

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS

April 8, 2015

[Cite as *04/08/15 Case Announcements, 2015-Ohio-1353.*]

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## MERIT DECISIONS WITH OPINIONS

**2013-1035. State ex rel. Stevens v. Indus. Comm., Slip Opinion No. 2015-Ohio-1352.**

Franklin App. No. 10AP-1147, 2013-Ohio2448. Judgment reversed.

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

French, J., not participating.

**2014-0895. State ex rel. Young v. Clipper, Slip Opinion No. 2015-Ohio-1351.**

Lorain App. No. 14CA010537. Judgment affirmed.

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

**2014-1391. Disciplinary Counsel v. Grubb, Slip Opinion No. 2015-Ohio-1349.**

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 2013-073. Natalie Ference Grubb, Attorney Registration No. 0062596, is hereby suspended for six months, all stayed on the condition that she engage in no further misconduct.

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

## MERIT DECISIONS WITHOUT OPINIONS

**2015-0056. State ex rel. Chappell v. Morgan.**

In Mandamus. On relator's motions to seal and for default judgment. Motions denied. On respondent's motion to dismiss. Motion granted. Cause dismissed.

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

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

**2015-0074. Higgins v. Hamilton Cty. Dept. CPS.**

In Mandamus and Prohibition. On respondents' motions to dismiss. Motions granted. Cause dismissed.

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

**2015-0076. Higgins v. Hamilton Cty. Dept. CPS.**

Miscellaneous case. On relator's motion for default judgment and respondent Marjorie Davis's motion for leave to file response to motion for default judgment. Motions denied. On respondents' motions to dismiss. Motions granted. Cause dismissed.

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

**2015-0092. State ex rel. Vincent v. Holmes.**

In 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.

## **MOTION AND PROCEDURAL RULINGS**

**2012-1644. State v. Jackson.**

Trumbull App. No. 01-CR-794. On appellant's suggestion of lack of a final appealable order and motion to hold proceedings in abeyance, and appellee's motions to strike/response to suggestion of lack of a final appealable order. Motions denied.

**2013-0764. In re Special Needs Trust of Moskowitz.**

Lake App. Nos. 2011-L-164 and 2011-L-165, 2013-Ohio-1282. On amended motion to seal records. Motion denied.

**2013-1651. State v. Conway.**

Franklin App. No. 12AP-412, 2013-Ohio-3741. On motion for expedited consideration and renewed motion for expedited consideration. Motions fail for want of four votes.

O'Donnell, Lanzinger, and Kennedy, JJ., would grant the motion.  
O'Connor, C.J., and Pfeifer and O'Neill, JJ., would deny the motion.  
French, J., not participating.

**2014-1792. State ex rel. Stewart v. Ohio Local Govt. Innovation Council.**

In Mandamus. On respondents' motion to dismiss or, in the alternative, to stay proceedings in the case, and on relators' motion to strike the affidavit of Daryl Hennessy or, in the alternative, to stay the proceedings in the case. Motions denied.

On relators' motion for issuance of a peremptory writ of mandamus and for an emergency order prohibiting respondents from taking any action that would result in the rescission of relators' previously approved \$45,000 public-safety emergency joint dispatch grant. Motion denied.

It is ordered by the court, sua sponte, that a stay is issued preventing Ohio Development Services Agency and the Ohio Local Government Innovation Council from taking any action to award or disburse the money from the Wooster and Ashland 9-1-1 Dispatch Consolidation project to any other applicant pending the court's resolution of the mandamus claim.

It is further ordered by the court, sua sponte, 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; relators 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 relators' brief; and relators may file a reply brief within 7 days after the filing of respondents' brief.

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

**2014-2017. Gillan v. Testa.**

Board of Tax Appeals, No. 2014-1340. On motion to dismiss. Motion granted. Cause dismissed for failure to timely file the notice of appeal at the Board of Tax Appeals as required by R.C. 5717.04.

Pfeifer, J., dissents.

**2015-0231. State v. McCants.**

Mahoning App. No. 13 MA 25, 2014-Ohio-4044. On motion for leave to file delayed appeal. Motion denied.

**2015-0237. State v. Victor.**

Geauga App. Nos. 2014-G-3220 and 2014-G-3241. On amended motion for stay of court of appeals' judgment. Motion denied.

O'Neill, J., dissents.

**2015-0249. State v. Carver.**

Portage App. No. 2013-P-0074, 2014-Ohio-5767. On motion to stay court of appeals' judgment. Motion denied.

O'Connor, C.J., dissents.

**2015-0274. State v. Degraffinreed.**

Stark App. No. 2012CA00087. On motion for leave to file delayed appeal. Motion denied.

**2015-0298. State v. Leonhart.**

Washington App. No. 13CA38. On review of order certifying a conflict. It is determined that no conflict exists within the meaning of S.Ct.Prac.R. 8.02. Cause dismissed.

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

**2015-0305. State v. Johnson.**

Scioto App. No. 13CA3580, 2014-Ohio-4443. On motion for leave to file delayed appeal. Motion denied.

**2015-0307. State v. DeBruce.**

Summit App. No. 25574, 2012-Ohio-454. On motion for leave to file delayed appeal. Motion denied.

**2015-0317. State v. Henderson.**

Richland App. No. 13CA98, 2014-Ohio-3121. On motion for leave to file delayed appeal. Motion denied.

**2015-0331. State v. Burfitt.**

Portage App. No. 2014-P-0029, 2014-Ohio-4545. On motion for leave to file delayed appeal. Motion denied.

## APPEALS ACCEPTED FOR REVIEW

**2014-1796. White v. King.**

Delaware App. No. 14 CAE 02 0010, 2014-Ohio-3896.

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

**2014-1844. State v. Creech.**

Jefferson App. No. 13 JE 41, 2014-Ohio-4004. Discretionary appeal accepted on Proposition of Law No. I.

Lanzinger, Kennedy, and French, JJ., would also accept the appeal on Proposition of Law No. II.

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

**2014-1860. In re J.O.**

Montgomery App. No. 25903, 2014-Ohio-2813. Discretionary appeal accepted; cause held for the decision in 2014-0607, *In re D.S.*, 5th Dist. Licking No. 13-CA-58, 2014-Ohio-867; and briefing schedule stayed.

**2014-1886. Taylor v. Crosby.**

Belmont App. No. 13 BE 32, 2014-Ohio-4433. Discretionary appeal accepted; cause held for the decision in 2014-0803, *Walker v. Shondrick-Nau*, 7th Dist. Noble No. 13 NO 402, 2014-Ohio-1499; and briefing schedule stayed.

**2014-1891. Combs v. Ohio Dept. of Natural Resources, Div. of Parks & Recreation.**

Franklin App. No. 14AP-193, 2014-Ohio-4025.

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

## APPEALS NOT ACCEPTED FOR REVIEW

**2014-1793. BK Builders, Ltd. v. E. Ohio Gas Co.**

Stark App. No. 2013CA00210, 2014-Ohio-3850.

O'Donnell, J., dissents.

**2014-1799. Reggie Constr., Ltd. v. Westfield Ins. Co.**

Lake App. No. 2013-L-095, 2014-Ohio-3769.

O'Neill, J., dissents.

**2014-1808. Burk v. Fairfield Ambulatory Surgery Ctr., Ltd.**

Fairfield App. No. 13-CA-85, 2014-Ohio-4062.  
O’Neill, J., dissents.

**2014-1809. State v. Jones.**

Hamilton App. No. C-140053.

O’Connor, C.J., dissents and would hold the case for the decision in 2014-2122, *State v. Marcum*, 4th Dist. Gallia No. 13CA11, 2014-Ohio-4048.

**2014-1812. State v. Lumbus.**

Cuyahoga App. No. 100787, 2014-Ohio-3821.

Kennedy and O’Neill, JJ., dissent.

**2014-1813. State v. Mays.**

Cuyahoga App. No. 100265, 2014-Ohio-3815.

O’Neill, J., dissents.

**2014-1819. In re Q.O.**

Hamilton App. No. C-130548, 2014-Ohio-3893.

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

O’Neill, J., dissents.

**2014-1824. Dinan v. Dinan.**

Warren App. No. CA2013-09-082, 2014-Ohio-3882.

**2014-1829. Mills v. Enviro-Tank Clean, Inc.**

Wayne App. No. 13CA0040, 2014-Ohio-3866.

**2014-1830. Cincinnati Ins. Cos. v. Motorists Mut. Ins. Co.**

Medina App. No. 13CA0016-M, 2014-Ohio-3864.

**2014-1832. McCulloch v. Janney Montgomery Scott, L.L.C.**

Columbiana App. No. 13 CO 40, 2014-Ohio-4002.

**2014-1835. Cohen & Co. v. Breen.**

Cuyahoga App. No. 100775, 2014-Ohio-3915.

**2014-1837. MHN SUB I, L.L.C. v. Donnelly.**

Lake App. No. 2014-L-031, 2014-Ohio-4128.

**2014-1841. State v. Washington.**

Hamilton App. No. C-140061.

**2014-1843. State v. Woods.**

Hamilton App. Nos. C-130413 and C-130414, 2014-Ohio-3892.

O'Neill, J., dissents.

**2014-1853. State v. Koehler.**

Cuyahoga App. No. 100915, 2014-Ohio-3922.

**2014-1858. State v. Moorer.**

Cuyahoga App. No. 101214, 2014-Ohio-4581.

**2014-1859. State v. Winfield.**

Lucas App. No. L-13-1251, 2014-Ohio-3968.

O'Neill, J., dissents.

**2014-1865. State v. Payne.**

Ashtabula App. No. 2014-A-0001, 2014-Ohio-4304.

**2014-1867. Graham v. Shamrock Stables.**

Lorain App. No. 14CA010529, 2014-Ohio-3977.

O'Neill, J., dissents.

**2014-1869. Vega v. Tivurcio.**

Franklin App. No. 14AP-327, 2014-Ohio-4588.

Lanzinger, J., dissents.

**2014-1873. Zager v. Johnson Controls, Inc.**

Butler App. No. CA2014-01-016, 2014-Ohio-3998.

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

**2014-1879. State v. Wehr.**

Richland App. No. 14CA46, 2014-Ohio-4396.

Kennedy and O'Neill, JJ., dissent.

**2014-1882. Shah v. State Med. Bd.**

Franklin App. No. 14AP-147, 2014-Ohio-4067.

**2014-1885. U.S. Bank, N.A. v. Schalip.**

Delaware App. No. 14 CAE 01 0003, 2014-Ohio-3756.

**2014-1887. Monroe v. Forum Health.**

Trumbull App. No. 2014-T-0015, 2014-Ohio-3974.  
Pfeifer and O'Donnell, JJ., dissent.

**2014-1892. Luper Neidenthal & Logan, L.P.A. v. Albany Station, L.L.C.**

Franklin App. No. 13AP-651, 2014-Ohio-2906.  
French, J., not participating.

**2014-1897. State v. Sharp.**

Putnam App. No. 12-13-01, 2014-Ohio-4140.

**2014-1898. Henderson v. Synenberg.**

Cuyahoga App. No. 100910, 2014-Ohio-4089.

**2014-1900. In re W.P.**

Greene App. No. 14-CA-22.  
O'Neill, J., dissents.

**2014-1926. State v. Scott.**

Madison App. No. CA2014-05-013, 2014-Ohio-4177.

**2014-1934. State v. Thompson.**

Cuyahoga App. No. 99628, 2014-Ohio-4198.

**2014-1936. Bunting v. Wilson.**

Tuscarawas App. No. 2014 AP 07 0028.

**2014-1949. Hartge Smith Nonwovens, L.L.C. v. Alsfelder.**

Hamilton App. No. C-130383.  
O'Neill, J., dissents.

**2014-1950. Angus v. Angus.**

Franklin App. Nos. 14AP-22 and 14AP-159, 2014-Ohio-4225.  
Kennedy, J., dissents.

**2014-1952. State v. Rice.**

Ashtabula App. No. 2012-A-0062, 2014-Ohio-4285.



**2014-1956. State v. Roth.**

Muskingum App. No. CT2013-0040, 2014-Ohio-4273.

**2014-1958. State v. Morrar.**

Madison App. No. CA2013-08-027, 2014-Ohio-3663.

**2014-1960. State v. Zimpfer.**

Montgomery App. No. 26062, 2014-Ohio-4401.

**2014-1969. Wander v. Wander.**

Hamilton App. No. C-140078.

**2014-1971. Balsley v. Mason.**

Muskingum App. No. CT2014-0006, 2014-Ohio-4051. Discretionary appeal not accepted. Motion to consolidate cases from Fifth District Court of Appeals denied as moot.

**2014-1973. Ward v. Balsley.**

Muskingum App. No. CT2014-0005, 2014-Ohio-4050. Discretionary appeal not accepted. Motion to consolidate cases from Fifth District Court of Appeals denied as moot.

**2014-1974. Balsley v. Balsley.**

Muskingum App. No. CT2014-0009, 2014-Ohio-4052. Discretionary appeal not accepted. Motion to consolidate cases from Fifth District Court of Appeals denied as moot.

**2014-1975. Balsley v. Lacey.**

Muskingum App. No. CT2014-0007, 2014-Ohio-4053. Discretionary appeal not accepted. Motion to consolidate cases from Fifth District Court of Appeals denied as moot.

**2014-1976. Ward v. Balsley.**

Muskingum App. No. CT2014-0008, 2014-Ohio-4054. Discretionary appeal not accepted. Motion to consolidate cases from Fifth District Court of Appeals denied as moot.

**2014-1986. State v. Reed.**

Clark App. No. 14-CA-101.

**2014-1995. State v. Keahey.**

Erie App. No. E-13-009, 2014-Ohio-4729.

**2014-2000. Ingram v. Davis.**

Cuyahoga App. No. 101087, 2014-Ohio-4387.

**2014-2001. State v. Lewis.**

Lake App. No. 2012-L-074, 2013-Ohio-3974.

**2014-2013. State v. Snelling.**

Richland App. No. 14CA19, 2014-Ohio-4614.

**2014-2014. State v. Velez.**

Putnam App. No. 12-14-10.

**2014-2015. State v. Varner.**

Butler App. No. CA2014-02-046.

O'Neill, J., dissents.

**2014-2016. State v. Carrington.**

Cuyahoga App. No. 100918, 2014-Ohio-4575.

**2014-2020. Johnson v. Clark Cty. Util. Dept.**

Clark App. No. 2014-CA-31, 2014-Ohio-3356.

O'Donnell, J., dissents.

**2014-2024. State v. Smith.**

Fairfield App. No. 14-CA-18, 2014-Ohio-4657.

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

**2014-2043. State v. Howard.**

Montgomery App. No. 26069, 2014-Ohio-4602.

**2014-2045. State v. Risch.**

Ottawa App. No. OT-14-034.

**2014-2046. State v. Crockett.**

Cuyahoga App. No. 100923, 2014-Ohio-4576.

**2014-2063. UAP-Columbus JV326132, c/o Northwestern Mut. Ins. v. Young.**  
Franklin App. No. 14AP-422, 2014-Ohio-4590.

French, J., not participating.

**2014-2074. State v. Bridges.**

Cuyahoga App. No. 100805, 2014-Ohio-4570.

**2014-2076. State v. Rabe.**

Clermont App. No. CA2014-08-058.

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

**2014-2084. State v. Opalach.**

Cuyahoga App. No. 100938, 2014-Ohio-5037.

**2014-2088. State v. Ray.**

Cuyahoga App. No. 101142, 2014-Ohio-4689.

**2014-2110. State v. Tolliver.**

Franklin App. No. 14AP-170, 2014-Ohio-4824.

**2014-2115. State v. Davis.**

Cuyahoga App. No. 101600.

**2014-2118. State v. Sparks.**

Summit App. No. 27292, 2014-Ohio-5017.

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

**2015-0142. State v. Leonhart.**

Washington App. No. 13CA38, 2014-Ohio-5601.

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

Kennedy and O'Neill, JJ., dissent.

**2015-0189. State v. Foster.**

Hamilton App. No. C-080399.

## RECONSIDERATION OF PRIOR DECISIONS

### **2010-0944. State v. Jackson.**

Cuyahoga C.P. No. CR532145. Reported at 141 Ohio St.3d 171, 2014-Ohio-3707, 23 N.E.3d 1023. On motion for reconsideration and to stay issuance of mandate. Motion denied.

### **2013-1544. Columbus City Schools Bd. of Edn. v. Franklin Cty. Bd. of Revision.**

Board of Tax Appeals, No. 2010-Y-3507. Reported at \_\_ Ohio St.3d \_\_, 2015-Ohio-150, \_\_ N.E.3d \_\_. On motion for reconsideration. Motion denied.

Pfeifer, J., dissents.

### **2013-1794. Wilkins v. Sha'ste Inc.**

Cuyahoga App. No. 99167, 2013-Ohio-3527. Reported at 141 Ohio St.3d 548, 2015-Ohio-477, 26 N.E.3d 811. On motion for reconsideration. Motion denied.

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

### **2014-1481. State v. Ossege.**

Clermont App. Nos. CA2013-11-086 and CA2013-11-087, 2014-Ohio-3186. Reported at 141 Ohio St.3d 1473, 2015-Ohio-554, 25 N.E.3d 1080. On motion for reconsideration. Motion denied.

### **2014-1533. Bradley v. Ohio Dept. of Transp.**

Franklin App. No. 13AP-918, 2014-Ohio-3205. Reported at 141 Ohio St.3d 1474, 2015-Ohio-554, 25 N.E.3d 1081. On motion for reconsideration. Motion denied.

### **2014-1535. In re Trust of Hersh.**

Hamilton App. No. C-140235. Reported at 141 Ohio St.3d 1474, 2015-Ohio-554, 25 N.E.3d 1081. On motion for reconsideration. Motion denied.

### **2014-1539. Craig v. Reynolds.**

Franklin App. No. 14AP-125, 2014-Ohio-3254. Reported at 141 Ohio St.3d 1474, 2015-Ohio-554, 25 N.E.3d 1081. On motion for reconsideration. Motion denied.

French and O'Neill, JJ., dissent.

### **2014-1567. State v. Hillman.**

Franklin App. Nos. 14AP-252 and 14AP-253, 2014-Ohio-5760. On motion for reconsideration. Motion denied. Reported at 141 Ohio St.3d 1475, 2015-Ohio-554, 25 N.E.3d 1081. On motion for reconsideration. Motion denied.