

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

May 8, 2013

[Cite as *05/08/2013 Case Announcements*, 2013-Ohio-1857.]

MERIT DECISIONS WITHOUT OPINIONS

2012-0745. Zeune v. Bender.

In Mandamus. On motions to dismiss. Motions granted. Motion for judgment on the pleadings denied as moot. Cause dismissed.

O'Connor, C.J., and Pfeifer, O'Donnell, Lanzinger, Kennedy, French, and O'Neill, JJ., concur.

2013-0311. State ex rel. Walker v. Ninth Dist. Court of Appeals.

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

O'Connor, C.J., and Pfeifer, O'Donnell, Lanzinger, Kennedy, French, and O'Neill, JJ., concur.

2013-0325. State ex rel. McGee v. Judges of the Eighth Dist. Court of Appeals.

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

O'Connor, C.J., and Pfeifer, O'Donnell, Lanzinger, Kennedy, French, and O'Neill, JJ., concur.

2013-0329. State ex rel. Cuyahoga Metro. Hous. Auth. v. Ferguson.

In Mandamus and Prohibition. On answer of respondents. On S.Ct.Prac.R. 12.04 determination, cause dismissed.

O'Connor, C.J., and Pfeifer, O'Donnell, Lanzinger, Kennedy, French, and O'Neill, JJ., concur.

2013-0336. State ex rel. Redding v. Gallagher.

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

O'Connor, C.J., and Pfeifer, O'Donnell, Lanzinger, Kennedy, French, and O'Neill, JJ., concur.

2013-0352. Jackson v. O'Brien.

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

O'Connor, C.J., and Pfeifer, O'Donnell, Lanzinger, Kennedy, French, and O'Neill, JJ., concur.

2013-0385. State ex rel. Grady v. Saffold.

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

O'Connor, C.J., and Pfeifer, O'Donnell, Lanzinger, Kennedy, French, and O'Neill, JJ., concur.

2013-0407. Pruitt v. McGrath.

Miscellaneous Case. On motion to dismiss. Motion granted. Cause dismissed.

O'Connor, C.J., and Pfeifer, O'Donnell, Lanzinger, Kennedy, French, and O'Neill, JJ., concur.

2013-0420. In re Petition for Writ of Habeas Corpus of Trollinger.

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

O'Connor, C.J., and Pfeifer, O'Donnell, Lanzinger, Kennedy, French, and O'Neill, JJ., concur.

MOTION AND PROCEDURAL RULINGS

2012-1272. ProgressOhio.org, Inc. v. JobsOhio.

Franklin App. No. 11AP-1136, 2012-Ohio-2655. On motion requesting the court to take judicial notice and motion for summary reversal. Motions denied.

O'Donnell, J., not participating.

2013-0300. State ex rel. Cincinnati Enquirer v. Lyons.

In Mandamus and Prohibition. 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. 12.05:

The parties shall file any evidence they intend to present within 20 days of the date of this entry; relator shall file a brief within 10 days after the filing of the evidence; respondent shall file a brief within 20 days after the filing of relator's

brief; and relator may file a reply brief within 7 days after the filing of respondent's brief.

Pfeifer and O'Donnell, JJ., dissent and would dismiss the cause.

Kennedy, J., not participating.

2013-0304. Bank of Am., N.A. v. Kuchta.

Medina App. No. 12CA0025-M, 2012-Ohio-5562. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated at page 1 of the court of appeals' entry filed January 22, 2013:

“When a defendant fails to appeal from a trial court's judgment in a foreclosure action, can a lack of standing be raised as part of a motion for relief from judgment?”

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

The conflict case is *PNC Bank, N.A. v. Botts*, 10th Dist. No. 12AP-256, 2012-Ohio-5383.

2013-0418. State v. Kidd.

Hamilton App. Nos. C-120234 and C-120284. On motion for delayed appeal. Motion denied.

Kennedy and O'Neill, JJ., dissent.

2013-0454. In re Guardianship of Soltesz.

Erie App. Nos. E-11-003 and E-11-015. On amended motion for stay of court of appeals' judgment. Motion denied.

2013-0481. State v. Middlebrooks.

Hamilton App. Nos. C-110847 and C-110848. On amended motion for delayed appeal. Motion denied.

O'Neill, J., dissents.

2013-0485. State v. Anderson.

Montgomery App. No. 25114, 2013-Ohio-295. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause held for the decision in 2012-2136, *State v. Taylor*, 9th Dist. No. 26279, 2012-Ohio-5403.

2013-0486. State v. Dillingham.

Butler App. Nos. CA2012-02-037 and CA2012-02-042, 2012-Ohio-5841. On motion for delayed appeal. Motion denied.

Pfeifer and Kennedy, JJ., dissent.

2013-0493. Hauser v. Dayton Police Dept.

Montgomery App. No. 24965, 2013-Ohio-11. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated at page 3 of the court of appeals' entry filed March 19, 2013:

“Whether civil liability is expressly imposed upon managers or supervisors under R.C. 4112.01(A)(2) for their individual violations of R.C. 4112.02(A) so that political subdivision employee immunity is lifted by R.C. 2744.03(A)(6)(c).”

Pfeifer and O'Donnell, JJ., dissent.

The conflict case is *Campolieti v. Cleveland*, 184 Ohio App.3d 419, 2009-Ohio-5224, 921 N.E.2d 286 (8th Dist.)

Sua sponte, cause consolidated with 2013-0291, *Hauser v. Dayton Police Dept.*, 2d Dist. No. 24965, 2013-Ohio-11.

2013-0501. State v. Woods.

Hamilton App. Nos. C-120853, C-120859, and C-110614. On motion for delayed appeal. Motion denied.

APPEALS ACCEPTED FOR REVIEW

2013-0186. State v. Codeluppi.

Lorain App. No. 11CA010133, 2012-Ohio-5812. Discretionary appeal accepted on Proposition of Law No. I.

O'Connor, C.J., and Lanzinger and O'Neill, JJ., would also accept the appeal on Proposition of Law No. II.

Pfeifer and O'Donnell, JJ., dissent.

2013-0291. Hauser v. Dayton Police Dept.

Montgomery App. No. 24965, 2013-Ohio-11. Discretionary appeal accepted and cause consolidated with 2013-0493, *Hauser v. Dayton Police Dept.*, 2d Dist. No. 24965, 2013-Ohio-11.

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

APPEALS NOT ACCEPTED FOR REVIEW

2012-0119. State v. Group.

Mahoning App. No. 10 MA 21, 2011-Ohio-6422.

2012-0519. State v. Lawson.

Clermont App. No. CA2011-07-056, 2012-Ohio-548.
Pfeifer, J., dissents.

2012-1797. State v. Petkovic.
Cuyahoga App. No. 97548, 2012-Ohio-4050.
O'Neill, J., dissents.

2012-2052. State v. Branham.
Hamilton App. No. C-120187.

2012-2064. Mindlin v. Zell.
Franklin App. No. 11AP-983, 2012-Ohio-3543. Discretionary appeal not
accepted. Motion for stay denied as moot.
French, J., not participating.

2013-0012. ATS Inst. of Technology v. Ohio Bd. of Nursing.
Franklin App. No. 12AP-385, 2012-Ohio-6030.
French, J., not participating.

2013-0018. Marion Forum, L.L.C. v. Lynick Ents., Inc.
Marion App. No. 9-12-13, 2012-Ohio-5947.

2013-0052. Pietrick v. Westlake.
Cuyahoga App. No. 98258, 2012-Ohio-6009.
O'Donnell and Lanzinger, JJ., dissent.

2013-0185. McCarthy v. Charter One Bank, F.S.B.
Summit App. Nos. 25894, 25909, and 25912, 2012-Ohio-4030.

2013-0187. State v. Rose.
Butler App. No. CA2012-03-050, 2012-Ohio-5957.

2013-0188. Jenkins v. State Farm Fire & Cas. Co.
Perry App. No. 12-CA-5, 2012-Ohio-6076.
Pfeifer, J., dissents.

2013-0190. Perez Bar & Grill v. Schneider.
Lorain App. No. 11CA010076, 2012-Ohio-5820.

2013-0191. Bank of New York Mellon v. Baird.

Clark App. No. 2012-CA-28, 2012-Ohio-4975.

2013-0192. Fediaczko v. Mahoning Cty. Children Servs.

Mahoning App. Nos. 11 MA 186 and 11 MA 199, 2012-Ohio-6095.

French, J., dissents and would accept the appeal filed by Kim Vechiarelli.

2013-0199. State v. West.

Cuyahoga App. Nos. 97398 and 97899, 2012-Ohio-6138.

2013-0202. State v. West.

Cuyahoga App. Nos. 97391 and 97900, 2013-Ohio-96.

O'Neill, J., dissents.

2013-0204. Hykes v. Bellevue City School Dist.

Huron App. No. H-12-003, 2012-Ohio-6059.

2013-0205. State v. Phillips.

Franklin App. No. 12AP-57, 2012-Ohio-6023.

French, J., not participating.

2013-0207. Inwood Village, Ltd. v. Cincinnati.

Hamilton App. No. C-120055.

2013-0209. State v. Walz.

Montgomery App. No. 23783, 2012-Ohio-4627.

Lanzinger, J., dissents.

2013-0212. State v. Puckett.

Muskingum App. No. CT2012-0031, 2012-Ohio-6014.

2013-0217. Thrifty Propane, Inc. v. Natl. Propane Gas Assn.

Medina App. No. 11CA0086-M, 2012-Ohio-6113.

2013-0220. State v. Riehle.

Hamilton App. No. C-120297.

2013-0227. Deutsche Bank Natl. Trust Co. v. Goolsby.

Cuyahoga App. No. 99138.

2013-0229. State v. G.G.

Franklin App. No. 12AP-188, 2012-Ohio-5902.

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

2013-0237. Boatwright v. Penn-Ohio Logistics.

Mahoning App. No. 12 MA 39, 2012-Ohio-6238.

O'Neill, J., dissents.

2013-0238. State v. Newsome.

Putnam App. No. 12-12-03, 2012-Ohio-6119.

2013-0240. Adams v. Enon.

Clark App. No. 2012-CA-42, 2012-Ohio-6178.

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

2013-0241. State ex rel. Phillips Supply Co. v. Cincinnati.

Hamilton App. No. C-120168, 2012-Ohio-6096.

O'Neill, J., dissents.

2013-0242. In re Palcisco v. Palcisco.

Trumbull App. No. 2012-T-0031, 2012-Ohio-6134.

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

2013-0244. Lamar Advertising Co. v. 700 Broadway Partners, L.L.C.

Hamilton App. No. C-120336.

2013-0245. Columbus v. Schaaf.

Franklin App. No. 12AP-254, 2012-Ohio-6198.

French, J., not participating.

2013-0246. Deutsche Bank Natl. Trust Co. v. Rudolph.

Cuyahoga App. No. 98383, 2012-Ohio-6141.

2013-0247. State v. Brooks.

Hancock App. No. 5-11-11, 2012-Ohio-5235.

O'Neill, J., dissents.

2013-0249. Price v. Carter Lumber Co.

Summit App. No. 26243, 2012-Ohio-6109.
O'Neill, J., dissents.

2013-0250. State v. Wilson.
Montgomery App. No. 23129, 2013-Ohio-180.

2013-0251. State v. Morris.
Medina App. No. 09CA0022-M, 2012-Ohio-6151.
O'Donnell, French, and O'Neill, JJ., dissent.

2013-0253. State v. Leet.
Montgomery App. No. 24692, 2012-Ohio-6186.
O'Donnell, J., dissents.

2013-0254. State v. Coonrod.
Pickaway App. No. 11CA3, 2012-Ohio-6302.

2013-0256. State v. Damron.
Franklin App. No. 12AP-209, 2012-Ohio-5977.
O'Neill, J., dissents.
French, J., not participating.

2013-0257. Cardi v. Ohio Dept. of Commerce.
Franklin App. No. 12AP-15, 2012-Ohio-6157.
O'Donnell, J., dissents.
French, J., not participating.

2013-0258. State v. Crosby.
Franklin App. No. 12AP-348, 2012-Ohio-6202.

2013-0259. McKenna v. Boyce.
Muskingum App. No. CT 2012-0014, 2012-Ohio-5163.

2013-0260. Maynard v. Winters.
Tuscarawas App. No. 2012 AP 05 0035, 2012-Ohio-6286.
O'Neill, J., dissents.

2013-0262. In re Name Change of J.C.H.S.
Champaign App. No. 2012-CA-23, 2012-Ohio-6184.

2013-0263. Allen v. NVR, Inc.

Butler App. No. CA2012-02-038, 2012-Ohio-6174.

O'Donnell, J., dissents.

French, J., dissents and would accept the appeal on Proposition of Law No. IV.

2013-0266. Munroe Falls v. State Emp. Relations Bd.

Summit App. No. 26330, 2012-Ohio-6212.

2013-0269. State v. Midlam.

Highland App. No. 12CA2, 2012-Ohio-6299.

2013-0273. State v. Lomack.

Licking App. No. 2012-CA-32, 2013-Ohio-5.

2013-0282. Mindlin v. Zell.

Franklin App. No. 11AP-983, 2012-Ohio-3543.

French, J., not participating.

2013-0287. Dodeka, L.L.C. v. Keith.

Portage App. No. 2011-P-0043, 2012-Ohio-6216.

2013-0289. Silvey v. Washington Square Chiropractic Clinic.

Geauga App. No. 2011-G-3047, 2012-Ohio-6214.

2013-0290. State v. Goff.

Lawrence App. No. 11CA20, 2013-Ohio-42.

O'Connor, C.J., dissents and would accept the appeal on Proposition of Law Nos. III and IV.

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

2013-0292. State v. Dortch.

Franklin App. No. 12AP-125, 2012-Ohio-6196.

O'Neill, J., dissents.

French, J., not participating.

2013-0294. Ball v. Stark.

Franklin App. No. 11AP-177, 2012-Ohio-6228.
Pfeifer, J., dissents.
French, J., not participating.

2013-0297. State v. Padilla.

Hamilton App. No. C-120186.

2013-0306. State v. Jackson.

Cuyahoga App. No. 98157, 2012-Ohio-5885.

2013-0308. State v. Purdin.

Adams App. No. 12CA944, 2013-Ohio-22.

2013-0310. Bank of Am., N.A. v. Kuchta.

Medina App. No. 12CA0025-M, 2012-Ohio-5562.

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

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

2013-0320. In re Estate of McCauley.

Stark App. No. 2011CA00272, 2012-Ohio-4709.

Pfeifer, Acting C.J.

O'Connor, C.J., not participating.

2013-0324. State v. Breedlove.

Butler App. No. CA2011-06-117.

2013-0326. State v. Espinal.

Franklin App. No. 12AP-346, 2012-Ohio-5478.

2013-0334. State v. Blakely.

Montgomery App. No. 25120, 2012-Ohio-3841.

2013-0335. State v. Booker.

Lucas App. No. L-10-1140, 2013-Ohio-45. Discretionary appeal not accepted.
Motion in abeyance denied.

O'Neill, J., dissents and would accept the discretionary appeal.

2013-0350. State v. Fowler.

Franklin App. No. 12AP-392, 2013-Ohio-111.

2013-0355. State v. Ivey.

Hamilton App. No. C-110868.

2013-0356. State v. Hughes.

Morrow App. No. 12CA0004, 2013-Ohio-458.

2013-0357. State v. Hughes.

Morrow App. No. 12CA0005, 2013-Ohio-459.

2013-0367. State v. Jones.

Cuyahoga App. No. 98151, 2012-Ohio-5737.

2013-0376. State v. Hill.

Muskingum App. No. CT2012-0005, 2013-Ohio-314.

O'Neill, J., dissents.

2013-0380. Haskett v. Haskett.

Lake App. No. 2011-L-155, 2013-Ohio-145.

2013-0412. State v. Morales.

Summit App. No. 26750.

2013-0419. State v. Allen.

Franklin App. No. 11AP-1130, 2013-Ohio-513.

2013-0436. State v. Shepherd.

Cuyahoga App. No. 98709, 2013-Ohio-271.

RECONSIDERATION OR PRIOR DECISIONS

2011-1918. State ex rel. K&D Group, Inc. v. Ryan.

Franklin App. No. 10AP-608, 2011-Ohio-5051. Reported at ___ Ohio St.3d ___, 2013-Ohio-734, 985 N.E.2d 1270. On motion for reconsideration. Motion denied.

2012-1720. State ex rel. Grinnell v. Reece.

Franklin App. No. 12AP-207. Reported at ___ Ohio St.3d ___, 2013-Ohio-733, 985 N.E.2d 1269. On motion for reconsideration. Motion denied.

2012-1912. Sacksteder v. Senney.

Montgomery App. No. 24993, 2012-Ohio-4452. Reported at ___ Ohio St.3d ___, 2013-Ohio-902, 984 N.E.2d 29. On joint motion for reconsideration. Motion denied.

O'Donnell, Kennedy, and O'Neill, JJ., dissent.

2012-2017. Mansfield v. Studer.

Richland App. Nos. 2011-CA-93 and 2011-CA-94, 2012-Ohio-4840. Reported at ___ Ohio St.3d ___, 2013-Ohio-902, 984 N.E.2d 29. On motion for reconsideration. Motion denied.

2012-2029. Tomazic v. Rapoport.

Cuyahoga App. No. 97937, 2012-Ohio-4402. Reported at ___ Ohio St.3d ___, 2013-Ohio-902, 984 N.E.2d 29. On motion for reconsideration. Motion denied.

2012-2078. State v. Young.

Hamilton App. No. C-100065. Reported at ___ Ohio St.3d ___, 2013-Ohio-902, 984 N.E.2d 29. On motion for reconsideration. Motion denied.

2012-2109. State v. Gilliam.

Hamilton App. No. C-110587, 2012-Ohio-5034. Reported at ___ Ohio St.3d ___, 2013-Ohio-902, 984 N.E.2d 30. On motion for reconsideration. Motion denied.

Pfeifer and O'Neill, JJ., dissent.

2012-2155. State v. Dilley.

Cuyahoga App. No. 98098, 2012-Ohio-5288. Reported at ___ Ohio St.3d ___, 2013-Ohio-902, 984 N.E.2d 30. On motion for reconsideration. Motion denied.

2012-2159. State v. Jackson.

Cuyahoga App. No. 98157, 2012-Ohio-5885. Reported at 134 Ohio St.3d 1488, 2013-Ohio-902, 984 N.E.2d 30. On motion for reconsideration. Motion denied.