

The Supreme Court of Ohio

CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

June 9, 2004

MERIT DECISIONS WITH OPINIONS

2003-0022. Estate of Ridley v. Hamilton Cty. Bd. of Mental Retardation & Developmental Disabilities, 2004-Ohio-2629.

Hamilton App. No. C-010791, 150 Ohio App.3d 383, 2002-Ohio-6344. Judgment affirmed.

Moyer, C.J., Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.
Resnick, F.E. Sweeney and Pfeifer, JJ., dissent.

2003-0083 and 2003-0319. State v. Evans, 2004-Ohio-2659.

Franklin App. No. 02AP-230, 2002-Ohio-6559. Judgment affirmed.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton and O'Connor, JJ., concur.

O'Donnell, J., concurs separately.

2003-1072. Cincinnati Bar Assn. v. Weaver, 2004-Ohio-2683.

On Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 02-24.

Paul M. Weaver III, Attorney Registration No. 0067277, is permanently disbarred.

Moyer, C.J., F.E. Sweeney, Pfeifer, O'Connor and O'Donnell, JJ., concur.
Resnick and Lundberg Stratton, JJ., dissent.

2003-1777. State ex rel. Timmerman Truss, Inc. v. Indus. Comm., 2004-Ohio-2589.

Franklin App. No. 02AP-1357, 2003-Ohio-4511. Judgment affirmed.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

2003-2021. State ex rel. Buck v. Maloney, 2004-Ohio-2590.

Mahoning App. No. 02CA237, 2003-Ohio-5309. Judgment reversed and writ granted.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

2003-2118. State ex rel. Gains v. Maloney, 2004-Ohio-2658.

In Prohibition. Writ granted.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

2004-0022. Columbus Bar Assn. v. Beatty, 2004-Ohio-2684.

On Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 03-001.

Daniel R. Beatty, Attorney Registration No. 0064901, is indefinitely suspended from the practice of law.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

2004-0036. Portage Cty. Bar Assn. v. Sabarese, 2004-Ohio-2697.

On Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court, Nos. 03-046 and 03-064.

Sharon A. Sabarese, Attorney Registration No. 0042479, is suspended from the practice of law for six months, stayed on conditions.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

2004-0065. Disciplinary Counsel v. Jaffe, 2004-Ohio-2685.

On Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 02-91. David I. Jaffe, Attorney Registration No. 0005153, is suspended from the practice of law for two years with the second year stayed on conditions.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

MERIT DECISIONS WITHOUT OPINIONS

2004-0572. Richey v. Mitchell.

Certified Question of State Law, No. 013477. On review of preliminary memoranda, motion for admission pro hac vice of Paul E. Nemser by Georgia Elizabeth Yanchar, motion for admission pro hac vice of Daryl L. Wiesen by Georgia Elizabeth Yanchar, and motion for admission pro hac vice of Kenneth J. Parsigian by Georgia Elizabeth Yanchar. The court declines to answer the certified questions. This cause is therefore dismissed.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton and O'Connor, JJ., concur.

O'Donnell, J., dissents.

The motions for admission pro hac vice are granted.

2004-0606. Dublin City Schools Bd. of Edn. v. Franklin Cty. Bd. of Revision.

Board of Tax Appeals, No. 2002-V-1732. On motion to dismiss of Dublin City Schools Board of Education. Motion to dismiss sustained. Cause dismissed.

Moyer, C.J., Resnick, F.E. Sweeney, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

Pfeifer, J., dissents.

2004-0659. Schultz v. Hamilton Cty. Court of Common Pleas.

In Habeas Corpus. On petition for writ of habeas corpus of Albert J. Schultz Jr. Sua sponte, cause dismissed.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

2004-0686. State ex rel. Barnthouse v. Tambi.

In Habeas Corpus. On petition for writ of habeas corpus of Larry Barnthouse and motion for stay of execution of sentence and to grant bail. Sua sponte, cause dismissed and motion denied.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

MOTION AND PROCEDURAL RULINGS

2003-2017. In re Gill.

Certified Question of State Law, No. 038020. On order certifying state law question. Sua sponte, jurisdiction accepted; cause held for the decision in 2004-

0272, *Spragin v. Nowak*, Certified Question of State Law, No. 038051; and briefing schedule stayed.

Resnick and F.E. Sweeney, JJ., dissent.

2003-2099. State v. Hancock.

Warren C.P. No. 00CR19073. On motion for complete copy of prosecutor's file to be sealed and filed for appellate review. Motion denied.

Pfeifer, J., dissents.

2004-0001. Academy of Medicine of Cincinnati v. Aetna Health, Inc.

Hamilton App. Nos. C-030109, C-030110 and C-030111, 155 Ohio App.3d 310, 2003-Ohio-6194. On motion to dismiss of Academy of Medicine of Cincinnati, Luis Pagani, M.D., Butler County Medical Society, Paul Jennewine, M.D., and Bradford H. Woodall. Motion denied.

Resnick, F.E. Sweeney and Pfeifer, JJ., dissent.

On motion for leave of amicus curiae Ohio State Medical Association to file a memorandum in support of appellees' motion to dismiss and motion for leave to file a reply to the memorandum opposing the motion to dismiss. Motions denied.

2004-0522. State v. White.

Cuyahoga App. No. 78562. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

O'Donnell, J., not participating.

2004-0647. State v. Rice.

Butler App. No. CA2003-01-015, 2004-Ohio-697. On motion for leave to file delayed appeal. Motion granted.

Resnick, F.E. Sweeney and O'Connor, JJ., dissent.

2004-0687. State v. Williams.

Franklin App. No. 03AP-24, 2003-Ohio-5761. On motion for leave to file delayed appeal. Motion denied.

2004-0700. State v. Edwards.

Tuscarawas App. No. 2003AP090077, 2004-Ohio-870. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated on page 1 of the court of appeals' Judgment Entry filed April 21, 2004:

“Whether the introduction into evidence of an unauthenticated copy of a calibration solution affidavit at a suppression hearing constitutes inadmissible hearsay.”

The conflict cases are *State v. Lake*, 151 Ohio App.3d 378, 2003-Ohio-332, 784 N.E.2d 162; and *State v. Carter* (Sept. 26, 2000), Ross App. No. 99CA2479, 2000 WL 1466189.

2004-0703. State v. Rhodes.

Franklin App. No. 03AP-1050. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2004-0707. State v. Hooper.

Montgomery App. No. 18375. On motion for leave to file delayed appeal. Motion denied.

2004-0721. State v. Torres.

Defiance App. No. 4-02-36, 2003-Ohio-4626. On motion for leave to file delayed appeal. Motion denied.

2004-0723. Covey v. Natural Foods, Inc.

Lucas App. No. L-03-1111, 2004-Ohio-1336. On motion for stay of court of appeals' judgment. Motion denied.

2004-0740. State v. Songer.

Ashland App. No. 03COA051, 2004-Ohio-1281. On motion for leave to file delayed appeal. Motion granted.

Resnick, F.E. Sweeney and Lundberg Stratton, JJ., dissent.

APPEALS ACCEPTED FOR REVIEW

2004-0193. Sarmiento v. Grange Mut. Ins. Co.

Cuyahoga App. No. 82807, 2003-Ohio-6485. Discretionary appeal and cross-appeal accepted.

O'Donnell, J., dissents.

APPEALS NOT ACCEPTED FOR REVIEW

2003-2224. State v. Campbell.

Franklin App. No. 03AP-147, 2003-Ohio-6305.

2004-0361. State v. Raymer.

Hamilton App. No. C-030958.

2004-0370. State v. Gaines.

Cuyahoga App. No. 82301, 2003-Ohio-6855.

2004-0374. Wertz v. Grange Mut. Ins. Co.

Stark App. No. 2003CA00186, 2004-Ohio-121.

2004-0384. State v. Bratton.

Allen App. No. 1-03-19, 2004-Ohio-187.

Pfeifer, J., dissents.

2004-0385. State v. Boykins.

Montgomery App. No. 19819, 2004-Ohio-161.

Lundberg Stratton and O'Connor, JJ., dissent.

2004-0388. Buschard v. State.

Hamilton App. No. C-030430, 2003-Ohio-6921.

2004-0390. State v. Bruce.

Cuyahoga App. No. 82714, 2004-Ohio-626.

2004-0400. State v. Vasquez.

Cuyahoga App. No. 82156, 2004-Ohio-53.

O'Donnell, J., not participating.

2004-0403. Young v. Cincinnati Ins. Co.

Cuyahoga App. No. 82395, 2004-Ohio-54.

Lundberg Stratton and O'Connor, JJ., dissent.

2004-0404. State v. Banerjee.

Cuyahoga App. No. 83217, 2004-Ohio-490.

2004-0405. State v. Colby.

Portage App. No. 2002-P-0061, 2004-Ohio-343.

2004-0409. State v. Clark.

Portage App. Nos. 2001-P-0031, 2001-P-0033, 2001-P-0034, 2001-P-0057 and 2001-P-0058, 2004-Ohio-334.

2004-0410. Ciancola v. Fairlawn.

Summit App. No. 21565.

Pfeifer, J., dissents.

2004-0411. State v. Hardy.

Cuyahoga App. No. 82620, 2004-Ohio-56. Discretionary appeal and cross-appeal not accepted.

O'Donnell, J., dissents.

2004-0416. Braglin v. Lempco Industries, Inc.

Perry App. No. 03CA13, 2004-Ohio-291.

2004-0424. Gamble v. Summit Cty. Dept. of Jobs & Family Serv.

Summit App. No. 21450, 2004-Ohio-193.

2004-0428. State v. Briscoe.

Cuyahoga App. No. 82557, 2004-Ohio-496.

2004-0429. Brown v. Liebert Corp.

Franklin App. No. 03AP-437, 2004-Ohio-841.

Resnick, J., dissents.

2004-0431. Hawthorne v. Estate of Migoni.

Tuscarawas App. No. 2003AP070054, 2004-Ohio-378.

Pfeifer, J., dissents.

2004-0436. Thompson v. Hartford Fire Ins. Co.

Butler App. No. CA2002-11-285, 2004-Ohio-281.

Lundberg Stratton, J., dissents.

O'Donnell, J., dissents, would accept, and would reverse per *Westfield Ins. Co. v. Galatis*, 100 Ohio St.3d 216, 2003-Ohio-5849, 797 N.E.2d 1256.

2004-0442. State v. Nash.

Cuyahoga App. No. 82685, 2004-Ohio-158.

2004-0444. Lightbody v. Rust.

Cuyahoga App. No. 80927, 2003-Ohio-3937.

Moyer, C.J., and Lundberg Stratton, J., dissent.

2004-0445. State v. Call.

Marion App. No. 9-03-21, 2004-Ohio-288. Discretionary appeal not accepted and petition for transcripts at state's expense for appeal denied.

2004-0446. Burton v. Triplett.

Franklin App. No. 03AP-699.

2004-0447. State v. Armbruster.

Marion App. No. 9-03-15, 2004-Ohio-289.

2004-0452. State v. Barber.

Fairfield App. No. 03CA97.

2004-0453. Parusel v. Ewry.

Lucas App. No. L-02-1402, 2004-Ohio-404.

Resnick and Pfeifer, JJ., dissent.

2004-0454. State v. Barnes.

Cuyahoga App. No. 83967.

2004-0456. State v. Jamnicky.

Wayne App. No. 03CA0039.

2004-0457. Eagle Fireworks, Inc. v. Ohio Dept. of Commerce, State Fire Marshal.

Washington App. No. 03CA28, 2004-Ohio-509.

2004-0458. Reed v. Allstate Ins. Co.

Wayne App. No. 03CA0027, 2004-Ohio-325.

2004-0459. Habeeb v. Ohio Dept. of Commerce.

Cuyahoga App. No. 82784, 2004-Ohio-138.

2004-0460. State v. Hale.

Hamilton App. No. C-030872.

2004-0462. LePage v. Thorn Twp. Bd. of Trustees.
Perry App. No. 03CA4, 2004-Ohio-380.
Resnick, J., dissents.

2004-0464. State v. Gammalo.
Cuyahoga App. No. 82853, 2004-Ohio-482.

2004-0467. Smith v. Sass, Friedman & Assoc., Inc.
Cuyahoga App. No. 81953, 2004-Ohio-494.

2004-0470. Lakatos v. Republic Waste Serv. of Ohio.
Cuyahoga App. No. 82256, 2004-Ohio-495.
Pfeifer, J., dissents.

2004-0472. State v. Humphrey.
Wyandot App. No. 16-03-16.

2004-0474. State v. Pryor.
Fairfield App. No. 02CA91, 2004-Ohio-609.
Pfeifer, J., dissents.

2004-0476. Mustard v. Timothy J. O'Reilly Co., Ltd.
Warren App. No. CA2003-05-059.

2004-0477. State v. Day.
Union App. No. 14-04-01.

2004-0479. State v. Rarden.
Butler App. No. CA2003-08-188, 2004-Ohio-421.

2004-0480. State v. Brown.
Preble App. No. CA2003-02-004, 2004-Ohio-424.

2004-0481. State v. Sherrills.
Cuyahoga App. No. 83839.
O'Donnell, J., not participating.

2004-0482. State v. Howard.
Fayette App. No. CA2003-01-001, 2004-Ohio-423.

2004-0487. State v. Haynes.

Hamilton App. No. C-020685, 2004-Ohio-762.

2004-0488. Gammon v. Hinkle.

Lucas App. No. L-03-1210, 2004-Ohio-473.

2004-0489. State v. Pelphrey.

Hamilton App. No. C-030395.

2004-0491. Bae v. Drago & Assoc., Inc.

Franklin App. No. 03AP-254, 156 Ohio App.3d 103, 2004-Ohio-544.
Discretionary appeal not accepted.

Pfeifer, J., dissents and would refer this cause to mediation.

2004-0492. State v. Haynes.

Franklin App. No. 03AP-574, 2004-Ohio-591.

2004-0498. State v. Morgan.

Montgomery App. No. 19416, 2004-Ohio-461.

2004-0506. Adams v. Crider.

Mercer App. No. 10-02-18, 2004-Ohio-535.

Lundberg Stratton and O'Connor, JJ., dissent.

2004-0511. State v. Brooks.

Franklin App. No. 03AP-636, 2004-Ohio-585.

2004-0518. Gooding v. Natl. Fire Ins. Co. of Hartford.

Stark App. No. 2003CA00199, 2004-Ohio-693.

Resnick, F.E. Sweeney and Pfeifer, JJ., dissent.

2004-0527. State v. Simpson.

Summit App. No. 21475, 2004-Ohio-602.

2004-0535. State v. Madaris.

Hamilton App. No. C-030228, 156 Ohio App.3d 211, 2004-Ohio-653.

2004-0540. State v. Eubank.

Lucas App. No. L-03-1057, 2004-Ohio-890.

2004-0555. State v. Adkins.

Franklin App. No. 04AP-64.

2004-0598. State v. Tate.

Cuyahoga App. No. 81682, 2004-Ohio-973.

2004-0635. In re Beireis.

Clinton App. No. CA2003-01-001, 2004-Ohio-1506.

2004-0672. In re Gomer.

Wyandot App. No. 16-03-21, 2004-Ohio-1723.

2004-0676. In re K.P.

Cuyahoga App. No. 82709, 2004-Ohio-1448 and 2004-Ohio-1674.

RECONSIDERATION OF PRIOR DECISIONS

2001-0013. State v. Dixon.

Lucas App. No. L-96-004. Reported at 101 Ohio St.3d 328, 2004-Ohio-1585, 805 N.E.2d 1042. On motion for reconsideration. Motion denied.

2001-1429. State v. Mink.

Montgomery C.P. No. 2000CR2900. Reported at 101 Ohio St.3d 350, 2004-Ohio-1580, 805 N.E.2d 1064. On motion for reconsideration. Motion denied.

2003-0569. Costin v. Consolidated Ceramic Products, Inc.

Cuyahoga App. No. 81611, 151 Ohio App.3d 506, 2003-Ohio-437. Reported at 102 Ohio St.3d 1211, 2004-Ohio-1757, 806 N.E.2d 164. On motion for reconsideration. Motion denied.

2003-1543. State ex rel. Miesse v. Holophane Corp.

Franklin App. No. 02AP-1176, 2003-Ohio-4133. Reported at 102 Ohio St.3d 70, 2004-Ohio-1808, 806 N.E.2d 550. On motion for reconsideration. Motion denied.

2003-1693. Elersic v. Wilson.

Trumbull App. No. 2003-T-0070, 2003-Ohio-4229. Reported at 101 Ohio St.3d 417, 2004-Ohio-1501, 805 N.E.2d 1127. On motion for reconsideration. Motion denied.
