. F-07-016, 2008-Ohio-3265.

2008-1437. Duco v. Wheeling-Pittsburgh Steel Corp.

Jefferson App. No. 07 JE 41, 2008-Ohio-3092.

2008-1439. Deutsche Bank Trust Co. Americas v. Smith.

Cuyahoga App. No. 89738, 2008-Ohio-2778.

Lundberg Stratton, J., dissents.

O'Connor, J., dissents and would accept the appeal on Proposition of Law Nos. I and II.

2008-1442. State v. Simmons.

Jefferson App. No. 07 JE 22, 2008-Ohio-3337.

2008-1443. Klasmeier v. Residential Servs. Group, Inc.

Butler App. Nos. CA2007-04-100 and CA2007-05-110, 2008-Ohio-2740.

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

2008-1449. State v. Smith.

Franklin App. No. 07AP-985, 2008-Ohio-2802.

2008-1453. State v. Proffit.

Fairfield App. No. 07CA36, 2008-Ohio-2912.

2008-1454. State v. Friedlander.

Cuyahoga App. No. 90084, 2008-Ohio-2812.

2008-1455. State v. Smith.

Morrow App. No. 2007 CA 0003, 2008-Ohio-2772.

2008-1457. State v. Linson.

Cuyahoga App. No. 91635. Discretionary appeal not accepted. Motion for preparation of complete transcript of proceedings at state expense denied as moot.

2008-1458. Cotton v. Timmerman-Cooper.

Madison App. No. CA2007-11-034.

2008-1461. State v. Moss.

Hamilton App. No. C-070354.

2008-1467. State v. Peterson.

Franklin App. No. 07AP-303, 2008-Ohio-2838.

2008-1468. State v. Drew.

Franklin App. No. 07AP-467, 2008-Ohio-2797.

2008-1470. State v. Moore.

Cuyahoga App. No. 89779, 2008-Ohio-2365.

2008-1472. State v. Mullins.

Montgomery App. No. 22301, 2008-Ohio-2892.

2008-1473. Christopher v. Automotive Fin. Corp.

Mahoning App. No. 06 MA 186, 2008-Ohio-2972.

O'Donnell, J., dissents.

2008-1475. State v. Hanning.

Muskingum App. No. CT2007-0069, 2008-Ohio-2976.

2008-1479. State v. Logan.

Richland App. No. 07-CA-56, 2008-Ohio-2969.

Moyer, C.J., dissents.

2008-1482. Greene v. Greene.

Licking App. No. 07 CA 87, 2008-Ohio-2829.

Lanzinger, J., dissents.

2008-1486. State v. Dodgens.

Licking App. No. 08 CA 54.

2008-1492. State v. Francis.

Guernsey App. No. 07CA000023, 2008-Ohio-3307.

2008-1500. Richardson v. Welded Tubes, Inc.

Ashtabula App. No. 2007-A-0069, 2008-Ohio-2920.

2008-1502. Bank One Trust Co., N.A. v. Scherer.

Franklin App. Nos. 07AP-186 and 07AP-350, 176 Ohio App.3d 694, 2008-Ohio-2952.

O'Donnell, J., dissents.

2008-1503. State v. Owens.

Jefferson App. No. 06 JE 50, 2008-Ohio-3071.

2008-1506. Hora v. Hora.

Preble App. No. CA2007-03-007, 2008-Ohio-2908.

2008-1510. State v. Bailum.

Clark App. No. 2007 CA 55, 2008-Ohio-2999.

2008-1514. Folmar v. Griffin.

Delaware App. No. 07 CAE 06 0025, 2008-Ohio-2941.

2008-1516. State v. Vaughn.

Cuyahoga App. No. 90136, 2008-Ohio-3027.

O'Connor, J., dissents and would accept the appeal on Proposition of Law No. III and hold the cause for the decision in 2008-0661, *State v. Hunter*, Cuyahoga App. No. 89456, 2008-Ohio-794.

2008-1517. State v. Shaffer.

Licking App. No. 07CA79, 2008-Ohio-3116.

2008-1518. State v. Glenn.

Allen App. No. 1-06-12, 2008-Ohio-3058.

2008-1522. State v. Collins.

Cuyahoga App. No. 89808, 2008-Ohio-3016.

O'Connor and Cupp, JJ., dissent.

2008-1523. Rogers v. Akron City School Sys.

Summit App. No. 23416, 2008-Ohio-2962.

2008-1525. Wencho v. Lakewood School Dist.

Cuyahoga App. No. 89928, 177 Ohio App.3d 469, 2008-Ohio-3527.

Lundberg Stratton, J., dissents.

2008-1527. State v. Chambers.

Cuyahoga App. No. 89319, 2008-Ohio-3017.

2008-1530. State v. Bohne.

Erie App. No. E-07-052, 2008-Ohio-2986.

2008-1531. Battista v. Ameritech Corp./SBC.

Cuyahoga App. No. 90133, 2008-Ohio-3067.

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

2008-1533. In re B.B.

Lucas App. No. L-07-1343, 2008-Ohio-2995.

2008-1534. Meeker v. Graves Lumber Co.

Summit App. No. 24057, 2008-Ohio-3109.

2008-1535. State v. Nenzoski.

Portage App. No. 2007-P-0044, 2008-Ohio-3253.

2008-1536. State v. Cross.

Mahoning App. No. 07-MA-74, 2008-Ohio-3240.

Lanzinger, J., dissents.

2008-1539. State v. West.

Jefferson App. No. 07-JE-52, 2008-Ohio-3248.

2008-1540. State v. Leffler.

Hardin App. No. 6-07-22, 2008-Ohio-3057. Discretionary appeal not accepted.
Motion to dismiss appeal denied as moot.

2008-1541. State v. Grizovic.

Hamilton App. No. C-070563, 177 Ohio App.3d 161, 2008-Ohio-3162.

2008-1545. Teaberry v. Teaberry.

Mahoning App. No. 07 MA 168, 2008-Ohio-3334.

2008-1547. Williams v. Am. Suzuki Motor Corp.

Stark App. No. 2007-CA-00172, 2008-Ohio-3123.

O'Donnell, J., dissents.

2008-1548. State v. Lee.

Hamilton App. No. C-070056, 2008-Ohio-3157.

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

2008-1554. State v. Barnes.

Cuyahoga App. No. 91684.

2008-1565. State v. Couch.

Hamilton App. No. C-070001.

Cupp, J., not participating.

2008-1566. Thompson & Ward Leasing Co., Inc. v. Ohio Bur. of Motor Vehicles.

Franklin App. No. 08AP-41, 2008-Ohio-3101.

2008-1571. State v. Wells.

Butler App. No. CA2007-11-282.

2008-1572. State v. Batrez.

Richland App. No. 2007-CA-75, 2008-Ohio-3117.

2008-1574. Gen. Commodities Candy & Tobacco, L.L.C. v. Levin.

Franklin App. No. 08AP-126, 2008-Ohio-3173.

O'Donnell, J., dissents.

2008-1576. State v. Kring.

Franklin App. No. 07AP-610, 2008-Ohio-3290.

2008-1577. Settler's Village Condominium v. Nestor.

Cuyahoga App. No. 90028.

2008-1579. Cincinnati ex rel. Zimmer v. Cincinnati.

Hamilton App. No. C-070709, 176 Ohio App.3d 588, 2008-Ohio-3156.

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

2008-1581. State v. Brooks.

Summit App. No. 23950, 2008-Ohio-3104.

2008-1582. Powers v. Powers.

Hamilton App. Nos. C-070293 and C-070297, 2008-Ohio-3159.

2008-1583. State v. Hansard.

Scioto App. No. 07CA3177, 2008-Ohio-3349.

2008-1585. State v. Fletcher.

Summit App. No. 23838, 2008-Ohio-3105.

2008-1586. Ohio Cas. Ins. Co. v. Hanna.

Medina App. Nos. 07CA0016-M and 07CA0017-M, 2008-Ohio-3203.

Lundberg Stratton, J., dissents.

2008-1587. State v. Pishok.

Seneca App. No. 13-08-05, 2008-Ohio-3230.

2008-1588. Kudla v. Wendt.

Cuyahoga App. No. 89375, 2008-Ohio-3025.

Pfeifer, J., dissents.

2008-1589. State v. Cochran.

Cuyahoga App. No. 91349.

2008-1591. Columbus v. Whaley.

Franklin App. No. 08AP-25, 2008-Ohio-3301.

2008-1592. State v. Wilson.

Cuyahoga App. No. 90180, 2008-Ohio-3452.

2008-1594. State v. Nunez.

Montgomery App. No. 22208, 2008-Ohio-3376.

2008-1597. Heller v. Heller.

Franklin App. No. 07AP-871, 2008-Ohio-3296.

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

2008-1600. Nolan v. Conseco Health Ins. Co.

Jefferson App. No. 07 JE 30, 2008-Ohio-3332.

Moyer, C.J., dissents.

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

2008-1601. Markley v. Markley.

Wayne App. No. 07CA0085, 2008-Ohio-3208.

2008-1605. State v. Brock.

Hancock App. No. 5-07-42, 2008-Ohio-3220.

2008-1607. Daily v. Am. Family Ins. Co.

Cuyahoga App. No. 90220, 2008-Ohio-3082.

Pfeifer, J., dissents.

2008-1609. State v. VanVoorhis.

Logan App. No. 8-07-23, 2008-Ohio-3224.

2008-1612. State v. Douglas.

Marion App. No. 9-07-58, 2008-Ohio-3232.

2008-1614. State v. Mercado.

Marion App. No. 7-06-68, 2008-Ohio-3219.

O'Donnell, J., dissents.

2008-1615. Neubert v. Connex Group, Inc.

Butler App. No. CA2007-10-256.

Pfeifer and O'Donnell, JJ., dissent.

2008-1617. State v. Sowell.

Franklin App. No. 06AP-443, 2008-Ohio-3285.

Cupp, J., dissents and would accept the appeal on Proposition of Law Nos. I and III.

2008-1618. State v. Miller.

Franklin App. No. 04AP-37, 2008-Ohio-3284.

Pfeifer, J., dissents.

2008-1620. Williams v. McFarland Properties, L.L.C.

Butler App. No. CA2007-08-200, 177 Ohio App.3d 490, 2008-Ohio-3594.

Pfeifer, J., dissents.

2008-1621. State v. Brandenburg.

Butler App. No. CA2007-07-155, 2008-Ohio-3593.

2008-1625. Dayton v. Ealy.

Montgomery App. No. 22111.

2008-1626. St. Joseph Investments L.L.C. v. Ealy.

Montgomery App. No. 22630.

2008-1627. State v. Nave.

Hamilton App. No. C-080481.

2008-1629. State v. Ertel.

Clermont App. No. CA2007-12-114.

2008-1631. State v. Davis.

Butler App. No. CA2008-04-111.

2008-1633. State v. Clagg.

Richland App. No. 08CA44.

2008-1638. State v. Taylor.

Montgomery App. No. 22216, 2008-Ohio-3372.

2008-1641. Karnofel v. DWYCO Xerox Office Ctr.

Mahoning App. No. 08 MA 116, 2008-Ohio-3433.

2008-1646. State v. Tate.

Fairfield App. No. 07 CA 55, 2008-Ohio-3759.

2008-1659. State v. Hudson.

Franklin App. No. 06AP-335, 2007-Ohio-3227.

2008-1664. State v. Murphy.

Butler App. No. CA2007-03-073, 2008-Ohio-3382.

2008-1677. Slobody v. Friedland-Slobody.

Geauga App. No. 2007-G-2777, 2008-Ohio-3395.

2008-1696. State v. DeMarco.

Lake App. No. 2007-L-130, 2008-Ohio-3511.

Moyer, C.J., dissents.

2008-1698. In re Orange Village Investigation.

Cuyahoga App. No. 91382.

O'Donnell, J., dissents.

2008-1700. State v. Robinson.

Franklin App. No. 08AP-76.

2008-1710. State v. Wheeler.

Lucas App. No. L-06-1125, 2007-Ohio-6375.

2008-1716. State v. Woodson.

Stark App. No. 2007-CA-00151, 2008-Ohio-3519.

2008-1778. State v. Rickard.

Lucas App. No. L-93-205.

2008-1798. State v. Cook.

Stark App. No. 2006-CA-242, 2008-Ohio-3932.

O'Donnell, J., dissents.

2008-1806. State v. O'Neal.

Medina App. No. 07CA0050-M, 2008-Ohio-1325.

2008-1808. State v. Ison.

Ashland App. No. 07 COA 025, 2008-Ohio-895.

Moyer, C.J., dissents.

2008-1816. State v. Smith.

Preble App. No. CA2007-05-011.

2008-1834. State v. Hobbs.

Hamilton App. No. C-000516.

2008-1864. State v. Welton.

Fayette App. No. CA2006-07-028, 2008-Ohio-2113.

2008-1886. State v. Garduno.

Preble App. No. CA2007-06-013.

2008-1997. In re M.N.

Athens App. No. 08CA9, 2008-Ohio-4821.

2008-2040. In re Shelby G.

Lucas App. No. L-07-1390, 2008-Ohio-4482.

RECONSIDERATION OF PRIOR DECISIONS

2006-1703 and 2006-2183. Hutchings v. Childress.

Delaware App. No. 05CAE05-031, 2006-Ohio-7323. Reported at 119 Ohio St.3d 486, 2008-Ohio-4568, 895 N.E.2d 520. On motion for reconsideration. Motion denied.

Lundberg Stratton, J., dissents.

2007-0656 and 2007-0657. State v. Veney.

Franklin App. No. 06AP-523, 2007-Ohio-1295. Reported at ___ Ohio St.3d ___, 2008-Ohio-5200, ___ N.E.2d ___. On motion for reconsideration. Motion denied. Motion for stay denied.

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

2007-0742. State v. Brady.

Ashtabula App. No. 2005-A-0085, 2007-Ohio-1779. Reported at 119 Ohio St.3d 375, 2008-Ohio-4493, 894 N.E.2d 671. On motion for reconsideration. Motion denied.

2007-1722. Southside Community Dev. Corp. v. Levin.

Board of Tax Appeals, No. 2006-T-635. Reported at 119 Ohio St.3d 521, 2008-Ohio-4839, 895 N.E.2d 551. On motion for reconsideration. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

2007-1760 and 2007-1762. Lager v. Miller-Gonzalez.

Lucas App. No. L-07-1022, 2007-Ohio-4094. Reported at ___ Ohio St.3d ___, 2008-Ohio-4838, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

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

Penelope R. Cunningham, J., of the First Appellate District, sitting for Lanzinger, J.

Lynn C. Slaby, J., of the Ninth Appellate District, sitting for Cupp, J.

2008-0830. Calhoun v. Harner.

Allen App. No. 1-06-97, 2008-Ohio-1141. Reported at 119 Ohio St.3d 1445, 2008-Ohio-4487, 893 N.E.2d 516. On motion for reconsideration. Motion denied.

Pfeifer, J., dissents.

2008-0921. State v. Mettle.

Franklin App. No. 07AP-892, 2008-Ohio-1425. Reported at 119 Ohio St.3d 1446, 2008-Ohio-4487, 893 N.E.2d 516. On motion for reconsideration. Motion denied.

2008-0939. Amstutz v. Eberlin.

Belmont App. No. 07-BE-49, 2008-Ohio-1551. Reported at 119 Ohio St.3d 421, 2008-Ohio-4538, 894 N.E.2d 1219. On motion for reconsideration. Motion denied.

2008-1020. State v. Simmons.

Montgomery App. No. 22653. Reported at 119 Ohio St.3d 1448, 2008-Ohio-4487, 893 N.E.2d 518. On motion for reconsideration. Motion denied.

2008-1062. Fleming v. Ashtabula Area City School Bd. of Edn.

Ashtabula App. No. 2006-A-0030, 2008-Ohio-1892. Reported at 119 Ohio St.3d 1473, 2008-Ohio-4911, 894 N.E.2d 332. On motion for reconsideration. Motion denied. Motion to strike denied as moot.

Lundberg Stratton, J., dissents.

2008-1083. [State ex rel.] Sisson v. Hagan.

In Mandamus. Reported at 119 Ohio St.3d 1438, 2008-Ohio-4487, 893 N.E.2d 511. On motion for reconsideration. Motion denied.

2008-1099. Columbia Steel & Wire, Inc. v. Winegar.

Cuyahoga App. No. 89699, 2008-Ohio-1719. Reported at 119 Ohio St.3d 1474, 2008-Ohio-4911, 894 N.E.2d 333. On motion for reconsideration. Motion denied.

2008-1101. Peterman v. Stewart.

Delaware App. No. 07 CAE 10 0054, 2008-Ohio-2164. Reported at 119 Ohio St.3d 1474, 2008-Ohio-4911, 894 N.E.2d 333. On motion for reconsideration. Motion denied.

2008-1105. Nationwide Mut. Ins. Co. v. Guerard.

Holmes App. No. 07CA010, 2008-Ohio-2281. Reported at 119 Ohio St.3d 1474, 2008-Ohio-4911, 894 N.E.2d 333. On motion for reconsideration. Motion denied. Motion to strike denied as moot.

Pfeifer, J., dissents.

2008-1126. King v. Ricerca Biosciences, L.L.C.

Lake App. No. 2007-L-115, 2008-Ohio-2001. Reported at 119 Ohio St.3d 1474, 2008-Ohio-4911, 894 N.E.2d 333. On motion for reconsideration. Motion denied.

2008-1175. [State ex rel.] Ealy v. Liston.

In Mandamus. Reported at 119 Ohio St.3d 1438, 2008-Ohio-4487, 893 N.E.2d 511. On motion for reconsideration. Motion denied.

Lanzinger, J., not participating.

2008-1233. State v. Ustaszewski.

Lucas App. No. L-05-1226, 2006-Ohio-329. Reported at 119 Ohio St.3d 1440, 2008-Ohio-4487, 893 N.E.2d 512. On motion for reconsideration. Motion denied.

2008-1367. State ex rel. Shepherd v. Mansfield Mun. Court.

In Mandamus. Reported at 119 Ohio St.3d 1468, 2008-Ohio-4911, 894 N.E.2d 328. On motion for reconsideration. Motion denied.

O'Donnell, J., dissents.

2008-1384. State ex rel. McIntyre v. Ravenna.

In Mandamus. Reported at 119 Ohio St.3d 1468, 2008-Ohio-4911, 894 N.E.2d 328. On motion for reconsideration. Motion denied.

2008-1398. Peterman v. Stewart.

Delaware App. No. 07 CAE 10 0054, 2008-Ohio-2164. Reported at 119 Ohio St.3d 1488, 2008-Ohio-5273, 894 N.E.2d 1245. On motion for reconsideration. Motion denied.

2008-1399. State ex rel. Proctor v. Wise.

In Mandamus. Reported at 119 Ohio St.3d 1468, 2008-Ohio-4911, 894 N.E.2d 329. On motion for reconsideration. Motion denied.

O'Donnell, J., dissents.

2008-1485. State ex rel. Oko v. McDonnell.

In Mandamus. Reported at 119 Ohio St.3d 1468, 2008-Ohio-4911, 894 N.E.2d 329. On motion for reconsideration. Motion denied. Motion for leave to file denied.

2008-1652. McCaleb v. Gansheimer.

In Habeas Corpus. Reported at 119 Ohio St.3d 1469, 2008-Ohio-4911, 894 N.E.2d 329. On motion for reconsideration. Motion denied.