

# The Supreme Court of Ohio

---

## CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

May 11, 2005

[Cite as *05/11/2005 Case Announcements*, 2005-Ohio-2188.]

---

## MERIT DECISIONS WITH OPINIONS

**2003-0346. State v. Turner, 2005-Ohio-1938.**

Franklin C.P. No. 01CR-06-3615. Judgment affirmed.

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

**2004-0403. Young v. Cincinnati Ins. Co., 2005-Ohio-1941.**

Cuyahoga App. No. 82395, 2004-Ohio-54. Sua sponte, cause dismissed as having been improvidently accepted.

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

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

**2004-1436. Slone v. Allstate Ins. Co., 2005-Ohio-1940.**

Richland App. No. 2004CA0021, 2004-Ohio-3990. Sua sponte, cause dismissed as having been improvidently accepted.

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

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

**2004-1944. Dunning v. State, 2005-Ohio-1939.**

Cuyahoga App. No. 84982. Judgment affirmed.

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

## MERIT DECISIONS WITHOUT OPINIONS

**2004-1875. State ex rel. Timken Co. v. Pence.**

In Mandamus. On answer of respondent Industrial Commission of Ohio, motion to dismiss the Administrator, Bureau of Workers' Compensation, as a party respondent, request for briefing schedule of respondent Industrial Commission of Ohio, and relator's motion for default judgment. On S.Ct.Prac.R. X(5) determination, cause dismissed. Motion to dismiss the Administrator, Bureau of Workers' Compensation, as a party respondent, request for briefing schedule, and motion for default judgment denied as moot.

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

**2005-0395. State ex rel. Rupert v. Parks.**

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

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

**2005-0402. Pointer v. Corrigan.**

In Procedendo. On motion to dismiss. Motion to dismiss sustained. Cause dismissed. Motion for contempt of court denied as moot.

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

**2005-0407. State ex rel. Wells v. Bruzzese.**

In Mandamus. On answer of respondent, motion of respondent to dismiss, and motion of relator for summary judgment. Motion to dismiss sustained. Cause dismissed. Motion of relator for summary judgment denied as moot.

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

**2005-0416. State ex rel. McMillen-Fallon v. McMillan.**

In Mandamus. On answer of respondent Michael Scala and motions of respondents Craig M. McMillen, Lawrence S. Turner, and Michael Scala to dismiss. Motions to dismiss sustained. Cause dismissed.

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

**2005-0439. State ex rel. Skipworth v. Coyne.**

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

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

**2005-0451. State ex rel. Inskeep v. Champaign Cty. Court of Common Pleas.**

In Mandamus. On answer of respondent and respondent's motion for summary judgment. On S.Ct.Prac.R. X(5) determination, cause dismissed.

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

**MOTION AND PROCEDURAL RULINGS**

**2005-0168. Austin v. Webb-Lewis.**

Franklin App. No. 04AP-1135.

IT IS ORDERED by the court, sua sponte, that Sidney T. Lewis and Yvonne D. Webb-Lewis are found to be vexatious litigators under S.Ct.Prac.R. XIV(5)(B). Accordingly,

IT IS FURTHER ORDERED by the court that Sidney T. Lewis and Yvonne D. Webb-Lewis are prohibited from continuing or instituting legal proceedings in this court without first obtaining leave. Any request for leave shall be filed with the Clerk of this court.

**2005-0516. State v. Baker.**

Franklin App. No. 03AP-1104, 2004-Ohio-3380. On motion for leave to file delayed appeal. Motion denied.

**2005-0525. State v. Baker.**

Columbiana App. No. 03 CO 24, 2005-Ohio-565. On motion for leave to file delayed appeal. Motion denied.

**2005-0532. State v. Lyons.**

Cuyahoga App. No. 84377, 2005-Ohio-392. On motion for stay of court of appeals' judgment. Motion denied.

Resnick and O'Donnell, JJ., dissent.

**2005-0540. State v. Gauntt.**

Cuyahoga App. No. 82175, 2003-Ohio-4942. On motion for leave to file delayed appeal. Motion denied.

**2005-0550. State v. Carter.**

Franklin App. No. 03AP-778, 2005-Ohio-291. On motion for leave to file delayed appeal. Motion granted.

Resnick and Lanzinger, JJ., dissent.

**2005-0559. State v. Alexander.**

Muskingum App. No. CT2004-0021, 2004-Ohio-6990. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

**2005-0560. State v. Creager.**

Clermont App. No. CA2004-12-106. On motion for leave to file delayed appeal. Motion denied.

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

**2005-0578. State v. Woods.**

Lawrence App. No. 02CA22, 2003-Ohio-7337. On motion for leave to file delayed appeal. Motion denied.

**2005-0616. Sivey v. Alliance City Bd. of Health.**

Stark App. No. 2004-CA-00253, 2005-Ohio-1436. On motion for stay of court of appeals' judgment. Motion denied.

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

**APPEALS ACCEPTED FOR REVIEW**

**2005-0180. Spivey v. Keller.**

Hardin App. No. 6-04-09, 2004-Ohio-6667. Discretionary appeal accepted; cause held for the decision in 2004-1492 and 2004-1647, *Estate of Harrold v. Collier*, Wayne App. No. 03CA0064, 2004-Ohio-4331; and briefing schedule stayed.

Pfeifer, J., dissents.

**2005-0202. State v. Hartsock.**

Lucas App. No. L-03-1215, 2004-Ohio-6905. 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.

Resnick and Pfeifer, JJ., dissent.

Lanzinger, J., not participating.

**2005-0241. State v. Love.**

Mahoning App. No. 03 MA 19, 2004-Ohio-7062. 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.  
Resnick and Pfeifer, JJ., dissent.

**2005-0247. Smith v. Conley.**

Stark App. No. 2004CA00068, 2004-Ohio-7057. Discretionary appeal accepted on Proposition of Law No. II.

Lundberg Stratton and Lanzinger, JJ., would accept the discretionary appeal on all propositions of law.

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

Motion to strike notice of appeal denied as moot.

**2005-0257. State v. Morris.**

Guernsey App. No. 03 CA 29, 2004-Ohio-6988. 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.

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

Resnick and Pfeifer, JJ., dissent.

**2005-0266. State v. Moore.**

Cuyahoga App. No. 83703, 2004-Ohio-6303. Discretionary appeal accepted; cause held for the decisions in 2004-1171, *State v. Mathis*, 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, Pfeifer and O'Donnell, JJ., dissent.

**APPEALS NOT ACCEPTED FOR REVIEW**

**2005-0139. In re Guardianship of Brady.**

Cuyahoga App. No. 83881, 2004-Ohio-5972.

Pfeifer, J., dissents.

**2005-0141. State v. Tate.**

Trumbull App. No. 2003-T-0094, 2004-Ohio-6689.

**2005-0154. Sherrills v. Ohio Adult Parole Auth.**

Cuyahoga App. No. 84522, 2004-Ohio-6916.

**2005-0168. Austin v. Webb-Lewis.**

Franklin App. No. 04AP-1135. Discretionary appeal not accepted. All motions of appellants denied as moot. Motion of appellee Yvonne D. Webb-Lewis to consolidate cases denied.

**2005-0169. State v. McMahon.**

Cuyahoga App. No. 84298, 2004-Ohio-6291.

**2005-0181. State v. Easley.**

Franklin App. No. 04AP-290, 2004-Ohio-7200.

**2005-0183. State v. Dressler.**

Defiance App. No. 4-04-27.

**2005-0185. State v. Chewning.**

Clermont App. No. CA2004-01-002, 2004-Ohio-6661.

Moyer, C.J., Lundberg Stratton and O'Connor, JJ., dissent and would accept the appeal on Proposition of Law No. III and hold the cause for the decisions in 2004-1771, *State v. Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2005-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209.

**2005-0187. State v. Eble.**

Franklin App. Nos. 04AP-334 and 04AP-335, 2004-Ohio-6721.

**2005-0189. 2 M Properties, Inc. v. Tisdale.**

Cuyahoga App. No. 83120.

**2005-0194. Marasco v. Hopewell.**

Franklin App. No. 03AP-1081, 2004-Ohio-6715.

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

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

**2005-0205. Columbus v. Doyle.**

Franklin App. No. 03AP-1254, 2004-Ohio-6731.

**2005-0208. Fernandez v. Ohio St. Pain Control Ctr.**

Franklin App. No. 03AP-1018, 2004-Ohio-6713.

**2005-0209. State v. Mauldin.**

Hamilton App. No. C-040205.

**2005-0211. State v. Murphy.**

Franklin App. No. 04AP-257.

**2005-0212. Kish v. A-Best Products Co.**

Cuyahoga App. No. 85642. Discretionary appeal not accepted.

Moyer, C.J., dissents.

On motions for admission pro hac vice of Jeffrey E. McFadden, Stephen A. Fennell, and William T. Hassler by Mark R. Chilson. Motions granted.

**2005-0215. Douglass v. Copley Twp. Bd. of Zoning Appeals.**

Summit App. No. 22064, 2004-Ohio-6765.

**2005-0217. Geitgey v. Farnsworth.**

Medina App. No. 04CA0031-M, 2004-Ohio-6738.

**2005-0219. Reveria Tavern, Inc. v. Summit Cty. Bd. of Elections.**

Summit App. No. 21893, 2004-Ohio-6733.

**2005-0222. Cohen v. Toledo Public Schools.**

Lucas App. No. L-04-1056, 2004-Ohio-6889.

**2005-0223. Martin v. Grange Mut. Ins. Co.**

Geauga App. No. 2004G2558, 2004-Ohio-6950.

**2005-0224. Asset Acceptance LLC v. Stancik.**

Cuyahoga App. No. 84491, 2004-Ohio-6912.

**2005-0226. Carter v. Natl. Union Fire Ins. Co. of Pittsburgh.**

Cuyahoga App. No. 84273, 2004-Ohio-6633.

**2005-0233. State v. Hudach.**

Trumbull App. No. 2003-T-0110, 2004-Ohio-6949.

**2005-0235. Austin v. Webb-Lewis.**

Franklin App. No. 04AP-1135.

**2005-0236. State v. Stambolia.**

Trumbull App. No. 2003-T-0053, 2004-Ohio-6945.

O'Connor, J., dissents and would accept the appeal on Propositions of Law Nos. II and III and hold the cause for the decisions in 2004-1771, *State v. Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2005-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209.

**2005-0239. Federated Mgt. Co. v. Coopers & Lybrand.**

Franklin App. No. 03AP-204, 2004-Ohio-4785, and 2004-Ohio-6977.

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

Pfeifer, J., dissents.

**2005-0242. In re W.P., Jr.**

Cuyahoga App. No. 84114, 2004-Ohio-6627.

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

**2005-0244. State v. Campbell.**

Hamilton App. No. C-040181.

**2005-0248. Tackett v. Gas Energy, Inc.**

Franklin App. No. 04AP-261, 2004-Ohio-6979.

**2005-0249. Benjamin v. Airborne Express, Inc.**

Franklin App. No. 03AP-733, 2004-Ohio-6978. Discretionary appeal not accepted. On motion for admission pro hac vice of Bruce J. Borrus and Maria Ann Milano by Tiffany Cobb. Motion granted.

**2005-0250. J.J. Orr & Assoc., Inc. v. Weinschenk.**

Wayne App. No. 04CA0041, 2004-Ohio-7188.

**2005-0251. State v. Tucker.**

Hamilton App. No. C-040067.

**2005-0253. Maracz v. United Parcel Serv.**

Cuyahoga App. No. 83432, 2004-Ohio-6851.

Pfeifer, J., dissents.

**2005-0259. Olaru v. Crawford & Co.**

Cuyahoga App. No. 84564, 2004-Ohio-7028.

**2005-0261. Bales v. Kurt.**

Lucas App. Nos. L-03-1335 and L-04-1005, 2004-Ohio-7073.

Lanzinger, J., not participating.

**2005-0264. Weiss v. Target Stamped Prod.**

Trumbull App. No. 2003-T-0108, 2004-Ohio-7226.

**2005-0265. Dancar Properties, Ltd. v. O’Leary-Kientz, Inc.**

Hamilton App. No. C-030936, 2004-Ohio-6998.

Moyer, C.J., dissents.

**2005-0268. State v. Short.**

Cuyahoga App. No. 84524, 2004-Ohio-7024.

**2005-0279. Kellogg v. Kellogg.**

Franklin App. No. 04AP-382, 2004-Ohio-7202.

**2005-0280. State v. Breland.**

Ashtabula App. No. 2003-A-0066, 2004-Ohio-7238. Discretionary appeal and discretionary cross-appeal not accepted.

O’Donnell, J., dissents and would accept the discretionary appeal.

**2005-0282. Van Beusecum v. Continental Builders, Inc.**

Delaware App. No. 04-CAE-01-008, 2004-Ohio-7261.

Lanzinger, J., dissents and would accept the discretionary appeal on Propositions of Law Nos. II and III.

**2005-0285. Hamilton v. Hamilton.**

Warren App. No. CA2004-01-003.

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

**2005-0300. Watkins v. Williams.**

Summit App. No. 22162, 2004-Ohio-7171.

**2005-0317. Morton v. Continental Cas. Ins. Co.**

Hamilton App. No. C-030799, 2004-Ohio-7126.

Lundberg Stratton, J., dissents.

**2005-0319. State v. Byrd.**

Hamilton App. Nos. C-040005 and C-040017, 2004-Ohio-7127.

**2005-0320. State v. Woods.**

Cuyahoga App. No. 72815.

**2005-0321. State v. Linville.**

Cuyahoga App. No. 85360.

O'Donnell, J., dissents.

**2005-327. In re Estate of Meloni.**

Trumbull App. No. 2003-T-0096, 2004-Ohio-7224.

**2005-0343. State v. Downing.**

Summit App. No. 22012, 2004-Ohio-5952.

**2005-0352. State v. Burrell.**

Hamilton App. No. C-030803, 2005-Ohio-34.

Lanzinger, J., dissents.

**2005-0375. State v. Parsons.**

Summit App. No. 22200, 2005-Ohio-268.

**2005-0467. State v. Ramirez.**

Cuyahoga App. No. 78364, 2005-Ohio-378.

O'Donnell, J., not participating.

**2005-0482. State v. Cremeans.**

Summit App. No. 22009, 2005-Ohio-261.

**RECONSIDERATION OF PRIOR DECISIONS**

**2004-1979. Chase Manhattan Mtge. Corp. v. Frazier.**

Knox App. No. 2003-CA-31, 2004-Ohio-5523. Reported at 105 Ohio St.3d 1463, 2005-Ohio-1024, 824 N.E.2d 91. On motion for reconsideration. Motion denied.

**2004-1997. Natl. City Bank v. Frazier.**

Knox App. No. 2003-CA-30, 2004-Ohio-5562. Reported at 105 Ohio St.3d 1463, 2005-Ohio-1024, 824 N.E.2d 92. On motion for reconsideration. Motion denied.

**2004-1998. Cotten v. Houk.**

Madison App. No. CA2003-12-041, 2004-Ohio-5823. Reported at 105 Ohio St.3d 1463, 2005-Ohio-1024, 824 N.E.2d 92. On motion for reconsideration. Motion denied.

**2004-2026. Cenc v. Hayes.**

Cuyahoga App. No. 84027. Reported at 105 Ohio St.3d 1464, 2005-Ohio-1024, 824 N.E.2d 92. On motion for reconsideration. Motion denied.

Pfeifer, J., dissents.

**2004-2046. Estate of Schmidt v. Derenia.**

Franklin App. Nos. 03AP-335 and 03AP-493, 158 Ohio App.3d 738, 2004-Ohio-5431. Reported at 105 Ohio St.3d 1464, 2005-Ohio-1024, 824 N.E.2d 92. On motion for reconsideration. Motion denied.

Pfeifer, J., dissents.

**2005-0005. Bank One, N.A. v. Lytle.**

Lorain App. No. 04CA008463, 2004-Ohio-6547. Reported at 105 Ohio St.3d 1471, 2005-Ohio-1186, 824 N.E.2d 541. On motion for reconsideration. Motion denied.

**2005-0155. State v. Sherrills.**

Cuyahoga App. No. 84594. Reported at 105 Ohio St.3d 1473, 2005-Ohio-1186, 824 N.E.2d 542. On motion for reconsideration. Motion denied.

O'Donnell, J., not participating.