

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

September 7, 2005

[Cite as *09/07/2005 Case Announcements, 2005-Ohio-4605.*]

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### MERIT DECISIONS WITH OPINIONS

**2004-0343. Vandalia-Butler City School Dist. Bd. of Edn. v. Montgomery Cty. Bd. of Revision, 2005-Ohio-4385.**

Board of Tax Appeals, No. 2002-V-1596. Decision affirmed.

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

Pfeifer, J., concurs in judgment only.

**2004-0394. State ex rel. Dispatch Printing Co. v. Johnson, 2005-Ohio-4384.**

In Mandamus. Writs denied.

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

**2004-0988. State ex rel. Nick Strimbu, Inc. v. Indus. Comm., 2005-Ohio-4386.**

Franklin App. No. 03AP-71, 2004-Ohio-2991. Judgment affirmed.

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

**2005-0291. State v. Twyford, 2005-Ohio-4380.**

Jefferson App. No. 93-J-13. Judgment affirmed.

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

**2005-0314. State ex rel. Madsen v. Foley Jones, 2005-Ohio-4381.**

Cuyahoga App. No. 85240, 2005-Ohio-115. Judgment affirmed.

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

**2005-0419. State ex rel. Douglas v. Burlew, 2005-Ohio-4382.**

Hamilton App. No. C-040872. Judgment affirmed.

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

**2005-0524. State ex rel. Hawk v. Athens Cty., 2005-Ohio-4383.**

Athens App. No. 05CA1. Judgment affirmed.

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

**MERIT DECISIONS WITHOUT OPINIONS**

**2005-0817. State ex rel. Ohio Patrolmen's Benevolent Assn. v. Castle.**

In Mandamus. On answer of respondent. On S.Ct.Prac.R. X(5) determination, cause dismissed.

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

**2005-0891. State ex rel. Lakeside Manufactured Home Park v. Bd. of Trustees of Coventry Twp.**

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

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

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

**2005-1078. State ex rel. McGee v. Court of Appeals, Eighth Appellate Dist.**

In Mandamus. On motion for summary judgment and answer of respondent. On S.Ct.Prac.R. X(5) determination, cause dismissed.

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

**2005-1126. State ex rel. Martin v. Hunt.**

In Mandamus. On answer of respondents. On S.Ct.Prac.R. X(5) determination, cause dismissed.

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

**2005-1166. State ex rel. Bohannon v. Hekler.**

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

Moyer, C.J., Resnick, Pfeifer, O'Connor, O'Donnell and Lanzinger, JJ., concur.

Lundberg Stratton, J., dissents and would grant an alternative writ.

**2005-1252. State ex rel. Brown v. Rhodes.**

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

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

## **MOTION AND PROCEDURAL RULINGS**

**2005-0216. State v. Kreischer.**

Perry App. No. 03 CA 20, 2004-Ohio-6854. On motion for stay and remand. Motion denied.

O'Connor, J., dissents.

**2005-0247. Smith v. Conley.**

Stark App. No. 2004CA00068, 2005-Ohio-1433. On motion to strike appellant's merit brief. Motion denied.

**2005-0412. State v. Kreischer.**

Perry App. No. 03 CA 20, 2004-Ohio-6854. On motion for stay and remand. Motion denied.

O'Connor, J., dissents.

**2005-1047. State v. Upshaw.**

Clark App. No. 05CA35. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated at page 3 of the court of appeals' Decision and Entry filed May 19, 2005:

“Whether an order that finds a defendant to be incompetent to stand trial and that commits him to a treatment facility, but does not order the administration of anti-psychotic medication, is a final appealable order?”

Resnick, J., dissents.

The conflict case is *Youngstown v. Ortiz*, 153 Ohio App.3d 271, 2003-Ohio-2238, 793 N.E.2d 498.

**2005-1208. State v. DiCarlo.**

Mahoning App. No. 02 CA 228, 2004-Ohio-5118. On motion for leave to file delayed appeal. Motion granted.

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

**2005-1216. State v. Lorraine.**

Trumbull App. No. 2003-T-0159, 2005-Ohio-2529. On amended motion for stay of court of appeals' judgment. Motion denied.

Resnick, J., dissents.

**2005-1226. State v. Lucas.**

Marion App. No. 9-04-40, 2005-Ohio-1092. On motion for leave to file delayed appeal. Motion denied.

**2005-1232. State v. Trego.**

Ross App. No. 04CA2763, 2004-Ohio-5396 and 2004-Ohio-7287. On motion for leave to file delayed appeal. Motion denied.

**2005-1259. State v. Benson.**

Marion App. No. 9-04-45, 2005-Ohio-2245. On motion for leave to file delayed appeal. Motion granted.

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

**2005-1260. State v. Leach.**

Cuyahoga App. No. 84794, 2005-Ohio-1870. On motion for leave to file delayed appeal. Motion granted.

Resnick and Pfeifer, JJ., dissent.

**2005-1267. State v. Farley.**

Butler App. No. CA2004-04-085, 2005-Ohio-2367. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause consolidated with 2005-1164, *State v. Farley*, Butler App. No. CA2004-04-085, 2005-Ohio-2367; cause held for the decisions in 2004-1771, *State v. Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2004-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209; and briefing schedule stayed.

**2005-1268. State v. Todd.**

Butler App. No. CA2004-06-123, 2005-Ohio-2270. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause consolidated with 2005-1117, *State v. Todd*, Butler App. No. CA2004-06-123, 2005-Ohio-2270; cause held for the decisions in 2004-1771, *State v. Quinones*,

Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2004-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209; and briefing schedule stayed.

**2005-1247. Sherwin Williams Co. v. Dayton Freight Lines.**

Montgomery App. No. 20651, 161 Ohio App.3d 444, 2005-Ohio-2773. 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' Decision and Entry filed July 1, 2005:

“Under the former R.C. 2744.02(B)(3), is a political subdivision liable for injury, death, or loss resulting from a nuisance that exists on public grounds within the political subdivision where the injury, death, or loss caused thereby occurs outside the political subdivision?”

Resnick, Pfeifer and O'Connor, JJ., dissent.

The conflict case is *Kareth v. Toyota Motor Sales* (Sept. 28, 1998), Clermont App. No. CA98-01-011.

Sua sponte, cause consolidated with 2005-1194, *Sherwin Williams Co. v. Dayton Freight Lines*, Montgomery App. No. 20651, 161 Ohio App.3d 444, 2005-Ohio-2773.

**2005-1301. State v. Combs.**

Butler App. No. CA2000-03-047, 2005-Ohio-1923. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause held for the decisions in 2004-1771, *State v. Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2004-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209; and briefing schedule stayed.

**2005-1313. State v. Ware.**

Summit App. No. 22232, 2005-Ohio-1822. On motion for leave to file delayed appeal. Motion denied.

**2005-1334. State v. Fayne.**

Cuyahoga App. No. 83267, 2004-Ohio-4625. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

**2005-1336. State v. Smith.**

Hamilton App. No. C-040348, 2005-Ohio-1325. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

**2005-1341. State v. Smith.**

Madison App. No. CA2003-01-002, 2004-Ohio-1862. On motion for leave to file delayed appeal. Motion denied.

**2005-1349. State v. House.**

Cuyahoga App. No. 78239. On motion for leave to file delayed appeal. Motion denied.

O'Donnell, J., not participating.

**2005-1354. Community Hous. Network v. Stoyer.**

Franklin App. No. 05AP-711. On motion for stay of court of appeals' judgment with waiver of supersedeas bond. Motion denied.

Resnick, J., dissents.

**2005-1369. State v. Butler.**

Butler App. No. CA2003-02-032, 2003-Ohio-7213. On motion for leave to file delayed appeal. Motion denied.

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

**2005-1389. State v. Nawash.**

Cuyahoga App. No. 85032, 2005-Ohio-3012. On motion for stay of court of appeals' judgment. Motion granted.

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

**2005-1395. State v. Smittle.**

Ross App. No. 05CA2827, 2005-Ohio-3577. On motion for stay of court of appeals' judgment. Motion denied.

**2005-1396. State v. McDonald.**

Ross App. No. 04CA2806, 2005-Ohio-3503. On motion for stay of court of appeals' judgment. Motion denied.

**2005-1432. In re Guardianship of Schneider.**

Medina App. No. 05CA0050-M. On motion for stay of court of appeals' judgment. Motion denied.

**2005-1443. Dexas Digital Storage, Inc. v. Haenszel.**

Delaware App. No. 04CAE11074, 161 Ohio App.3d 747, 2005-Ohio-3187. On motion for stay of judgment and proceedings before the Franklin County Court of Common Pleas. Motion denied.

**2005-1458. State ex rel. James v. Nichols.**

In Prohibition. On motion for immediate stay pending decision. Motion denied.  
O'Donnell, J., dissents.

**APPEALS ACCEPTED FOR REVIEW**

**2005-0262. Doe v. Archdiocese of Cincinnati.**

Hamilton App. Nos. C-030900, C-030949, C-030950 and C-040072, 2004-Ohio-7003. Discretionary appeal accepted. Motion to consolidate denied. Sua sponte, cause held for the decision in 2005-0702 and 2005-0734, *Doe v. Archdiocese of Cincinnati*, Shelby App. No. 17-04-10, 2005-Ohio-960.  
Lanzinger, J., not participating.

**2005-0263. Miller v. Archdiocese of Cincinnati.**

Hamilton App. Nos. C-040050, C-040170, C-040171, C-040233 and C-040347. Discretionary appeal accepted. Motion to consolidate denied. Sua sponte, cause held for the decision in 2005-0702 and 2005-0734, *Doe v. Archdiocese of Cincinnati*, Shelby App. No. 17-04-10, 2005-Ohio-960.  
Lanzinger, J., not participating.

**2005-0806. Simon v. Commonwealth Land Title Ins. Co.**

Cuyahoga App. No. 84553, 2005-Ohio-1007. Discretionary appeal accepted on Proposition of Law Nos. II and III. Sua sponte, cause held for the decision in 2004-0574, *Henderson v. Lawyers Title Ins. Co.*, Cuyahoga App. No. 82654, 2004-Ohio-744.  
Resnick and Pfeifer, JJ., dissent.  
O'Donnell, J., not participating.

**2005-0809. State v. Goins.**

Mahoning App. No. 02CA68, 2005-Ohio-1439. Discretionary appeal accepted on Proposition of Law No. I; cause held for the decisions in 2004-1771, *State v. Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2004-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209; and briefing schedule stayed.

**2005-0832. Raub v. Garwood.**

Summit App. No. 22210, 2005-Ohio-1279.  
Resnick, J., dissents.

**2005-0868. State v. Scarberry.**

Logan App. No. 8-04-32, 2005-Ohio-1425. Discretionary appeal accepted; cause held for the decisions in 2004-1771, *State v. Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2004-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209; and briefing schedule stayed.

**2005-0876. State v. Allen.**

Lake App. No. 2004-L-038, 2005-Ohio-1415. Discretionary appeal accepted; cause held for the decisions in 2004-1771, *State v. Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2004-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209; and briefing schedule stayed.

**2005-0890. State v. Hill.**

Cuyahoga App. No. 84683, 2005-Ohio-1311. Discretionary appeal accepted on Proposition of Law No. III; cause held for the decisions in 2004-1771, *State v. Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2004-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209; and briefing schedule stayed.

O'Connor, J., would also accept the appeal on Proposition of Law No. I and hold the cause for the decisions in 2004-1171, *State v. Mathis*, Cuyahoga App. No. 83311, 2004-Ohio-2982, and 2004-1267, *State v. Fair*, Cuyahoga App. No. 82278, 2004-Ohio-2971.

**2005-0896. Theobald v. Univ. of Cincinnati.**

Franklin App. No. 02AP-560, 160 Ohio App.3d 342, 2005-Ohio-1510.  
Resnick, O'Donnell and Lanzinger, JJ., dissent.

On motion for admission pro hac vice of Douglas C. Holland by James P. Sullivan. Motion granted.

**2005-0903. State v. Burns.**

Summit App. No. 22198, 2005-Ohio-1459. Discretionary appeal accepted on Proposition of Law No. I; cause held for the decisions in 2004-1771, *State v. Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2004-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209; and briefing schedule stayed.

**2005-0905. Jackson v. Greger.**

Montgomery App. No. 20693, 160 Ohio App.3d 258, 2005-Ohio-1588.  
Resnick and Pfeifer, JJ., dissent.

**2005-0906. State v. Worrell.**

Franklin App. No. 04AP-410, 2005-Ohio-1521. Discretionary appeal accepted on Proposition of Law No. II; cause held for the decisions in 2004-1771, *State v.*



*Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2004-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209; and briefing schedule stayed.

**2005-0909. State v. Holt.**

Erie App. No. E-04-004, 2005-Ohio-1554. Discretionary appeal accepted on Proposition of Law No. I; cause held for the decisions in 2004-1771, *State v. Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2004-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209; and briefing schedule stayed.

**2005-0910. State v. Hyslop.**

Lucas App. No. L-03-1298, 2005-Ohio-1556. Discretionary appeal accepted; cause held for the decisions in 2004-1771, *State v. Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2004-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209; and briefing schedule stayed.

**2005-0917. State v. Rorie.**

Stark App. No. 2002CA00187, 2005-Ohio-1726. Discretionary appeal accepted; cause held for the decisions in 2004-1771, *State v. Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2004-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209; and briefing schedule stayed.

**2005-0929. Fairchilds v. Miami Valley Hosp.**

Montgomery App. Nos. 20493 and 20542, 160 Ohio App.3d 363, 2005-Ohio-1712.  
Resnick and Pfeifer, JJ., dissent.

**2005-0937. State v. Holmes.**

Summit App. No. 22174, 2005-Ohio-1632.  
Resnick, J., dissents.

**2005-0954. State v. Whited.**

Washington App. No. 04CA31, 2005-Ohio-2224. Discretionary appeal accepted; cause held for the decision in 2004-1771, *State v. Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2004-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209; and briefing schedule stayed.

**2005-0966. State v. Wymer.**

Lucas App. No. L-03-1125, 2005-Ohio-1775. Discretionary appeal accepted; cause held for the decisions in 2004-1771, *State v. Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2004-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209; and briefing schedule stayed.

**2005-1117. State v. Todd.**

Butler App. No. CA2004-06-123, 2005-Ohio-2270. Discretionary appeal accepted; cause consolidated with 2005-1268, *State v. Todd*, Butler App. No. CA2004-06-123, 2005-Ohio-2270; cause held for the decisions in 2004-1771, *State v. Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2004-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209; and briefing schedule stayed.

**2005-1164. State v. Farley.**

Butler App. No. CA2004-04-085, 2005-Ohio-2367. Discretionary appeal accepted; cause consolidated with 2005-1267, *State v. Farley*, Butler App. No. CA2004-04-085, 2005-Ohio-2367; cause held for the decisions in 2004-1771, *State v. Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2004-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209; and briefing schedule stayed.

**2005-1194. Sherwin Williams Co. v. Dayton Freight Lines.**

Montgomery App. No. 20651, 161 Ohio App.3d 444, 2005-Ohio-2773. Discretionary appeal accepted and cause consolidated with 2005-1247, *Sherwin Williams Co. v. Dayton Freight Lines*, Montgomery App. No. 20651, 161 Ohio App.3d 444, 2005-Ohio-2773.

Resnick, Pfeifer and O'Connor, JJ., dissent.

**APPEALS NOT ACCEPTED FOR REVIEW**

**2005-0348. State v. Kadas.**

Wood App. No. WD-04-013, 2004-Ohio-7159.

Lanzinger, J., not participating.

**2005-0399. State v. Paige.**

Cuyahoga App. No. 84574, 2004-Ohio-7029.

**2005-0550. State v. Carter.**

Franklin App. No. 03AP-778, 2005-Ohio-291.

**2005-0632. State v. Billingsley.**

Putnam App. No. 12-04-14.

Moyer, C.J., dissents and would accept the appeal and hold the cause for the decisions in 2004-1771, *State v. Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2005-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209.

**2005-0652. RPM, Inc. v. Oatey Co.**

Medina App. Nos. 3282-M and 3289-M, 2003-Ohio-367 and 2005-Ohio-1280.  
Discretionary appeal and cross-appeal not accepted.

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

Motion to strike portions of memorandum of RPM, Inc., in response and in support of cross-appeal denied as moot.

**2005-0758. State v. Weaver.**

Hamilton App. No. C-040502.

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

Lanzinger, J., dissents.

**2005-0802. State v. Galloway.**

Lucas App. Nos. L-05-1051 and L-05-1052.

**2005-0804. State v. Peoples.**

Miami App. No. 05CA11.

**2005-0805. Martin v. Nguyen.**

Cuyahoga App. No. 84771, 2005-Ohio-1011.

Moyer, C.J., dissents.

**2005-0819. State v. Bunley.**

Allen App. No. 1-04-95, 2005-Ohio-1922.

**2005-0825. State v. Brannack.**

Williams App. Nos. WM-04-005 and WM-04-006, 2005-Ohio-1386.

Lanzinger, J., dissents.

**2005-0828. State v. Clark.**

Hamilton App. No. C-040329, 2005-Ohio-1324.

**2005-0831. Byrd v. Kirby.**

Franklin App. No. 04AP-451, 2005-Ohio-1261.

Pfeifer, J., dissents.

**2005-0833. Boggs v. Scotts Co.**

Franklin App. No. 04AP-425, 2005-Ohio-1264.

Moyer, C.J., dissents and would accept the appeal on Proposition of Law No. V.

Pfeifer, J., dissents.

**2005-0838. Huntsman v. Aultman Hosp.**

Stark App. No. 2004CA00142, 160 Ohio App.3d 196, 2005-Ohio-1482.

Resnick and Pfeifer, JJ., dissent.

**2005-0841. State v. Donahue.**

Fairfield App. No. 2004-CA-20, 2005-Ohio-1478.

**2005-0843. Roselawn Chiropractic Center, Inc. v. Allstate Ins. Co.**

Hamilton App. No. C-040306, 160 Ohio App.3d 297, 2005-Ohio-1327.

Pfeifer, J., dissents.

**2005-0844. Doran v. Northmont Bd. of Edn.**

Montgomery App. No. 20070, 2005-Ohio-1360.

Pfeifer and Lundberg Stratton, JJ., dissent.

**2005-0846. State v. Ryder.**

Lorain App. No. 04CA008561, 2005-Ohio-1281.

Lanzinger, J., dissents and would accept the appeal on Proposition of Law No. II.

**2005-0847. State v. Rogers.**

Summit App. No. 22572.

Lanzinger, J., dissents.

**2005-0850. In re Keylor.**

Monroe App. No. 04 MO 02, 2005-Ohio-1661.

Pfeifer and O'Donnell, JJ., dissent.

**2005-0854. McLeland v. Donofrio.**

Summit App. No. 22291, 2005-Ohio-1462.

**2005-0856. State v. Hoop.**

Brown App. No. CA2004-02-003, 2005-Ohio-1407.

**2005-0859. Clements v. Ohio Hosp. Ins. Co.**

Stark App. No. 2004CA00265, 2005-Ohio-1956.  
Pfeifer, J., dissents.

**2005-0864. State v. Martinez.**

Henry App. No. 7-05-01.

**2005-0869. Smith v. Fry.**

Summit App. No. 22217, 2005-Ohio-1470.

Moyer, C.J., dissents.

Lanzinger, J., dissents and would accept the appeal on Proposition of Law No. II.

**2005-0870. Cicchini v. Streza.**

Stark App. No. 2004CA00220, 160 Ohio App.3d 189, 2005-Ohio-1492.

O'Donnell, J., dissents.

**2005-0871. Cincinnati v. Queen City Lodge No. 69, Fraternal Order of Police.**

Hamilton App. No. C-040454, 2005-Ohio-1560.

**2005-0873. State v. Wangul.**

Cuyahoga App. No. 84698, 2005-Ohio-1175.

**2005-0881. State v. Richard.**

Cuyahoga App. No. 84798, 2005-Ohio-1185.

**2005-0882. State v. Johnson.**

Erie App. No. E-05-019.

**2005-0884. State v. Horton-Alomar.**

Franklin App. No. 04AP-744, 2005-1537.

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

**2005-0885. State v. Lucente.**

Mahoning App. No. 03 MA 216, 2005-Ohio-1657.

Resnick and Lundberg Stratton, JJ., dissent.

**2005-0888. Med. Protective Co. v. Watson.**

Franklin App. No. 04AP-915, 2005-Ohio-1452.

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

**2005-0898. State v. Murray.**

Ashtabula App. No. 2003-A-0012, 2005-Ohio-1568.

**2005-0900. State v. McLean.**

Trumbull App. Nos. 2003-T-0117 and 2003-T-0118, 2005-Ohio-1562.

**2005-0904. State v. Merriweather.**

Hamilton App. No. C-030948.

**2005-0907. A.G. Financial, Inc. v. LaSalla.**

Cuyahoga App. No. 84880, 2005-Ohio-1504.

**2005-0911. Cooke v. United Dairy Farmers, Inc.**

Franklin App. No. 04AP-817, 2005-Ohio-1539.

**2005-0915. State v. Korbel.**

Franklin App. No. 05AP-157.

**2005-0919. In re Johnston.**

Franklin App. No. 05AP-10.

**2005-0924. Longsdorf v. Fly.**

Madison App. No. CA2004-09-032.

**2005-0925. State v. Varney.**

Ashland App. No. 04-COA-028, 2005-Ohio-1752.

Lundberg Stratton, J., would accept the appeal on Proposition of Law Nos. I and II.

**2005-0932. Harris v. Miami Cty. Sheriff's Dept.**

Miami App. No. 2004 CA 29, 160 Ohio App.3d 435, 2005-Ohio-1713.

**2005-0933. State v. Peet.**

Medina App. No. 05CA0027-M.

**2005-0939. State v. Emrick.**

Muskingum App. No. CT2005-0010.

**2005-0940. State v. Liles.**

Allen App. No. 1-05-10.

Pfeifer, J., dissents and would accept the appeal and hold the cause for the decisions in 2004-1771, *State v. Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2004-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209.

**2005-0942. State v. Dye.**

Hamilton App. No. C-040506.

**2005-0943. State v. Rogers.**

Hamilton App. No. C-040493.

**2005-0944. State v. Harmon.**

Pickaway App. No. 04CA22, 2005-Ohio-1974.

**2005-0947. State v. Massie.**

Ottawa App. No. OT-04-007, 2005-Ohio-1678.

O'Donnell, J., dissents.

**2005-0948. Brady v. McCaffrey.**

Cuyahoga App. No. 84866, 2005-Ohio-1197.

**2005-0952. State v. Conley.**

Medina App. No. 05CA0028-M.

**2005-0953. State v. Griffith.**

Cuyahoga App. No. 84760, 2005-Ohio-1500.

O'Connor, J., not participating.

**2005-0955. Indiana Ins. Co. v. Fed. Ins. Co.**

Tuscarawas App. No. 2004AP070056.

Pfeifer, J., dissents.

**2005-0956. Indiana Ins. Co. v. Farmers Ins. Co. of Columbus, Inc.**

Tuscarawas App. No. 2004AP070055.

Pfeifer, J., dissents.

**2005-0957. State v. Franz.**

Knox App. No. 04CA000013, 2005-Ohio-1755.

O'Donnell, J., dissents.

**2005-0958. Johnson v. Wickliffe.**

Lake App. No. 2003-L-159, 2005-Ohio-1687.

Pfeifer, J., dissents.

**2005-0962. Superior Piping Contrs., Inc. v. Reilly Ind., Inc.**

Cuyahoga App. No. 84871, 2005-Ohio-1318.

**2005-0963. State v. Murray.**

Lake App. No. 2003-L-045, 2005-Ohio-1693.

**2005-0964. Smith v. Mighty Distrib. of S.W., PA, Inc.**

Trumbull App. No. 2004-T-0056, 2005-Ohio-1689.

O'Donnell, J., dissents.

**2005-0965. State v. Hill.**

Cuyahoga App. Nos. 84846 and 84887, 160 Ohio App.3d 324, 2005-Ohio-1501.

**2005-0967. Webster v. Timken Co.**

Stark App. No. 2004CA00260, 2005-Ohio-1759.

**2005-0969. State v. Prather.**

Cuyahoga App. No. 84913, 2005-Ohio-1743.

**2005-0975. State v. Ramsey.**

Franklin App. No. 04AP-710, 2005-Ohio-1849.

**2005-0976. State v. Smith.**

Franklin App. No. 04AP-726, 2005-Ohio-1765.

**2005-0977. Spafford v. Cuyahoga Community College.**

Cuyahoga App. No. 84786, 2005-Ohio-1672.

**2005-0978. State v. Wallace.**

Cuyahoga App. No. 84808, 160 Ohio App.3d 528, 2005-Ohio-1746.

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

**2005-0979. State v. Walker.**

Cuyahoga App. No. 86174.



**2005-0986. State v. Yang.**

Summit App. No. 22639.

**2005-0989. State v. Evans.**

Trumbull App. No. 2003-T-0132, 2005-Ohio-1787.

Moyer, C.J., dissents.

**2005-0991. Gottfried v. Dept. of Rehab. & Corr.**

Crawford App. No. 3-04-33, 2005-Ohio-1783.

Pfeifer, J., dissents.

**2005-1015. Roberts v. Republic Storage Sys. Co.**

Stark App. No. 2004CA00230, 2005-Ohio-1953.

O'Donnell, J., dissents.

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

**2005-1017. Bartholomew Builders, Inc. v. Spiritos.**

Trumbull App. No. 2003-T-0027, 2005-Ohio-1900.

**2005-1024. State v. Woods.**

Medina App. No. 05CA0036-M.

**2005-1032. State v. Forston.**

Cuyahoga App. No. 85096, 2005-Ohio-2463.

**2005-1036. State v. Jackson.**

Allen App. No. 1-04-52, 2005-Ohio-1083.

**2005-1048. State v. Upshaw.**

Clark App. No. 05CA35.

O'Connor, J., dissents.

Lundberg Stratton and Lanzinger, JJ., dissent and would accept the appeal on Proposition of Law No. I.

**2005-1052. State v. Richter.**

Lake App. No. 2002-L-080, 2003-Ohio-6734.

**2005-1054. Struna v. Convenient Food Mart.**

Cuyahoga App. No. 84886, 160 Ohio App.3d 655, 2005-Ohio-1861.

**2005-1091. State v. Rogers.**

Franklin App. No. 04AP-705, 2005-Ohio-2202.

**2005-1092. State v. Tullis.**

Franklin App. No. 04AP-333, 2005-Ohio-2205.

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

**2005-1122. State v. While.**

Trumbull App. No. 2001-T-0051, 2003-Ohio-4594.

O'Connor, J., not participating.

**2005-1132. State v. Ramirez.**

Medina App. No. 04CA0024-M, 2004-Ohio-6541.

O'Donnell and Lanzinger, JJ., dissent.

**2005-1155. State v. Williams.**

Cuyahoga App. No. 82094, 2003-Ohio-4811 and 2005-Ohio-2313.

**2005-1158. State v. Williams.**

Cuyahoga App. No. 82364, 2003-Ohio-6342 and 2005-Ohio-2439.

**2005-1160. State v. Skaggs.**

Wood App. No. WD-04-002, 2004-Ohio-6653.

Moyer, C.J., dissents and would accept the appeal and hold the cause for the decision in 2004-1771, *State v. Quinones*, Cuyahoga App. No. 83720, 2004-Ohio-4485, and 2005-1568, *State v. Foster*, Licking App. No. 03CA95, 2004-Ohio-4209.

Lanzinger, J., not participating.

**2005-1198. In re McLean.**

Trumbull App. No. 2005-T-0018, 2005-Ohio-2576.

Resnick and Pfeifer, JJ., dissent.

**RECONSIDERATION OF PRIOR DECISIONS**

**2005-0456. In re Kupchik.**

Cuyahoga App. No. 84493, 2005-Ohio-23. Reported at 106 Ohio St.3d 1413, 2005-Ohio-3154, 830 N.E.2d 346. On motion for reconsideration. Motion denied.

**2005-0483. Wildi v. Wildi.**

Franklin App. No. 04AP-576, 159 Ohio App.3d 568, 2005-Ohio-257. Reported at 106 Ohio St.3d 1414, 2005-Ohio-3154, 830 N.E.2d 346. On motion for reconsideration. Motion denied.

**2005-0528. State v. Christie.**

Defiance App. No. 4-04-31. Reported at 106 Ohio St.3d 1415, 2005-Ohio-3154, 830 N.E.2d 347. On motion for reconsideration. Motion denied.

**2005-0565. McGowan v. Crossroads Land Co.**

Summit App. No. 22222, 2005-Ohio-598. Reported at 106 Ohio St.3d 1416, 2005-Ohio-3154, 830 N.E.2d 348. On motion for reconsideration. Motion denied.

**2005-0634. State v. Sherrills.**

Cuyahoga App. No. 85873. Reported at 106 Ohio St.3d 1416, 2005-Ohio-3154, 830 N.E.2d 348. On motion for reconsideration. Motion denied.

**2005-0658. New World Communications of Ohio, Inc. v. Wilkins.**

Board of Tax Appeals, Nos. 2003-A-1732 and 2003-A-1733. Reported at 106 Ohio St.3d 1458, 2005-Ohio-3490, 830 N.E.2d 1166. On motion for reconsideration. Motion denied.

Pfeifer, J., dissents.

**2005-0705. Haga v. Albex Aluminum, Inc.**

Stark App. No. 2003CA00312, 2005-Ohio-1509. Reported at 106 Ohio St.3d 1463, 2005-Ohio-3490, 830 N.E.2d 1170. On motion for reconsideration. Motion denied.

**2005-0724. State v. Kimbrough.**

Licking App. Nos. 03CA76 and 03CA78, 2004-Ohio-5429. Reported at 106 Ohio St.3d 1408, 2005-Ohio-3154, 830 N.E.2d 343. On motion for reconsideration. Motion denied.

**2005-0740. State ex rel. Mosely v. Cuyahoga Cty. Dept. of Job & Family Serv.**

In Mandamus. Reported at 106 Ohio St.3d 1407, 2005-Ohio-3154, 830 N.E.2d 342. On motion for reconsideration. Motion denied.

**2005-0795. State ex rel. Christian v. Sweeney.**

In Mandamus and Prohibition. Reported at 106 Ohio St.3d 1458, 2005-Ohio-3490, 830 N.E.2d 1166. On motion for reconsideration. Motion denied.

**2005-0863. State v. Stillman.**

Delaware App. No. 04CAA07052, 2004-Ohio-6974. Reported at 106 Ohio St.3d 1464, 2005-Ohio-3490, 830 N.E.2d 1170. On motion for reconsideration. Motion denied.

**2005-0921. In re B.L.**

Franklin App. No. 04AP-1108, 2005-Ohio-1151. Reported at 106 Ohio St.3d 1417, 2005-Ohio-3154, 830 N.E.2d 348. On motion for reconsideration. Motion denied.