

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

October 20, 2008

[Cite as *10/20/2008 Case Announcements*, 2008-Ohio-5390.]

SLIP OPINIONS REPLACED BY OHIO OFFICIAL REPORTS VERSIONS AS OF OCTOBER 20, 2008

The official versions of the opinions listed below, which were previously released as slip opinions, have been published in the October 20, 2008 Ohio Official Reports advance sheet. These opinions should now be cited using the Ohio Official Reports citation format.

2007-0996. VIL Laser Sys., L.L.C. v. Shiloh Industries, Inc., 119 Ohio St.3d 354, 2008-Ohio-3920.

2007-1462. State v. Bartholomew, 119 Ohio St.3d 359, 2008-Ohio-4080.

2007-1954. State ex rel. McNeal v. Dayton, 119 Ohio St.3d 369, 2008-Ohio-4757.

2008-0216. State ex rel. Agosto v. Cuyahoga Cty. Court of Common Pleas, 119 Ohio St.3d 366, 2008-Ohio-4607.

2008-0425. Dunn v. Smith, 119 Ohio St.3d 364, 2008-Ohio-4565.

MOTION AND PROCEDURAL RULINGS

2007-2227. State ex rel. Mun. Constr. Equip. Operators' Labor Council v. Cleveland.

In Mandamus. This cause originated on the filing of a complaint for a writ of mandamus. Upon consideration of respondents' motion to stay proceedings to

enforce the judgment, relators' motion for show-cause contempt order, sanctions, and costs and attorney fees, and respondents' motion to strike relators' notice of submission of affidavit,

It is ordered that respondents' motion to stay proceedings to enforce the judgment is denied.

On February 20, 2008, this court ordered respondents to pay the city of Cleveland's construction-equipment operators and master mechanics the difference between the prevailing-wage rates set forth in the Construction Equipment Employers Association Building Agreement between the International Union of Operating Engineers, Local 18 and its branches, and the Construction Equipment Employers Association, and the lower rates that they have been paid for the period beginning April 11, 2007.

Because respondents had failed to comply with this court's writ, on July 9, 2008, this court found respondents to be in contempt of the writ and awarded sanctions.

On September 10, 2008, this court granted relators' motion for clarification and again ordered respondents to immediately comply with the writ by paying the city's construction-equipment operators and master mechanics the difference between the prevailing-wage rates set forth in the Construction Employers Association Building Agreement between the International Union of Operating Engineers, Local 18 and its branches, and the Construction Employers Association and the lower rates that they have been paid for the period beginning April 11, 2007 and thereafter as long as there is no collective bargaining agreement and the Cleveland Charter requires paying those employees the prevailing-wage rates.

Because respondents have continued to fail to comply with this court's writ, respondents are again found to be in contempt of the court's writ.

It is therefore ordered that respondents immediately comply with the writ by paying the city's construction-equipment operators and master mechanics the difference between the prevailing-wage rates set forth in the Construction Employers Association Building Agreement between the International Union of Operating Engineers, Local 18 and its branches, and the Construction Employers Association and the lower rates that they have been paid for the period beginning April 11, 2007 and thereafter as long as there is no collective bargaining agreement and the Cleveland Charter requires paying these employees the prevailing-wage rates.

It is further ordered that if respondents have not fully complied with the writ by November 15, 2008, respondents shall pay a fine of \$1,000 per day to this court from November 15, 2008, until the date on which they have fully complied with the writ.

It is further ordered that relators be awarded their attorney fees related to their response to respondents' motion for stay and their pending motions. Relators' counsel is directed to submit a bill and documentation in support of the award, in accordance with the guidelines set forth in Rule 1.5 of the Ohio Rules of Professional Conduct, within ten days of this entry. Respondents may file objections to relators' bill and documentation within ten days of the filing of the bill and documentation, and relators may file a reply to respondents' objections, if any, within five days of the filing of the objections.

Respondents' motion to strike relators' notice of submission of affidavit is denied as moot.

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. This cause is before the court on the certification of a state law question from the United States Court of Appeals for the Sixth Circuit. Upon consideration of the joint motion for leave to submit the Sixth Circuit joint appendix,

It is ordered by the court that the motion is granted.

2008-1360. State v. Lyon.

Tuscarawas App. No. 2007 AP 08 0050, 2008-Ohio-2645. On July 14, 2008, appellant filed a notice of pending motion to certify a conflict. Whereas appellant has not notified this court of the decision on the pending motion to certify a conflict,

It is ordered by the court, sua sponte, that appellant show cause within fourteen days of the date of this entry why this court should not proceed to consider the jurisdictional memoranda in this appeal pursuant to S.Ct.Prac.R. III(6).

2008-1713. State v. Miller.

Trumbull App. No. 2008-T-0047, 2008-Ohio-3731. This cause is pending before the court as a discretionary appeal and claimed appeal of right. Upon consideration of appellee's motion to strike notice of appeal and memorandum in support of jurisdiction and appellant's motions to overrule the motion to strike notice of appeal and memorandum in support of jurisdiction and for sanctions for frivolous action,

It is ordered by the court that the motion to strike the notice of appeal and memorandum in support of jurisdiction and the motion for sanctions are denied.

It is further ordered, sua sponte, that appellee may file a memorandum in response within 30 days from the date of this entry.

MISCELLANEOUS DISMISSALS

2008-1488. State ex rel. Bryant v. Meyer Co.

Franklin App. No. 07AP-731, 2008-Ohio-3292. This cause is pending before the court as an appeal from the Court of Appeals for Franklin County. Upon consideration of appellant's application for dismissal,

It is ordered by the court that the application for dismissal is granted. Accordingly, this cause is dismissed.

MEDIATION REFERRALS

The following case has been referred to mediation pursuant to S.Ct.Prac.R. XIV(6):

2008-1860. State ex rel. Bennett v. Indus. Comm.

Franklin App. No. 07AP-481, 2008-Ohio-4372.

The following cases have been returned to the regular docket pursuant to S.Ct.Prac.R. XIV(6)(E):

2008-1224. State ex rel. Saunders v. Cornerstone Found. Sys.

Franklin App. No. 07AP-684, 2008-Ohio-2455.

2008-1484. State ex rel. Lynch v. Toledo Area Regional Transit Auth.

Franklin App. No. 07AP-872, 2008-Ohio-3297.