

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

January 28, 2009

[Cite as *01/28/2009 Case Announcements, 2009-Ohio-278.*]

MERIT DECISIONS WITH OPINIONS

2007-1984. State ex rel. Hina v. Indus. Comm., Slip Opinion No. 2009-Ohio-250.

Franklin App. No. 07AP-23, 2007-Ohio-4596. Judgment reversed.

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

Pfeifer, J., dissents and would affirm the judgment of the court of appeals.

2007-2269. Queen City Lodge No. 69, Fraternal Order of Police v. State Emp. Relations Bd., Slip Opinion No. 2009-Ohio-255.

Hamilton App. No. C-060782, 174 Ohio App.3d 570, 2007-Ohio-5741. The cause is dismissed, sua sponte, as having been improvidently accepted.

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

2008-1590. Ealy v. Stewart, Slip Opinion No. 2009-Ohio-256.

Montgomery App. No. 22032. Judgment affirmed.

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

Pfeifer, J., dissents and would direct the court of appeals to order a return on the writ.

2008-1608. State v. Evans, Slip Opinion No. 2009-Ohio-253.

Hamilton App. No. C-060392. Motion for reconsideration granted. Discretionary appeal accepted, and judgment reversed and cause remanded.

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

Lanzinger, J., dissents.

2008-1801. Graf v. Cirino, Slip Opinion No. 2009-Ohio-254.

Cuyahoga App. No. 90314, 2008-Ohio-3542. Discretionary appeal accepted and judgment reversed.

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

2008-1885. Hughley v. Saunders, Slip Opinion No. 2009-Ohio-257.

Fairfield App. No. 08-CA-53, 2008-Ohio-4417. Judgment affirmed.

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

2008-1890. Bollar v. Eberlin, Slip Opinion No. 2009-Ohio-258.

Belmont App. No. 08 BE 5. Judgment affirmed.

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

MERIT DECISIONS WITHOUT OPINIONS

2008-1943. State ex rel. Ohio Assn. of Indep. Title Agents v. Hudson.

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.

2008-2185. State ex rel. FirstMerit Bank, N.A. v. Villanueva.

In Prohibition. On motion for leave to intervene and answer of Matthew L. Fornshell and respondent's motion to dismiss. Motion for leave to intervene granted. Motion to dismiss granted. Cause dismissed.

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

2008-2209. Wrinn v. Johnson.

Certified Question of State Law, United States Court of Appeals for the Sixth Circuit, No. 07-4354. On motion to dismiss for lack of prosecution. Motion to dismiss granted. Cause dismissed.

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

Pfeifer and O'Donnell, JJ., dissent and would answer the certified question.

2008-2264. Smith v. Lynch.

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.

2008-2348. Hargrove v. Butler Cty. Court of Common Pleas.

In Prohibition. 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.

2008-2422. Williams v. Williams.

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

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

MOTION AND PROCEDURAL RULINGS

2007-2225. State ex rel. Dillard Dept. Stores, Inc. v. Ryan.

Franklin App. No. 06AP-726, 173 Ohio App.3d 339, 2007-Ohio-5556. On request for oral argument. Request granted.

2008-2269. State v. Abuhashish.

Wood App. No. WD-07-048, 2008-Ohio-3849. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Cupp, JJ., dissent.

2008-2172. State v. Jordan.

Marion App. No. 9-08-11, 2008-Ohio-4647. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated at page 1 of the court of appeals' Judgment Entry filed November 5, 2008:

“If a defendant is under *actual* detention, can the defendant be convicted of escape under R.C. 2921.34(A)(1) when the record demonstrates that the defendant

knew he was under detention or was reckless in that regard, irrespective of whether the defendant was *properly* under said detention?”

O'Donnell and Lanzinger, JJ., dissent.

The conflict case is *State v. North*, Lorain App. No. 06CA009063, 2007-Ohio-5383.

Sua sponte, cause consolidated with 2008-2119, *State v. Jordan*, Marion App. No. 9-08-11, 2008-Ohio-4647.

2008-2228. State v. Underwood.

Montgomery App. No. 22454, 2008-Ohio-4748. 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' Decision and Entry filed October 20, 2008:

“Is an agreed and jointly recommended sentence ‘authorized by law’ under R.C. 2953.08(D)(1), and thus not reviewable, when the agreed sentence includes convictions for offenses that are allied offenses of similar import?”

The conflict cases are *State v. Turrentine*, Allen App. No. 01-08-18, 2008-Ohio-3231; *State v. Jackson*, Cuyahoga App. No. 86506, 2006-Ohio-3165; *State v. Graham* (Sept. 30, 1998), Franklin App. No. 97AP11-1524; and *State v. Henderson* (Sept. 27, 1999), Warren App. No. CA99-01-002.

Sua sponte, cause consolidated with 2008-2133, *State v. Underwood*, Montgomery App. No. 22454, 2008-Ohio-4748.

2008-2270. State v. Garrett.

Franklin App. No. 08AP-104, 2008-Ohio-3474. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2008-2283. Swint v. Golf Manor.

Hamilton App. No. C-080067, 2008-Ohio-5381. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, the cause is held for the decision in 2008-0691 and 2008-0817, *Sullivan v. Anderson Twp.*, Hamilton App. No. C-070253, 2008-Ohio-1438, and briefing schedule is stayed.

2008-2288. State v. Adams.

Butler App. No. CA2007-10-244. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2008-2292. State v. Fritz.

Montgomery App. No. 22377, 178 Ohio App.3d 65, 2008-Ohio-4389. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

2008-2296. State v. Foreman.

Hancock App. No. 5-07-17, 2008-Ohio-4408. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

2008-2308. State v. LeFlore.

Crawford App. No. 3-08-06, 2008-Ohio-4508. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

2008-2327. State v. Turrentine.

Allen App. No. 1-08-18, 2008-Ohio-3231. On motion for leave to file delayed appeal. Motion denied.

Lanzinger, J., dissents.

2008-2357. State v. Williams.

Lake App. Nos. 2007-L-131 and 2007-L-137, 2008-Ohio-2122. On motion for leave to file delayed appeal. Motion denied.

2008-2359. State v. Kirby.

Summit App. No. 23814, 2008-Ohio-3107. On motion for leave to file delayed appeal. Motion denied.

2008-2363. Mayer v. Medancic.

Geauga App. Nos. 2008-G-2826, 2008-G-2827, and 2008-G-2828, 2008-Ohio-5531. On motion for stay of court of appeals' judgment. Motion denied.

2008-2374. State v. Price.

Washington App. No. 07CA47, 2008-Ohio-3583. On motion for leave to file delayed appeal. Motion denied.

O'Donnell and Lanzinger, JJ., dissent.

2008-2382. McGhee v. Houk.

In Habeas Corpus. On petition for writ of habeas corpus of Michael McGhee.

Sua sponte, the writ is allowed. Allowing the writ means only that a return is ordered. See *Reed v. Kinkela* (1998), 84 Ohio St.3d 1427, 702 N.E.2d 903; *Hernandez v. Kelly*, 107 Ohio St.3d 1430, 2005-Ohio-6400, 838 N.E.2d 670.

Respondent shall file a return of writ within 21 days of service of the petition and petitioner may file a response within ten days after the return is filed. Petitioner's physical presence before the court will not be required.

Lundberg Stratton, J., dissents and would deny the writ.

2008-2387. State v. Brown.

Stark App. No. 2007 CA 15, 2008-Ohio-3118. On motion for leave to file delayed appeal. Motion denied.

2008-2388. State v. Keahey.

Lucas App. No. L-07-1029, 2008-Ohio-5136. On motion for leave to file delayed appeal. Motion granted.

O'Donnell and Lanzinger, JJ., dissent.

2008-2394. State v. Milligan.

Wyandot App. No. 16-08-04, 2008-Ohio-4509. On motion for leave to file delayed appeal. Motion granted.

O'Connor and Lanzinger, JJ., dissent.

2008-2424. State v. Williams.

Montgomery App. No. 22532, 2008-Ohio-6245. On motion for stay of court of appeals' judgment. Motion granted.

Pfeifer and O'Donnell, JJ., dissent.

Motion to seal appendix E to the motion for stay granted.

2008-2432. Vogel v. Felts.

Clermont App. No. CA2008-05-051, 2008-Ohio-6569. On motion for stay of court of appeals' judgment. Motion denied.

APPEALS ACCEPTED FOR REVIEW

2008-1499. State v. Jackson.

Stark App. No. 2007CA00274, 2008-Ohio-2944. Discretionary appeal and cross-appeal accepted.

Pfeifer, J., dissents.

2008-1669. State v. Whitfield.

Cuyahoga App. No. 90244, 2008-Ohio-3150.
Moyer, C.J., and Pfeifer, J., dissent.

2008-1781. State v. Smith.

Greene App. No. 07-CA-47, 2008-Ohio-3717.
O'Donnell and Lanzinger, JJ., dissent.

2008-1840. Barry v. A.E. Steel Erectors, Inc.

Cuyahoga App. No. 90436, 2008-Ohio-3676. Discretionary appeal accepted; cause held for the decisions in 2008-0857, *Kaminski v. Metal & Wire Prods. Co.*, Columbiana App. No. 07-CO-15, 175 Ohio App.3d 227, 2008-Ohio-1521, and 2008-0972, *Stetter v. R.J. Corman Derailment Servs., L.L.C.*, Certified Question of State Law, United States District Court, Northern District of Ohio, Western Division, No. 3:07 CV 866; and briefing schedule stayed.

2008-1852. Fleming v. AAS Serv., Inc.

Portage App. No. 2007-P-0071, 177 Ohio App.3d 778, 2008-Ohio-3908. Discretionary appeal accepted on Proposition of Law No. II, cause held for the decisions in 2008-0857, *Kaminski v. Metal & Wire Prods. Co.*, Columbiana App. No. 07-CO-15, 175 Ohio App.3d 227, 2008-Ohio-1521, and 2008-0972, *Stetter v. R.J. Corman Derailment Servs., L.L.C.*, Certified Question of State Law, United States District Court, Northern District of Ohio, Western Division, No. 3:07 CV 866; and briefing scheduled stayed.

Pfeifer, J., dissents.

2008-1869. Gaspar v. Guenther.

Lorain App. No. 08CA009390. Discretionary appeal accepted; cause held for the decision in 2007-2150 and 2007-2302, *Walburn v. Dunlap*, Vinton App. No. 06CA655, 2007-Ohio-5398; and briefing schedule stayed.

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

2008-1894. State v. Carter.

Cuyahoga App. No. 90504, 2008-Ohio-4099.

Moyer, C.J., would accept the appeal but would reverse the judgment of the court of appeals on the authority of *State v. Brown*, 119 Ohio St.3d 447, 2008-Ohio-4589, 895 N.E.2d 149.

O'Donnell, J., dissents.

2008-2119. State v. Jordan.

Marion App. No. 9-08-11, 2008-Ohio-4647. Discretionary appeal accepted on Proposition of Law No. I and cause consolidated with 2008-2172, *State v. Jordan*, Marion App. No. 9-08-11, 2008-Ohio-4647.

Lundberg Stratton and O'Connor, JJ., would also accept the appeal on Proposition of Law No. II.

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

2008-2133. State v. Underwood.

Montgomery App. No. 22454, 2008-Ohio-4748. Discretionary appeal accepted and cause consolidated with 2008-2228, *State v. Underwood*, Montgomery App. No. 22454, 2008-Ohio-4748.

Pfeifer and O'Donnell, JJ., dissent.

APPEALS NOT ACCEPTED FOR REVIEW

2008-1113. State v. Barnett.

Jefferson App. No. 06-JE-23, 2008-Ohio-1546.

2008-1298. State v. Smith.

Belmont App. No. 06 BE 22, 2008-Ohio-1670.

2008-1429. State v. Hughes.

Warren App. Nos. CA2007-08-107 and CA2007-09-109.

2008-1504. Mills v. Weller.

Montgomery App. No. 22207, 2008-Ohio-3008. Discretionary appeal and cross-appeal not accepted.

2008-1584. State v. Trainer.

Champaign App. No. 2006 CA 23, 2007-Ohio-6698.

2008-1645. State v. Sawyer.

Medina App. No. 07CA0046-M, 2008-Ohio-3370.

2008-1656. Ealy v. McLin.

Montgomery App. No. 21934.

2008-1661. State v. Maddox.

Hamilton App. Nos. C-070482 and C-070483, 2008-Ohio-3477.

2008-1668. Quinn v. MetoKote Corp.

Allen App. No. 1-07-54, 2008-Ohio-3374.
O'Donnell and Cupp, JJ., dissent.

2008-1670. Marsh v. Deems.

Richland App. No. 07 CA 91, 2008-Ohio-3430.

2008-1672. State v. Milam.

Cuyahoga App. No. 90193, 2008-Ohio-3144.

2008-1694. In re Guardianship of Lewis.

Montgomery App. No. 22252, 2008-Ohio-3486.

2008-1695. State v. Pankey.

Mahoning App. No. 07 MA 2, 2008-Ohio-3091.

2008-1701. State v. Nieters.

Clermont App. No. CA2007-09-099, 2008-Ohio-3727.

2008-1702. Zawahiri v. Alwattar.

Franklin App. No. 07AP-925, 2008-Ohio-3473.

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

2008-1703. State v. Rittner.

Fulton App. No. F-08-004.

Moyer, C.J., dissents.

Lanzinger, J., not participating.

2008-1713. State v. Miller.

Trumbull App. No. 2008-T-0047, 2008-Ohio-3731.

Pfeifer, J., dissents.

2008-1720. State v. Denes.

Lorain App. No. 07CA009135, 2008-Ohio-3506.

2008-1723. State v. Helton.

Logan App. No. 8-08-06, 2008-Ohio-3601.

Cupp, J., not participating.

2008-1728. Wireman v. Millington.

Hardin App. No. 6-08-02.

Moyer, C.J., dissents.

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

2008-1739. State v. Egler.

Defiance App. No. 4-07-22, 2008-Ohio-4053.

2008-1747. State v. Pino.

Wood App. No. WD-07-020, 2008-Ohio-3578.

2008-1757. State v. Harp.

Adams App. No. 07CA848, 2008-Ohio-3703.

2008-1779. State v. Ramos.

Geauga App. No. 2007-G-2794, 2008-Ohio-3738.

2008-1780. State v. Lober.

Montgomery App. Nos. 21477, 2008-Ohio-3714, and 22021, 2008-Ohio-3715.

2008-1783. Pettit v. Hughes.

Muskingum App. No. CT2007-0048, 177 Ohio App.3d 344, 2008-Ohio-3780.

2008-1814. Ulliman v. Ulliman.

Montgomery App. No. 22560, 2008-Ohio-3876.

2008-1817. Ealy v. Foster.

Montgomery App. No. 22176.

2008-1819. State v. Amell.

Summit App. No. 23943, 2008-Ohio-3770.

2008-1820. Guttridge v. Suburban Steel Supply Co.

Licking App. No. 2007 CA 00110, 2008-Ohio-3902.

2008-1821. State v. Partin.

Richland App. No. 07 CA 104, 2008-Ohio-3904.

2008-1822. Stammco, L.L.C. v. United Tel. Co. of Ohio.

Fulton App. No. F-07-024, 2008-Ohio-3845.

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

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

2008-1828. Stoebermann v. Beacon Journal Publishing Co.

Summit App. No. 23756, 177 Ohio App.3d 360, 2008-Ohio-3769.

2008-1829. State v. Neu.

Auglaize App. No. 2-08-13.

2008-1830. State v. Williams.

Muskingum App. No. CT2008-0001, 2008-Ohio-3903.

2008-1831. State v. Davis.

Cuyahoga App. No. 90050, 2008-Ohio-3453.

2008-1832. State v. Spencer.

Ross App. No. 07CA2997, 2008-Ohio-4119. Discretionary appeal not accepted. Motion for default judgment denied as moot.

2008-1833. State v. Wettling.

Franklin App. No. 08AP-528.

2008-1838. Fairfield v. Am. Fed. of State, Cty. & Mun. Emps., Ohio Council 8.

Butler App. No. CA2007-11-267, 2008-Ohio-3891.

Pfeifer and Lanzinger, JJ., dissent.

2008-1841. State v. Weber.

Montgomery App. No. 22167, 2008-Ohio-4025.

2008-1846. State v. Aleshire.

Licking App. No. 07CA128. Discretionary appeal not accepted. Motion for stay of consideration of jurisdiction denied and motion to consolidate with 2008-2389, *State v. Aleshire*, Licking App. No. 2007-CA-1, 2008-Ohio-5688, denied as moot.

2008-1849. State v. Kracker.

Summit App. No. 23986, 2008-Ohio-4339.

2008-1850. Cincinnati v. Agin.

Hamilton App. No. C-070885.

2008-1851. State v. Voss.

Warren App. No. CA2006-11-132, 2008-Ohio-3889.

2008-1854. State v. Turner.

Portage App. No. 2007-P-0090, 2008-Ohio-3898.

Moyer, C.J., dissents and would accept the appeal on Proposition of Law Nos. II, III, and IV.

2008-1855. Lillard v. Allen.

Cuyahoga App. No. 89623, 2008-Ohio-3664.

2008-1856. State v. Wright.

Cuyahoga App. No. 90439, 2008-Ohio-3678.

2008-1866. Natl. Crime Reporting, Inc. v. McCord & Akamine, L.L.P.

Franklin App. No. 07AP-935, 177 Ohio App.3d 551, 2008-Ohio-3950.

2008-1867. Future Lawn, Inc. v. Steinberg.

Lucas App. No. L-08-1030, 2008-Ohio-4127.

Pfeifer, J., dissents.

Lanzinger, J., not participating.

2008-1868. State v. Haney.

Greene App. No. 2007 CA 71.

2008-1870. State v. Norris.

Stark App. No. 2007CA00101, 2008-Ohio-4089.

2008-1873. State v. Brown.

Hamilton App. Nos. C-070865 and C-070877.

2008-1875. State v. Walton.

Cuyahoga App. No. 90140, 2008-Ohio-3550.

2008-1876. Gerding v. Girls Scouts of Maumee Valley Council, Inc.

Lucas App. No. L-07-1234, 2008-Ohio-4030.

2008-1877. State v. Hayes.

Hamilton App. No. C-070063.

2008-1880. State v. Peterson.

Cuyahoga App. No. 90263, 2008-Ohio-4239.

2008-1881. Walker v. Muskingum Watershed.

Tuscarawas App. No. 2007 AP 01 0005, 2008-Ohio-4060.

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

2008-1883. State v. Mota.

Warren App. No. CA2007-06-082, 2008-Ohio-4163.

2008-1884. Haimbaugh v. Grange Mut. Cas. Co.

Franklin App. No. 07AP-676, 2008-Ohio-4001.

Pfeifer, J., dissents.

2008-1887. State v. Spears.

Medina App. No. 07CA0036-M, 2008-Ohio-4045.

2008-1889. Sinnott v. Aqua-Chem, Inc.

Cuyahoga App. No. 88062, 2008-Ohio-3806.

O'Connor, J., dissents.

2008-1891. State v. Simpson.

Cuyahoga App. No. 89158, 2008-Ohio-3817.

2008-1895. State v. Arroyo.

Cuyahoga App. No. 90369, 2008-Ohio-3808.

2008-1897. Smalley v. Linz.

Cuyahoga App. No. 90359, 2008-Ohio-3855.

2008-1898. In re Guardianship of Shear.

Cuyahoga App. No. 91293. Discretionary appeal not accepted. Motions to reinstate and for reconsideration and for appointment of legal counsel denied as moot.

2008-1899. State v. Manning.

Cuyahoga App. No. 90326, 2008-Ohio-3801.

Lundberg Stratton, J., dissents.

2008-1900. State v. Evans.

Lorain App. No. 07CA009274, 2008-Ohio-4295.

2008-1901. State v. Nguyen.

Medina App. No. 08CA0052-M.

2008-1903. Indep. Taxicab Assn. of Columbus, Inc. v. Abate.

Franklin App. No. 08AP-44, 2008-Ohio-4070.

O'Donnell, J., dissents.

2008-1905. Brown v. Bowers.

Hamilton App. No. C-070797, 2008-Ohio-4114.

Lanzinger, J., dissents and would accept the appeal on Proposition of Law Nos. IV, V, VI, and VII.

2008-1906. Neihaus v. Columbus Maennerchor.

Franklin App. No. 07AP-1024, 2008-Ohio-4067.

Moyer, C.J., not participating.

2008-1907. State v. Delaboin.

Cuyahoga App. No. 90406, 2008-Ohio-4093.

2008-1908. Geico Gen. Ins. Co. v. State Farm Mut. Auto. Ins. Co.

Hamilton App. No. C-070733, 2008-Ohio-4117.

Pfeifer and Lundberg Stratton, JJ., dissent.

2008-1909. State v. McBrayer.

Muskingum App. No. CT2008-0015, 2008-Ohio-4207.

2008-1910. State v. Imani.

Muskingum App. No. CT2008-0014, 2008-Ohio-4364.

2008-1918. Blazef v. Cleveland Clinic Found.

Cuyahoga App. No. 90877, 2008-Ohio-3814.

2008-1919. State v. Moore.

Hamilton App. No. C-070421, 2008-Ohio-4116.

2008-1920. *Bils v. Bils.*

Wood App. No. WD-07-043, 2008-Ohio-4125.

Moyer, C.J., and O'Connor, J., dissent and would accept the appeal on Proposition of Law No. I.

2008-1921. *Fisher v. Van Loveren.*

Hamilton App. No. C-070228, 2008-Ohio-4115.

Pfeifer, J., dissents.

2008-1928. *Nationwide Ins. Co. v. Alli.*

Mahoning App. No. 07 MA 126, 178 Ohio App.3d 17, 2008-Ohio-4318.

Pfeifer, J., dissents.

2008-1929. *State v. McCrary.*

Lucas App. No. L-08-1219.

2008-1933. *Lexington Twp. Bd. of Trustees v. Annexation of 173.444 Acres.*

Stark App. No. 2008 CA 00016, 2008-Ohio-4202.

2008-1935. *State v. Riffle.*

Medina App. No. 07CA0114-M, 2008-Ohio-4155.

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

2008-1941. *State v. Akers.*

Butler App. No. CA2007-07-163, 2008-Ohio-4164.

2008-1955. *State v. Provan.*

Tuscarawas App. No. 2008AP040027, 178 Ohio App.3d 107, 2008-Ohio-4343.

2008-1982. *Masden v. CCI Supply, Inc.*

Montgomery App. No. 22304, 2008-Ohio-4396.

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

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

2008-2004. *State v. Gatchel.*

Lake App. No. 2007-L-212, 2008-Ohio-4667.

2008-2151. *State v. Gillman.*

Union App. No. 14-08-02, 2008-Ohio-2606.

2008-2165. State v. Fears.

Cuyahoga App. No. 89989, 2008-Ohio-5342.

2008-2191. State v. Wade.

Franklin App. No. 06AP-644, 2008-Ohio-543 and 2008-Ohio-1797.

2008-2222. State v. Collins.

Cuyahoga App. No. 89668, 2008-Ohio-2363.

2008-2250. State v. Meyers.

Summit App. Nos. 23864 and 23903, 2008-Ohio-2528.

2008-2273. State v. Danzeisen.

Montgomery App. No. 19860, 2004-Ohio-4681.

2008-2289. State v. Branham.

Scioto App. No. 07CA3167, 2008-Ohio-3910.

2008-2291. State v. Ferguson.

Ashtabula App. No. 2007-A-0059, 2008-Ohio-2392.

2008-2372. State v. Harris.

Franklin App. No. 07AP-137, 2008-Ohio-27.

RECONSIDERATION OF PRIOR DECISIONS

2007-1478. State v. Jeffries.

Lake App. No. 2005-L-057, 2007-Ohio-3366. Reported at 119 Ohio St.3d 265, 2008-Ohio-3865, 893 N.E.2d 487. On motion to clarify judgment entry. Motion granted. The cause is remanded to the court of appeals for consideration of appellant's remaining assignments of error.

2007-1901. State ex rel. Jordan v. Indus. Comm.

Franklin App. No. 06AP-908, 2007-Ohio-5157. Reported at ___ Ohio St.3d ___, 2008-Ohio-6137, ___ N.E.2d ___. On motion for reconsideration. Motion denied. O'Donnell, J., dissents.

2008-0419. State v. Person.

Hamilton App. No. C-060656, 174 Ohio App.3d 287, 2007-Ohio-6869. Reported at 120 Ohio St.3d 323, 2008-Ohio-6250, 898 N.E.2d 961. On motion for reconsideration. Motion denied.

2008-1147. Neighbors v. Ellis.

Butler App. No. CA2007-05-0125, 2008-Ohio-2110. Reported at 120 Ohio St.3d 276, 2008-Ohio-6105, 898 N.E.2d 46. On motions for clarification and reconsideration. Motions denied.

Lundberg Stratton, J., dissents.

2008-1379. Huston v. Vinton Cty. Emergency Med. Servs.

In Mandamus. Reported at 120 Ohio St.3d 1411, 2008-Ohio-6166, 897 N.E.2d 648. On motion for reconsideration. Motion denied.

2008-1432. State v. Tate.

Cuyahoga App. No. 91557. Reported at 120 Ohio St.3d 1417, 2008-Ohio-6166, 897 N.E.2d 652. On motion for reconsideration. Motion denied.

2008-1463. Krieger v. Cleveland Indians Baseball Co.

Cuyahoga App. Nos. 89314, 89428, and 89463, 176 Ohio App.3d 410, 2008-Ohio-2183. Reported at 120 Ohio St.3d 1415, 2008-Ohio-6166, 897 N.E.2d 651. On motion for reconsideration. Motion denied.

Moyer, C.J., and Lundberg Stratton and Cupp, JJ., dissent and would grant the motion as to Proposition of Law No. II.

Moyer, C.J., and Lundberg Stratton and O'Connor, JJ., dissent and would grant the motion as to Proposition of Law No. III.

2008-1522. State v. Collins.

Cuyahoga App. No. 89808, 2008-Ohio-3016. Reported at 120 Ohio St.3d 1419, 2008-Ohio-6166, 897 N.E.2d 653. On motion for reconsideration. Motion denied.

O'Connor, J., dissents.

2008-1534. Meeker v. Graves Lumber Co.

Summit App. No. 24057, 2008-Ohio-3109. Reported at 120 Ohio St.3d 1419, 2008-Ohio-6166, 897 N.E.2d 653. On motion for reconsideration. Motion denied.

2008-1540. State v. Leffler.

Hardin App. No. 6-07-22, 2008-Ohio-3057. Reported at 120 Ohio St.3d 1419, 2008-Ohio-6166, 897 N.E.2d 654. On motion for reconsideration. Motion denied.

2008-1572. State v. Batrez.

Richland App. No. 2007-CA-75, 2008-Ohio-3117. Reported at 120 Ohio St.3d 1420, 2008-Ohio-6166, 897 N.E.2d 654. On motion for reconsideration. Motion denied.

2008-1582. Powers v. Powers.

Hamilton App. Nos. C-070293 and C-070297, 2008-Ohio-3159. Reported at 120 Ohio St.3d 1420, 2008-Ohio-6166, 897 N.E.2d 654. On motion for reconsideration. Motion denied.

2008-1641. Karnofel v. DWYCO Xerox Office Ctr.

Mahoning App. No. 08 MA 116, 2008-Ohio-3433. Reported at 120 Ohio St.3d 1422, 2008-Ohio-6166, 897 N.E.2d 655. On motion for reconsideration. Motion denied.

2008-1649. Watson v. Walsh.

In Mandamus. Reported at 120 Ohio St.3d 1411, 2008-Ohio-6166, 897 N.E.2d 648. On motion for reconsideration. Motion denied.

2008-1712. State ex rel. Simpson v. Cooper.

Hamilton App. No. C-080473. Reported at 120 Ohio St.3d 297, 2008-Ohio-6110, 898 N.E.2d 936. On motion for reconsideration. Motion denied.

2008-1755. State ex rel. Ganley v. Court of Appeals, Ninth Appellate Dist.

In Mandamus. Reported at 120 Ohio St.3d 1412, 2008-Ohio-6166, 897 N.E.2d 648. On motion for reconsideration. Motion denied.

O'Donnell, J., dissents.

O'Connor, J., not participating.

2008-1816. State v. Smith.

Preble App. No. CA2007-05-011. Reported at 120 Ohio St.3d 1422, 2008-Ohio-6166, 897 N.E.2d 655. On motion for reconsideration. Motion denied.

2008-1904. Martin v. Warden.

In Mandamus. Reported at 120 Ohio St.3d 1412, 2008-Ohio-6166, 897 N.E.2d 649. On motion for reconsideration. Motion denied.