

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS

May 14, 2014

[Cite as *05/14/2014 Case Announcements*, 2014-Ohio-2021.]

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## MERIT DECISIONS WITH OPINIONS

**2010-0576. State v. Mammone, Slip Opinion No. 2014-Ohio-1942.**

Stark C.P. No. 2009-CR-0859. Judgment affirmed.

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

O'Neill, J., concurs in part and dissents in part.

**2012-1722. Oaktree Condominium Assn., Inc. v. Hallmark Bldg. Co., Slip Opinion No. 2014-Ohio-1937.**

Lake App. No. 2012-L-011, 2012-Ohio-3891. Judgment reversed.

O'Connor, C.J., and Pfeifer, Lanzinger, and O'Neill, JJ., concur.

O'Donnell, Kennedy, and French, JJ., dissent.

**2013-1350. Fugett v. Turner, Slip Opinion No. 2014-Ohio-1934.**

Marion App. No. 9-13-30. Judgment affirmed.

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

## MERIT DECISIONS WITHOUT OPINIONS

**2014-0293. Morris v. Marsh.**

In Mandamus. On complaint in mandamus. Upon consideration of respondent's suggestion of mootness and on S.Ct.Prac.R. 12.04 determination, cause dismissed.

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

**2014-0329. State ex rel. Hendricks v. Ohio Dept. of Rehab. & Corr.**

In Mandamus. On answer of respondents. Upon consideration thereof, it is ordered by the court, sua sponte, that an alternative writ is granted and the following briefing schedule is set for presentation of evidence and filing of briefs pursuant to S.Ct.Prac.R. 12.05:

The parties shall file any evidence they intend to present within 20 days of the date of this entry; 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.

Pfeifer, O'Donnell, Kennedy, French, and O'Neill, JJ., concur.  
O'Connor, C.J., and Lanzinger, J., dissent.

**2014-0372. State ex rel. Anderson v. Mason.**

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

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

**2014-0387. Green Tree Servicing, L.L.C. v. Roberts.**

Butler App. No. CA2013-03-039, 2013-Ohio-5362. On review of order certifying a conflict. The court determines that no conflict exists. Cause dismissed.

Pfeifer, O'Donnell, Kennedy, and French, JJ., concur.  
O'Connor, C.J., and Lanzinger and O'Neill, JJ., dissent.

**2014-0395. Fahl v. Rastatter.**

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

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

**MOTION AND PROCEDURAL RULINGS**

**2014-0297. U.S. Bank, N.A. v. Cooper.**

Medina App. No. 12CA0084-M, 2014-Ohio-61. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause held for the decision in 2013-0304, *Bank of Am., N.A. v. Kuchta*, 9th Dist. Medina No. 12CA0025-M, 2012-Ohio-5562; and briefing schedule stayed.

Pfeifer and O'Donnell, JJ., dissent.

**2014-0328. In re Application of Duke Energy Ohio, Inc.**

Public Utilities Commission, Nos. 12-1685-GA-AIR, 12-1686-GA-ATA, 12-1687-GA-ALT, and 12-1688-GA-AAM. On joint motion for stay. Motion granted and no bond for the stay is required.

O'Connor, C.J., and Lanzinger and French, JJ., dissent.

**2014-0385. State v. Wilson.**

Richland App. No. 13CA39, 2014-Ohio-41. On motion for delayed appeal. Motion denied.

Pfeifer, Kennedy, and O'Neill, JJ., dissent.

**2014-0386. State v. Harris.**

Champaign App. No. 2013 CA 10, 2013-Ohio-4818. On motion for delayed appeal and motion for stay. Motions denied.

**2014-0400. State v. Posey.**

Knox App. No. 13CA29. On motion for delayed appeal. Motion denied.

**2014-0405. State v. Payne.**

Summit App. No. 26655, 2013-Ohio-5230. On motion for delayed appeal. Motion denied.

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

**2014-0408. State v. Henderson.**

Butler App. No. CA2012-02-021. On motion for delayed appeal. Motion denied.

**2014-0410. In re B.L.**

Lucas App. No. L-13-1258. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause held for the decision in 2013-1932 and 2014-0181, *In re B.C.*, 2d Dist. Clark App. No. 2013-CA-72; and briefing schedule stayed.

Pfeifer, J., dissents.

**2014-0411. State v. Ellis.**

Cuyahoga App. No. 99830, 2014-Ohio-116. On motion for delayed appeal. Motion granted.

O'Connor, C.J., and French and O'Neill, JJ., dissent.

**2014-0418. State v. Banks.**

Lake App. No. 2102-L-110, 2013-Ohio-3865. On motion for delayed appeal. Motion denied.

Pfeifer, J., dissents.

**2014-0420. State v. Scott.**

Stark App. No. 2013CA00063, 2013-Ohio-5875. On motion for delayed appeal. Motion granted.

O'Donnell and Lanzinger, JJ., dissent.

**2014-0422. State v. Waller.**

Clark App. No. 2013-CA-26, 2014-Ohio-237. On motion for delayed appeal. Motion granted.

French, J., dissents.

**2014-0425. State v. Ware.**

Portage App. No. 2013-P-0011, 2013-Ohio-5833. 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' entry filed March 5, 2014:

“When the imposition of a mandatory prison term is statutorily-mandated for a specific felony offense, is the trial court permitted to impose a total prison term within the maximum allowed, only a portion of which is mandatory under the statute?”

The conflict case is *State v. Thomas*, 3d Dist. Allen No. 1-04-88, 2005-Ohio-4616.

Lanzinger, J., dissents.

**2014-0428. State v. Isa.**

Champaign App. No. 2013 CA 20, 2014-Ohio-139. On motion for delayed appeal. Motion denied.

Pfeifer, Kennedy, and O'Neill, JJ., dissent.

**2014-0431. State v. Johnson.**

Medina App. No. 12CA0066-M, 2014-Ohio-62. On motion for delayed appeal. Motion granted.

O'Donnell, Kennedy, and French, JJ., dissent.

**2014-0455. State v. Bostick.**

Summit App. No. 26880, 2013-Ohio-5784. On motion for delayed appeal. Motion denied.

Pfeifer, Kennedy, and O’Neill, JJ., dissent.

**2014-0485. SRMOF 2009-1 Trust v. Lewis.**

Butler App. Nos. CA2012-11-239 and CA2013-05-068, 2014-Ohio-71. On review of order certifying a conflict, the court determines that a conflict exists on both issues certified. The parties are to brief issue 1 stated on pages 2-3 of the court of appeals’ entry filed March 12, 2014:

“In order to establish standing in a foreclosure action and invoke the jurisdiction of the common pleas court, must the plaintiff establish at the time complaint for foreclosure is filed that it has an interest in both the note and the mortgage, or is it sufficient if the Plaintiff demonstrates an interest in either the note or the mortgage?”

The conflict case is *BAC Home Loans Servicing v. McFerren*, 9th Dist. Summit No. 26384, 2013-Ohio-3228.

O’Donnell, J., dissents.

Issue 2 is held for the decision in 2012-2110, *CitiMortgage, Inc. v. Roznowski*, 5th Dist. Stark No. 2012-CA-93, 2012-Ohio-4901; and briefing schedule stayed.

**2014-0500. State v. Robinson.**

Butler App. No. CA2013-05-085, 2013-Ohio-5672. On motion for delayed appeal. Motion denied.

Pfeifer, J., dissents.

**2014-0506. State v. Arnold.**

Meigs App. No. 11CA21, 2014-Ohio-264. On motion for delayed appeal. Motion denied.

Pfeifer, Lanzinger, and O’Neill, JJ., dissent.

**APPEALS ACCEPTED FOR REVIEW**

**2014-0164. Stewart v. Lockland School Dist. Bd. of Edn.**

Hamilton App. No. C-130263, 2013-Ohio-5513.

O’Connor, C.J., and O’Donnell and Kennedy, JJ., dissent.

**2014-0189. Bundy v. State.**

Montgomery App. No. 25665, 2013-Ohio-5619.

O’Connor, C.J., and French and O’Neill, JJ., dissent.

**2014-0296. U.S. Bank, N.A. v. Cooper.**

Medina App. No. 12CA0084-M, 2014-Ohio-61. Discretionary appeal accepted and cause held for the decision in 2013-0304, *Bank of Am., N.A. v. Kuchta*, 9th Dist. Medina No. 12CA0025-M, 2012-Ohio-5562; and briefing schedule stayed.

O'Connor, C.J., and Pfeifer and O'Donnell, JJ., dissent.

**2014-0354. In re A.C.**

Hamilton App. Nos. C-130416, C-130464, and C-130467, 2014-Ohio-174. Discretionary appeal accepted and cause held for the decision in 2013-0579, *In re D.M.*, 1st Dist. Hamilton No. C-120794, 2013-Ohio-668; and briefing schedule stayed.

Pfeifer, J., dissents.

**APPEALS NOT ACCEPTED FOR REVIEW**

**2011-2164. State v. Bonnell.**

Cuyahoga App. No. 96368, 2011-Ohio-5837.

Lanzinger and O'Neill, JJ., dissent.

**2013-1787. Deutsche Bank Natl. Trust Co. v. Taylor.**

Summit App. No. 26626, 2013-Ohio-4278. Discretionary appeal not accepted. Appellant's motion to strike memorandum in response and motion to stay pending court's disengagement denied.

**2014-0049. State v. Hartman.**

Medina App. No. 12CA0057-M, 2013-Ohio-4407. Discretionary appeal and cross-appeal not accepted.

Pfeifer, J., dissents.

Kennedy, J., dissents and would accept the cross-appeal.

**2014-0102. State v. Arnold.**

Montgomery App. No. 24687, 2013-Ohio-5336.

Pfeifer, J., dissents.

**2014-0103. State v. Kilby.**

Montgomery App. No. 25650, 2013-Ohio-5340.

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

**2014-0107. State v. Wilkins.**

Clinton App. No. CA2013-05-012, 2013-Ohio-5372.

**2014-0112. State v. Jimenez.**

Erie App. No. E-13-030, 2013-Ohio-5469.

O'Connor, C.J., dissents and would accept the discretionary appeal and hold the cause for the decision in 2013-1102, *Cincinnati v. Ilg*, 1st Dist. Hamilton No. C-120667, 2013-Ohio-2191.

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

**2014-0113. State v. Brister.**

Guernsey App. No. 13 CA 21, 2013-Ohio-5874.

**2014-0115. State v. Deeb.**

Erie App. No. E-12-052, 2013-Ohio-5175. Discretionary appeal and cross-appeal not accepted.

O'Donnell and O'Neill, JJ., dissent and would accept the cross-appeal.

**2014-0125. State v. McDowell.**

Franklin App. No. 13AP-229, 2013-Ohio-5300.

O'Neill, J., dissents.

**2014-0127. Assn. of Cleveland Firefighters v. Cleveland.**

Cuyahoga App. No. 99999, 2013-Ohio-5439.

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

French and O'Neill, JJ., dissent.

**2014-0128. Ewert v. Holzer Clinic, Inc.**

Gallia App. No. 13CA5, 2013-Ohio-5609.

**2014-0129. LeFever v. State.**

Franklin App. No. 12AP-1034, 2013-Ohio-4606.

**2014-0137. Osburn Towing v. Akron.**

Summit App. No. 26633, 2013-Ohio-5409.

Kennedy, J., dissents.

**2014-0143. State v. Steele.**

Hamilton App. No. C-100637, 2011-Ohio-5479.

**2014-0144. State v. Hall.**

Delaware App. No. 12 CAA 03 0017, 2013-Ohio-5855.

Kennedy and O’Neill, JJ., dissent.

**2014-0145. State v. Helms.**

Mahoning App. No. 08 MA 199, 2013-Ohio-5530.

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

O’Neill, J., dissents.

**2014-0146. State v. Garza.**

Henry App. No. 7-13-04, 2013-Ohio-5492.

**2014-0147. Paasewe v. Wendy Thomas 4, Ltd.**

Franklin App. No. 09AP-510, 2009-Ohio-6852. Discretionary appeal not accepted. Appellee’s motion for sanctions under S.Ct.Prac.R. 4.03(A) and to deem appellant a vexatious litigator under S.Ct.Prac.R. 4.03(B) denied.

**2014-0149. State v. Blevins.**

Scioto App. No. 10CA3353.

**2014-0152. State v. Andrews.**

Hamilton App. No. C-120858.

**2014-0153. State v. Pearson.**

Licking App. No. 13-CA-59, 2013-Ohio-5690.

**2014-0154. Robinette v. Bryant.**

Lawrence App. No. 13CA9, 2013-Ohio-5887.

**2014-0155. State v. Bradley.**

Hamilton App. No. C-130205.

**2014-0156. State v. King.**

Cuyahoga App. No. 99319, 2013-Ohio-4791.

**2014-0158. State v. Weimer.**

Lake App. No. 2013-L-008, 2013-Ohio-5651.

**2014-0161. Ohio Kentucky Oil Corp. v. Nolfi.**

Stark App. No. 2013CA00084, 2013-Ohio-5519.

Lanzinger, Kennedy, and O’Neill, JJ., dissent.

**2014-0165. Blausey v. Van Ness.**

Ottawa App. No. OT-13-011, 2013-Ohio-5624.

**2014-0167. State v. Pryor.**

Stark App. No. 2013CA00016, 2013-Ohio-5693.

**2014-0173. Penwell v. Doss.**

Crawford App. No. 3-13-11.

**2014-0174. State v. Linkous.**

Scioto App. No. 12CA3517, 2013-Ohio-5853.

**2014-0176. BAC Home Loans Servicing, L.P. v. Tabac.**

Cuyahoga App. No. 99724, 2013-Ohio-5582.

**2014-0177. State v. Morrison.**

Adams App. No. 13CA959, 2013-Ohio-5684.

**2014-0178. In re OPC Polymers v. Pub. Util. Comm.**

Franklin App. No. 12AP-735, 2013-Ohio-5443.

French and O’Neill, JJ., dissent.

**2014-0180. Hines v. Univ. of Akron.**

Franklin App. No. 13AP-582.

O’Connor, C.J., and Kennedy and French, JJ., dissent.

**2014-0184. Dunkle v. Children’s Hosp. Med. Ctr. of Akron.**

Summit App. No. 26612, 2013-Ohio-5555.

Pfeifer, J., dissents.

**2014-0188. Waldron v. Rickey.**

Hamilton App. No. C-130274.

**2014-0191. State v. Verdi.**

Erie App. No. E-13-025, 2013-Ohio-5630.

O'Neill, J., dissents.

**2014-0193. Re/Max Crossroads Properties v. Roberts.**

Cuyahoga App. No. 99537, 2013-Ohio-5575.

**2014-0194. In re Application for Sealing of Records of McBride.**

Franklin App. Nos. 13AP-658 and 13AP-680, 2013-Ohio-5718.

**2014-0195. R & S Distrib., Inc. v. Alsfelder.**

Hamilton App. No. C-130250.

**2014-0196. State v. Terrell.**

Cuyahoga App. No. 99625, 2013-Ohio-5577.

O'Donnell, J., dissents.

**2014-0198. State v. Shorter.**

Montgomery App. No. 26000.

**2014-0199. State v. Shoop.**

Hancock App. No. 5-13-19. Discretionary appeal not accepted. Appellee's motion to declare Frank Ray Shoop a vexatious litigator denied.

O'Donnell, J., dissents and would grant the motion to declare Frank Ray Shoop a vexatious litigator.

**2014-0205. Hamilton v. Reynolds.**

Hancock App. No. 5-13-11, 2013-Ohio-5660.

**2014-0206. Union Savs. Bank v. Schaefer.**

Franklin App. No. 13AP-222, 2013-Ohio-5704.

**2014-0208. State v. Kaczmarek.**

Hancock App. No. 5-12-32, 2013-Ohio-5658.

**2014-0211. In re A.I.**

Cuyahoga App. No. 100074.

**2014-0215. Bates v. Cincinnati.**

Hamilton App. No. C-130145, 2013-Ohio-5893.

**2014-0216. Bank of Am., N.A. v. Harris.**  
Cuyahoga App. No. 99272, 2013-Ohio-5749.

**2014-0217. Black v. Stouffer Realty, Inc.**  
Summit App. No. 26550, 2013-Ohio-5723.  
Pfeifer, J., dissents.

**2014-0218. State v. Ruff.**  
Hamilton App. No. C-120844, 2013-Ohio-5892.

**2014-0219. Individual Business Servs. v. Carmack.**  
Montgomery App. No. 25286, 2013-Ohio-4819.

**2014-0220. Blue Ash Auto Body, Inc. v. Progressive Cas. Ins. Co.**  
Cuyahoga App. No. 99892, 2013-Ohio-5741.  
French, J., dissents.

**2014-0221. Conner v. Wright State Univ.**  
Franklin App. No. 13AP-116, 2013-Ohio-5701.  
Pfeifer, J., dissents.

**2014-0222. State v. Ayers.**  
Franklin App. No. 13AP-18, 2013-Ohio-5601.  
O'Connor, C.J., and French, J., dissent and would accept the appeal on  
Proposition of Law No. I.  
O'Neill, J., dissents.

**2014-0223. Cuyahoga Cty. Bd. of Health v. Lipson O'Shea Legal Group.**  
Cuyahoga App. No. 99832, 2013-Ohio-5736.  
O'Connor, C.J., dissents and would accept the appeal on Proposition of Law  
No. I.  
Kennedy and French, JJ., dissent.

**2014-0224. In re R.P.**  
Summit App. No. 26836, 2013-Ohio-5728.

**2014-0227. In re D.S.**  
Cuyahoga App. No. 99600, 2013-Ohio-5740.

**2014-0228. State v. Clemons.**

Cuyahoga App. No. 99754, 2013-Ohio-5131.

O'Connor, C.J., and Kennedy and French, JJ., dissent.

**2014-0238. State v. Kirklin.**

Portage App. No. 2013-P-0055, 2013-Ohio-5840.

Lanzinger, J., dissents.

**2014-0241. State v. Swain.**

Erie App. Nos. E-11-087 and E-11-088, 2013-Ohio-5900.

**2014-0250. State v. Ware.**

Portage App. No. 2013-P-0011, 2013-Ohio-5833.

French and O'Neill, JJ., dissent.

**2014-0254. State v. Brown.**

Montgomery App. No. 21540, 2007-Ohio-2098.

**2014-0261. State v. Hill.**

Cuyahoga App. No. 99564, 2014-Ohio-26.

**2014-0264. State v. Darby.**

Richland App. No. 13CA97.

**2014-0266. State v. Atkinson.**

Franklin App. No. 13AP-297, 2013-Ohio-4887.

**2014-0272. State v. Dawes.**

Richland App. No. 13CA104.

**2014-0274. PNP, Inc. v. Ohio Dept. of Job & Family Servs.**

Franklin App. No. 13AP-36, 2013-Ohio-4344.

O'Donnell, J., not participating.

**2014-0283. State v. Aquino.**

Cuyahoga App. No. 99971, 2014-Ohio-118.

**2014-0287. State v. Bell.**

Montgomery App. No. 25729, 2014-Ohio-49.

**2014-0288. State v. Sexton.**  
Hamilton App. No. C-130206.

**2014-0307. State v. Jones.**  
Logan App. No. 8-12-16, 2013-Ohio-3784.

**2014-0310. Bryant Health Care Ctr., Inc. v. Ohio Dept. of Job & Family Servs.**  
Franklin App. No. 13AP-263, 2014-Ohio-92.

**2014-0317. State v. West.**  
Cuyahoga App. Nos. 97398 and 97899, 2014-Ohio-198.

**2014-0321. State v. Moon.**  
Cuyahoga App. No. 93673, 2014-Ohio-108.  
Pfeifer, J., dissents.

**2014-0415. In re K.D.**  
Franklin App. Nos. 13AP-607 and 13AP-667, 2014-Ohio-278.

**2014-0441. State v. Noles.**  
Lucas App. No. L-12-1310, 2013-Ohio-4088.  
O'Neill, J., dissents.

## **RECONSIDERATION OF PRIOR DECISIONS**

**2012-1670. State ex rel. Wyrick v. Indus. Comm.**  
Franklin App. No. 11AP-653, 2012-Ohio-4127. Reported in \_\_\_ Ohio St.3d \_\_\_, 2014-Ohio-541, \_\_\_ N.E.3d \_\_\_. On motion for reconsideration. Motion denied.  
O'Donnell, Kennedy, and French, JJ., dissent.

**2012-1688. In re H.V.**  
Lorain App. Nos. 11CA010139 and 11CA010140, 2012-Ohio-3742. Reported in \_\_\_ Ohio St.3d \_\_\_, 2014-Ohio-812, 7 N.E.3d 1173. On motion for reconsideration. Motion denied.  
O'Connor, C.J., and Pfeifer, J., dissent.  
French, J., dissents and would grant reconsideration on Proposition of Law No. I.

**2012-1704. State ex rel. DiFranco v. S. Euclid.**

Cuyahoga App. No. 97713, 2012-Ohio-4399. Reported in \_\_\_ Ohio St.3d \_\_\_, 2014-Ohio-538, 7 N.E.3d 1136. On motion for reconsideration and motion for oral argument. Motions denied.

O'Donnell, Kennedy, and French, JJ., dissent.

**2012-1893. State ex rel. DiFranco v. S. Euclid.**

Cuyahoga App. No. 97823, 2012-Ohio-5158. Reported in \_\_\_ Ohio St.3d \_\_\_, 2014-Ohio-539, 7 N.E.3d 1146. On motion for reconsideration and motion for oral argument. Motions denied.

O'Donnell, Kennedy, and French, JJ., dissent.

**2013-0696. Smith v. Buchanan.**

Noble App. No. 13-NO-399, 2013-Ohio-1746. Reported in \_\_\_ Ohio St.3d \_\_\_, 2014-Ohio-459, 7 N.E.3d 1134. On amended claim for reconsideration. Amended claim denied.

**2013-1860. U.S. Bank Natl. Assn. v. LaPierre.**

Franklin App. No. 13AP-339. Reported in 138 Ohio St.3d 1434, 2014-Ohio-889, 4 N.E.3d 1051. On motion for reconsideration. Motion granted and cause held for the decision in 2013-0304, *Bank of Am., N.A. v. Kuchta*, 9th Dist. Medina No. 12CA0025-M, 2012-Ohio-5562; and briefing schedule stayed.

Pfeifer, Lanzinger, and Kennedy, JJ., dissent.

**2013-1893. State ex rel. Griffin v. Sheldon.**

In Habeas Corpus. Reported in 138 Ohio St.3d 1422, 2014-Ohio-637, 3 N.E.3d 1221. On motion for reconsideration. Motion denied.

**2013-1975. State v. Liuzzo.**

Cuyahoga App. No. 99545, 2013-Ohio-5028. Reported in 138 Ohio St.3d 1436, 2014-Ohio-889, 4 N.E.3d 1052. On motion for reconsideration. Motion denied.