

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

June 19, 2013

[Cite as *06/19/2013 Case Announcements*, 2013-Ohio-2512.]

MERIT DECISIONS WITHOUT OPINIONS

2012-0153. State v. Sowell.

Cuyahoga App. No. 97293. Upon consideration of the jurisdictional memoranda filed in this cause, the court accepts the appeal. The judgment of the court of appeals is vacated on the authority of *State v. Davis*, 131 Ohio St.3d 1, 2011-Ohio-5028, ¶ 22. Appellant's motion to remand this cause to the court of appeals is granted, and the cause is remanded to the court of appeals for further proceedings.

It is ordered by the court that this judgment does not affect the court's jurisdiction over case No. 2011-1921.

It is further ordered that a mandate be sent to the Court of Appeals for Cuyahoga County to carry this judgment into execution and that a copy of this entry be certified to the clerk of the Court of Appeals for Cuyahoga County for entry.

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

2012-0154. State v. Sowell.

Cuyahoga App. No. 97397. Upon consideration of the jurisdictional memoranda filed in this cause, the court accepts the appeal. The judgment of the court of appeals is vacated on the authority of *State v. Davis*, 131 Ohio St.3d 1, 2011-Ohio-5028, ¶ 22. Appellant's motion to remand this cause to the court of appeals is granted, and the cause is remanded to the court of appeals for further proceedings.

It is ordered by the court that this judgment does not affect the court's jurisdiction over case No. 2011-1921.

It is further ordered that a mandate be sent to the Court of Appeals for Cuyahoga County to carry this judgment into execution and that a copy of this

entry be certified to the clerk of the Court of Appeals for Cuyahoga County for entry.

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

2012-0155. State v. Sowell.

Cuyahoga App. No. 97396. Upon consideration of the jurisdictional memoranda filed in this cause, the court accepts the appeal. The judgment of the court of appeals is vacated on the authority of *State v. Davis*, 131 Ohio St.3d 1, 2011-Ohio-5028, ¶ 22. Appellant's motion to remand this cause to the court of appeals is granted, and the cause is remanded to the court of appeals for further proceedings.

It is ordered by the court that this judgment does not affect the court's jurisdiction over case No. 2011-1921.

It is further ordered that a mandate be sent to the Court of Appeals for Cuyahoga County to carry this judgment into execution and that a copy of this entry be certified to the clerk of the Court of Appeals for Cuyahoga County for entry.

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

2013-0527. Brown v. Williams.

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.

2013-0530. State ex rel. Richfield v. Laria.

In Mandamus. Upon consideration of relator's motion for leave to file a verified complaint for a writ of mandamus and other filings under seal, and for an order placing this proceeding under seal until further notice, the motion for leave to intervene of Anthony Riviotta and Robert Gilbert, and upon the answer of respondents, it is ordered by the court that the motion to file the case under seal and the motion for leave to intervene are granted.

It is further ordered that 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 of the filing of the evidence; respondents 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 respondents' brief. Respondents are ordered to submit as part of their evidence, for

in camera review, unredacted copies of the records for which they claim exemptions.

It is further ordered that all parties are ordered to brief the following issue:

“Do Sup.R. 44 through 47 provide the sole means by which a party may obtain access to court records, or may an aggrieved party pursue an action under either R.C. 149.43 or Sup.R. 47(B)?”

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

Pfeifer, J., dissents and would grant the writ.

2013-0564. State ex rel. North v. Cooper.

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.

2013-0565. State ex rel. Morris v. Cain.

In Mandamus and Prohibition. On motions to dismiss of the judges of the Tenth District Court of Appeals. Motions granted. Cause dismissed.

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

2013-0566. Wilson v. Oliver.

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.

2013-0599. Bennett v. Delaware Cty. Common Pleas Court.

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.

MOTION AND PROCEDURAL RULINGS

2007-2027. State v. Powell.

Lucas C.P. No. G4801CR02006035. On application for reopening under S.Ct.Prac.R. 11.06. Application denied.

French, J., dissents and would grant the application as to Proposition of Law No. I.

2011-1714. Shepherd ex rel. v. Henson.

In Mandamus. On motion to vacate void judgments. Motion denied.

2011-1802. Shepherd ex rel. [Shepherd] v. Farmer.

In Mandamus. On motion to vacate void judgments. Motion denied.

2013-0680. State v. Brown.

Lucas App. No. L-09-1263, 2011-Ohio-137. On motion for delayed appeal. Motion denied.

Kennedy and O'Neill, JJ., dissent.

2013-0690. State v. Jones.

Butler App. No. CA2012-04-077, 2013-Ohio-654. On motion for delayed appeal. Motion granted.

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

2013-0700. State v. Outlaw.

Cuyahoga App. No. 99379. On motion for delayed appeal. Motion denied.

Pfeifer, J., dissents.

2013-0718. State v. Gross.

Lake App. No. 2011-L-073, 2012-Ohio-3020. On motion for delayed appeal. Motion denied.

2013-0722. State v. Cochrane.

Franklin App. No. 11AP-991, 2012-Ohio-5856. On motion for delayed appeal. Motion granted.

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

2013-0737. Wasserman v. Copsey.

Sandusky App. No. S-12-008, 2013-Ohio-1274. On motion for stay of Haldon and Sandra Copsey. Motion denied.

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

2013-0779. In re Guardianship of Lewis.

Hamilton App. No. C-120837. On emergency motion for stay. Motion denied.

2013-0805. State v. Black.

Ashland App. No. 12-COA-018, 2013-Ohio-976. 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' entry filed April 26, 2013:

“Whether the term ‘penal or correctional institution of a party state’ as used in R.C. 2963.30, includes county jails.”

The conflict case is *State v. Wyer*, 8th Dist. No. 82962, 2003-Ohio-6926.

O'Donnell, J., dissents.

Sua sponte, cause consolidated with 2013-0552, *State v. Black*, 5th Dist. No. 12-COA-018, 2013-Ohio-976.

APPEALS ACCEPTED FOR REVIEW

2013-0465. State ex rel. Morrison v. Beck Energy Corp.

Summit App. No. 25953, 2013-Ohio-356.

O'Donnell, J., dissents.

2013-0552. State v. Black.

Ashland App. No. 12-COA-018, 2013-Ohio-976. Discretionary appeal accepted and cause consolidated with 2013-0805, *State v. Black*, 5th Dist. No. 12-COA-018, 2013-Ohio-976.

O'Donnell, J., dissents.

2013-0590. State v. Smith.

Mahoning App. No. 11 MA 120, 2013-Ohio-756. Discretionary appeal accepted of Proposition of Law No. I and cause held for the decision in 2011-0686, *State v. Keck*, 4th Dist. No. 09CA50, 2011-Ohio-1643.

O'Connor, C.J., dissents.

Pfeifer, J., would also accept Propositions of Law Nos. II through VII.

APPEALS NOT ACCEPTED FOR REVIEW

2010-0865. State v. Jackson.

Trumbull App. No. 2008-T-0024, 2010-Ohio-1270.

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

2013-0106. Qi v. Yang.

Greene App. No. 2012-CA-24, 2012-Ohio-5542.

Kennedy and O’Neill, JJ., dissent.

2013-0410. Johnson v. Emergency Physicians of Northwest Ohio at Toledo, Inc.

Lucas App. No. L-11-1290, 2013-Ohio-322.

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

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

Kennedy, J., dissents and would accept the discretionary appeal on Proposition of Law Nos. I and IV and the second appeal on Proposition of Law Nos. I, IV, and V.

2013-0452. Shupert v. Shupert.

Adams App. No. 12CA940, 2013-Ohio-604.

Kennedy, J., dissents.

2013-0454. In re Guardianship of Soltesz.

Erie App. Nos. E-11-003 and E-11-015. Discretionary appeal not accepted and motion to supplement the record denied as moot.

2013-0461. State v. Houston.

Scioto App. No. 12CA3472, 2013-Ohio-686.

O’Neill, J., dissents.

2013-0462. Jones v. Norwood.

Hamilton App. No. C-120237, 2013-Ohio-350.

O’Donnell, J., dissents.

2013-0463. Early v. Toledo Blade Co.

Lucas App. No. L-11-1002, 2013-Ohio-404.

O’Donnell and O’Neill, JJ., dissent.

2013-0468. Duncan v. Cuyahoga Community College.

Cuyahoga App. No. 97222, 2012-Ohio-1949.

2013-0472. Cantu v. Irondale Indus. Contrs.

Fulton App. No. F-11-018, 2012-Ohio-6057.

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

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

2013-0474. Rock v. Rock.

Montgomery App. No. 25311, 2013-Ohio-390.

2013-0475. Violante v. Brady Lake.

Portage App. No. 2012-P-0054, 2012-Ohio-6220.

2013-0476. State v. Johnson.

Portage App. No. 2012-P-0008, 2013-Ohio-440.

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

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

2013-0477. Qi v. Yang.

Greene App. No. 2012-CA-24, 2012-Ohio-5542. Discretionary appeal not accepted and motion to consolidate denied as moot.

O'Neill, J., dissents.

2013-0480. State v. Markins.

Scioto App. No. 10CA3387, 2013-Ohio-602.

O'Neill, J., dissents.

2013-0482. State v. Jackson.

Cuyahoga App. No. 98354, 2013-Ohio-372.

O'Neill, J., dissents and would accept the appeal and hold the cause for the decision in 2013-0167, *State v. Bonnell*, 5th Dist. No. 12CAA030022, 2012-Ohio-5150.

2013-0483. State v. Newman.

Erie App. Nos. E-11-065 and E-11-066, 2013-Ohio-414.

2013-0484. In re M.R.

Erie App. No. E-12-075.

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

2013-0502. Hillman v. Edwards.

Franklin App. No. 10AP-950. Discretionary appeal not accepted and motion for transmission of lower court record denied as moot.

French, J., not participating.

2013-0505. HSBC Bank USA, Natl. Assn. v. Scacchi.

Geauga App. No. 2012-G-3062, 2012-Ohio-5441.

2013-0507. Phillips v. Ohio State Univ. Med. Ctr.

Franklin App. No. 12AP-414, 2013-Ohio-464.

Lanzinger and O'Neill, JJ., dissent.

2013-0515. State v. Sturdivant.

Cuyahoga App. No. 98747, 2013-Ohio-584.

2013-0518. State v. Horsley.

Scioto App. No. 12CA3473, 2013-Ohio-901.

Pfeifer, J., dissents.

2013-0519. State v. Robinson.

Lucas App. No. L-12-1023, 2013-Ohio-518.

Pfeifer and O'Neill, JJ., dissent.

2013-0522. Bank of Am., NA v. Valentine.

Delaware App. No. 12 CAE 03 0020, 2013-Ohio-598.

2013-0523. Luciano v. NCC Solutions, Inc.

Cuyahoga App. No. 98789, 2013-Ohio-497.

Pfeifer and O'Donnell, JJ., dissent.

2013-0532. Sturgill v. JP Morgan Chase & Co.

Hocking App. No. 12CA8, 2013-Ohio-688.

2013-0534. Mtge. Electronic Registration Sys., Inc. v. Vascik.

Lucas App. No. L-12-1232.

2013-0548. State v. Mitchell.
Montgomery App. No. 25402, 2013-Ohio-622.

2013-0550. State v. Schmidbauer.
Clermont App. No. CA2012-08-061, 2013-Ohio-530.
O’Neill, J., dissents.

2013-0563. State v. Harder.
Cuyahoga App. No. 98409, 2013-Ohio-580.

2013-0576. State v. Ushery.
Hamilton App. No. C-130039.

2013-0626. State v. Hawkins.
Franklin App. No. 10AP-907, 2011-Ohio-6658.
Pfeifer and O’Neill, JJ., dissent.

2013-0639. State v. Blakely.
Lucas App. No. L-03-1275, 2013-Ohio-1080.

2013-0641. State v. Blakely.
Lucas App. No. L-12-1034, 2013-Ohio-1080.

2013-0734. In re Adoption of D.N.O.
Stark App. No. 2012-CA-00239, 2013-Ohio-601.

RECONSIDERATION OF PRIOR DECISIONS

2012-0239. State v. Smith.
Franklin App. No. 11AP-512, 2011-Ohio-6730. Reported at ___ Ohio St.3d ___,
2013-Ohio-1698, ___ N.E.2d ___. On motion for reconsideration. Motion denied.
O’Connor, C.J., and Lanzinger and French, JJ., dissent.

2013-0064. Torress v. Getzinger.
Columbiana App. No. 11 CO 18, 2012-Ohio-5613. Reported at ___ Ohio St.3d
___, 2013-Ohio-1622, 986 N.E.2d 30. On motion for reconsideration. Motion
denied.
O’Donnell, J., dissents.

2013-0113. Elam v. Cuyahoga Cty. Emp. & Family Servs.

Cuyahoga App. No. 98323, 2012-Ohio-5076. Reported at ___ Ohio St.3d ___, 2013-Ohio-1622, 986 N.E.2d 30. On motion for reconsideration. Motion denied.

2013-0119. DuBose v. Cincinnati Pub. Schools.

Hamilton App. No. C-120188. Reported at ___ Ohio St.3d ___, 2013-Ohio-1622, 986 N.E.2d 30. On motion for reconsideration. Motion denied.

2013-0131. State v. Ojile.

Hamilton App. Nos. C-110677 and C-110678, 2012-Ohio-6015. Reported at 135 Ohio St.3d 1414, 2013-Ohio-1622, 986 N.E.2d 30. On motion for reconsideration. Motion denied.

2013-0135. State v. Reynolds.

Fairfield App. No. 12 CA 7, 2012-Ohio-5956. Reported at 135 Ohio St.3d 1415, 2013-Ohio-1622, 986 N.E.2d 30. On motion for reconsideration. Motion denied.

O'Donnell and O'Neill, JJ., dissent and would grant the motion for reconsideration and hold the cause for the decision in 2013-0167, *State v. Bonnell*, 5th Dist. No. 12CAA030022, 2012-Ohio-5150.

2013-0142. Deutsche Bank Natl. Trust Co. v. Germano.

Portage App. No. 2012-P-0024, 2012-Ohio-5833. Reported at 135 Ohio St.3d 1415, 2013-Ohio-1622, 986 N.E.2d 30. On motion for reconsideration. Motion denied.

2013-0166. State v. King.

Cuyahoga App. No. 97683, 2012-Ohio-4398. Reported at 135 Ohio St.3d 1415, 2013-Ohio-1622, 986 N.E.2d 31. On motion for reconsideration. Motion denied.

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

2013-0295. State ex rel. Davet v. Sutula.

In Mandamus. Reported at 135 Ohio St.3d 1445, 2013-Ohio-2062, 987 N.E.2d 702. On motion for reconsideration. Motion denied.

2013-0296. State ex rel. Klayman v. Cuyahoga Cty. Court of Common Pleas.

In Mandamus. Reported at 135 Ohio St.3d 1418, 2013-Ohio-1641, 986 N.E.2d 3. On motion for reconsideration. Motion denied.