

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

July 1, 2009

[Cite as *07/01/2009 Case Announcements*, 2009-Ohio-3131.]

MERIT DECISIONS WITH OPINIONS

2007-1832. Roe v. Planned Parenthood Southwest Ohio Region, Slip Opinion No. 2009-Ohio-2973.

Hamilton App. No. C-060557, 173 Ohio App.3d 414, 2007-Ohio-4318. Judgment affirmed.

Moyer, C.J., and Lundberg Stratton, Lanzinger, and Cupp, JJ., concur.

Pfeifer and O'Donnell, JJ., concur in part and dissent in part.

Donovan, J., dissents.

Mary E. Donovan, J., of the Second Appellate District, sitting for O'Connor, J.

2008-1234. Cordray v. Planned Parenthood Cincinnati Region, Slip Opinion No. 2009-Ohio-2972.

Certified Questions of State Law, United States Court of Appeals for the Sixth Circuit, Nos. 06-4422 and 06-4423. Certified questions answered in the affirmative.

Lundberg Stratton, O'Donnell, and Cupp, JJ., concur.

Moyer, C.J., concurs in syllabus and judgment.

O'Connor and Lanzinger, JJ., concur in part and dissent in part.

Pfeifer, J., dissents.

MERIT DECISIONS WITHOUT OPINIONS

2009-0708. [State ex rel.] Sowell v. Sowell.

In Prohibition. On motions to dismiss. Motions to dismiss granted. Cause dismissed.

Moyer, C.J., and Pfeifer, Lundberg Stratton, O'Connor, O'Donnell, Lanzinger, and Cupp, JJ., concur.

2009-0715. State ex rel. Cochran v. O'Neil.

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

Moyer, C.J., and Pfeifer, Lundberg Stratton, O'Connor, O'Donnell, Lanzinger, and Cupp, JJ., concur.

2009-0908. Perry v. Collins.

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

Moyer, C.J., and Pfeifer, Lundberg Stratton, O'Connor, O'Donnell, Lanzinger, and Cupp, JJ., concur.

MOTION AND PROCEDURAL RULINGS

2008-0881. State ex rel. Turner v. State Personnel Bd. of Review.

Franklin App. No. 07AP-888, 2008-Ohio-2021. Sua sponte, the stay of briefing is lifted. Appellant shall file his brief within 40 days of the date of this order.

2008-2018. Ohio Grocers Assn. v. Levin.

Franklin App. No. 07AP-813, 178 Ohio App.3d 145, 2008-Ohio-4420. On motion for admission pro hac vice of Kyle O. Sollie and Sara A. Lima by Issac deVyver. Motion granted.

2009-0211. Natl. Solid Wastes Mgt. Assn. v. Stark-Tuscarawas-Wayne Joint Solid Waste Mgt. Dist.

Stark App. No. 2008CA00011, 2008-Ohio-6585. On appellant's motion to withdraw the motion for order staying enforcement of solid waste management rules. Motion granted.

2009-0755. State ex rel. Wickensimer v. Bartleson.

Lucas App. No. L-09-1049, 2009-Ohio-1477. On appellant's motions for emergency temporary restraining orders or injunctions and motion to file a reduced number of copies. Motion to file a reduced number of copies is granted. Motions for temporary restraining orders or injunctions are denied.

Lundberg Stratton, J., dissents and would grant the temporary restraining orders.

2009-0825. State v. Massien.

Summit App. No. 24369, 2009-Ohio-1521. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated at page 2 of the court of appeals' Journal Entry filed April 24, 2009:

“Whether a nurse employed by a hospital who in the course of her employment steals drugs from the hospital holds a “position of trust” under R.C. 2929.13(B)(1)(d) thus making the nurse ineligible for intervention in lieu of conviction?”

The conflict case is *State v. France*, Franklin App. No. 04AP-1124, 2006-Ohio-1204.

2009-0833. State v. Simmons.

Summit App. No. 24218, 2009-Ohio-1495. 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' Journal Entry filed May 4, 2009:

“Does the holding of *Old Chief v. United States* (1997), 519 U.S. 172, granting a right to a Defendant to stipulate to prior criminal convictions, apply to state law prosecutions or is it limited solely to prosecutions under federal law?”

Cupp, J., dissents.

The conflict case is *State v. Hatfield*, Ashtabula App. No. 2006-A-0033, 2007-Ohio-7130.

Appellant's motion for appointment of counsel is granted, and Donald Gallick of Akron, Ohio is appointed to represent appellant.

2009-0863. State v. Omiecinski.

Cuyahoga App. No. 90510, 2009-Ohio-1066. On motion for leave to file delayed appeal. Motion granted.

2009-0873. State v. Damron.

Ross App. No. 06CA2903, 2007-Ohio-1187. On motion for leave to file delayed appeal. Motion denied.

2009-0906. State v. Hubbard.

Warren App. No. CA2007-01-008, 2008-Ohio-2630. On motion for leave to file delayed appeal. Motion denied.

2009-1020. State ex rel. Carr v. McDonnell.

Cuyahoga App. No. 93188. On emergency motion for stay of court of appeals' judgment. Motion denied.

APPEALS ACCEPTED FOR REVIEW

2009-0560. State v. Rabel.

Cuyahoga App. No. 91280, 2009-Ohio-350. Discretionary appeal accepted; cause held for the decision in 2008-2502, *State v. Bodyke*, Huron App. Nos. H-07-040, H-07-041, and H-07-042, 2008-Ohio-6387; and briefing scheduled stayed.

Pfeifer, J., would accept the appeal without holding.

2009-0580. Erwin v. Bryan.

Tuscarawas App. No. 08-CA-28, 2009-Ohio-758.

Moyer, C.J., and Pfeifer, J., dissent.

2009-0610. State v. Gilbert.

Cuyahoga App. No. 90615, 2009-Ohio-463. Discretionary appeal accepted on Proposition of Law No. I; cause held for the decision in 2008-1725, *State v. Lester*, Hamilton App. No. C-070383, 2008-Ohio-3570; and briefing schedule stayed.

Pfeifer, J., dissents.

2009-0627. DIRECTV, Inc. v. Levin.

Franklin App. No. 08AP-32, 2009-Ohio-636. Discretionary appeal accepted.

Moyer, C.J., and O'Connor, J., would accept the appeal on Proposition of Law Nos. I and II only.

O'Donnell, J., dissents.

Motions for admission pro hac vice of E. Joshua Rosenkranz, Pantelis Michalopoulos, Mark F. Horning, Mark C. Ellison, John A. Hinman, and Jeffrey Pearlman by Peter A. Rosato granted.

Motions for admission pro hac vice of Howard R. Rubin and Hannah F. Preston by Keith C. Nusbaum granted.

APPEALS NOT ACCEPTED FOR REVIEW

2009-0081. State v. N.D.C.

Franklin App. No. 08AP-217, 2008-Ohio-6120.

2009-0125. State v. Crawford.

Hamilton App. No. C-070816, 2008-Ohio-5764.

2009-0387. In re Contempt of Scaldini.

Cuyahoga App. No. 90889, 2008-Ohio-6154. Discretionary appeal and cross-appeal not accepted.

Cupp, J., not participating.

2009-0480. State v. Vang.

Summit App. No. 24379, 2009-Ohio-334.

2009-0494. State v. Rutter.

Muskingum App. No. CT2008-0058, 2009-Ohio-454. Discretionary appeal not accepted. Motion to correct the record and requests for accelerated calendar and appeal bond denied as moot.

2009-0503. State v. Walling.

Shelby App. No. 17-09-03.

2009-0512. State v. Gray.

Richland App. No. 2007-CA-0064, 2009-Ohio-455.

2009-0517. State v. Clark.

Darke App. No. 1733, 2009-Ohio-529.

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

2009-0518. Hameed v. Rhoades.

Cuyahoga App. No. 92580.

2009-0519. State v. Mohn.

Warren App. No. CA2008-06-073, 2009-Ohio-437.

2009-0526. State v. Taylor.

Montgomery App. No. 23028. Discretionary appeal not accepted. Motion for relief from wrongful incarceration denied as moot.

2009-0532. Campana v. Slomovitz.

Cuyahoga App. No. 90221, 2008-Ohio-6277.

2009-0535. Wooley v. Meluch.

Summit App. No. 24196, 2009-Ohio-449.

2009-0537. State v. Damron.

Ross App. No. 06CA2903. Discretionary appeal not accepted. Motion to dismiss denied as moot.

2009-0539. State v. Garcia.

Butler App. No. CA2008-09-236.

2009-0541. Streicher v. Streicher.

Hamilton App. No. C-080395.

2009-0546. Shepherd v. Richland Cty. Child Support Enforcement Agency.

Richland App. No. 08CA83, 2009-Ohio-1671.

2009-0552. State v. Godfrey.

Mercer App. No. 10-08-08, 2009-Ohio-547.

2009-0556. State v. Duncan.

Richland App. No. 07-CA-83, 2009-Ohio-569.

2009-0561. Chappell v. Wal-Mart Stores, Inc.

Marion App. No. 9-08-43, 2009-Ohio-542.

2009-0568. Reynolds v. Akron-Canton Regional Airport Auth.

Stark App. No. 2008CA00143, 2009-Ohio-567.

Pfeifer, J., dissents.

2009-0569. State v. M.B.

Franklin App. No. 08AP-169, 2009-Ohio-752.

2009-0570. State v. McKee.

Clermont App. No. CA2008-08-079.

Lundberg Stratton, O'Donnell, and Lanzinger, JJ., dissent.

2009-0571. In re Trust of Washington v. Washington.

Butler App. Nos. CA2007-05-131 and CA2007-05-132, 2009-Ohio-560.

2009-0581. Bagley v. Bagley.

Greene App. No. 08-CA-57, 2009-Ohio-688.

Moyer, C.J., and Lanzinger, J., dissent.

2009-0590. State v. Kelly.

Columbiana App. No. 08-CO-17, 2009-Ohio-1035.

2009-0592. State v. Patton.

Franklin App. No. 08AP-800, 2009-Ohio-1382.

2009-0595. Kvinta v. Kvinta.

Richland App. No. 08CA40, 2009-Ohio-828. Discretionary appeal not accepted.
Motion to consolidate denied as moot.

2009-0596. State v. Lawwill.

Cuyahoga App. No. 91032, 2009-Ohio-484.
Pfeifer and Lanzinger, JJ., dissent.

2009-0597. State v. Kiss.

Cuyahoga App. Nos. 91353 and 91354, 2009-Ohio-739.

2009-0602. Roberts v. Roberson.

Cuyahoga App. No. 92141, 2009-Ohio-481.

2009-0604. Lawrence Twp. v. Canal Fulton.

Stark App. No. 2008 CA 00021, 2009-Ohio-759.
Moyer, C.J., and O'Donnell and Cupp, JJ., dissent.

2009-0606. State v. Bankston.

Franklin App. No. 08AP-668, 2009-Ohio-754.

2009-0607. Burks v. Torbert.

Cuyahoga App. No. 91059, 2009-Ohio-486.

2009-0623. Scaccia v. Dayton Newspapers, Inc.

Montgomery App. No. 22813, 2009-Ohio-809.
O'Donnell, J., dissents.

2009-0624. State v. Price.

Cuyahoga App. No. 92096, 2009-Ohio-480.

2009-0626. Myers v. Wild Wilderness Raceway, L.L.C.

Hocking App. No. 08CA3, 2009-Ohio-874.
Pfeifer, J., dissents.

2009-0632. Travelers Indemn. Co. v. Zumstein Mgt. Co.

Preble App. No. CA2008-06-010, 2009-Ohio-789.

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

2009-0634. State v. Martin.

Stark App. No. 2007 CA 00230, 2009-Ohio-947.

2009-0635. Swartzwelder v. Ryan.

Medina App. No. 08CA0050-M, 2009-Ohio-779.

O'Donnell, J., dissents.

2009-0640. State v. Rick.

Marion App. No. 9-08-27, 2009-Ohio-785.

2009-0641. State v. McCarroll.

Cuyahoga App. No. 92012, 2009-Ohio-623.

2009-0644. State v. Jackson.

Hamilton App. No. C-080403.

Pfeifer, J., dissents.

Lundberg Stratton, J., dissents and would accept the appeal and hold the cause for the decision in 2008-2502, *State v. Bodyke*, Huron App. Nos. H-07-040, H-07-041, and H-07-042, 2008-Ohio-6387.

2009-0652. Dyczkiewicz v. Tremont Ridge Phase I Ltd. Partnership.

Cuyahoga App. No. 91773, 2009-Ohio-495.

2009-0654. State v. Carter.

Mahoning App. No. 06-MA-187, 2009-Ohio-933.

2009-0655. State v. Eck.

Franklin App. No. 08AP-675, 2009-Ohio-1049.

2009-0658. State v. Hazel.

Franklin App. Nos. 08AP-789 and 08AP-790, 2009-Ohio-880.

2009-0664. State v. Saleh.

Franklin App. No. 07AP-431, 2009-Ohio-1542.

2009-0668. Lawrence-Slater v. Lawrence-Slater.

Hamilton App. No. C-080508.

2009-0670. Bhamma v. State Med. Bd. of Ohio.

Franklin App. No. 08AP-488, 2009-Ohio-819.

2009-0674. State v. Cox.

Clermont App. No. CA2008-03-028, 2009-Ohio-928.

2009-0687. State v. Hairston.

Franklin App. No. 08AP-640, 2009-Ohio-939.

Lanzinger, J., dissents.

2009-0712. State v. Moore.

Mahoning App. No. 07 MA 136, 2009-Ohio-1177.

2009-0714. State v. Myles.

Hamilton App. No. C-050810, 2007-Ohio-3307.

2009-0716. State v. Speakman.

Franklin App. Nos. 08AP-456, 08AP-457, and 08AP-458, 2009-Ohio-1184.

2009-0717. State v. Winstead.

Hamilton App. No. C-080092, 2009-Ohio-973.

2009-0728. State v. Baumgartner.

Cuyahoga App. Nos. 89190, 91207, and 91208, 2009-Ohio-624.

O'Donnell, J., dissents.

Lanzinger, J., not participating.

2009-0729. State v. Peebles.

Mahoning App. No. 07 MA 212, 2009-Ohio-1198.

2009-0731. State v. Rutherford.

Butler App. No. CA2007-11-271, 2009-Ohio-1162.

2009-0732. State v. Sloane.

Mahoning App. No. 06 MA 144, 2009-Ohio-1175.

O'Donnell, J., dissents.

2009-0733. State v. Burgess.

Madison App. No. CA2007-12-036.

2009-0737. Williams v. Brunsman.

Warren App. No. CA2008-10-134.

2009-0738. State v. Brock.

Hancock App. No. 5-07-42, 2008-Ohio-3220.

2009-0744. State v. Banks.

Franklin App. No. 08AP-722, 2009-Ohio-1667.

2009-0765. State v. Chasteen.

Butler App. No. CA2007-12-308, 2009-Ohio-1163.

2009-0770. State v. Nooks.

Franklin App. No. 08AP-717.

2009-0771. State v. Davis.

Summit App. No. 24192, 2009-Ohio-1051.

2009-0781. State v. Schafer.

Defiance App. No. 4-08-07, 2008-Ohio-6183.

2009-0783. State v. Hairston.

Cuyahoga App. No. 70745, 2009-Ohio-1678.

2009-0784. State v. Dubose.

Hamilton App. No. C-070397, 2008-Ohio-4983.

2009-0787. State v. Ali.

Cuyahoga App. No. 88147, 2009-Ohio-1233.

2009-0813. State v. Tribble.

Mahoning App. No. 07 MA 205, 2009-Ohio-1311.

2009-0854. In re P.S.

Franklin App. Nos. 08AP-1023 and 08AP-1024, 2009-Ohio-1545.

2009-0887. State v. Sinkfield.
Montgomery App. No. 13180.

2009-0896. In re C.J.P.
Franklin App. No. 08AP-665, 2009-Ohio-1552.

RECONSIDERATION OF PRIOR DECISIONS

2000-1100. Disciplinary Counsel v. Oglesby.
Board of Commissioners on Grievances & Discipline, No. 99-26. Reported at 121 Ohio St.3d 1478, 2009-Ohio-2111, 905 N.E.2d 656. On motion for reconsideration of denial of petition for reinstatement. Motion denied.
Lundberg Stratton and Lanzinger, JJ., dissent.

2008-2267. State v. Simmons.
Montgomery App. No. 22412, 2008-Ohio-5386. Reported at 121 Ohio St.3d 1473, 2009-Ohio-2045, 905 N.E.2d 654. On motion for reconsideration. Motion denied.
Moyer, C.J., dissents.

2009-0222. State v. O'Neal.
Medina App. No. 08CA0028-M, 2008-Ohio-6572. Reported at 121 Ohio St.3d 1475, 2009-Ohio-2045, 905 N.E.2d 654. On motion for reconsideration. Motion denied.
Moyer, C.J., and O'Donnell, J., dissent.

2009-0259. Cincinnati Ins. Co. v. Stacey.
Clinton App. No. CA2008-06-019, 2008-Ohio-6761. Reported at 121 Ohio St.3d 1476, 2009-Ohio-2045, 905 N.E.2d 655. On motion for reconsideration. Motion denied.

2009-0275. Great Lakes Capital Partners Ltd. v. Plain Dealer Publishing Co.
Cuyahoga App. No. 91215, 2008-Ohio-6495. Reported at 121 Ohio St.3d 1476, 2009-Ohio-2045, 905 N.E.2d 655. On motion for reconsideration. Motion denied.
Lundberg Stratton, O'Connor, and O'Donnell, JJ., dissent.

2009-0444. Johnson v. Ward.
In Mandamus. Reported at 121 Ohio St.3d 1470, 2009-Ohio-2045, 905 N.E.2d 651. On motion to vacate dismissal and reinstate case. Motion denied.

2009-0485. State v. Wright.

Warren App. No. CA2008-03-039, 2008-Ohio-6765. Reported at 121 Ohio St.3d 1471, 2009-Ohio-2045, 905 N.E.2d 652. On motion for reconsideration. Motion denied.

2009-0524. Quinn v. Hudson.

In Habeas Corpus. Reported at 121 Ohio St.3d 1470, 2009-Ohio-2045, 905 N.E.2d 651. On motion for reconsideration. Motion denied.