

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

June 4, 2008

[Cite as *06/04/2008 Case Announcements, 2008-Ohio-2595.*]

MERIT DECISIONS WITH OPINIONS

2007-0056. O'Toole v. Denihan, Slip Opinion No. 2008-Ohio-2574

Cuyahoga App. No. 87476, 2006-Ohio-6022. Judgment reversed and cause remanded.

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

Pfeifer, J., concurs in part and dissents in part.

2007-0306. Rankin v. Cuyahoga Cty. Dept. of Children & Family Servs., Slip Opinion No. 2008-Ohio-2567.

Cuyahoga App. No. 86620, 2006-Ohio-6759. Judgment affirmed in part and reversed in part.

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

Pfeifer, J., dissents.

2007-0844. State v. Meyers, Slip Opinion No. 2008-Ohio-2541.

Hamilton App. No. C-060012. Certified question answered in the affirmative and judgment affirmed.

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

2007-1585. State v. Foster, Slip Opinion No. 2008-Ohio-2542.

Hamilton App. No. C-060720. Certified question answered in the affirmative and judgment affirmed, and cause remanded for further proceedings.

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

Lanzinger, J., not participating.

2007-1648. State v. Fleming, Slip Opinion No. 2008-Ohio-2543.

Cuyahoga App. No. 88442, 2007-Ohio-3645. Judgment reversed in part and cause remanded.

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

2007-1893. In re J.Y., Slip Opinion No. 2008-Ohio-2544.

Hamilton App. Nos. C-060835 and C-060836, 2007-Ohio-4469. Judgment affirmed.

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

2007-1965. State v. Matthews, Slip Opinion No. 2008-Ohio-2545.

Hamilton App. Nos. C-060669 and C-060692, 2007-Ohio-4881. Judgment affirmed.

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

2007-2003. State v. Harris, Slip Opinion No. 2008-Ohio-2546.

Hamilton App. No. C-060691, 2007-Ohio-5127. Certified question answered in the affirmative and judgment affirmed.

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

2008-0184. State v. Taylor, Slip Opinion No. 2008-Ohio-2547.

Hamilton App. No. C-070026, 174 Ohio App.3d 477, 2007-Ohio-7066. Certified question recognized and answered in the affirmative and judgment affirmed.

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

MERIT DECISIONS WITHOUT OPINIONS

2008-0529. State ex rel. Slough v. Frost.

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

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

Cupp, J., dissents and would grant an alternative writ.

2008-0591. State ex rel. Bozsik v. Court of Appeals, Ninth Appellate Dist.

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.

On motion to determine that relator is a vexatious litigator pursuant to S.Ct.Prac.R. XIV(5)(B). Motion granted. Steven A. Bozsik is found to be a vexatious litigator under S.Ct.Prac.R. XIV(5)(B). Accordingly, Steven A. Bozsik is prohibited from continuing or instituting legal proceedings in this court without first obtaining leave. Any request for leave shall be submitted to the Clerk of this court for the court's review.

Cupp, J., dissents.

2008-0626. State ex rel. Fox v. Franklin Cty. Court of Common Pleas.

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.

2008-0633. State ex rel. Thompson v. Reece.

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.

2008-0730. Miller v. Smith.

In Habeas Corpus. On petition for writ of habeas corpus of Douglas M. Miller. Sua sponte, cause dismissed.

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

O'Donnell and Lanzinger, JJ., dissent and would hold the cause for the decision in 2007-1184, *State v. Baker*, Summit App. No. 23713.

2008-0773. Nathan B. v. Houk.

In Habeas Corpus. On petition for writ of habeas corpus of Nathan B. 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

2007-1842. State v. Winn.

Montgomery App. No. 21710, 173 Ohio App.3d 202, 2007-Ohio-4327. On motion to dismiss cross-appeal as having been improvidently accepted. Motion denied.

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

2007-2325. State ex rel. Gilmour Realty, Inc. v. Mayfield Hts.

Cuyahoga App. No. 90575, 174 Ohio App.3d 113, 2007-Ohio-6480. On bill and documentation in support of attorney fees per the court's March 26, 2008 order. Attorney fees in the amount of \$913 are awarded.

2008-0404. State v. Fuller.

Madison App. No. CA2006-11-047, 2008-Ohio-20. On motion for stay of execution of sentence and for appellate bond. Motion denied.

Moyer, C.J., dissents.

2008-0496. State v. Harsh.

Butler App. No. CA2007-03-083. On motion to clarify order of April 9, 2008 and motion for stay. Motions denied.

2008-0542. State v. Maga.

Montgomery App. No. 21998, 2008-Ohio-423. On motion for stay pending appeal. Motion denied.

Moyer, C.J., dissents.

2008-0630. MedCorp, Inc. v. Ohio Dept. of Job & Family Servs.

Franklin App. No. 07AP-312, 2008-Ohio-464. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated in the court of appeals' Journal Entry filed March 27, 2008:

“Does R.C. 119.12's ‘grounds’ requirement, which provides that a notice of administrative appeal must state the ‘grounds’ for the appeal, require an appellant to specify something beyond restating the statutory formula that the order appealed from is ‘not in accordance with law and is not supported by reliable, probative, and substantial evidence’ ” ?

O'Donnell, J., dissents.

The conflict case is *David Day Ministries v. Petro*, Greene App. No. 2007 CA 1, 2007-Ohio-3454.

Sua sponte, cause consolidated with 2008-0584, *MedCorp, Inc. v. Ohio Dept. of Job & Family Servs.*, Franklin App. No. 07AP-312, 2008-Ohio-464.

2008-0658. State ex rel. Cook v. Seneca Cty. Bd. of Commrs.

Seneca App. No. 13-07-26, 2008-Ohio-736. On motion for immediate and temporary injunction. Motion denied.

2008-0671. State v. Meadows.

Hamilton App. No. C-961045. On motion for leave to file delayed appeal. Motion denied.

2008-0684. State v. Barton.

Stark App. No. 2007 CA 00030, 2008-Ohio-636. On motion for leave to file delayed appeal. Motion granted.

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

2008-0693. State v. Price.

Franklin App. Nos. 07AP-1055, 07AP-1056, 07AP-1057, 07AP-1058, 07AP-1060, 07AP-1061, 07AP-1062, and 07AP-1063. On motion for leave to file delayed appeal. Motion denied.

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

2008-0749. State v. Soulivong.

Franklin App. Nos. 08AP-6, 08AP-7, 08AP-8, and 08AP-9. On motion for leave to file delayed appeal. Motion denied.

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

2008-0777. Ruck v. Cleveland.

Cuyahoga App. No. 89564, 2008-Ohio-1075. On motion for stay of court of appeals' judgment. Motion granted.

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

2008-0827. State v. Yenser.

Mercer App. No. 10-07-19, 2008-Ohio-1145. On motion for stay of proceedings. Motion denied.

O'Connor, J., dissents.

APPEALS ACCEPTED FOR REVIEW

2008-0314. Cundall v. U.S. Bank, N.A.

Hamilton App. Nos. C-070081 and C-070082, 174 Ohio App.3d 421, 2007-Ohio-7067.

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

2008-0315. Meyer v. United Parcel Serv., Inc.

Hamilton App. No. C-060772, 174 Ohio App.3d 339, 2007-Ohio-7063.
Discretionary appeal accepted.

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

Discretionary cross-appeal not accepted.

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

2008-0359. Trans Rail Am., Inc. v. Enyeart.

Franklin App. Nos. 07AP-273 and 07AP-284, 2007-Ohio-7144.

Pfeifer and Lanzinger, JJ., dissent.

2008-0363. State v. Evans.

Cuyahoga App. No. 89057, 2008-Ohio-139.

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

2008-0392. Estate of Stevic v. Bio-Medical Application of Ohio, Inc.

Richland App. No. 2006 CA 0095, 2008-Ohio-33.

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

2008-0488. State v. Bradley.

Champaign App. No. 06CA31, 2008-Ohio-720 and 2007-Ohio-6583.

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

2008-0584. MedCorp, Inc. v. Ohio Dept. of Job & Family Servs.

Franklin App. No. 07AP-312, 2008-Ohio-464. Discretionary appeal accepted and cause consolidated with 2008-0630, *MedCorp, Inc. v. Ohio Dept. of Job & Family Servs.*, Franklin App. No. 07AP-312, 2008-Ohio-464.

O'Donnell, J., dissents.

APPEALS NOT ACCEPTED FOR REVIEW

2007-2279. State v. Armstrong.

Montgomery App. No. 21831, 2007-Ohio-5648.

2008-0219. State v. Winland.

Licking App. No. 2007 CA 00037, 2007-Ohio-7181.

2008-0221. State v. Fletcher.

Licking App. No. 07CA103, 2007-Ohio-7110.

2008-0226. State v. Hill.

Knox App. No. 07-CA-5, 2007-Ohio-6824.

2008-0236. State v. Winland.

Licking App. No. 07-CA-12, 2007-Ohio-7109.

2008-0248. State v. Lorraine.

Trumbull App. No. 2006-T-0100, 2007-Ohio-6724.

2008-0253. State v. Stacy.

Warren App. No. CA2006-02-021, 2007-Ohio-6744.

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

2008-0269. State v. Floyd.

Meigs App. No. 07CA17.

2008-0283. Ohio Edison Co. v. Williams.

Summit App. No. 23530, 2007-Ohio-5028.

2008-0319. Applegate v. Applegate.

Darke App. No. 1724, 2007-Ohio-7158.

2008-0320. Peters v. Lohr.

Hamilton App. No. C-060230, 2007-Ohio-7062.

2008-0322. Hans v. Hartford Fire Ins. Co.

Hamilton App. No. C-061066, 174 Ohio App.3d 212, 2007-Ohio-7064.

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

2008-0323. State v. Jackson.

Trumbull App. No. 2006-T-0123, 2007-Ohio-6932.

O'Connor, J., not participating.

2008-0324. State v. Armstrong.
Warren App. No. CA2007-07-093.

2008-0325. Bonfield v. Steve Speaks, L.L.C.
Clermont App. No. CA2007-01-002.

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

2008-0329. State v. Bonner.
Summit App. No. 23539, 2007-Ohio-7027.

2008-0343. State v. Dubose.
Mahoning App. No. 05 MA 142, 174 Ohio App.3d 637, 2007-Ohio-7217.
O'Connor, J., dissents.

2008-0350. State v. Valenzona.
Cuyahoga App. No. 89099, 2007-Ohio-6892.

2008-0351. J.B.H. Properties, Inc. v. N.E.S. Corp.
Lake App. No. 2007-L-024, 2007-Ohio-7116.

2008-0354. Chlysta v. Ohio State Dental Bd.
Portage App. No. 2006-P-0107, 174 Ohio App.3d 465, 2007-Ohio-7112.
O'Donnell, J., dissents.

2008-0356. Ohio Licensed Beverage Assn. v. Ohio Dept. of Health.
Franklin App. No. 07AP-490, 2007-Ohio-7147.
Moyer, C.J., dissents and would accept the appeal on Proposition of Law No. II.
Lundberg Stratton and Lanzinger, JJ., dissent.

2008-0357. State v. Cline.
Geauga App. No. 2006-G-2735, 2007-Ohio-7131.
Moyer, C.J., dissents and would accept the appeal on Proposition of Law No. I.
Pfeifer, J., dissents.

2008-0360. Ripley v. Montgomery.
Franklin App. No. 07AP-6, 2007-Ohio-7151.

2008-0365. State v. Gooden.

Summit App. No. 23764, 2008-Ohio-178.

Lundberg Stratton, J., dissents.

2008-0371. State v. Kutsar.

Cuyahoga App. No. 89310, 2007-Ohio-6990.

2008-0376. State v. Dickess.

Scioto App. No. 06CA3128, 174 Ohio App.3d 658, 2008-Ohio-39.

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

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

2008-0377. State v. Hamilton.

Lucas App. No. L-07-1254, 2008-Ohio-8.

2008-0380. State v. Gilbert.

Cuyahoga App. No. 88806, 2008-Ohio-48.

2008-0402. State v. Lockhart.

Delaware App. No. 06CAA100080, 2008-Ohio-57.

2008-0405. State v. Selinka.

Cuyahoga App. No. 89248, 2007-Ohio-6983.

2008-0406. State v. Mitchell.

Guernsey App. No. 07 CA 17, 2008-Ohio-101.

2008-0407. In re J.S.

Summit App. No. 23842, 2008-Ohio-179.

2008-0413. Electrical Enlightenment, Inc. v. Bandy.

Cuyahoga App. No. 89263, 2007-Ohio-6657.

2008-0414. Yoder Machinery Sales Co. v. Weldon F. Stump & Co., Inc.

Lucas App. No. L-07-1139, 2008-Ohio-72.

Moyer, C.J., dissents.

2008-0415. Kozak v. Jackson.

Cuyahoga App. No. 88851, 2008-Ohio-50.

2008-0416. Trammel v. Moeller.

Hamilton App. No. C-070065.

2008-0417. Rece v. Dominion Homes, Inc.

Franklin App. No. 07AP-295, 2008-Ohio-24.

Lundberg Stratton, J., dissents.

2008-0421. State v. Woodfork.

Franklin App. No. 07AP-997.

2008-0422. Weisman v. Blaushild.

Cuyahoga App. No. 88815, 2008-Ohio-219.

Lundberg Stratton, J., dissents.

2008-0427. State v. Brown.

Hamilton App. No. C-070124.

2008-0431. Appenzeller v. Ohio Attorney General.

Franklin App. No. 07AP-953.

2008-0434. Gem City Metal Spinning Co. v. Dayton Bd. of Zoning Appeals.

Montgomery App. No. 22083, 2008-Ohio-181.

Pfeifer and O'Donnell, JJ., dissent.

2008-0437. Georgalis v. Ohio.

Cuyahoga App. No. 90371.

2008-0440. State v. Baldwin.

Stark App. No. 2006-CA-00292, 2007-Ohio-5812.

2008-0446. State v. Bennett.

Cuyahoga App. No. 90815.

2008-0460. State v. Triplett.

Lucas App. No. L-05-1160, 2008-Ohio-367.

2008-0468. State v. Brown.

Delaware App. No. 06-CA-A-10-0076, 2008-Ohio-524. Discretionary appeal not accepted. Motion to strike memorandum in response denied as moot.

2008-0469. Natl. City Mtge. Co. v. Wellman.

Pickaway App. No. 06CA29, 174 Ohio App.3d 622, 2008-Ohio-207.

2008-0473. State v. Carroll.

Hamilton App. No. C-070252.

2008-0477. State v. Whatley.

Cuyahoga App. No. 89234, 2008-Ohio-225.

2008-0500. Helms v. Korleski.

Franklin App. No. 07AP-1004.

2008-0512. State v. Mitchell.

Hamilton App. Nos. C-060514 and C-070593.

O'Connor, J., not participating.

2008-0513. State v. Alshahid.

Hamilton App. No. C-070135.

2008-0541. State v. Lee.

Lorain App. No. 07CA009184, 2008-Ohio-343.

2008-0564. State v. Markovanovich.

Summit App. No. 23572, 2007-Ohio-5676.

2008-0576. State v. Keith.

Allen App. No. 1-06-46, 2007-Ohio-4632.

2008-0577. State v. Keith.

Allen App. No. 1-06-53, 2007-Ohio-4632.

2008-0616. State v. Harrison.

Cuyahoga App. No. 88957, 2007-Ohio-3524 and 2008-Ohio-921.

2008-0687. In re A.L.

Franklin App. Nos. 07AP-638 and 07AP-647, 2008-Ohio-800.

Pfeifer and O'Donnell, JJ., dissent.

2008-0698. State v. Abdul-Mumin.

Franklin App. Nos. 07AP-143 and 07AP-540.

RECONSIDERATION OF PRIOR DECISIONS

2007-0210. State ex rel. Gen. Motors Corp. v. Indus. Comm.

Franklin App. No. 06AP-373, 2006-Ohio-6786. Reported at 117 Ohio St.3d 480, 2008-Ohio-1593, 884 N.E.2d 1075. On motion for reconsideration. Motion denied. Request for oral argument denied.

Pfeifer, J., dissents.

2007-0747. State ex rel. Pilkington N. Am., Inc. v. Indus. Comm.

Franklin App. No. 06AP-232, 2007-Ohio-1011. Reported at ___ Ohio St.3d ___, 2008-Ohio-1506, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

2007-1684. Squire v. Geer.

Franklin App. No. 06AP-1285. Reported at 117 Ohio St.3d 506, 2008-Ohio-1432, ___ N.E.2d ___. On amended motion for reconsideration. Motion denied.

2007-2102. State ex rel. Fontanella v. Kontos.

Trumbull App. No. 2007-T-0055, 2007-Ohio-5213. Reported at 117 Ohio St.3d 514, 2008-Ohio-1431, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

2007-2321. Telxon Corp. v. Smart Media of Delaware, Inc.

Summit App. Nos. 22098 and 22099. Reported at 117 Ohio St.3d 1458, 2008-Ohio-1635, 884 N.E.2d 67. On motion for reconsideration. Motion denied.

O'Donnell, J., not participating.

2007-2350. Nunn v. Cornyn.

Warren App. Nos. CA2006-08-098, CA2006-10-123, and CA2006-08-099, 2007-Ohio-5894. Reported at 117 Ohio St.3d 1458, 2008-Ohio-1635, 884 N.E.2d 67. On motion for reconsideration. Motion denied.

2007-2394. Lias v. Beekman.

Franklin App. No. 06AP-1134, 2007-Ohio-5737. Reported at 117 Ohio St.3d 1459, 2008-Ohio-1635, 884 N.E.2d 67. On motion for reconsideration. Motion denied.

2008-0003. State v. Copeland.

Butler App. No. CA2007-02-039, 2007-Ohio-6168. Reported at 117 Ohio St.3d 1460, 2008-Ohio-1635, 884 N.E.2d 68. On motion for reconsideration. Motion denied.

O'Donnell, J., not participating.

2008-0452. State v. Zweifel.

Union App. No. 14-06-58. Reported at 117 Ohio St.3d 1474, 2008-Ohio-1841, 884 N.E.2d 1107. On motion for reconsideration. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

Cupp, J., not participating.