

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

May 21, 2008

[Cite as *05/21/2008 Case Announcements, 2008-Ohio-2340.*]

MERIT DECISIONS WITH OPINIONS

2007-0114. Cleveland Constr., Inc. v. Cincinnati, Slip Opinion No. 2008-Ohio-2337.

Hamilton App. No. C-050749, C-050779, and C-050888, 2006-Ohio-6452. Judgment reversed.

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

Pfeifer, J., dissents and would affirm the judgment of the court of appeals.

2007-0394. State v. Hairston, Slip Opinion No. 2008-Ohio-2338.

Franklin App. No. 06AP-420, 2007-Ohio-143. Judgment affirmed.

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

Pfeifer and Lanzinger, JJ., concur separately.

2007-0549 and 2007-0684. Rogers v. Dayton, Slip Opinion No. 2008-Ohio-2336.

Montgomery App. No. 21593, 2007-Ohio-673. Certified question answered in the affirmative and judgment reversed.

Pfeifer, Lundberg Stratton, O'Connor, and O'Donnell, JJ., concur.

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

MERIT DECISIONS WITHOUT OPINIONS

2008-0511. Griffin v. Ohio Adult Parole Auth.

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

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

2008-0644. West v. Lannick.

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

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

Lanzinger, J., dissents and would order a return.

MOTION AND PROCEDURAL RULINGS

2001-0871. State v. Ahmed.

Belmont C.P. No. 99-CR-192. On second application for reopening under S.Ct.Prac.R. XI(6). Application denied.

Motions for appointment of counsel, to order clerk of trial court to refile full trial record, to correct court entry of March 2, 2005, to strike opposition to second application for reopening, and for sanctions denied.

2005-2421. State v. Gonzales.

Defiance App. No. 4-05-03, 2005-Ohio-4912. On motion to vacate judgment. Motion denied.

Cupp, J., not participating.

2007-2217. State ex rel. Blank v. Beasley.

In Mandamus. On motion to dismiss amended complaint. Sua sponte, an 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; relators 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 relators' brief; and relators may file a reply brief within seven days after the filing of respondent's brief.

O'Connor and O'Donnell, JJ., dissent and would grant the motion to dismiss.

2007-2220. State ex rel. Kardassilaris v. Beasley.

In Mandamus. On motion to dismiss amended complaint. Sua sponte, an 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; relators 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 relators' brief; and relators may file a reply brief within seven days after the filing of respondent's brief.

O'Connor and O'Donnell, JJ., dissent and would grant the motion to dismiss.

2008-0425. Dunn v. Smith.

In Habeas Corpus. On return of writ. Sua sponte, cause held for the decision in 2007-1184, *State v. Baker*, Summit App. No. 23713, and briefing schedule stayed.

Moyer, C.J., and O'Connor, J., dissent and would deny the writ.

2008-0620. State v. Bell.

Cuyahoga App. No. 90777. On motion for leave to file delayed appeal. Motion denied.

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

2008-0662. State v. Pickett.

Cuyahoga App. No. 88265, 2007-Ohio-3899. On motion for leave to file delayed appeal. Motion denied.

2008-0667. State v. Wade.

Clark App. No. 06-CA-108, 2007-Ohio-6611. On motion for leave to file delayed appeal. Motion denied.

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

2008-0668. State v. Armstead.

Medina App. No. 06CA0050-M, 2007-Ohio-1898. On motion for leave to file delayed appeal. Motion denied.

2008-0669. State v. Hicks.

Highland App. No. 07CA7, 2008-Ohio-964. On motion for stay of court of appeals' judgment. Motion denied.

2008-0742. Klever v. Sullivan.

Crawford App. No. 3-07-33, 2008-Ohio-1784. On motion for immediate stay. Motion denied.

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

APPEALS ACCEPTED FOR REVIEW

2008-0045. State v. Hatfield.

Ashtabula App. No. 2006-A-0033, 2007-Ohio-7130. Discretionary appeal accepted.

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

Pfeifer and Cupp, JJ., dissent.

Discretionary cross-appeal not accepted.

Lundberg Stratton, J., dissents.

2008-0232. State v. Palmer.

Hamilton App. No. C-060754, 2007-Ohio-6870. Discretionary appeal accepted; cause held for the decision in 2007-0184, *State v. Brown*, Cuyahoga App. No. 87651, 2006-Ohio-6267; and briefing schedule stayed.

Cupp, J., would accept the appeal but remand the cause for application of *State v. Cabrales*, ___ Ohio St.3d ___, 2008-Ohio-1625.

Pfeifer and Lanzinger, JJ., dissent.

2008-0277. Morrin v. DaimlerChrysler Corp.

Lucas App. No. L-07-1173, 2007-Ohio-6888. Discretionary appeal accepted; cause held for the decision in 2007-1588, *Thorton v. Montville Plastics & Rubber, Inc.*, Geauga App. No. 2006-G-2744, 2007-Ohio-3475; and briefing schedule stayed.

Pfeifer and Cupp, JJ., dissent.

Lanzinger, J., not participating.

2008-0298. Thorton v. Montville Plastics & Rubber, Inc.

Gauga App. No. 2007-G-2760, 2007-Ohio-7115. Discretionary appeal accepted on Proposition of Law No I; cause held for the decision in 2007-1588, *Thorton v. Montville Plastics & Rubber, Inc.*, Geauga App. No. 2006-G-2744, 2007-Ohio-3475; and briefing schedule stayed.

Lundberg Stratton, O'Connor, and O'Donnell, JJ., would also accept the appeal on Proposition of Law No. II.

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

2008-0306. B.J. Alan Co. v. Congress Twp. Bd. of Zoning Appeals.

Wayne App. No. 07CA0051, 2007-Ohio-7023.

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

2008-0331. State v. Harrison.

Madison App. No. CA2006-08-028, 2007-Ohio-7078.

Pfeifer and O'Connor, JJ., dissent.

Cupp, J., not participating.

APPEALS NOT ACCEPTED FOR REVIEW

2007-2089. Stutes v. Harris.

Greene App. No. 2007-CA-29, 2007-Ohio-5163.

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

2007-2210. State v. Potter.

Butler App. No. CA2006-07-166, 2007-Ohio-4216.

2007-2344. State v. Williams.

Hamilton App. Nos. C-060631 and C-060668, 2007-Ohio-5577.

2007-2390. Prater v. Dashkovsky.

Franklin App. No. 07AP-389, 2007-Ohio-6785.

2008-0209. State v. Travis.

Medina App. No. 06CA0075-M, 2007-Ohio-6683.

2008-0213. State v. Trainer.

Champaign App. No. 2006 CA 23, 2007-Ohio-6698.

2008-0220. Hiddens v. Leibold.

Montgomery App. No. 21861, 2007-Ohio-6688.

2008-0223. State v. Dailey.

Hamilton App. No. C-061093.

2008-0229. State v. Davis.

Mahoning App. No. 05 MA 235, 2007-Ohio-7216.

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

Cupp, J., not participating.

2008-0230. State v. Payne.

Lake App. No. 2006-L-272, 2007-Ohio-6740.

2008-0231. State v. Thomas.

Clark App. No. 06-CA-126, 2007-Ohio-6907.

2008-0233. State v. Dudas.

Lake App. Nos. 2006-L-267 and 2006-L-268, 2007-Ohio-6739.

2008-0235. State v. Engle.

Montgomery App. No. 22455.

2008-0244. State v. Barnette.

Mahoning App. No. 06 MA 135, 2007-Ohio-7209.

2008-0245. State v. Riley.

Clermont App. No. CA2007-02-025.

2008-0247. State ex rel. Dann v. Meadowlake Corp.

Stark App. No. 2006 CA 00252, 2007-Ohio-6798.

O'Donnell, J., dissents.

2008-0250. State v. Small.

Franklin App. No. 06AP-1110, 2007-Ohio-6771.

2008-0251. Athens Cty. Commrs. v. Ohio Patrolmen's Benevolent Assn.

Athens App. No. 06CA49, 2007-Ohio-6895.

2008-0252. Johnson v. Olmsted Twp.

Cuyahoga App. No. 89194, 2007-Ohio-6487.

O'Connor, J., not participating.

2008-0254. State ex rel. Dann v. Bulgartabac Holding Group.

Franklin App. No. 07AP-177, 2007-Ohio-6777.

Pfeifer and O'Donnell, JJ., dissent.

2008-0255. Whitehall v. Ruckman.

Franklin App. No. 07AP-445, 2007-Ohio-6780.

O'Donnell, J., dissents.

2008-0256. Cline v. Yellow Transp., Inc.

Franklin App. No. 07AP-498, 2007-Ohio-6782.

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

2008-0259. State v. Robinson.

Cuyahoga App. No. 89136, 2007-Ohio-6831.

2008-0260. State v. Marshall.

Hamilton App. No. C-070054.

2008-0261. State v. Prieto.

Mahoning App. No. 07 MA 4, 2007-Ohio-7204.

2008-0262. State v. Parrish.

Washington App. No. 06CA52, 2007-Ohio-7169.

2008-0263. State v. Miller.

Washington App. No. 06CA57, 2007-Ohio-6909.

2008-0264. State v. Love.

Mahoning App. No. 06 MA 130, 2007-Ohio-7210.

Cupp, J., not participating.

2008-0270. State v. Blevins.

Marion App. No. 9-06-40, 2007-Ohio-6972.

Pfeifer, J., dissents.

2008-0271. Rohr v. Williams.

Mahoning App. No. 06 MA 171, 2007-Ohio-7207.

O'Connor, J., not participating.

2008-0272. State v. Gooden.

Marion App. No. 9-07-36.

Cupp, J., not participating.

2008-0276. State v. Bunch.

Mahoning App. No. 06 MA 106, 2007-Ohio-7211. Discretionary appeal not accepted.

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

Motion for admission pro hac vice of Marsha Levick, Jessica Feierman, and Jennifer Pokempner by Stephen P. Hardwick granted.

2008-0281. Patterson v. Janis.

Franklin App. No. 07AP-347, 2007-Ohio-6860.

2008-0282. State v. Rodriguez.

Cuyahoga App. No. 89198, 2007-Ohio-6835.

2008-0285. State v. Taylor.

Erie App. No. E-07-035, 2007-Ohio-7105.

2008-0286. State v. Bewley.

Summit App. No. 23693, 2007-Ohio-7026.

Lundberg Stratton, J., dissents.

2008-0287. State v. Cantu.

Huron App. No. H-07-035.

2008-0291. State v. Kewer.

Lorain App. No. 07CA009128, 2007-Ohio-7047.

2008-0292. Whitehouse v. Customer is Everthing!, Ltd.

Lake App. No. 2007-L-069, 2007-Ohio-6936.

2008-0293. Cincinnati v. Queen City Lodge No. 69, Fraternal Order of Police.

Hamilton App. No. C-060290.

2008-0295. State v. Brown.

Butler App. No. CA2006-10-247, 2007-Ohio-7070.

Moyer, C.J., and O'Connor and Lanzinger, JJ., dissent and would accept the appeal and hold the cause for the decision in 2007-2443, *State v. Pasqualone*, Ashtabula App. No. 2007-A-0005, 2007-Ohio-6725.

2008-0296. State v. Jordan.

Hamilton App. No. C-070037.

2008-0300. Wesley v. Wesley.

Franklin App. No. 07AP-206, 2007-Ohio-7006.

2008-0301. State v. Croft.

Franklin App. No. 07AP-563, 2007-Ohio-7013.

2008-0302. State v. Abdullah.

Franklin App. No. 07AP-427, 2007-Ohio-7010.

2008-0303. State v. Burney.

Franklin App. No. 06AP-990, 2007-Ohio-7137.

Pfeifer, J., dissents.

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

2008-0307. State v. Sibley.

Summit App. No. 23439, 2007-Ohio-7054.

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

2008-0308. State v. Kidd.

Madison App. No. CA2007-03-010.

2008-0309. Am. Energy Corp. v. Datkuliak.

Monroe App. No. 07 MO 3, 174 Ohio App.3d 398, 2007-Ohio-7199.

Pfeifer and Lanzinger, JJ., dissent.

2008-0310. State v. Dunning.

Medina App. No. 06CA0087-M, 2007-Ohio-7039.

2008-0316. State v. Caulley.

Franklin App. No. 07AP-338, 2007-Ohio-7000.

2008-0318. MacMurray v. Mayo.

Franklin App. No. 07AP-38, 2007-Ohio-6998.

O'Donnell, J., dissents.

2008-0327. Schafer v. RMS Realty.

Montgomery App. No. 21869, 2007-Ohio-7155.

2008-0328. State v. Barrios.

Lorain App. No. 06CA009065, 2007-Ohio-7025.
Cupp, J., dissents.

2008-0330. Whitaker v. M.T. Automotive, Inc.

Summit App. No. 21836, 2007-Ohio-7057. Discretionary appeal not accepted.
Pfeifer, J., dissents.

Motion for admission pro hac vice of Stephen B. Pershing by Laura K. McDowall granted.

2008-0332. State v. Ingram.

Franklin App. No. 06AP-984, 2007-Ohio-7136.

2008-0334. State v. Story.

Van Wert App. No. 15-07-15.

2008-0342. Holivay v. Holivay.

Cuyahoga App. No. 89439, 2007-Ohio-6492.
O'Donnell, J., dissents.

2008-0344. State v. Wright.

Franklin App. No. 07AP-154, 2007-Ohio-7141.

2008-0345. Shimola v. Westlake.

Cuyahoga App. No. 89363.
O'Donnell, J., not participating.

2008-0355. Foster v. Wickliffe.

Lake App. No. 2006-L-053, 2007-Ohio-7132.
O'Donnell, J., dissents.

2008-0358. Hertzfeld v. Hayward Pool Prods., Inc.

Lucas App. No. L-07-1168, 2007-Ohio-7097.

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

2008-0368. State v. Clark.

Stark App. No. 2007 CA 00206, 2008-Ohio-194.

2008-0471. State v. Young.

Gallia App. No. 06CA10, 2007-Ohio-5232.

2008-0481. State v. Bobb.

Muskingum App. No. CT07-0076.

2008-0602. State v. King.

Franklin App. No. 07AP-230, 2007-Ohio-5406.

2008-0621. In re M.T.

Cuyahoga App. Nos. 90249 and 90250, 2008-Ohio-456.

RECONSIDERATION OF PRIOR DECISIONS

2007-2235. Ridenour v. Wilkinson.

Franklin App. No. 07AP-200, 2007-Ohio-5965. Reported at 117 Ohio St.3d 1439, 2008-Ohio-1279, 883 N.E.2d 457. On motion for reconsideration. Motion denied.

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

2007-2238. State v. Dillard.

Montgomery App. No. 21704, 173 Ohio App.3d 373, 2007-Ohio-5651. Reported at 117 Ohio St.3d 1439, 2008-Ohio-1279, 883 N.E.2d 457. On motion for reconsideration. Motion denied.

O'Donnell, J., dissents.

2007-2250. Aultcare Corp. v. Roach.

Stark App. No. 2007CA0009, 2007-Ohio-5686. Reported at 117 Ohio St.3d 1439, 2008-Ohio-1279, 883 N.E.2d 457. On motion for reconsideration. Motion denied.

2007-2256. State v. Turner.

Cuyahoga App. No. 88489, 2007-Ohio-3264 and 2007-Ohio-5449. Reported at 117 Ohio St.3d 1440, 2008-Ohio-1279, 883 N.E.2d 457. On motion for reconsideration. Motion denied.

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

2007-2284. Bowling Green v. Bourne.

Wood App. No. WD-07-007, 2007-Ohio-5748. Reported at 117 Ohio St.3d 1440, 2008-Ohio-1279, 883 N.E.2d 458. On motion for reconsideration. Motion denied.

Pfeifer and O'Donnell, JJ., dissent.

2007-2292. In re Cole.

Cuyahoga App. No. 89089, 2007-Ohio-5730. Reported at 117 Ohio St.3d 1440, 2008-Ohio-1279, 883 N.E.2d 458. On motion for reconsideration. Motion denied.

2007-2364. Kemp v. Kemp.

Stark App. No. 2007-CA-00045, 2007-Ohio-6116. Reported at 117 Ohio St.3d 1441, 2008-Ohio-1279, 883 N.E.2d 458. On motion for reconsideration. Motion denied.

2007-2370. Butler Cty. Joint Vocational School Dist. Bd. of Edn. v. Andrews.

Butler App. No. CA2006-10-245, 2007-Ohio-5896. Reported at 117 Ohio St.3d 1442, 2008-Ohio-1279, 883 N.E.2d 458. On motion for reconsideration. Motion denied.