

The Supreme Court of Ohio

CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

December 14, 2005

[Cite as *12/14/2005 Case Announcements, 2005-Ohio-6480.*]

MERIT DECISIONS WITH OPINIONS

2004-0695. Williams v. Akron, 2005-Ohio-6268.

Summit App. No. 21306, 2003-Ohio-7197. Judgment affirmed.

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

O'Donnell, J., concurs separately.

Resnick and Pfeifer, JJ., dissent.

2004-2114. Cleveland Bar Assn. v. Sharp Estate Serv., Inc., 2005-Ohio-6267.

On Final Report by the Board on the Unauthorized Practice of Law, No. UPL 02-1. Sharp Estate Services, Inc., Asset Preservation Group, Inc., Sharp Estate & Insurance Services, Inc., Jeffrey G. Sharp, Robert Clapacs, Diane C. Sharp, Henry W. Abts III, and The Estate Plan are enjoined from conduct that constitutes the unauthorized practice of law in Ohio, and civil penalty is imposed.

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

2005-0349. Disciplinary Counsel v. Wheatley, 2005-Ohio-6266.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 03-072. Myron Daniel Wheatley, Attorney Registration No. 0038584, is suspended from the practice of law in Ohio for six months.

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

2005-0452. Harmon v. Baldwin, 2005-Ohio-6264.

Licking App. No. 04CA116, 2005-Ohio-722. Judgment affirmed.

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

Pfeifer, J., concurs in judgment only.

2005-1157. Mahoning Cty. Bar Assn. v. Melnick, 2005-Ohio-6265.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 04-066. Robert Melnick, Attorney Registration No. 0014788, is publicly reprimanded.

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

MERIT DECISIONS WITHOUT OPINIONS

2005-1703. State v. Imler.

Franklin App. No. 04AP-1246, 2005-Ohio-4241. On motion to dismiss based on the order certifying a conflict having been withdrawn. Motion granted for want of a conflict. Cause dismissed.

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

2005-1813. State ex rel. Buoscio v. Court of Appeals, Seventh Appellate Dist.

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

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

2005-1830. State ex rel. Wheeler v. Connor.

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

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

Lundberg Stratton, J., dissents.

2005-1875. State ex rel. Bozsik v. Leisy.

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

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

2005-1876. State ex rel. Bozsik v. Leisy.

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

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

2005-1887. State ex rel. Garcia v. Court of Appeals, Eighth Appellate Dist.

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

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

O'Donnell, J., not participating.

2005-1997. State ex rel. Pennington v. Wolfe.

In Habeas Corpus. On petition for writ of habeas corpus of Lucas A. Pennington. Sua sponte, cause dismissed.

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

MOTION AND PROCEDURAL RULINGS

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

Franklin App. No. 97AP-860. This cause came on for further consideration of appellant's appearance before this court upon a finding of contempt. Upon consideration of the statements of the parties at the hearing and the record in this case,

IT IS ORDERED by the court that appellant Gregory T. Howard shall make payments towards the March 3, 2004, and March 28, 2005, awards of attorney fees to the appellees as follows:

Appellant shall pay the remaining \$384.00 owed to appellee Industrial Commission of Ohio within thirty days of the date of this entry. Within thirty days thereafter, appellant shall pay \$50.00 each month to counsel for appellee Seaway Foodtown, Inc., until paid in full.

IT IS FURTHER ORDERED that appellant remains in contempt of this court until all attorney fees previously ordered to be paid by appellant are paid in full. Failure of appellant to comply with the payment schedule established by this entry will result in additional sanctions.

2002-1314. Santos v. Bur. of Workers' Comp.

Cuyahoga App. No. 80353, 2002-Ohio-2731. On motion to show cause for failure to comply with Supreme Court mandate. Motion denied.

Resnick and Pfeifer, JJ., dissent.

2002-2241. State v. Monroe.

Franklin C.P. No. 01CR042118. On motion for appointment of counsel for application to reopen. Motion granted.

2005-0160. Am. Financial Serv. Assn. v. Cleveland.

Cuyahoga App. No. 83676, 159 Ohio App.3d 489, 2004-Ohio-6416. On motion of appellant to consider 2005-0160 and 2005-0161, *Am. Financial Serv. Assn. v. Cleveland*, Cuyahoga App. No. 83676, 159 Ohio App.3d 489, 2004-Ohio-6416, prior to entry of judgment in 2004-1829, *Cincinnati v. Baskin*, Hamilton App. No. C-030864, 158 Ohio App.3d 539, 2004-Ohio-5055. Motion denied as moot.

2005-0161. Am. Financial Serv. Assn. v. Cleveland.

Cuyahoga App. No. 83676, 159 Ohio App.3d 489, 2004-Ohio-6416. On motion of appellant to consider 2005-0160 and 2005-0161, *Am. Financial Serv. Assn. v. Cleveland*, Cuyahoga App. No. 83676, 159 Ohio App.3d 489, 2004-Ohio-6416, prior to entry of judgment in 2004-1829, *Cincinnati v. Baskin*, Hamilton App. No. C-030864, 158 Ohio App.3d 539, 2004-Ohio-5055. Motion denied as moot.

2005-0245. Reading v. Pub. Util. Comm.

Public Utilities Commission, No. 02-589-RR-UNC. On motion for leave to intervene of Indiana & Ohio Railroad, Inc. Motion granted.

2005-0832. Raub v. Garwood.

Summit App. No. 22210, 2005-Ohio-1279. On motion to dismiss for lack of a final appealable order. Motion denied.

Moyer, C.J., dissents.

2005-0945. Ohio Consumers' Counsel v. Pub. Util. Comm.

Public Utilities Commission, Nos. 03-2341-EL-ATA, 03-2405-EL-CSS, and 04-85-EL-CSS. On motion of Dayton Power and Light Company for leave to intervene as an appellee. Motion granted.

On motion for stay of execution of the enforcement of the Public Utilities Commission's opinion and order. Motion denied.

Moyer, C.J., Resnick and Pfeifer, JJ., would grant the motion for stay.

2005-1936. State v. Jenkins.

Franklin App. No. 05AP-478. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2005-1990. State v. Johnson.

Lucas App. No. L-05-1089. On motion for leave to file delayed appeal. Motion denied.

Lanzinger, J., dissents.

2005-2049. State v. Hernandez.

Stark App. No. 2004-CA-00131, 2005-Ohio-2308. On motion for leave to file delayed appeal. Motion denied. Motion to dismiss denied as moot.

Pfeifer, J., dissents.

2005-2050. State v. Bustillos-Gonzales.

Stark App. No. 2004-CA-00130, 2005-Ohio-2307. On motion for leave to file delayed appeal. Motion denied. Motion to dismiss denied as moot.

Pfeifer, J., dissents.

2005-2052. State v. Heyman.

Sandusky App. No. S-04-016, 2005-Ohio-5565. On motion for stay of court of appeals' judgment. Motion denied.

Resnick, J., dissents.

2005-2066. State v. Perrine.

Washington App. No. 04CA40, 2005-Ohio-3344. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

2005-2121. State v. Whitt.

Scioto App. No. 04CA2962, 2005-Ohio-5154. On motion for stay of court of appeals' judgment. Motion denied.

APPEALS ACCEPTED FOR REVIEW

2005-1467. State v. Bunch.

Mahoning App. No. 02 CA 196, 2005-Ohio-3309. Discretionary appeal accepted on Proposition of Law No. I; cause held for the decisions in 2004-1771, *State v. Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2004-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209; and briefing schedule stayed. Discretionary cross-appeal not accepted.

Lundberg Stratton and O'Connor, JJ., would also accept the cross-appeal.

2005-1555. State v. Attaway.

Cuyahoga App. No. 85036, 2005-Ohio-3420. Discretionary appeal accepted; cause held for the decisions in 2004-1771, *State v. Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2004-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209; and briefing schedule stayed.

2005-1572. State v. Bigsby.

Cuyahoga App. No. 83370, 162 Ohio App.3d 251, 2005-Ohio-3590. Discretionary appeal accepted on Proposition of Law No. I; cause held for the decisions in 2004-1771, *State v. Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2004-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209; and briefing schedule stayed.

2005-1577. State v. Warren.

Cuyahoga App. No. 84536, 2005-Ohio-3431. Discretionary appeal accepted on Proposition of Law No. I; cause held for the decisions in 2004-1771, *State v. Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2004-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209; and briefing schedule stayed.

2005-1628. State v. Taylor.

Athens App. No. 04CA32, 2005-Ohio-3721. Discretionary appeal accepted on Proposition of Law No. I; cause held for the decisions in 2004-1771, *State v. Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2004-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209; and briefing schedule stayed.

2005-1632. State v. Collins.

Montgomery App. No. 20287, 2005-Ohio-3875. Discretionary appeal accepted on Proposition of Law No. III; cause held for the decisions in 2004-1771, *State v. Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2004-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209; and briefing schedule stayed.

2005-1635. First Union Natl. Bank of Delaware v. Maenle.

Huron App. No. H-04-036, 162 Ohio App.3d 479, 2005-Ohio-4021.
Resnick and Pfeifer, JJ., dissent.

2005-1642. Holdeman v. Epperson.

Clark App. No. 2004-CA-49, 2005-Ohio-3750.
Resnick and Pfeifer, JJ., dissent.

2005-1659. State v. Eash.

Champaign App. No. 03-CA-34, 2005-Ohio-3749.

Resnick and Pfeifer, JJ., dissent.

2005-1663. State v. Rivera.

Cuyahoga App. No. 85118, 2005-Ohio-3833. Discretionary appeal accepted; cause held for the decisions in 2004-1171, *State v. Mathias*, Cuyahoga App. No. 83311, 2004-Ohio-2982, and 2004-1267, *State v. Fair*, Cuyahoga App. No. 82278, 2004-Ohio-2971; and briefing schedule stayed.

Resnick, J., dissents.

2005-1670. State v. Wagner.

Licking App. No. 04CA79, 2005-Ohio-3821. Discretionary appeal accepted; cause held for the decisions in 2004-1771, *State v. Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2004-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209; and briefing schedule stayed.

2005-1673. State v. Dunn.

Logan App. No. 8-05-03, 2005-Ohio-3762. Discretionary appeal accepted on Proposition of Law No. II; cause held for the decisions in 2004-1771, *State v. Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2004-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209; and briefing schedule stayed.

O'Connor, J., dissents.

2005-1686. State v. Sanchez.

Franklin App. No. 04AP-1320, 2005-Ohio-3783. Discretionary appeal accepted; cause held for the decisions in 2004-1771, *State v. Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2004-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209; and briefing schedule stayed.

2005-1823. State v. Martin.

Montgomery App. No. 20516, 2005-Ohio-4602. Discretionary appeal accepted on Proposition of Law No. II; cause held for the decisions in 2004-1771, *State v. Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2004-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209; and briefing schedule stayed.

2005-1849. State v. Imler.

Franklin App. No. 04AP-1246, 2005-Ohio-4241. Discretionary appeal accepted on Proposition of Law Nos. I and II; cause held for the decisions in 2004-1771, *State v. Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2004-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209; and briefing schedule stayed.

APPEALS NOT ACCEPTED FOR REVIEW

2005-0934. State v. Sommer.

Fairfield App. No. 04CA36, 2005-Ohio-1707.
Pfeifer, J., dissents.

2005-0997. State v. Shahan.

Franklin App. No. 05AP-114.

2005-1062. State v. Browning.

Muskingum App. No. CT050013. Discretionary appeal not accepted. Motion to amend the record denied as moot.

2005-1148. State v. Yockey.

Summit App. No. 22541.

2005-1176. Tobias, Kraus & Torchia v. Schlagel.

Hamilton App. No. C-040644.

2005-1260. State v. Leach.

Cuyahoga App. No. 84794, 2005-Ohio-1870.

2005-1356. Campbell v. Washington Cty. Pub. Library Bd. of Trustees.

Washington App. No. 04CA44, 2005-Ohio-2992.

2005-1372. State v. Conley.

Perry App. Nos. 03 CA 18, 04 CA 11, 04 CA 12, 04 CA 14, and 04 CA 15, 2005-Ohio-3347. Discretionary appeal and cross-appeal not accepted.

O'Connor, J., would accept the discretionary appeal.

2005-1427. State v. Hill.

Cuyahoga App. Nos. 83762 and 83775, 2005-Ohio-3155.

O'Donnell, J., would accept the appeal on Proposition of Law No. II.

2005-1428. State v. Bundy.

Mahoning App. No. 02 CA 211, 2005-Ohio-3310. Discretionary appeal and cross-appeal not accepted.

Moyer, C.J., would accept the cross-appeal on Proposition of Law No. VI.

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

2005-1443. Dexion Digital Storage, Inc. v. Haenszel.

Delaware App. No. 04CAE11074, 161 Ohio App.3d 747, 2005-Ohio-3187.
Discretionary appeal and cross-appeal not accepted.

Moyer, C.J., would accept the cross-appeal on Proposition of Law No. I.
O'Connor and Lanzinger, JJ., would accept the appeal.

2005-1457. State v. Williams.

Lucas App. No. L-04-1122, 162 Ohio App.3d 55, 2005-Ohio-3366.

Pfeifer, J., dissents.

2005-1463. Pepper Pike v. Dantzig.

Cuyahoga App. No. 85287, 2005-Ohio-3486.

2005-1552. Haverkos v. Northwest Local School Dist. Bd. of Edn.

Hamilton App. Nos. C-040578 and C-040589, 2005-Ohio-3489.

O'Connor, J., dissents.

2005-1567. Washington v. Concordia Care.

Cuyahoga App. No. 84211, 2005-Ohio-3165.

2005-1569. N. Ridgeville v. Elliott.

Lorain App. Nos. 05CA008686 and 05CA008687.

2005-1570. State v. Payton.

Cuyahoga App. No. 84562, 2005-Ohio-3572.

2005-1573. State v. Spears.

Wayne App. No. 05CA0051.

2005-1574. State v. Peters.

Montgomery App. No. 20574, 2005-Ohio-3658.

2005-1581. State v. Kerby.

Clark App. No. 03CA0048, 162 Ohio App.3d 353, 2005-Ohio-3734. Discretionary
appeal and cross-appeal not accepted.

2005-1592. Griffis v. Klein.

Montgomery App. No. 19740, 2005-Ohio-3699.

Lundberg Stratton, J., dissents.

2005-1595. Singleton v. Fosnaugh.

Brown App. No. CA2004-10-029.

2005-1601. Schramm v. Appelton Papers, Inc.

Montgomery App. No. 20940, 162 Ohio App.3d 270, 2005-Ohio-3663.

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

O'Donnell, J., not participating.

2005-1602. Davis v. Akron.

Summit App. No. 22428, 2005-Ohio-3629.

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

2005-1603. Wozniak v. Graham.

Cuyahoga App. No. 86680. Discretionary appeal not accepted. Motion for sanctions denied.

2005-1605. State v. Richard.

Cuyahoga App. No. 85407, 2005-Ohio-3723.

2005-1606. Cincinnati Gas & Elec. Co. v. Bd. of Cty. Commrs., Clermont Cty.

Clermont App. No. CA2004-11-096.

2005-1608. R.E. Holland Excavating, Inc. v. Martin, Browne, Hull & Harper, PLL.

Clark App. No. 2004CA45, 162 Ohio App.3d 471, 2005-Ohio-3662.

2005-1610. Dray v. Gen. Motors Corp.

Allen App. No. 1-05-35.

2005-1611. Dubin v. Security Union Title Ins. Co.

Cuyahoga App. No. 85110, 162 Ohio App.3d 97, 2005-Ohio-3482.

Lundberg Stratton, J., dissents.

2005-1613. State v. Maag.

Hancock App. Nos. 50332 and 50333, 2005-Ohio-3761.

2005-1618. Karnak v. State Farm Fire & Cas. Co.

Butler App. No. CA2004-11-289.

Resnick, J., dissents.

2005-1619. Harding v. Harding.

Cuyahoga App. No. 85022, 2005-Ohio-3010.

2005-1620. State v. Crotts.

Cuyahoga App. No. 81477, 2005-Ohio-3435.

O'Connor, J., dissents.

Lundberg Stratton and Lanzinger, JJ., dissent and would accept the discretionary appeal and hold the cause for the decisions in 2004-1771, *State v. Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2004-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209.

2005-1625. Dirksen v. Philpot.

Darke App. No. 1650, 2005-Ohio-3748.

Resnick and Pfeifer, JJ., dissent.

O'Connor, J., not participating.

2005-1630. Perrine v. Perrine.

Summit App. No. 22472, 2005-Ohio-3634.

2005-1641. Turvey v. Ocheltree.

Tuscarawas App. No. 2005 AP 01 0002, 2005-Ohio-4114.

Pfeifer, J., dissents.

2005-1643. Pilarczyk v. Riverside.

Montgomery App. No. 20706, 2005-Ohio-3755.

2005-1645. State v. DeFluiter.

Franklin App. Nos. 05AP-719, 05AP-720, 05AP-721, 05AP-722, 05AP-723, 05AP-724, 05AP-725 and 05AP-726. Discretionary appeal not accepted. Motion for transcript of proceedings denied.

2005-1646. Norris v. Wilson.

Richland App. No. 04 CA 33, 2005-Ohio-4594.

2005-1648. State v. Muniz.

Cuyahoga App. Nos. 85156 and 85157, 162 Ohio App.3d 198, 2005-Ohio-3580.

2005-1652. In re Guardianship of Schneider.

Medina App. No. 05CA0050-M.

2005-1653. State v. Razo.

Lorain App. No. 05CA008639, 2005-Ohio-3793.

2005-1654. State v. Seeley.

Union App. No. 14-05-22.

2005-1657. State v. Neff.

Clermont App. No. CA2005-06-051.

2005-1662. State v. Streeby.

Cuyahoga App. No. 85362, 2005-Ohio-3716.

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

2005-1664. Clay v. Hoffer.

Summit App. No. 22624, 2005-Ohio-4079.

2005-1668. Cross v. Jon-Jay Assoc., Inc.

Ashland App. No. 2005-COA-006, 2005-Ohio-3781.

2005-1669. Keeley v. Hough.

Trumbull App. No. 2004-T-0038, 2005-Ohio-3771.

Resnick, J., dissents.

2005-1672. Champlin v. Kraftmaid Cabinetry, Inc.

Trumbull App. No. 2004-T-0052, 2005-Ohio-3772.

2005-1675. Evans v. Ohio Dept. of Ins.

Delaware App. No. 04 CA 80, 2005-Ohio-3921.

Lundberg Stratton, J., dissents.

2005-1690. Myers v. Myers.

Summit App. No. 22393, 2005-Ohio-3800.

2005-1699. State v. Jeter.

Franklin App. Nos. 05AP-540 and 05AP-541.

2005-1707. State v. Dubose.

Cuyahoga App. No. 85394, 2005-Ohio-3844.

2005-1712. State v. Fisher.

Franklin App. No. 04AP-1311, 2005-Ohio-4065.

2005-1731. State v. Cornell.

Delaware App. No. 04-CAA-1006.

2005-1741. State v. Griffin.

Allen App. No. 1-03-31, 2004-Ohio-287.

2005-1742. State v. McWilliams.

Hamilton App. No. C-040542.

2005-1744. State v. Harris.

Lorain App. No. 00CA007691. Discretionary appeal not accepted. Motion to strike memorandum in response denied as moot.

2005-1755. State v. Baker.

Summit App. No. 22833.

O'Connor, J., not participating.

2005-1762. State v. Sutton.

Ross App. No. 05CA2818, 162 Ohio App.3d 802, 2005-Ohio-4589.

2005-1779. DiNunzio v. Murray.

Lake App. No. 2003-L-213, 2005-Ohio-4047.

2005-1798. State v. Roberson.

Summit App. No. 22186, 2005-Ohio-1468.

O'Connor, J., dissents and would accept the discretionary appeal and hold the cause for the decisions in 2004-1771, *State v. Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2004-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209.

2005-1816. State v. John.

Lucas App. No. L-03-1261, 2005-Ohio-1218.

2005-1818. State v. Yates.

Summit App. No. 21790, 2005-Ohio-4094.

2005-1822. State v. Holloway.

Franklin App. No. 04AP-1378, 2005-Ohio-4277.

2005-1824. State v. Ross.

Mahoning App. No. 05 MA 132.

2005-1893. State v. Griffith.

Cuyahoga App. No. 84760, 2005-Ohio-1500.

2005-1903. State v. Wills.

Hamilton App. No. C-040612.

RECONSIDERATION OF PRIOR DECISIONS

2003-2035. Hess v. Norfolk S. Ry. Co.

Cuyahoga App. No. 80717, 153 Ohio App.3d 565, 2003-Ohio-4172. Reported at 106 Ohio St.3d 389, 2005-Ohio-5408, 835 N.E.2d 679. On motion for reconsideration of Norfolk Southern Railway Company. Motion denied.

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

O'Connor, J., would grant the motion and strike ¶47 from the court's opinion.

2004-1770. Disciplinary Counsel v. Hunter.

Board of Commissioners on Grievances and Discipline, No. 02-56. Reported at 106 Ohio St.3d 418, 2005-Ohio-5411, 835 N.E.2d 707. On motion for reconsideration. Motion denied.

Moyer, C.J., dissents.

2005-0367. Cuyahoga Cty. Bar Assn. v. Lazzaro.

Board of Commissioners on Grievances and Discipline, No. 04-038. Reported at 106 Ohio St.3d 379, 2005-Ohio-5321, 835 N.E.2d 367. On motion for reconsideration. Motion denied.

O'Donnell, J., dissents.

2005-1094. In re Elliot.

Franklin App. No. 03AP-1280, 2005-Ohio-2195. Reported at 106 Ohio St.3d 1536, 2005-Ohio-5146, 835 N.E.2d 384. On motion for reconsideration. Motion denied. Motion to strike portion of responsive pleading denied as moot.

O'Donnell, J., dissents.

2005-1114. Jacobs v. Gateway Property Mgt.

Cuyahoga App. No. 84973, 2005-Ohio-1983. Reported at 106 Ohio St.3d 1545, 2005-Ohio-5343, 835 N.E.2d 727. On motion for reconsideration. Motion denied. Motion for new trial denied.

2005-1125. State v. Prom.

Butler App. No. CA2004-07-174, 2005-Ohio-2272. Reported at 106 Ohio St.3d 1536, 2005-Ohio-5146, 835 N.E.2d 384. On motion for reconsideration. Motion denied.

2005-1140. State v. Heriot.

Warren App. No. CA2004-06-071, 2005-Ohio-2374. Reported at 106 Ohio St.3d 1536, 2005-Ohio-5146, 835 N.E.2d 384. On motion for reconsideration. Motion denied.

2005-1191. Tolson v. Am. Family Ins. Co.

Franklin App. No. 04AP-672, 2005-Ohio-2434. Reported at 106 Ohio St.3d 1546, 2005-Ohio-5343, 835 N.E.2d 727. On motion for reconsideration. Motion denied.

2005-1224. State v. Perdue.

Mahoning App. No. 04 MA 119, 2005-Ohio-2703. Reported at 106 Ohio St.3d 1556, 2005-Ohio-5531, 836 N.E.2d 581. On motion for reconsideration. Motion denied.

2005-1229. Preferred Capital, Inc. v. Strellec.

Cuyahoga App. Nos. 85706, 85707, 85723, 85731, 85732, 85733, 85743, 85744, 85745, 85776 and 85777, 161 Ohio App.3d 346, 2005-Ohio-2607. Reported at 106 Ohio St.3d 1547, 2005-Ohio-5343, 835 N.E.2d 728. On motion for reconsideration. Motion denied.

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

2005-1238. Wolder v. DiPasquale.

Montgomery App. No. 20797, 2005-Ohio-2010. Reported at 106 Ohio St.3d 1536, 2005-Ohio-5146, 835 N.E.2d 384. On motion for reconsideration. Motion denied.

2005-1274. Preferred Capital, Inc. v. Pilla Real Estate.

Cuyahoga App. No. 85881. Reported at 106 Ohio St.3d 1557, 2005-Ohio-5531, 836 N.E.2d 581. On motion for reconsideration. Motion denied.

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

2005-1275. Preferred Capital, Inc. v. Metro. Plaza Mgt., Inc.

Cuyahoga App. No. 85886. Reported at 106 Ohio St.3d 1557, 2005-Ohio-5531, 836 N.E.2d 581. On motion for reconsideration. Motion denied.
Moyer, C.J., Lundberg Stratton and Lanzinger, JJ., dissent.

2005-1276. Preferred Capital Inc. v. Niagra Cleaning Serv., Inc.

Cuyahoga App. No. 85898. Reported at 106 Ohio St.3d 1557, 2005-Ohio-5531, 836 N.E.2d 581. On motion for reconsideration. Motion denied.
Moyer, C.J., Lundberg Stratton and Lanzinger, JJ., dissent.

2005-1277. Preferred Capital, Inc. v. Courtesy Bldg. Serv., Inc.

Cuyahoga App. No. 85730. Reported at 106 Ohio St.3d 1557, 2005-Ohio-5531, 836 N.E.2d 581. On motion for reconsideration. Motion denied.
Moyer, C.J., Lundberg Stratton and Lanzinger, JJ., dissent.

2005-1278. Preferred Capital, Inc. v. Five R Repair & Lawn Serv. & Landscaping, Inc.

Cuyahoga App. No. 85798. Reported at 106 Ohio St.3d 1557, 2005-Ohio-5531, 836 N.E.2d 581. On motion for reconsideration. Motion denied.
Moyer, C.J., Lundberg Stratton and Lanzinger, JJ., dissent.

2005-1279. Preferred Capital, Inc. v. Harr's Surf & Turf Markets, Inc.

Cuyahoga App. No. 85799. Reported at 106 Ohio St.3d 1557, 2005-Ohio-5531, 836 N.E.2d 582. On motion for reconsideration. Motion denied.
Moyer, C.J., Lundberg Stratton and Lanzinger, JJ., dissent.

2005-1280. Preferred Capital, Inc. v. Guions Detailing & Design, Inc.

Cuyahoga App. No. 85775. Reported at 106 Ohio St.3d 1557, 2005-Ohio-5531, 836 N.E.2d 582. On motion for reconsideration. Motion denied.
Moyer, C.J., Lundberg Stratton and Lanzinger, JJ., dissent.

2005-1281. Preferred Capital, Inc. v. Montgomery Cty. Credit Bur., Inc.

Cuyahoga App. No. 85805. Reported at 106 Ohio St.3d 1557, 2005-Ohio-5531, 836 N.E.2d 582. On motion for reconsideration. Motion denied.
Moyer, C.J., Lundberg Stratton and Lanzinger, JJ., dissent.

2005-1282. Preferred Capital, Inc. v. Robert Phillip DiStefano, P.A.

Cuyahoga App. No. 85800. Reported at 106 Ohio St.3d 1557, 2005-Ohio-5531, 836 N.E.2d 582. On motion for reconsideration. Motion denied.
Moyer, C.J., Lundberg Stratton and Lanzinger, JJ., dissent.

2005-1283. Preferred Capital, Inc. v. Monarch Plumbing Co., Inc.

Cuyahoga App. No. 85900. Reported at 106 Ohio St.3d 1557, 2005-Ohio-5531, 836 N.E.2d 582. On motion for reconsideration. Motion denied.

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

2005-1284. Preferred Capital, Inc. v. Money Mailer of Atlanta N., Inc.

Cuyahoga App. No. 85808. Reported at 106 Ohio St.3d 1557, 2005-Ohio-5531, 836 N.E.2d 582. On motion for reconsideration. Motion denied.

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

2005-1285. Preferred Capital, Inc. v. Sys. Serv. & Design, Inc.

Cuyahoga App. No. 85802. Reported at 106 Ohio St.3d 1557, 2005-Ohio-5531, 836 N.E.2d 582. On motion for reconsideration. Motion denied.

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

2005-1286. Preferred Capital, Inc. v. Wm. Smith, Sr., Tri Cty. Child Dev. Council, Inc.

Cuyahoga App. No. 85885. Reported at 106 Ohio St.3d 1557, 2005-Ohio-5531, 836 N.E.2d 582. On motion for reconsideration. Motion denied.

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

2005-1287. Preferred Capital, Inc. v. Warner Robins Supply Co., Inc.

Cuyahoga App. No. 85842. Reported at 106 Ohio St.3d 1557, 2005-Ohio-5531, 836 N.E.2d 582. On motion for reconsideration. Motion denied.

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

2005-1288. Preferred Capital, Inc. v. Horizon Plumbing, Inc.

Cuyahoga App. No. 85809. Reported at 106 Ohio St.3d 1557, 2005-Ohio-5531, 836 N.E.2d 582. On motion for reconsideration. Motion denied.

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

2005-1289. Preferred Capital, Inc. v. Re Quest, Inc.

Cuyahoga App. No. 85804. Reported at 106 Ohio St.3d 1558, 2005-Ohio-5531, 836 N.E.2d 582. On motion for reconsideration. Motion denied.

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

2005-1290. Preferred Capital, Inc. v. Farmers Mart, Inc.

Cuyahoga App. No. 85801. Reported at 106 Ohio St.3d 1558, 2005-Ohio-5531, 836 N.E.2d 582. On motion for reconsideration. Motion denied.

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

2005-1292. Preferred Capital, Inc. v. Design Indus., Inc.

Cuyahoga App. No. 85899. Reported at 106 Ohio St.3d 1558, 2005-Ohio-5531, 836 N.E.2d 582. On motion for reconsideration. Motion denied.

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

2005-1425. State v. Small.

Franklin App. No. 04AP-316, 162 Ohio App.3d 325, 2005-Ohio-2291, 162 Ohio App.3d 375, 2005-Ohio-3813 and 2005-Ohio-3814. Reported at 106 Ohio St.3d 1559, 2005-Ohio-5531, 836 N.E.2d 583. On motion for reconsideration. Motion denied.

Moyer, C.J., Lundberg Stratton and O'Connor, JJ., dissent.