

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

December 20, 2017

[Cite as *12/20/2017 Case Announcements*, 2017-Ohio-9111.]

MERIT DECISIONS WITH OPINIONS

2017-0541. Ohio State Bar Assn. v. Home Advocate Trustees, L.L.C., Slip Opinion No. 2017-Ohio-9108.

On Final Report by the Board on the Unauthorized Practice of Law, No. UPL 13-01. Permanent injunction issued and civil penalty imposed.

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

2017-0542. Disciplinary Counsel v. Furtado, Slip Opinion No. 2017-Ohio-9109.

On Final Report by the Board on the Unauthorized Practice of Law, No. UPL 16-02. Permanent injunction issued and civil penalty imposed.

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

2017-0543. Ohio State Bar Assn. v. Century Negotiations, Inc., Slip Opinion No. 2017-Ohio-9110.

On Final Report by the Board on the Unauthorized Practice of Law, No. UPL 13-08. Permanent injunction issued.

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

MERIT DECISIONS WITHOUT OPINIONS

2017-0442. State ex rel. Mars Urban Solutions, L.L.C. v. Cuyahoga Cty. Fiscal Officer.

In Mandamus. On motion to dismiss of respondents Fiscal Officer of Cuyahoga County and Cuyahoga County Board of Revision. Motion granted in part and denied in part and alternative writ granted as to claim for relief IV only. Pursuant to S.Ct.Prac.R. 12.05, the parties shall file any evidence they intend to present within 20 days, 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.

Motion to dismiss of respondent Board of Tax Appeals denied as moot.

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

O'Neill, J., not participating.

2017-0874. State ex rel. Kaplan v. Bozza.

In Mandamus. On answer of respondents. Alternative writ granted. Pursuant to S.Ct.Prac.R. 12.05, the parties shall file any evidence they intend to present within 20 days, relator 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 relator's brief, and relator may file a reply brief within 7 days after the filing of respondents' brief.

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

O'Neill, J., not participating.

2017-1038. State ex rel. Newcomb v. Turner.

In Habeas Corpus. Sua sponte, cause dismissed.

On petitioner's motion for judgment on pleadings. Motion denied.

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

O'Neill, J., not participating.

2017-1233. State ex rel. Littlepage v. Nadel.

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

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

O'Neill, Fischer, and DeWine, JJ., not participating.

2017-1340. Davenport v. Griffin.

Miscellaneous case. On S.Ct.Prac.R. 12.04 determination. Cause dismissed.

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

O'Neill, J., not participating.

2017-1379. State ex rel. Thompson v. Second Dist. Court of Appeals.

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

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

O'Neill, J., not participating.

2017-1392. State ex rel. McCall v. Eighth Dist. Court of Appeals Judges.

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

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

O'Neill, J., not participating.

2017-1405. Zambon v. Allen Cty. Probate Court.

Miscellaneous case. On respondent's motion to dismiss. Motion granted. Cause dismissed.

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

O'Neill, J., not participating.

2017-1447. Snowden v. McKay.

In Mandamus. On respondent's motion to dismiss. Motion granted. Cause dismissed.

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

O'Neill, J., not participating.

2017-1448. State ex rel. McClure v. Noble.

In Mandamus. On respondent's motion to dismiss. Motion granted. Cause dismissed.

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

O'Neill, J., not participating.

2017-1523. Nedeia v. Wainwright.

In Habeas Corpus. Sua sponte, cause dismissed.

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

O'Neill, J., not participating.

2017-1533. Wooten v. Marquis.

In Habeas Corpus. Sua sponte, cause dismissed.

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

O'Neill, J., not participating.

2017-1534. Dixon v. State.

In Habeas Corpus. On motions to file evidence, for appointment of counsel, and to receive verbal arguments. Motions denied. Sua sponte, cause dismissed.

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

O'Neill, J., not participating.

MOTION AND PROCEDURAL RULINGS

2010-2198. State v. McKelton.

Butler C.P. No. CR2010020189. On appellant's application for reopening pursuant to S.Ct.Prac.R. 11.06. Application denied. On motion to supplement application to reopen. Motion denied.

O'Neill, J., not participating.

2011-0538. State v. Davis.

Butler App. No. CA200910263, 2011-Ohio-787. On motion for order for relief pursuant to S.Ct.Prac.R. 4.01. Motion denied.

O'Neill, J., not participating.

2016-1891. State v. Martin.

Summit App. No. CA27789. On motion to strike brief of amici curiae. Motion granted.

French, J., dissents.

O'Neill, J., not participating.

2017-0779. Tronzo v. Lu-Jean Feng Clinic, L.L.C.

Cuyahoga App. No. 105044. On emergency motion for stay. Motion fails for want of four votes.

Kennedy, French, and Fischer, JJ., dissent.
O'Neill, J., not participating.

2017-0891. State v. Kouts.

Sandusky App. No. S-16-012, 2017-Ohio-2905. On joint motion to vacate and remand. Motion granted. On joint motion to file exhibits under seal. Motion granted.

O'Donnell, J., dissents and would deny the motion to vacate and remand.
O'Neill, J., not participating.

2017-1500. State v. Glover.

Fayette App. No. CA2016-11-016, 2017-Ohio-7360. On motion for leave to file delayed appeal. Motion granted. Appellant shall file a memorandum in support of jurisdiction within 30 days.

O'Neill, J., not participating.

2017-1501. State v. Holton.

Logan App. No. 8-17-02, 2017-Ohio-6934. On motion for leave to file delayed appeal. Motion granted. Appellant shall file a memorandum in support of jurisdiction within 30 days.

O'Donnell and Kennedy, JJ., dissent.
O'Neill, J., not participating.

2017-1521. State v. Hayes.

Franklin App. No. 16AP-531, 2017-Ohio-7185. On motion for leave to file delayed appeal. Motion denied.

O'Neill, J., not participating.

2017-1531. State v. McColor.

Mahoning App. No. 16 MA 0053, 2017-Ohio-7563. On motion for leave to file delayed appeal. Motion denied.

O'Donnell and Fischer, JJ., dissent.
O'Neill, J., not participating.

2017-1540. State v. Tucker.

Franklin App. No. 15AP-1123, 2017-Ohio-7735. On motion for stay of court of appeals' judgment. Motion denied.

O'Neill, J., not participating.

2017-1541. State v. Tate.

Richland App. No. 17CA19, 2017-Ohio-7311. On motion for leave to file delayed appeal. Motion denied.

O'Neill, J., not participating.

2017-1584. OneWest Bank, FSB v. Wheeler.

Medina App. No. 16CA0026-M, 2017-Ohio-7925. On motion to stay. Motion denied.

O'Neill, J., not participating.

APPEALS ACCEPTED FOR REVIEW

2017-0616. Portee v. Cleveland Clinic Found.

Cuyahoga App. No. 104693, 2017-Ohio-1053.

O'Neill, J., not participating.

2017-0618. State v. Vega.

Cuyahoga App. No. 104058, 2017-Ohio-651.

O'Connor, C.J., dissents.

O'Neill, J., not participating.

APPEALS NOT ACCEPTED FOR REVIEW

2017-0581. Hashash v. Food Mart Plus, Inc.

Cuyahoga App. No. 104552, 2017-Ohio-1158.

O'Neill, J., not participating.

2017-0588. Snider Interests, L.L.C. v. Cannata.

Cuyahoga App. No. 103659, 2017-Ohio-85.

O'Neill, J., not participating.

2017-0590. Williamson v. Scioto Twp. Trustees.

Pickaway App. No. 16CA5, 2017-Ohio-1099.

French, J., dissents.

O'Neill, J., not participating.

2017-0593. Fairland Assn. of Classroom Teachers v. Fairland Local School Bd. of Edn.

Lawrence App. No. 15CA23, 2017-Ohio-1098.

O'Neill, J., not participating.

2017-0597. State v. Asbury.

Trumbull App. No. 2016-T-0052, 2017-Ohio-1005.

O'Neill, J., not participating.

2017-0598. Nolan v. Ernst.

Warren App. No. CA2016-06-045, 2017-Ohio-1011.

O'Neill, J., not participating.

2017-0606. State v. Angus.

Ross App. No. 15CA3507, 2017-Ohio-1100.

O'Connor, C.J., dissents.

O'Neill, J., not participating.

2017-0608. State v. Rausenberg.

Delaware App. No. 16 CAA 02 0007, 2017-Ohio-1078.

O'Neill, J., not participating.

2017-0613. Hubbard v. Charter One Bank.

Cuyahoga App. No. 104146, 2017-Ohio-1033. Appeal and cross-appeal not accepted.

O'Neill, J., not participating.

2017-0617. House Fitness, L.L.C. v. TTV's Second, L.L.C.

Cuyahoga App. No. 105300.

O'Neill, J., not participating.

2017-0623. State v. Brown.

Richland App. No. 2016 CA 0043, 2017-Ohio-1114.

O'Neill, J., not participating.

2017-0624. State v. Whipple.

Clermont App. No. CA2016-06-036, 2017-Ohio-1094.

O'Neill, J., not participating.

2017-0628. In re B.J.S.

Belmont App. No. 15 BE 0057, 2017-Ohio-1258.

French, J., dissents.

O'Neill, J., not participating.

2017-0630. Zidron v. Metts.

Franklin App. No. 15AP-1049, 2017-Ohio-1118.

O'Neill, J., not participating.

2017-0632. Burke v. Wal-Mart Stores, Inc.

Lake App. No. 2016-L-024, 2017-Ohio-1104.

O'Neill, J., not participating.

2017-0635. ClarkWestern Dietrich Bldg. Sys., L.L.C. v. Certified Steel Stud Assn., Inc.

Butler App. No. CA2016-05-098, 2017-Ohio-1091.

Fischer, J., dissents.

O'Neill, J., not participating.

2017-0638. Struckman v. Teays Valley Local School Dist. Bd. of Edn.

Pickaway App. No. 16CA10, 2017-Ohio-1177.

O'Neill, J., not participating.

2017-0647. Deutsche Bank Natl. Trust Co. v. Eversole.

Erie App. No. E-16-011, 2017-Ohio-1217.

O'Neill, J., not participating.

2017-0649. State v. Kuhlman.

Lucas App. No. L-15-1188, 2017-Ohio-1226.

O'Neill, J., not participating.

2017-0656. Moore v. Cleveland.

Cuyahoga App. Nos. 104466, 104471, 104527, and 104529, 2017-Ohio-1156.

Kennedy and French, JJ., dissent.

O'Neill, J., not participating.

2017-0658. LG Mayfield, L.L.C. v. U.S. Liab. Ins. Group.

Geauga App. No. 2016-G-0058, 2017-Ohio-1203.

O'Neill, J., not participating.

2017-0659. Collins v. Hearty Invest. Trust.

Summit App. No. 27964, 2017-Ohio-1270.

O'Neill, J., not participating.

2017-0665. State v. Proffitt.

Butler App. Nos. CA2016-07-134 and CA2016-07-135, 2017-Ohio-1236.

O'Neill, J., not participating.

2017-0672. E. Cleveland Firefighters, IAFF 500, AFL-CIO v. E. Cleveland.

Cuyahoga App. No. 104948, 2017-Ohio-1558.

O'Neill, J., not participating.

2017-0695. State v. Simmons.

Hamilton App. No. C-160316.

O'Neill and Fischer, JJ., not participating.

2017-0710. State v. Simmons.

Franklin App. No. 15AP-708, 2017-Ohio-1348.

O'Neill, J., not participating.

2017-0712. State v. Wojtowicz.

Cuyahoga App. No. 104384, 2017-Ohio-1359.

O'Donnell, J., dissents.

O'Neill, J., not participating.

2017-0715. State v. D'Amico.

Summit App. No. 27258, 2017-Ohio-1352.

O'Neill, J., not participating.

2017-0718. Schuler v. Ohio Civ. Rights Comm.

Trumbull App. No. 2016-T-0075, 2017-Ohio-2602.

O'Neill, J., not participating.

2017-0721. State v. Solomon.

Cuyahoga App. No. 104072, 2017-Ohio-1357.

O'Neill, J., not participating.

2017-0742. State v. Anderson.

Cuyahoga App. No. 104460, 2017-Ohio-931.

O'Neill, J., not participating.

2017-0748. Cuckler v. Admr., Bur. of Workers' Comp.

Ross App. No. 16CA3551, 2017-Ohio-1469.

O'Neill, J., not participating.

2017-0760. State v. Jezioro.

Warren App. No. CA2016-10-088, 2017-Ohio-2587.

O'Neill, J., not participating.

2017-0768. In re M.I.

Hamilton App. No. C-160466, 2017-Ohio-1524.

French, J., dissents.

O'Neill and Fischer, JJ., not participating.

2017-1006. State v. Young.

Erie App. No. E-16-003, 2017-Ohio-4476.

O'Neill, J., not participating.

2017-1131. In re Estate of Abraitis.

Cuyahoga App. No. 104816, 2017-Ohio-5577.

O'Neill, J., not participating.

2017-1143. Lineback v. Lineback.

Warren App. No. CA2016-10-087, 2017-Ohio-5673.

O'Donnell and Kennedy, JJ., dissent.

William A. Klatt, J., of the Tenth District Court of Appeals, sitting for O'Neill, J.

Lisa L. Sadler, J., of the Tenth District Court of Appeals, sitting for Fischer, J.

2017-1148. Banks v. State.

Lake App. No. 2016-L-033, 2017-Ohio-4044.

O'Neill, J., not participating.

2017-1159. State v. Stewart.

Licking App. No. 17CA0032.

O'Neill, J., not participating.

2017-1165. State v. Allen.

Ross App. No. 16CA3538, 2017-Ohio-6878.

O'Neill, J., not participating.

2017-1171. State v. Kalman.

Ashland App. No. 16-COA-042, 2017-Ohio-6910.

O'Neill, J., not participating.

2017-1172. State v. Parra.

Lucas App. No. L-15-1290, 2017-Ohio-5761.

O'Neill, J., not participating.

2017-1187. State v. Steele.

Delaware App. No. 17 CAA 010007, 2017-Ohio-5847.

O'Neill, J., not participating.

2017-1208. State v. Rembert.

Franklin App. Nos. 16AP-543 and 16AP-544, 2017-Ohio-1173.

O'Donnell and O'Neill, JJ., not participating.

2017-1219. In re Estate of Bringman.

Franklin App. No. 17AP-68, 2017-Ohio-5535.

O'Neill, J., not participating.

2017-1225. Cuyahoga Cty. Bd. of Health v. Harper.

Cuyahoga App. No. 104611, 2017-Ohio-6882.

O'Neill, J., not participating.

2017-1226. State v. Lindsay.

Richland App. No. 17CA57.

O'Neill, J., not participating.

2017-1234. Whipps v. Ryan.

Franklin App. Nos. 17AP-22 and 17AP-28.

O'Neill, J., not participating.

2017-1244. Bank of Am., N.A. v. Brown.

Cuyahoga App. No. 105954.

O'Neill, J., not participating.

2017-1260. State v. Thompson.

Montgomery App. No. 26954, 2016-Ohio-7521.

O'Neill, J., not participating.

2017-1265. State v. Sanchez.

Putnam App. No. 12-17-01.

O'Neill, J., not participating.

2017-1271. State v. Anderson.

Hamilton App. No. C-160606.

O'Neill and Fischer, JJ., not participating.

2017-1273. LexisNexis v. Moreau-Davila.

Montgomery App. No. 27319, 2017-Ohio-6998.

O'Neill, J., not participating.

2017-1275. Watkins v. Pough.

Trumbull App. No. 2016-T-0100, 2017-Ohio-7026.

O'Neill, J., not participating.

2017-1276. State v. Loper.

Cuyahoga App. No. 104828, 2017-Ohio-542.

O'Neill, J., not participating.

2017-1294. State v. Johnson.

Cuyahoga App. No. 105987.

O'Neill, J., not participating.

2017-1297. State v. Melson.

Hamilton App. No. C-170183. Appellant's motion for stay denied.

O'Neill, J., not participating.

2017-1302. State v. McFarlane.

Franklin App. Nos. 17AP-424 and 17AP-425.

O'Neill, J., not participating.

2017-1305. State v. Cathcart.

Franklin App. No. 17AP-505.

O'Neill, J., not participating.

2017-1324. State v. Russell.

Franklin App. No. 16AP-542, 2017-Ohio-2871. Appellant's motion to take judicial notice denied.

O'Neill, J., not participating.

2017-1328. JP Morgan Chase Bank v. Stevens.

Cuyahoga App. No. 104835, 2017-Ohio-7165.

O'Neill, J., not participating.

2017-1343. State v. Neil.

Franklin App. Nos. 14AP-981 and 15AP-594, 2016-Ohio-4762.

O'Neill, J., not participating.

2017-1354. State v. Teal.

Lucas App. Nos. L-15-1280 and L-15-1281, 2017-Ohio-7202.

O'Neill, J., not participating.

2017-1355. State v. Oller.

Franklin App. No. 16AP-429, 2017-Ohio-7575.

O'Neill, J., not participating.

2017-1374. State v. Walker.

Summit App. No. 28244, 2017-Ohio-7236.

O'Neill, J., not participating.

2017-1381. State v. DeJarnette.

Franklin App. Nos. 17AP-404, 17AP-405, and 17AP-406.

O'Neill, J., not participating.

2017-1397. State v. Bailey.

Lucas App. No. L-16-1278, 2017-Ohio-7350.

French, J., dissents.

O'Neill, J., not participating.

2017-1399. Stewart v. Gillie.

Franklin App. No. 16AP-859, 2017-Ohio-4088.

French and O'Neill, JJ., not participating.

2017-1418. State v. Winbush.

Clark App. No. 17-CA-0074.

O'Neill, J., not participating.

2017-1429. State v. Barnes.

Muskingum App. No. CT2016-0024, 2016-Ohio-8247.

O'Neill, J., not participating.

2017-1454. State v. Palmer.

Summit App. No. 28303, 2017-Ohio-2639.

O'Neill, J., not participating.

2017-1511. State v. McClellan.

Stark App. No. 2016CA00142, 2017-Ohio-4402.

O'Neill, J., not participating.

2017-1539. State v. Eddy.

Cuyahoga App. No. 104417, 2017-Ohio-7398.

O'Neill, J., not participating.

RECONSIDERATION OF PRIOR DECISIONS

1995-0042. State v. Wogenstahl.

Hamilton App. No. C-930222. Reported at 150 Ohio St.3d 571, 2017-Ohio-6873, 84 N.E.3d 1008. On appellant's motion for reconsideration. Motion denied. On appellant's motion to supplement the record on direct appeal or remand for an evidentiary hearing. Motion denied.

Donna J. Carr, J., of the Ninth District Court of Appeals, sitting for Fischer, J.

Eileen T. Gallagher, J., of the Eighth District Court of Appeals, sitting for DeWine, J.

O'Neill, J., not participating.

2016-1911. State ex rel. Evans v. McGrath.

Franklin App. No. 16AP-238, 2016-Ohio-8348. Reported at __ Ohio St.3d __, 2017-Ohio-8290, __ N.E.3d __. On appellant's motion for reconsideration. Motion denied.

O'Neill, J., not participating.

2017-1353. State v. Artis.

Hamilton App. Nos. C-160707, C-160727, C-160728, C-160729, and C-160730.

Reported at __ Ohio St.3d __, 2017-Ohio-8297, __ N.E.3d __. On appellant's motion for reconsideration. Motion denied. Appellant's motion for stay, motion to correct caption, and "motion to not dismiss" denied as moot.

O'Neill and Fischer, JJ., not participating.