

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS

November 6, 2013

[Cite as *11/06/2013 Case Announcements*, 2013-Ohio-4861.]

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## MERIT DECISIONS WITH OPINIONS

**2013-0274. State ex rel. Swanson v. Maier, Slip Opinion No. 2013-Ohio-4767.**

In Quo Warranto. Writ granted.

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

Pfeifer and O'Neill, JJ., dissent.

**2013-0562. Daggett v. Bradshaw, Slip Opinion No. 2013-Ohio-4765.**

Richland App. No. 12CA99, 2013-Ohio-713. Judgment affirmed.

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

## MERIT DECISIONS WITHOUT OPINIONS

**2013-1210. Peoples v. Johnson.**

In Mandamus. On complaint in mandamus and motion to amend complaint. Motion to amend complaint granted. On S.Ct.Prac.R. 12.04 determination, cause dismissed.

O'Connor, C.J., and Pfeifer, O'Donnell, Kennedy, and French, JJ., concur. Lanzinger, J., dissents and would grant an alternative writ.

O'Neill, J., dissents and would grant the writ.

**2013-1339. State ex rel. McGee v. Judges of the Cuyahoga Cty. Court of Common Pleas.**

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.

**2013-1369. Sullivan v. Horton.**

In Mandamus. On complaint in mandamus and respondent's motion for judgment on the pleadings. Motion for judgment on the pleadings granted. Cause dismissed.

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

**2013-1388. Smith v. Sheward.**

In Prohibition. 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.

**2013-1396. Cummings v. Spaeth.**

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

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

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

**2013-1422. State ex rel. Griffin v. Cocroft.**

In Procedendo. On respondent's motion to dismiss and motion to strike. Motion to dismiss granted. Motion to strike denied. Cause dismissed.

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

O'Donnell, J., dissents and would grant an alternative writ.

**2013-1424. State ex rel. Teagarden v. Spahr.**

In Mandamus. On relator's motion for leave to amend complaint and respondent's motion to dismiss. Motion for leave to amend complaint denied. Motion to dismiss granted. Cause dismissed.

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

**2013-1427. State ex rel. Johnson v. Moon.**

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.

## **MOTION AND PROCEDURAL RULINGS**

**2010-0576. State v. Mammone.**

Stark C.P. No. 2009CR0859. On motion to correct or modify the record. Motion denied.

**2013-1016. Young v. Ohio Dept. of Rehab. & Corr. Bur. of Sentence Computation.**

In Mandamus. On motion for findings of fact and conclusions of law. Motion denied.

**2013-1515. State v. Vasquez.**

Lucas App. No. L-13-1051, 2013-Ohio-4087. On motion for delayed appeal. Motion denied.

**2013-1520. State v. Gripper.**

Franklin App. No. 12AP-396, 2013-Ohio-2740. On motion for delayed appeal. Motion granted.

**2013-1565. Parma v. Fonte.**

Cuyahoga App. No. 99147, 2013-Ohio-3804. On motion for stay of execution. Motion denied.

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

## **APPEALS ACCEPTED FOR REVIEW**

**2013-1044. State v. Bode.**

Fairfield App. No. 12-CA-33, 2013-Ohio-2134.

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

**2013-1085. Fairfield Cty. Bd. of Commrs. v. Nally.**

Franklin App. No. 11AP-508, 2013-Ohio-2106. Discretionary appeal accepted on Proposition of Law No. I.

Pfeifer, J., would accept all propositions of law.

Lanzinger and French, JJ., would also accept Proposition of Law Nos. II and III.

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

**2013-1102. Cincinnati v. Ilg.**

Hamilton App. No. C-120667, 2013-Ohio-2191. Discretionary appeal accepted on Proposition of Law No. I.

Lanzinger, Kennedy, and French, JJ., would accept all propositions of law.

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

**2013-1110. State v. Brown.**

Stark App. No. 2012CA00099, 2013-Ohio-2224. Discretionary appeal accepted. Sua sponte, cause consolidated with case No. 2013-1111, *State v. Shipley*, and case No. 2013-1112, *State v. McCloude*, for oral argument only. No later than ten days before oral argument, counsel for appellees shall file notice of how they intend to divide the 15 minutes of oral argument time allotted to appellees.

Pfeifer and O'Donnell, JJ., dissent.

**2013-1111. State v. Shipley.**

Stark App. No. 2012CA00100, 2013-Ohio-2225. Discretionary appeal accepted. Sua sponte, cause consolidated with case No. 2013-1110, *State v. Brown*, and case No. 2013-1112, *State v. McCloude*, for oral argument only. No later than ten days before oral argument, counsel for appellees shall file notice of how they intend to divide the 15 minutes of oral argument time allotted to appellees.

Pfeifer and O'Donnell, JJ., dissent.

**2013-1112. State v. McCloude.**

Stark App. No. 2012CA00101, 2013-Ohio-2226. Discretionary appeal accepted. Sua sponte, cause consolidated with case No. 2013-1110, *State v. Brown*, and case No. 2013-1111, *State v. Shipley*, for oral argument only. No later than ten days before oral argument, counsel for appellees shall file notice of how they intend to divide the 15 minutes of oral argument time allotted to appellees.

Pfeifer and O'Donnell, JJ., dissent.

## APPEALS NOT ACCEPTED FOR REVIEW

**2013-0833. State v. Palmer.**

Franklin App. No. 12AP-460.

**2013-0883. State v. McKinney.**

Franklin App. No. 12AP-424, 2013-Ohio-1149.

**2013-0982. State ex rel. Rhodes v. Chillicothe.**

Ross App. No. 12CA3333, 2013-Ohio-1858. Discretionary appeal and cross-appeal not accepted.

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

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

O'Donnell, J., not participating.

**2013-1047. In re K.C.**

Butler App. No. CA2012-08-160, 2013-Ohio-1949.

**2013-1050. Lenart v. Franklin Cty. Bd. of Revision.**

Franklin App. No. 13AP-254.

**2013-1054. State v. Johnson.**

Franklin App. No. 12AP-898, 2013-Ohio-2008.

**2013-1056. State v. Smith.**

Hamilton App. No. C-040348.

Pfeifer and O'Neill, JJ., dissent.

**2013-1057. U.S. Bank, N.A. v. Gotham King Fee Owner, L.L.C.**

Cuyahoga App. No. 98618, 2013-Ohio-1983.

Pfeifer, J., dissents.

**2013-1060. State v. Marshall.**

Montgomery App. No. 25329, 2013-Ohio-2018.

**2013-1067. State v. Hardesty.**

Montgomery App. No. 25027, 2013-Ohio-2120.

**2013-1069. Jamison v. LDA Builders, Inc.**

Portage App. No. 2011-P-0072, 2013-Ohio-2037.  
Lanzinger, J., dissents.

**2013-1070. N. Olmsted v. Keller.**

Cuyahoga App. No. 99273, 2013-Ohio-1996.  
O'Donnell, J., dissents.

**2013-1076. State v. Black.**

Ross App. No. 12CA3327, 2013-Ohio-2105.

**2013-1077. State v. Walker.**

Lucas App. No. L-12-1204, 2013-Ohio-2131.

**2013-1078. U.S. Bank, N.A. v. Armstrong.**

Wood App. No. WD-12-031, 2013-Ohio-2130.

**2013-1080. Internatl. Union of Operating Engineers, Local 18 v. CNR Trucking, Inc.**

Cuyahoga App. No. 98935, 2013-Ohio-2094.  
O'Donnell and Lanzinger, JJ., dissent.

**2013-1090. 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.

**2013-1092. State v. Sherman.**

Richland App. No. 12CA14, 2013-Ohio-2136.

**2013-1093. Gupta v. Gupta.**

Cuyahoga App. No. 99005, 2013-Ohio-2203.  
O'Donnell, J., dissents.

**2013-1095. Bowman v. Williams.**

Cuyahoga App. No. 98631, 2013-Ohio-1790.

**2013-1096. State v. Huge.**

Hamilton App. No. C-120388, 2013-Ohio-2160.  
O'Neill, J., dissents.

**2013-1099. State v. Phippen.**

Scioto App. No. 12CA3526, 2013-Ohio-2239. Discretionary appeal not accepted and motion to strike appeal and to remand denied.

**2013-1103. State v. Getzinger.**

Henry App. No. 7-12-06, 2013-Ohio-2146.  
O'Donnell, J., dissents.

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

**2013-1104. State v. Smetana.**

Lorain App. No. 12CA010252, 2013-Ohio-2376.

**2013-1108. State v. Jackson.**

Cuyahoga App. No. 99900.

**2013-1109. Dombkowski v. Leal.**

Lucas App. No. L-12-1210, 2013-Ohio-1833.

**2013-1113. State v. Wilson.**

Montgomery App. No. 25279, 2013-Ohio-2753.

**2013-1114. State v. Neal.**

Scioto App. No. 12CA3512, 2013-Ohio-2291.

**2013-1116. State v. Haddix.**

Stark App. No. 2012CA00218, 2013-Ohio-1974.

**2013-1121. State v. Clayton.**

Cuyahoga App. No. 98795, 2013-Ohio-2198.  
O'Donnell, J., dissents.

**2013-1122. Harris v. Mayfield Hts.**

Cuyahoga App. No. 98993, 2013-Ohio-2464.  
O'Donnell and O'Neill, JJ., dissent.

**2013-1123. Vermilion v. Meinke.**

Erie App. No. E-12-037, 2013-Ohio-2250.  
O'Donnell, J., dissents.

**2013-1124. Spade v. Taliwal.**  
Summit App. No. 26412, 2013-Ohio-2177.  
O'Donnell, J., dissents.

**2013-1125. Bank of Am., N.A. v. Lewis.**  
Ashland App. No. 12-COA-035, 2013-Ohio-2293.

**2013-1126. State v. Murphy.**  
Cuyahoga App. No. 98124, 2013-Ohio-2196.

**2013-1128. In re Henderson.**  
Butler App. No. CA2012-03-051, 2013-Ohio-1380.  
O'Donnell, J., dissents.

**2013-1131. Rowell v. Smith.**  
Franklin App. No. 12AP-802, 2013-Ohio-2216.  
O'Neill, J., dissents.

**2013-1134. State v. Grasso.**  
Cuyahoga App. No. 98813, 2013-Ohio-1894.

**2013-1135. State v. Ojile.**  
Hamilton App. No. C-120601.

**2013-1137. State v. Jackson.**  
Washington App. No. 12CA16, 2013-Ohio-2628.

**2013-1139. Stachura v. Toledo.**  
Lucas App. No. L-12-1068, 2013-Ohio-2365.  
Lanzinger, J., not participating.

**2013-1140. State v. Gaston.**  
Cuyahoga App. No. 98904, 2013-Ohio-2331.

**2013-1141. State v. Crawford.**  
Fayette App. No. CA2012-10-034, 2013-Ohio-2280.



**2013-1143. Smith v. Ohio Dept. of Job & Family Servs.**

Logan App. No. 8-12-18.

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

**2013-1144. Powers v. Timmerman-Cooper.**

Madison App. No. CA2013-01-002, 2013-Ohio-2865.

**2013-1148. Reddy v. Plain Dealer Publishing Co.**

Cuyahoga App. No. 98834, 2013-Ohio-2329.

**2013-1150. Crump v. Batie.**

Clark App. No. 2012 CA 69, 2013-Ohio-2345.

**2013-1158. State v. Copeland.**

Hamilton App. No. C-120054.

**2013-1163. Wells Fargo Bank, N.A. v. Michael.**

Belmont App. No. 12 BE 26, 2013-Ohio-2545.

**2013-1168. State v. Thornton.**

Clermont App. No. CA2012-09-063, 2013-Ohio-2394.

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

O'Neill, J., dissents.

**2013-1174. State v. Laber.**

Lawrence App. No. 12CA24, 2013-Ohio-2681.

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

**2013-1175. Fleming v. Whitaker.**

Knox App. No. 12-CA-19, 2013-Ohio-2418.

**2013-1179. State v. Hayes.**

Summit App. No. 26388, 2013-Ohio-2429.

Pfeifer, Acting C.J.

O'Neill, J., dissents.

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

**2013-1185. State v. Sage.**

Montgomery App. No. 25453, 2013-Ohio-3048.

**2013-1197. In re Raheem L.**

Hamilton App. No. C-100608, 2013-Ohio-2423.

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

**2013-1200. State v. Sheffey.**

Cuyahoga App. No. 98944, 2013-Ohio-2463. Discretionary appeal not accepted and motion for stay and abeyance denied.

**2013-1202. State v. Nowlin.**

Muskingum App. No. CT2013-0001, 2013-Ohio-2593.

**2013-1205. State v. Darks.**

Franklin App. No. 13-AP-83.

**2013-1206. State v. Roberts.**

Hamilton App. No. C-120781.

**2013-1216. State v. Derkson.**

Hamilton App. No. C-120717.

**2013-1229. State v. Shedwick.**

Franklin App. No. 12AP-954, 2013-Ohio-2778.

**2013-1238. State v. Dicks.**

Muskingum App. No. CT2012-0051, 2013-Ohio-2585.

**2013-1271. State v. Maynard.**

Wayne App. No. 12CA0026, 2013-Ohio-2796.

**2013-1272. State v. Musselman.**

Montgomery App. No. 25295, 2013-Ohio-1584.

**2013-1281. State v. Barnette.**

Mahoning App. No. 02 CA 065.

O’Neill, J., dissents.

**2013-1291. State v. June.**

Franklin App. No. 12AP-901, 2013-Ohio-2775.

**2013-1293. State v. Dixon.**

Mahoning App. No. 10 MA 185, 2013-Ohio-2951.

**2013-1306. State v. Dew.**

Mahoning App. No. 12 MA 18, 2013-Ohio-2549.

**2013-1307. State v. Brown.**

Wayne App. No. 11CA0054, 2013-Ohio-2945.

**2013-1321. State v. Dunkle.**

Licking App. No. 12-CA-80, 2013-Ohio-2299.

**2013-1385. State v. Williamson.**

Cuyahoga App. No. 95732, 2013-Ohio-3358.

**2013-1447. State v. Hillman.**

Wayne App. Nos. 12CA0028 and 12CA0029, 2013-Ohio-982.

**2013-1462. State v. Burkholder.**

Lucas App. No. L-11-1216, 2013-Ohio-1589.

## **RECONSIDERATION OF PRIOR DECISIONS**

**2013-0703. Paul v. Consol. Rail Corp.**

Cuyahoga App. No. 98716, 2013-Ohio-1038. Reported at 136 Ohio St.3d 1473, 2013-Ohio-3790, 993 N.E.2d 778. On motion for reconsideration. Motion denied. O'Donnell and French, JJ., dissent.

**2013-0758. Stoyer v. Fogelman.**

Franklin App. No. 12AP-690, 2013-Ohio-1254. Reported at 136 Ohio St.3d 1475, 2013-Ohio-3790, 993 N.E.2d 779. On motion for reconsideration. Motion denied. Motion to strike memorandum in opposition to reconsideration denied. French, J., not participating.

**2013-0759. State ex rel. Longville v. Akron.**

Summit App. Nos. 25354 and 25356, 2013-Ohio-1161. Reported at 136 Ohio St.3d 1475, 2013-Ohio-3790, 993 N.E.2d 779. On motion for reconsideration. Motion denied.

**2013-0821. State v. Bevly.**

Franklin App. No. 12AP-471, 2013-Ohio-1352. Reported at 136 Ohio St.3d 1476, 2013-Ohio-3790, 993 N.E.2d 779. On motion for reconsideration. Motion granted. The discretionary appeal is accepted.

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

**2013-1132. In re L.B.**

Lake App. No. 2011-L-117, 2012-Ohio-2356. Reported at 136 Ohio St.3d 1477, 2013-Ohio-3790, 993 N.E.2d 780. On motion for reconsideration. Motion denied. Motion to dismiss motion for reconsideration denied.

Pfeifer and O'Neill, JJ., dissent.