

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

October 23, 2013

[Cite as *10/23/2013 Case Announcements*, 2013-Ohio-4657.]

MERIT DECISIONS WITH OPINIONS

2009-0739. State v. Wesson, Slip Opinion No. 2013-Ohio-4575.

Summit C.P. No. 2008-03-0710. Judgment affirmed in part and reversed in part.

Pfeifer, Acting C.J., and Vukovich, O'Donnell, and Kennedy, JJ., concur.

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

Lanzinger and O'Neill, JJ., dissent.

Joseph J. Vukovich, J., of the Seventh Appellate District, sitting for O'Connor, C.J.

2012-0692. Mahoning Cty. Bar Assn. v. Zena, Slip Opinion No. 2013-Ohio-4585.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 11-059. Thomas E. Zena, Attorney Registration No. 0007375, is suspended from the practice of law for one year, all stayed on conditions.

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

2012-1378. Mahoning Edn. Assn. of Dev. Disabilities v. State Emp. Relations Bd., Slip Opinion No. 2013-Ohio-4654.

Mahoning App. No. 11 MA 52, 2012-Ohio-3000. Judgment affirmed.

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

Lanzinger and O'Neill, JJ., concur in judgment only and concur separately.

2013-0402. In re Application of Goodstein, Slip Opinion No. 2013-Ohio-4586.
On Report by the Board of Commissioners on Character and Fitness, No. 541. Daniel Robert Goodstein's pending application to register as a candidate for admission to the practice of law is disapproved, but he may apply to take the July 2015 bar examination.

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

MERIT DECISIONS WITHOUT OPINIONS

2013-0427. In re Application of Washington.

On Report by the Board of Commissioners on Character and Fitness, No. 531. Pending application for admission to take the Ohio bar examination disapproved. Applicant may reapply to take the July 2016 bar examination.

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

2013-0438. In re Application of Kloeker.

On Report by the Board of Commissioners on Character and Fitness, No. 533. Pending application for admission to take the Ohio bar examination disapproved. Applicant may reapply to take the July 2015 bar examination.

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

Pfeifer, Lanzinger, and O'Neill, JJ., concur in part and dissent in part and would allow the applicant to reapply for the July 2014 bar examination as recommended by the Board of Commissioners on Character and Fitness.

2013-1058. Temethy v. Sliwinski.

In Mandamus. On motions to dismiss of Heather M. Zirke and Katherine Ann Zimmerman, Jonathan E. Coughlan, Ohio Disciplinary Counsel, et al., Rick Baum, Judge Eileen A. Gallagher, and attorney Steven B. Wagner. Motions to dismiss granted. On relator's motion to remove attorney Baum, motion to remove attorneys Sliwinski, Steven B. Wagner, Heather M. Zirke, and Katherine Ann Zimmerman, and motion to strike. Motions denied. Cause dismissed. It is ordered by the court that the motions to dismiss are granted and relator's motions are denied. Accordingly, this cause is dismissed.

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

2013-1086. Berry v. Bessy.

In Mandamus. On motion for leave to file amended complaint. Motion granted. On motion to dismiss. Motion to dismiss granted. Respondent's motion to strike amended petition or, in the alternative, motion for leave to file its memorandum contra to motion to amend writ of mandamus is denied. Cause dismissed.

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

2013-1136. Williams v. Fifth Dist. Court of Appeals.

In Mandamus. On motion to dismiss of respondents. Motion to dismiss granted. Motions for leave to intervene and to dismiss of intervening respondent are denied. Cause dismissed.

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

2013-1169. State ex rel. Simpson v. State Teachers Retirement Bd.

In Mandamus. On answer of respondent State Teachers Retirement System of Ohio. Sua sponte, alternative writ 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; 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 filing of respondents' brief.

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

2013-1182. State ex rel. Anderson v. Sheeran.

In Procedendo. On complaint in procedendo of Kim L. Anderson and on S.Ct.Prac.R. 12.04 determination, cause dismissed. Relator's motions to strike and objections to notice of mootness are denied.

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

Lanzinger, J., dissents.

2013-1184. Dumas v. DeGenaro.

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

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

2013-1186. Branham v. Mifsud.

Miscellaneous case. On motion to dismiss. Motion to dismiss granted. Motion to strike dismissal denied. Cause dismissed.

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

2013-1187. Branham v. Etna Twp.

Miscellaneous case. On motion to dismiss. Motion to dismiss granted. Motion for sanctions and motion to strike dismissal denied. Cause dismissed.

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

2013-1189. Branham v. Branstool.

Miscellaneous case. On motion to dismiss. Motion to dismiss granted. Motion to strike denied. Cause dismissed.

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

2013-1191. State ex rel. Nash v. Dept. of Rehab. & Corr.

Miscellaneous case. On motion for judgment on the pleadings. Motion granted. Preliminary injunction denied as moot. Cause dismissed.

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

2013-1199. Fish v. Selmon.

In Mandamus. On answers of respondents and 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.

2013-1213. State ex rel. Wilson v. Montgomery Cty. Court of Common Pleas Judge Having Jurisdiction over Case No. 09-CR-719.

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

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

2013-1217. State ex rel. Hendricks v. Corrigan.

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

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

2013-1219. State ex rel. Hendricks v. Corrigan.

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

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

2013-1224. State ex rel. Redd v. Jennings.

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

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

2013-1234. State ex rel. Elmwood Place v. Ruehlman.

In Mandamus and Prohibition. In light of this court's decision to decline jurisdiction in case No. 2013-1087, *Pruett v. Elmwood Place*, it is ordered by the court, sua sponte, that this case is dismissed as moot.

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

O'Donnell, J., not participating.

2013-1259. Murphy v. Schneider.

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

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

2013-1261. DeArmond v. O'Neill.

In Mandamus. On complaint in mandamus of Brandon J. DeArmond and 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.

2013-1273. Dumas v. Oppy.

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

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

2013-1303. Robinson v. LaRose.

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

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

2013-1314. State ex rel. Payne v. Sheeran.

In Procedendo. On motion for judgment on the pleadings. Motion granted. Cause dismissed.

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

2013-1322. O'Neal v. Markus.

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

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

2013-1332. Dingess v. Buchanan.

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

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

2013-1333. State ex rel. Smith v. Sadler.

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

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

French, J., not participating.

2013-1343. State ex rel. Battle v. Favreau.

In Mandamus. On motion to dismiss of Matt Cook. Motion to dismiss granted. Motion for temporary injunction denied as moot. Cause dismissed.

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

2013-1354. Jones v. Bradshaw.

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

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

2013-1390. State ex rel. Rarden v. Sage.

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

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

2013-1416. Pettyjohn v. Martin.

In Mandamus. On complaint in mandamus of Donald Pettyjohn and 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.

2013-1430. Gould v. Bradshaw.

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

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

2013-1442. Murray v. Metz.

In Mandamus. On complaint in mandamus of Sonny Murray and 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.

MOTION AND PROCEDURAL RULINGS

2010-1877. State v. Roy.

Butler App. No. CA2009-11-290, 2010-Ohio-4405. On motion to clarify decision for remand. Motion denied.

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

In Mandamus. On motion to vacate void judgments, motion to strike James DeWeese's response to motion to vacate and motion to declare relator a vexatious litigator, amended motion to strike motion to vacate void judgment, and amended motion to have petitioner declared a vexatious litigator. Motions denied.

It is ordered by the court, sua sponte, that Randy Shepherd is found to be a vexatious litigator under S.Ct.Prac.R. 4.03(B). Accordingly, it is ordered by the court that Randy Shepherd 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.

O'Donnell, Kennedy, and French, JJ., dissent and would not find respondent to be a vexatious litigator.

2011-1802. State ex rel. Shepherd v. Farmer.

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

2012-0852. State v. Broom.

Cuyahoga App. No. 96747, 2012-Ohio-587. This cause is pending before the court as a jurisdictional appeal. It is ordered by the court, sua sponte, that the parties shall brief the following issues before the court decides whether to accept jurisdiction:

1. Whether the petition satisfies any of the statutory exceptions for successive postconviction petitions enumerated in R.C. 2953.23(A); and
2. If no statutory exception applies, whether the trial court lacked subject-matter jurisdiction to consider the petition.

Appellant's brief shall be filed within 30 days of the date of this entry and appellee's brief shall be filed within 20 days of the filing of appellant's brief. No requests or stipulations for extension of time shall be permitted.

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

2012-1742. State ex rel. Sylvester v. Neal.

In Mandamus. It is ordered by the court, sua sponte, that pursuant to this court's May 22, 2013 decision in case No. 2013-0364, *State ex rel Fox v. Walters*, this case is consolidated with case No. 2013-0364.

It is further ordered by the court, sua sponte, that this case be scheduled for oral argument before the full court.

2013-0303. State ex rel. Lacey v. Weaver.

In Mandamus. On relator's motion to vacate, motion to strike, motion for default judgment, motion for sanctions, motion for findings of fact and conclusions of law, and motion for stay. Motions denied.

2013-0364. State ex rel. Fox v. Walters.

In Mandamus. It is ordered by the court, sua sponte, that this case be scheduled for oral argument before the full court.

2013-0586. Sivit v. Village Green of Beachwood, L.P.

Cuyahoga App. No. 98401, 2013-Ohio-103. On motion of Carlos Sivit et al. to strike appellants' merit brief, the motion is granted as to proposition of law No. IV only.

O'Donnell, J., would grant the motion as to all propositions of law.
Pfeifer and O'Neill, JJ., dissent.

2013-1255. State v. Rogers.

Cuyahoga App. Nos. 98292, 98584, 98585, 98586, 98587, 98588, 98589, and 98590, 2013-Ohio-3235. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issues stated at page 1 of the court of appeals' entry filed July 25, 2013:

“(1) Whether a trial court commits plain error where multiple offenses present a facial question of allied offenses of similar import, yet the trial court fails to determine whether those offenses should merge under R.C. 2941.25 at sentencing; and

(2) Whether the failure of a defendant to raise an allied-offense issue or to object in the trial court can constitute an effective waiver or forfeiture of a defendant's constitutional rights against double jeopardy and a bar to appellate review of the issue when the record is silent on the defendant's conduct.”

French, J., dissents and would order briefing of the first issue only.

O'Neill, J., dissents.

The conflict case is *State v. Wallace*, 6th Dist. Wood No. WD-11-031, 2012-Ohio-2675.

The parties shall also brief the issue stated at page 1 of the court of appeals' entry filed September 6, 2013, as follows:

“Whether an offender who receives, retains, or disposes of the property of two or more other persons in a single transaction may be convicted and sentenced for more than one count of receiving stolen property?”

It is further ordered by the court, sua sponte, that this cause is consolidated with Supreme Court case No. 2013-1501, *State v. Rogers*, and that the briefing in this case and in case No. 2013-1501 shall be consolidated. This case shall proceed pursuant to S.Ct.Prac.R. 16.05. The state is designated as appellant/cross-appellee and Frank Rogers Jr. is designated as appellee/cross-appellant. The parties shall file two originals of each of the briefs permitted under S.Ct.Prac.R. 16.05 and include both case numbers on the cover page of the briefs.

2013-1310. State v. Ramirez.

Butler App. No. CA2010-11-305, 2011-Ohio-6531. On motion for delayed appeal. Motion denied.

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

2013-1311. State v. Macksyn.

Stark App. No. 2012CA00140, 2013-Ohio-1649. On motion for delayed appeal. Motion denied.

Kennedy and O’Neill, JJ., dissent.

2013-1315. State v. Klein.

Union App. No. 14-12-09, 2013-Ohio-2387. On motion for delayed appeal. Motion denied.

Pfeifer, Kennedy, and O’Neill, JJ., dissent.

2013-1316. State v. Schneider.

Cuyahoga App. No. 98938, 2013-Ohio-2532. On motion for delayed appeal. Motion granted.

O’Connor, C.J., and O’Donnell, J., dissent.

2013-1318. State v. Fair.

Montgomery App. No. 25300, 2013-Ohio-1923. On motion for delayed appeal. Motion denied.

Pfeifer, Kennedy, and O’Neill, JJ., dissent.

2013-1319. State v. Griffin.

Montgomery App. No. 24001, 2013-Ohio-2230. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated at page 7 of the court of appeals’ entry filed July 17, 2013:

“In a trial for engaging in a pattern of corrupt activity under R.C. 2923.32, is an instruction sufficient to convey the law on the element of ‘enterprise’ when the instruction states the elements of the offense, provides the statutory definitions of ‘enterprise’ and ‘pattern of corrupt activity,’ and informs the jury that it has to find both beyond a reasonable doubt?”

Pfeifer, Acting C.J.

O’Donnell and Lanzinger, JJ., dissent.

O’Connor, C.J., not participating.

The conflict case is *State v. Habash*, 9th Dist. Summit No. 17073, 1996 WL 37752 (Jan. 31, 1996).

Sua sponte, cause consolidated with case No. 2013-1129, *State v. Griffin*, 2d Dist. Montgomery No. 24001, 2013-Ohio-2230.

2013-1323. State v. Jones.

Hamilton App. No. C-110709. On motion for delayed appeal. Motion denied.

Pfeifer, Kennedy, and O’Neill, JJ., dissent.

2013-1324. State v. Greathouse.

Montgomery App. No. 21536, 2007-Ohio-2136. On motion for delayed appeal. Motion denied.

2013-1345. State v. Jabbaar.

Cuyahoga App. No. 98218, 2013-Ohio-1655. On motion for delayed appeal. Motion denied.

O’Neill, J., dissents.

2013-1347. State v. Denney.

Summit App. No. 26845. On motion for delayed appeal. Motion denied.

2013-1348. State v. Walton.

Wyandot App. Nos. 16-12-13 and 16-12-14, 2013-Ohio-2147. On motion for delayed appeal. Motion denied.

Kennedy and O’Neill, JJ., dissent.

2013-1376. State v. Rieman.

Putnam App. No. 12-13-02. On motion for delayed appeal. Motion denied.

2013-1386. Capital One Bank (USA), N.A. v. Ryan.

Franklin App. No. 13AP-401. On motion for stay of court of appeals’ judgment. Motion denied.

2013-1401. State v. Gaona.

Licking App. No. 11 CA 61, 2012-Ohio-3622. On motion for delayed appeal. Motion denied.

Pfeifer, J., dissents.

2013-1404. State v. Roark.

Warren App. No. CA2012-04-036, 2013-Ohio-217. On motion for delayed appeal. Motion denied.

2013-1406. State v. Bobo.

Warren App. No. CA2012-09-091. On motion for delayed appeal. Motion denied.

Pfeifer, J., dissents.

2013-1407. State v. Osley.

Lucas App. No. L-11-1291, 2013-Ohio-2807. On motion for delayed appeal. Motion denied.

Kennedy and O'Neill, JJ., dissent.

2013-1410. State v. Sowards.

Gallia App. No. 06CA13, 2013-Ohio-3265. On motion for stay of sentence. Motion denied.

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

2013-1412. State v. Leggett.

Williams App. No. WM-13-002. On motion for delayed appeal. Motion denied.

2013-1434. Brunner v. Germany.

Hamilton App. No. C-130569. On motion for emergency stay pending appeal. Motion denied.

2013-1444. State v. Anderson.

Franklin App. No. 12AP-516, 2013-Ohio-2454. On motion for delayed appeal. Motion denied.

O'Neill, J., dissents.

2013-1448. State v. Banks.

Seneca App. No. 13-12-18, 2013-Ohio-649. On motion for delayed appeal. Motion denied.

2013-1452. State v. Adams.

Franklin App. No. 12AP-83, 2012-Ohio-5088. On motion for delayed appeal. Motion denied.

French, J., not participating.

2013-1456. State v. Jenkins.

Montgomery App. No. 25414, 2013-Ohio-3038. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause held for the decision in case No. 2012-2136, *State v. Taylor*, 9th Dist. Summit No. 26279, 2012-Ohio-5403.

2013-1465. State v. Saunders.

Fayette App. No. CA2012-03-006, 2013-Ohio-2052. On motion for delayed appeal. Motion denied.

Lanzinger, J., dissents.

2013-1468. State v. Triplett.

Stark App. No. 2012CA00200, 2013-Ohio-3114. On motion for delayed appeal. Motion granted.

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

2013-1501. State v. Rogers.

Cuyahoga App. Nos. 98292, 98584, 98585, 98586, 98587, 98588, 98589, and 98590, 2013-Ohio-3235. On review of order certifying a conflict. The court determines that a conflict exists. The parties shall brief the issue stated at page 1 of the court of appeals' entry filed September 6, 2013, as follows:

“Whether an offender who receives, retains, or disposes of the property of two or more other persons in a single transaction may be convicted and sentenced for more than one count of receiving stolen property?”

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

The conflict case is *State v. Wilson*, 21 Ohio App.3d 171, 486 N.E.2d 1242 (9th Dist.1985).

It is further ordered by the court, sua sponte, that this cause is consolidated with Supreme Court case No. 2013-1255, *State v. Rogers*, and that the briefing in this case and in case No. 2013-1255 shall be consolidated. This case shall proceed pursuant to S.Ct.Prac.R. 16.05. The state is designated as appellant/cross-appellee and Frank Rogers Jr. is designated as appellee/cross-appellant. The parties shall file two originals of each of the briefs permitted under S.Ct.Prac.R. 16.05 and include both case numbers on the cover page of the briefs.

APPEALS ACCEPTED FOR REVIEW

2013-0781. State v. Castagnola.

Summit App. Nos. 26185 and 26186, 2013-Ohio-1215.

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

2013-0910. State v. Tate.

Cuyahoga App. No. 97804, 2013-Ohio-570.

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

2013-0918. State v. Barclay.

Franklin App. No. 12AP-926, 2013-Ohio-1681. Discretionary appeal accepted; cause held for the decision in case No. 2013-0403, *State v. Limoli*, 10th Dist. Franklin No. 11AP-924, 2012-Ohio-4502; and briefing stayed.

Pfeifer, J., dissents.

2013-0984. Independence v. Office of Cuyahoga Cty. Executive.

Cuyahoga App. No. 97167, 2013-Ohio-1336. Discretionary appeal accepted on Proposition of Law No. II.

Kennedy, French, and O'Neill, JJ., would also accept Proposition of Law Nos. I and III.

Pfeifer and Lanzinger, JJ., dissent and would not accept the appeal.

2013-1043. Hill v. State.

Franklin App. No. 12AP-635, 2013-Ohio-1968. Discretionary appeal accepted; cause held for the decision in case No. 2012-1727, *Mansaray v. State*, 8th Dist. Cuyahoga No. 98171, 2012-Ohio-3376.

2013-1129. State v. Griffin.

Montgomery App. No. 24001, 2013-Ohio-2230. Discretionary appeal accepted and cause consolidated with case No. 2013-1319, *State v. Griffin*, 2d Dist. Montgomery No. 24001, 2013-Ohio-2230.

Pfeifer, Acting C.J.

O'Donnell, J., dissents.

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

APPEALS NOT ACCEPTED FOR REVIEW

2013-0431. Williams v. Matthews.

Cuyahoga App. No. 98136, 2013-Ohio-483.

O'Donnell, J., dissents.

2013-0516. State v. Griffin.

Lorain App. No. 11CA010128, 2013-Ohio-416.

2013-0606. State v. Finkbeiner.

Brown App. No. CA2012-08-016.

2013-0610. State v. West.

Cuyahoga App. No. 98274, 2013-Ohio-487.

2013-0690. State v. Jones.

Butler App. No. CA2012-04-077, 2013-Ohio-654.

2013-0722. State v. Cochrane.

Franklin App. No. 11AP-991, 2012-Ohio-5856.

2013-0779. In re Guardianship of Lewis.

Hamilton App. No. C-120837.

2013-0803. State v. Williams.

Hamilton App. No. C-120183.

O'Neill, J., dissents and would accept the appeal on Proposition of Law Nos. V and VII.

2013-0863. Brown Cty. Bd. of Health v. Raichyk.

Brown App. No. CA2012-06-011, 2013-Ohio-1727.

2013-0903. Byrd v. Byrd.

Franklin App. No. 13AP-109.

2013-0917. State v. Hicks.

Cuyahoga App. No. 99119, 2013-Ohio-1904.

2013-0932. State v. Knox.

Cuyahoga App. Nos. 98713 and 98805, 2013-Ohio-1662.

2013-0935. Gary Moderalli Excavating, Inc. v. Trimat Constr., Inc.

Tuscarawas App. Nos. 2012 AP 03 0022 and 2012 AP 03 0023, 2013-Ohio-1701.

O'Connor, C.J., and French, JJ., dissent and would accept the appeal on Proposition of Law No. I.

Pfeifer, J., dissents.

2013-0936. Univ. Hosps. Health Sys., Inc. v. Cuyahoga Cty. Bd. of Revision.

Cuyahoga App. No. 98783, 2013-Ohio-1665.

Lanzinger, J., dissents.

2013-0942. State v. Rupp.

Preble App. No. CA2012-11-014, 2013-Ohio-1847.

2013-0950. Biondi v. Oregon Homes, L.L.C.

Summit App. No. 26543, 2013-Ohio-1770.

2013-0961. Schmucker v. Kurzenberger.

Wayne App. No. 12CA0013, 2013-Ohio-1726.

Pfeifer and O'Neill, JJ., dissent.

2013-0964. Bassett v. McGrath.

Cuyahoga App. No. 99346.

2013-0966. Indian Hill v. Ledgerwood.

Hamilton App. No. C-120448, 2013-Ohio-1812.

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

2013-0968. State v. Simmons.

Cuyahoga App. No. 98613, 2013-Ohio-1789.

2013-0970. Bibee v. Gen. Revenue Corp.

Hamilton App. No. C-120577, 2013-Ohio-1753.

2013-0971. State v. Steward.

Highland App. No. 13CA7.

2013-0975. State v. Church.

Franklin App. No. 12AP-34, 2012-Ohio-5663.

Kennedy and French, JJ., dissent.

2013-0976. State v. Piscura.

Cuyahoga App. No. 98712, 2013-Ohio-1793.

2013-0977. State v. Curlee-Jones.

Cuyahoga App. No. 98233, 2013-Ohio-1175.

2013-0979. State v. Mannarino.

Cuyahoga App. No. 98727, 2013-Ohio-1795.

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

2013-0980. Rothwell v. Rothwell.

Pickaway App. No. 12CA6, 2013-Ohio-457.

2013-0986. State v. Cundiff.

Franklin App. No. 12AP-483, 2013-Ohio-1806.

2013-0991. State v. Madden.

Franklin App. Nos. 12AP-625 and 12-AP-661.

2013-0998. State v. Whalen.

Hamilton App. No. C-120449, 2013-Ohio-1861.

Lanzinger and O'Neill, JJ., dissent.

2013-1000. Dinkes v. Dinkes.

Summit App. No. 26879.

2013-1001. Miller v. Community Health Partners.

Lorain App. No. 12CA010165, 2013-Ohio-1935.

Pfeifer and O'Neill, JJ., dissent.

2013-1002. State v. Harrington.

Fairfield App. No. 12-CA-31, 2013-Ohio-1864.

Lanzinger and O'Neill, JJ., dissent.

2013-1008. Wells Fargo Bank, N.A. v. Rahman.

Franklin App. No. 13AP-376.

O'Neill, J., dissents.

O'Donnell, J., not participating.

2013-1009. In re M.C.

Franklin App. No. 12AP-618, 2013-Ohio-2109.

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

2013-1011. Huntington Natl. Bank v. Winter.

Hamilton App. No. C-120612.

2013-1012. State v. Norman.

Franklin App. No. 12AP-505, 2013-Ohio-1908.

O'Neill, J., dissents.

2013-1013. BAC Home Loans Servicing, L.P. v. Busby.

Montgomery App. No. 25510, 2013-Ohio-1919.

2013-1017. Raspberry v. Taylor.

Summit App. No. 26510, 2013-Ohio-2175.

2013-1020. Biggert v. Highland Cty. Bd. of Dev. Disabilities.

Highland App. No. 12CA19, 2013-Ohio-2112.

2013-1022. Bilbaran Farm, Inc. v. Bakerwell, Inc.

Knox App. No. 12-CA-21, 2013-Ohio-2487.

Pfeifer, J., dissents.

2013-1025. State v. Campbell.

Hamilton App. No. C-020822.

2013-1028. State v. McCrary.

Hamilton App. No. C-120488.

2013-1030. State v. Hadley.

Marion App. No. 9-11-30, 2013-Ohio-1942.

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

2013-1031. Bender v. Portsmouth.

Scioto App. No. 12CA3491, 2013-Ohio-2023.

Pfeifer, J., dissents.

2013-1032. Wright v. Proctor-Donald.

Stark App. No. 2012-CA-00154, 2013-Ohio-1973.

2013-1034. Interstate Petroleum Co. v. Young.

Trumbull App. No. 2011-T-0090, 2013-Ohio-1943.

2013-1037. State v. Kirk.

Crawford App. No. 3-12-09, 2013-Ohio-1941.

Pfeifer and O'Donnell, JJ., dissent.

2013-1039. State v. Lyons.

Hamilton App. No. C-120671.

2013-1042. ABN AMRO Mtge. Group, Inc. v. Evans.

Cuyahoga App. No. 98777, 2013-Ohio-1557.

2013-1045. State v. Booker.

Lucas App. No. L-10-1140, 2013-Ohio-45.

2013-1048. State v. Avery.

Hamilton App. No. C-130252.

2013-1052. State v. Price.

Cuyahoga App. No. 98410, 2013-Ohio-1542.

2013-1053. State v. Castner.

Summit App. No. 26300.

Pfeifer, Acting C.J.

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

2013-1055. Evans v. Cincinnati.

Hamilton App. No. C-120726, 2013-Ohio-2063.

O'Donnell, J., dissents.

2013-1059. State v. White.

Perry App. No. 12-CA-00018, 2013-Ohio-2058.

2013-1061. State v. Rednour.

Montgomery App. No. 25135, 2013-Ohio-2125.

2013-1063. State v. Thrasher.

Greene App. No. 2012 CA 30, 2013-Ohio-2472.

2013-1068. State v. Metter.

Lake App. No. 2012-L-029, 2013-Ohio-2039.
Lanzinger, French, and O’Neill, JJ., dissent.

2013-1075. State v. Brown.

Stark App. No. 2012CA00040, 2013-Ohio-2220.

2013-1079. Cleveland v. Thorne.

Cuyahoga App. Nos. 98365, 98474, 98695, 98696, and 98697.

2013-1083. State v. White.

Muskingum App. No. CT2012-0046, 2013-Ohio-2135.

2013-1087. Pruiett v. Elmwood Place.

Hamilton App. No. C-130153.

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

O’Donnell, J., not participating.

2013-1089. State v. Ameem.

Cuyahoga App. No. 98773, 2013-Ohio-1555.

2013-1091. O’Connor v. Fairview Hosp.

Cuyahoga App. No. 98721, 2013-Ohio-1794. Discretionary appeal not accepted.
Motions to strike denied.

O’Neill, J., not participating.

2013-1097. McIntyre v. Ohio Bur. of Workers’ Comp.

Franklin App. No. 12AP-1062, 2013-Ohio-2338.

2013-1098. Makris v. Unemp. Comp. Rev. Comm.

Mahoning App. No. 11 MA 105, 2013-Ohio-2317.

2013-1106. State v. Williams.

Cuyahoga App. No. 99136, 2013-Ohio-1905.

2013-1119. State v. Stephens.

Summit App. No. 26516, 2013-Ohio-2223.

O'Neill, J., dissents.

2013-1127. State v. Eicholtz.

Clark App. No. 2012-CA-7, 2013-Ohio-302.

2013-1183. State v. Griffin.

Lorain App. No. 11CA010128, 2013-Ohio-416.

2013-1215. State v. Hollins.

Hancock App. No. 5-10-41, 2011-Ohio-5588.

2013-1245. State v. Marsh.

Mahoning App. No. 12 MA 40, 2013-Ohio-2949.

2013-1342. State v. Gagnon.

Lucas App. No. L-08-1235.

2013-1364. State v. Vargo.

Butler App. No. 2011-08-156.

RECONSIDERATION OF PRIOR DECISIONS

2013-0692. Gentile v. Gentile.

Cuyahoga App. No. 97971, 2013-Ohio-1338. Reported at 136 Ohio St.3d 1473, 2013-Ohio-3790, 993 N.E.2d 778. On motion for reconsideration. Motion denied.

Kennedy, J., dissents and would grant the motion for reconsideration as to Proposition of Law No. I.

2013-0795. State v. Ojile.

Hamilton App. Nos. C-110677 and C-110678, 2012-Ohio-6015. Reported at 136 Ohio St.3d 1476, 2013-Ohio-3790, 993 N.E.2d 779. On motion for reconsideration. Motion denied.

O'Neill, J., dissents.

2013-0953. State ex rel. Pishok v. Judges of the Third Dist. Court of Appeals

In Mandamus. Reported at 136 Ohio St.3d 1469, 2013-Ohio-3790, 993 N.E.2d 775. On motion for reconsideration. Motion denied.

2013-0962. State ex rel. Pace v. Montgomery Cty. Bd. of Elections.

In Mandamus. Reported at 136 Ohio St.3d 1469, 2013-Ohio-3790, 993 N.E.2d 775. On motion for reconsideration. Motion denied.

Pfeifer, Acting C.J.

O'Donnell and French, JJ., dissent.

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

2013-1023. State ex rel. Ohio Real Estate Auctions, L.L.C. v. Burt.

In Mandamus and Prohibition. Reported at 136 Ohio St.3d 1440, 2013-Ohio-2980, 990 N.E.2d 611. On amended motion for reconsideration. Motion denied. On motion to strike respondent's affidavit or, in the alternative, to strike paragraphs 3 and 9 through 18, and for leave to amend relators' complaint. Motions denied.

2013-1120. State v. Lanik.

Summit App. No. 26192, 2013-Ohio-361. Reported at 136 Ohio St.3d 1472, 2013-Ohio-3790, 993 N.E.2d 777. On motion for reconsideration. Motion denied.

Pfeifer, Acting C.J.

O'Neill, J., dissents.

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