

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

March 13, 2013

[Cite as *03/13/2013 Case Announcements, 2013-Ohio-902.*]

MERIT DECISIONS WITHOUT OPINIONS

2012-0665. CSAHA/UHHS-Canton, Inc. v. Aultman Health Found.

Stark App. No. 2010CA00303, 2012-Ohio-897. On motion to dismiss appeal as improvidently accepted. Motion granted. Cause dismissed.

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

2012-2150. State ex rel. Marin v. Trumbull Cty. Court of Appeals.

In Mandamus. On motion to dismiss. Motion granted. On motions to seal exhibits and for protective order. Motions denied as moot. Cause dismissed.

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

2012-2152. State ex rel. Marinkovic v. Mahoning Cty. 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.

2012-2157. State v. Gantt.

Cuyahoga App. No. 98271, 2012-Ohio-5181. Discretionary appeal accepted. Judgment vacated and cause remanded for further proceedings consistent with *State v. Brunning*, ___ Ohio St.3d ___, 2012-Ohio-5752, 983 N.E.2d 316.

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

2012-2158. Johnson v. Geauga Cty. Court of Common Pleas.

In Prohibition. On motion to dismiss amended complaint. Motion granted. On motion to stay the underlying proceeding. Motion denied as moot. Cause dismissed.

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

2012-2166. State ex rel. Allen v. Fifth Dist. Court of Appeals.

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.

2013-0017. Dvorak v. Cuyahoga 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.

2013-0024. State ex rel. Vasko v. Wood Cty. Court of Common Pleas.

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

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

2013-0045. Shepherd v. Fourth Dist. Appellate Court Judges.

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.

2013-0050. State v. Hardman.

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

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

2013-0070. Schmick v. Sutula.

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.

2013-0084. State ex rel. Carpenter v. Macke.

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.

MOTION AND PROCEDURAL RULINGS

2006-1366. State v. Short.

Montgomery C.P. No. 2004CR02635. On application for reopening under S.Ct.Prac.R. 11.06. Application denied.

2011-1572. State ex rel. Coleman v. Schwartz.

Franklin App. No. 10AP-714, 2011-Ohio-3924. On request for oral argument. Motion denied.

French, J., not participating.

2012-2117. In re Application of E. Ohio Gas Co.

Public Utilities Commission, No. 11-5843-GA-RDR. Upon consideration of the motion for stay of the East Ohio Gas Company, d.b.a. Dominion East Ohio, it is ordered by the court that the motion is granted and the stay shall become effective once Dominion East Ohio posts its bond with the clerk of this court. The stay shall remain in effect during the pendency of the appeal, and the rate in effect prior to the commission's orders in the underlying case shall be charged as the interim rate.

2012-2137. State v. Unsworth.

Lucas App. Nos. L-11-1267 and L-11-1268, 2012-Ohio-5267. On motion for stay of Supreme Court proceedings. Motion denied.

2013-0030. Litchfield Twp. Bd. of Trustees v. Nimer.

Medina App. No. 11CA0037-M, 2012-Ohio-5431. On motion for stay. Motion denied.

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

2013-0036. State v. Doll.

Trumbull App. No. 2011-T-0119, 2012-Ohio-4467. On motion for delayed appeal. Motion denied.

Pfeifer, J., dissents.

2013-0073. State v. Strodes.

Clark App. No. 10CA0051, 2011-Ohio-1828. On motion for delayed appeal. Motion denied.

2013-0075. State v. Connin.

Lucas App. No. L-11-1312, 2012-Ohio-4989. On motion for delayed appeal. Motion granted.

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

2013-0085. State v. Wise.

Trumbull App. No. 2012-T-0028, 2012-Ohio-4896. On motion for delayed appeal. Motion denied.

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

2013-0093. State v. Pinkney.

Butler App. No. CA2012-10-202. On motion for delayed appeal. Motion granted.

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

2013-0108. Holcomb v. State.

Summit App. No. 26235, 2012-Ohio-5869. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause held for the decision in 2012-0565, *Dunbar v. State*, 8th Dist. No. 97364, 2012-Ohio-707; and briefing is stayed.

2013-0109. State v. White.

Lucas App. No. L-10-1194, 2013-Ohio-51. On motion for stay of court of appeals judgment pending appeal. Motion granted.

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

2013-0130. State v. Samuels.

Summit App. Nos. 25982, 25983, and 25984, 2012-Ohio-5401. On motion for delayed appeal. Motion granted.

Lanzinger and French, JJ., dissent.

2013-0140. State v. Arnold.

Montgomery App. No. 25044, 2012-Ohio-5786. 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; and briefing is stayed.

French, J., dissents.

2013-0141. State v. Wilson.

Montgomery App. No. 25057, 2012-Ohio-5912. 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; and briefing is stayed.

2013-0161. State v. Arnold.

Medina App. No. 12CA0043-M, 2012-Ohio-5809. On motion for stay of court of appeals judgment. Motion denied.

2013-0168. State v. Martin.

Summit App. No. 26325, 2012-Ohio-4919. On motion for delayed appeal. Motion denied.

Pfeifer and O'Neill, JJ., dissent.

2013-0170. State v. Mayes.

Cuyahoga App. No. 98995. On motion for delayed appeal. Motion denied.

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

2013-0196. State v. Merk.

Hamilton App. No. C-120296. On motion for delayed appeal. Motion denied.

Pfeifer and O'Neill, JJ., dissent.

2013-0197. JP Morgan Chase v. Brown.

Hamilton App. No. C-120676. On motion for stay. Motion denied.

2013-0198. Moran v. Mercy St. Vincent Med. Ctr.

Lucas App. No. L-11-1281, 2013-Ohio-203. On motion for stay of court of appeals judgment. Motion denied.

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

APPEALS ACCEPTED FOR REVIEW

2012-1974. State v. Caulley.

Franklin App. No. 12AP-100, 2012-Ohio-2649. Discretionary appeal accepted on Proposition of Law No. IV; cause held for the decision in 2012-0415 and 2012-0416, *State v. Forrest*, 10th Dist. No. 11AP-291, 2012-Ohio-280 and 2012-Ohio-938.

Pfeifer, J., dissents.

2012-1994. Fraley v. Estate of Oeding.

Butler App. No. CA2011-09-180, 2012-Ohio-4770.

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

2012-2093. State v. Amos.

Cuyahoga App. No. 97719, 2012-Ohio-3954.

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

2012-2113. Daniel v. Daniel.

Mercer App. No. 10-11-09, 2012-Ohio-5129. Discretionary appeal accepted on Proposition of Law No. IV.

O'Neill, J., would also accept the appeal on Propositions of Law Nos. I, II, III, and V.

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

2012-2123. Mohammad v. State.

Cuyahoga App. No. 98655, 2012-Ohio-5517. Discretionary appeal accepted and cause held for the decision in 2012-0565, *Dunbar v. State*, 8th Dist. No. 97364, 2012-Ohio-707.

2012-2134. Cromer v. Children's Hosp. Med. Ctr. of Akron.

Summit App. No. 25632, 2012-Ohio-5154. Discretionary appeal accepted on Proposition of Law No. I.

O'Neill, J., would also accept the appeal on Propositions of Law Nos. II and III.

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

2012-2156. State v. Richmond.

Cuyahoga App. No. 97531, 2012-Ohio-3946.

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

APPEALS NOT ACCEPTED FOR REVIEW

2012-1912. Sacksteder v. Senney.

Montgomery App. No. 24993, 2012-Ohio-4452. Discretionary appeals and cross-appeal not accepted.

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

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

2012-1966. State v. Palmer.

Jefferson App. No. 11 JE 17, 2012-Ohio-5255.

2012-1968. State v. Copeland.

Hamilton App. No. C-120054, 2012-Ohio-4665.

2012-1969. Sullivan v. Readnour.

Hamilton App. No. C-110777.

2012-1970. State v. Alexander.

Stark App. No. 2012CA00115, 2012-Ohio-4843.

2012-1972. State v. Lewis.

Cuyahoga App. No. 97211, 2012-Ohio-3684.

O'Donnell, J., dissents.

2012-1978. Helfrich v. Madison.

Licking App. No. 2011-CA-89, 2012-Ohio-3701. Discretionary appeal and cross-appeal not accepted.

2012-1984. Carter v. Vivyan.

Franklin App. No. 11AP-1037, 2012-Ohio-3652.

2012-1988. State v. Wilson.

Cuyahoga App. No. 97940, 2012-Ohio-4819.

2012-2002. State v. Black.

Franklin App. No. 11AP-966, 2012-Ohio-3774.

2012-2005. LaWarre v. Fifth Third Bank.

Hamilton App. No. C-110302, 2012-Ohio-4016.

Lanzinger and O'Neill, JJ., dissent.

2012-2009. Sunbury v. Sullivan.

Delaware App. No. 11CAC030025, 2012-Ohio-3699.

2012-2016. Corsi v. Ohio Elections Comm.

Franklin App. No. 11AP-1034, 2012-Ohio-4831.

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

2012-2017. Mansfield v. Studer.

Richland App. Nos. 2011-CA-93 and 2011-CA-94, 2012-Ohio-4840.

Pfeifer, J., dissents.

2012-2018. State v. Reedy.

Perry App. No. 12-CA-1, 2012-Ohio-4899.

2012-2023. State v. Thompson.

Hamilton App. No. C-110580.

2012-2029. Tomazic v. Rapoport.

Cuyahoga App. No. 97937, 2012-Ohio-4402.

2012-2035. N.A.D. v. Cleveland Metro. School Dist.

Cuyahoga App. No. 97195, 2012-Ohio-4929.

2012-2037. Kaelorr, L.L.C. v. W. Chester Twp. Bd. of Zoning Appeals.

Butler App. No. CA2012-03-058, 2012-Ohio-4875.

2012-2039. Dieringer v. Sawmiller.

Auglaize App. No. 2-12-04, 2012-Ohio-4880.

Pfeifer and O'Neill, JJ., dissent.

2012-2045. Bear v. Bear.

Summit App. No. 26464.

O'Neill, J., dissents.

2012-2050. State v. Mercado.

Hamilton App. No. C-120114.

2012-2053. State ex rel. Bailey v. Madison.

Franklin App. No. 12AP-284, 2012-Ohio-4950.

2012-2054. State v. Garcia.

Cuyahoga App. No. 97912, 2012-Ohio-5066.

Kennedy, J., dissents.

2012-2058. State v. Taylor.

Cuyahoga App. No. 97798, 2012-Ohio-5065.

2012-2061. Farmer v. Berry.

Cuyahoga App. No. 98119, 2012-Ohio-4940.

Pfeifer, J., dissents.

2012-2078. State v. Young.

Hamilton App. No. C-100065.

2012-2080. State v. Strunk.

Warren App. No. CA2012-03-023, 2012-Ohio-5013.

O'Connor, C.J., dissents and would accept the appeal on Propositions of Law Nos. I, II, and III.

2012-2081. Budzevski v. OhioHealth Corp.

Franklin App. No. 12AP-112, 2012-Ohio-5038.

Pfeifer and O'Neill, JJ., dissent.

2012-2082. State v. Davis.

Washington App. No. 05CA50, 2006-Ohio-3549.

2012-2083. State ex rel. Baker v. Brook Park.

Cuyahoga App. No. 98991, 2012-Ohio-5043.

O'Donnell, J., dissents.

2012-2084. State v. Butler.

Defiance App. No. 4-11-13, 2012-Ohio-5022.

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

2012-2088. State v. Kirchoff.

Clermont App. No. CA2012-05-035.

2012-2089. State v. Bandy.

Cuyahoga App. No. 99169.

2012-2094. State v. May.

Logan App. No. 8-11-19, 2012-Ohio-5128.

2012-2096. State v. Luqman.

Hamilton App. No. C-110784, 2012-Ohio-5057.

O'Donnell and Lanzinger, JJ., dissent.

2012-2101. State v. Shedwick.

Franklin App. No. 12AP-3, 2012-Ohio-5249.

2012-2102. E. Ohio Gas Co. v. Akron.

Summit App. No. 25830, 2012-Ohio-3780.

Pfeifer and O'Donnell, JJ., dissent.

2012-2103. State v. Fairfield.

Cuyahoga App. No. 97466, 2012-Ohio-5060.

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

2012-2108. Weinstock v. Howard.

Fairfield App. No. 12-CA-20, 2012-Ohio-5160.

2012-2109. State v. Gilliam.

Hamilton App. No. C-110587, 2012-Ohio-5034.

Pfeifer and O'Neill, JJ., dissent.

2012-2116. State v. Lidge.

Summit App. No. 26387, 2012-Ohio-5398.

2012-2121. State v. Caston.

Erie App. No. E-11-077, 2012-Ohio-5260.

Lanzinger and O'Neill, JJ., dissent.

2012-2124. State v. Williams.

Jefferson App. No. 11 JE 7, 2012-Ohio-5256.

2012-2125. State v. Harper.

Guernsey App. No. 12 CA 15, 2012-Ohio-5161.

2012-2128. Morgan Stanley Credit Corp. v. Fillinger.

Cuyahoga App. No. 98197, 2012-Ohio-4295.

Pfeifer, J., dissents.

2012-2130. Sumner v. Kent.

Portage App. No. 2012-P-0019, 2012-Ohio-5122.

2012-2131. In re D.R.

Mahoning App. No. 12 MA 16, 2012-Ohio-5341.

O'Donnell and Kennedy, JJ., dissent.

2012-2133. Westerville v. Zabala.

Franklin App. No. 12AP-97, 2012-Ohio-5194.

2012-2135. Dixon. v. Residential Fin. Corp.

Madison App. No. CA2011-10-014. Discretionary appeal not accepted. Motion for sanctions denied.

O'Neill, J., dissents.

2012-2139. C&K Indus. Servs. v. McIntyre, Kahn & Kruse Co., L.P.A.

Cuyahoga App. No. 98096, 2012-Ohio-5177.

2012-2140. State v. Alt.

Cuyahoga App. No. 98313, 2012-Ohio-5182.

2012-2141. State v. Davenport.

Franklin App. No. 11AP-1159, 2012-Ohio-5192.

French, J., not participating.

2012-2143. Gamel v. Cincinnati.

Hamilton App. No. C-110613, 2012-Ohio-5152.

Pfeifer and O'Donnell, JJ., dissent.

2012-2145. State v. Mitchell.

Erie App. No. E-11-039, 2012-Ohio-5262.

Pfeifer, J., dissents.

2012-2147. State v. Cook.

Hamilton App. No. C-120298.

2012-2148. State v. Davis.

Hamilton App. No. C-120076, 2012-Ohio-5756.

2012-2149. State v. McGlown.

Lucas App. No. L-10-1298, 2012-Ohio-4493.

2012-2153. State v. Pendergrass.

Cuyahoga App. No. 98486, 2012-Ohio-5186.

2012-2155. State v. Dilley.

Cuyahoga App. No. 98098, 2012-Ohio-5288.

2012-2159. State v. Jackson.

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

2012-2160. State v. Primeau.

Cuyahoga App. No. 97901, 2012-Ohio-5172.

O'Neill, J., dissents.

2012-2162. State v. Kouns.

Portage App. No. 2011-P-0105, 2012-Ohio-5331.

2012-2164. State v. Brown.

Trumbull App. No. 2011-T-0101. Discretionary appeal not accepted. Motion to hold memorandum in support of jurisdiction in abeyance denied as moot.

2012-2167. State v. Brooks.

Cuyahoga App. No. 98380, 2012-Ohio-5292.

2012-2169. State v. Field.

Geauga App. No. 2011-G-3010, 2012-Ohio-5221.

O'Neill, J., dissents.

2012-2170. Grimsley v. Cain DDS, L.L.C.

Stark App. No. 2012 CA 00052, 2012-Ohio-5273.

O'Neill, J., dissents.

2012-2171. State v. Johnson.

Mahoning App. No. 11 MA 127, 2012-Ohio-5363.

2012-2177. Kightlinger v. McGee.

Belmont App. No. 12 BE 9.

O'Neill, J., dissents.

2012-2185. State v. Hernandez.

Sandusky App. No. S-11-029, 2012-Ohio-5323.

O'Neill, J., dissents.

2013-0002. State v. Topping.

Lawrence App. No. 11CA6, 2012-Ohio-5617.

O'Neill, J., dissents.

2013-0006. State v. Williamson.

Franklin App. No. 12AP-340, 2012-Ohio-5384.

O'Neill, J., dissents.

2013-0019. State v. Culp.

Summit App. No. 26188, 2012-Ohio-5395.

French, J., not participating.

2013-0022. State v. Martinez.

Seneca App. No. 13-11-32, 2012-Ohio-3750.

O'Neill, J., dissents.

2013-0023. State v. Morgan.

Franklin App. No. 12AP-241, 2012-Ohio-5773.

2013-0035. State v. Boddie.

Franklin App. No. 12AP-74, 2012-Ohio-5473.

French, J., not participating.

2013-0037. State v. McCall.

Mahoning App. No. 12 MA 57, 2012-Ohio-5604.

2013-0041. State v. Rice.

Lucas App. No. L-12-1324.

2013-0058. State v. Patterson.

Muskingum App. No. CT2012-0029, 2012-Ohio-5600.

2013-0060. State v. Robinson.

Cuyahoga App. No. 97951, 2012-Ohio-5506.

2013-0061. State v. Robinson.

Cuyahoga App. No. 98072, 2012-Ohio-5510.

O'Donnell, J., dissents.

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

I.

2013-0083. State v. Bowling.

Hamilton App. No. C-100295.

2013-0100. Stalloy Metals, Inc. v. Kennametal.

Geauga App. No. 2012-G-3054, 2012-Ohio-5597.

2013-0104. State v. Rose.

Butler App. No. CA2011-11-214, 2012-Ohio-5607.

2013-0115. Al-Mosawi v. Plummer.

Montgomery App. No. 24985, 2012-Ohio-6034.

2013-0137. State v. Holman.

Cuyahoga App. Nos. 93869 and 93870, 2012-Ohio-5705.

RECONSIDERATION OF PRIOR DECISIONS

2012-1589 and 2012-1592. Panther II Transp., Inc. v. Seville Bd. of Income Tax Rev.

Medina App. Nos. 11CA0092-M and 11CA0093-M, 2012-Ohio-3525. Reported at 134 Ohio St.3d 1418, 2013-Ohio-158, 981 N.E.2d 885. On motion for reconsideration. Motion granted. The discretionary appeal is accepted.

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

2012-1758. Harper v. Donehue.

Original-action complaint. Reported at ___ Ohio St.3d ___, 2013-Ohio-158, 981 N.E.2d 880. On motion for reconsideration. Motion denied.

2012-2000. State v. Kamer.

Lucas App. Nos. L-10-1103 and L-10-1189, 2012-Ohio-722. Reported at 134 Ohio St.3d 1416, 2013-Ohio-158, 981 N.E.2d 883. On motion for reconsideration. Motion denied.