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CNO REVIEW

January 2016



RENEWED JUSTICE

Transformations are underway as many Ohio courthouses construct more functional facilities or look to restore grand century-old monuments for the modern era. **Story on p. 4.**

About Court News Ohio

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Court News Ohio
65 S. Front Street
10th Floor
Columbus, Ohio 43215

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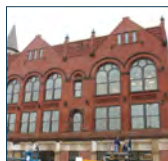
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ON THE COVER: Workers put finishing finishing touches on the front façade of the Columbian building – the soon-to-be new home of the Fairfield County Municipal Court. Photo courtesy of Fairfield County Municipal Court.

Cases

Visit courtnewsOhio.gov for the most current decisions from the Ohio Supreme Court, Courts of Appeals, and Court of Claims.

Supreme Court of Ohio

Death Penalty Will Not Be Imposed on Hamilton County Man

The Supreme Court set aside the death sentence of Rayshawn Johnson, who murdered his Cincinnati neighbor in 1997. In a 4-3 decision on Dec. 1, Justice **Paul E. Pfeifer** wrote that the aggravating circumstances in the case did not outweigh the mitigating factors beyond a reasonable doubt. He described the cumulative effect of multiple mitigating factors, including Johnson's ill-fated childhood, which when considered together made a sentence of death inappropriate. Johnson's case was before the Court for a second time because a federal court ordered a new mitigation hearing after concluding that Johnson's lawyers gave him ineffective counsel during the sentencing phase of his trial.

State v. Johnson
Slip Opinion No. 2015-Ohio-4903

Court Orders Release of Key-Card-Swipe Data from Cuyahoga County

The Supreme Court issued a writ of mandamus on Dec. 9 to compel Cuyahoga County to release key-card-swipe data documenting when former county executive Edward FitzGerald entered and exited county parking facilities and buildings. In a 4-3 decision, the Court concluded that while the records sought by the Ohio Republican Party were "security records" exempt from release at the time of the request, circumstances have changed and there is no longer any basis to withhold the key-card-swipe data.

State ex rel. Ohio Republican Party
v. FitzGerald
Slip Opinion No. 2015-Ohio-5056

Court Rules in Two South Euclid Cases Involving Public Records

On Dec. 2, the Supreme Court ordered the city of South Euclid to provide Emilie DiFranco with any public records not yet given to her since she first asked for them in September 2013. In addition, the Court awarded DiFranco statutory damages of \$600 plus costs because the city took an unreasonable amount of time to produce many of the records. The Court also ruled in a separate case in which DiFranco alleged the city had acted frivolously in responding to another public-records request. The Court rejected that claim.

State ex rel. DiFranco v. S. Euclid
Slip Opinion No. 2015-Ohio-4914

State ex rel. DiFranco v. S. Euclid
Slip Opinion No. 2015-Ohio-4915

Courts of Appeals

Eighth District: Prosecutor, Social Worker Not in Contempt for Failing to Obey Magistrate's Illegal Order

A Cuyahoga County juvenile court was wrong to hold a county social worker and assistant county prosecutor in contempt for failing to remove a child from a home in a manner that is not allowed by law, an Ohio appeals court ruled. The Eighth District Court of Appeals on Dec. 3 reversed the contempt-of-court-ruling and \$100 fines against Amy Bond, a Cuyahoga County Department of Children and Family Services social worker, and Cuyahoga County Assistant Prosecutor Laura Brewster. The court scolded the magistrate holding the two in contempt for failing to follow a prior Eighth District ruling, which did not allow an order to immediately remove a child from a home without notice

to the parent unless there is a clear emergency.

In re Contempt of Brewster
2015-Ohio-4984

Court of Claims

ODOT Settles Nixed Rest Stop Area Advertising Deal

The Court of Claims on Nov. 30 approved a \$170,000 settlement between the Ohio Department of Transportation and two northern Ohio advertising firms, which alleged ODOT backed out of a deal to provide exclusive advertising at 10 roadside rest areas and welcome centers. ODOT agreed to pay Triad Communications, Inc. of Cuyahoga Falls \$125,000 and SFC Graphics of Toledo about \$45,400 to settle a complaint for breach of contract. The companies alleged the contract gave them exclusive rights to the market and to sell advertising at the rest areas, create large advertising displays, and launch a website to solicit advertisers to use the areas. After the companies installed the equipment, the Ohio Division of Travel and Tourism and the Ohio Development Services Agency complained to ODOT that it previously "closed" advertising at those sites. ODOT then agreed to allow the agencies to solicit advertising too. The companies claimed the divisions then contacted the advertisers using the new displays and instructed them to use the travel and tourism department ad program instead.

SFC Graphics Inc.
v. Ohio Department of Transportation
Case No. 2015-00684

Triad Communications, Inc.
v. Ohio Department of Transportation
Case No. 2015-00575



RENEWED JUSTICE

Many of the state's original courthouses were constructed in the late 1800s or early 1900s. Some of these architectural treasures have fallen into disrepair, and to endure, they often require steep investments. Ohio's court officials have grappled with a dilemma — renovate or build new?

In Madison County, officials embraced both approaches — create a home for the municipal court in downtown London and preserve and renovate the nearby 125-year-old majestic courthouse. In a *Columbus Dispatch* article, Judge **Eric Schooley** said the century-old structure exhibits water dripping down the walls, mold clinging to the ceilings, and cracks damaging the floors. Privacy for attorneys and clients was hard to come by because space in the courtroom was so tight. Juries had varied locations for deliberations over the years. Most recently, they gathered in a small meeting area outside the judge's office to decide cases.

Late last summer, the municipal court's operations and employees moved to a newly constructed one-story brick building across the street. **Tammy Terpening**, the municipal court's clerk and a longtime court employee, said the facility is modern,

but displays formal touches — dark woodwork, archways, and pillars — that are common sights in traditional courthouses. The space includes a main courtroom and a separate space for a magistrate, plus a designated jury room. The full and well-lit basement has made it possible to centralize the court's files, which used to be housed in three separate areas, including an attic, Terpening said. Not only was it difficult to get a good view of the records in the attic's dim lighting, "you also had to deal with the birds flying around," she noted.

Judge Schooley described the new space as "functional and efficient." "This one serves its purpose — providing access to justice — and that's as it should be," he told the *Dispatch*.

Now the county's commissioners plan to begin renovations of the older courthouse, which is included on the National Register of Historic Places and still home to the common pleas court and several other city offices. The *Madison Press* reported that county commissioners plan to tackle the project section by section, top to bottom.

Courthouses Held Prominent Place for Early Residents

According to the state's County Commissioners Association, 69 Ohio courthouses have been listed on the national register, which identifies historic properties worthy of preservation. In a video presented at the Ohio County Courthouses Symposium in May 2014, then-Judge **Charles Steele** of Van Wert County explained that courthouses became community centers when built. He said that local residents relied on court clock towers to tell time because they didn't own watches and they looked to courthouse weather vanes to gauge the wind.

Bob Parrott of Union County echoed that the "temples of justice" served as symbols of the county government established as pioneers settled in the area. The video points out that the monuments helped create a civic identity and tone, and supporters of restorations believe the buildings can foster a connection to that history for people today.

Courts Explore Varied Solutions

Like Madison County, Delaware County has also opted to start from scratch while preserving the old. County officials



Learn More About Ohio's Courthouses

Ohio Government Telecommunications is in the midst of producing mini-documentaries that showcase each of the state's 88 county courthouses. Last month, videos highlighting the courthouses in Auglaize, Fayette, and Meigs counties debuted. The series focuses on each building's unique history and distinctive features. The videos can be viewed at OhioChannel.org.

Curious about the Ohio Supreme Court? Check out the 30-minute documentary exploring the transformation of the former Ohio Departments Building in Columbus to the home of the state's highest court. Built in 1933, the once unused building was rescued by former Chief Justice Thomas J. Moyer and restored to its former glory. The award-winning "Justice Finds a Home," released in 2014, is also available at OhioChannel.org.

razed a building to construct a new common pleas court. According to *ThisWeek* newspapers, construction of the Delaware County Judicial Building is expected to begin in early 2016 with an anticipated completion in summer 2017. Envisioned is a three-story building spanning 82,000 square feet above two levels of parking. The *Delaware Gazette* reported the architects plan a design that reflects the surrounding buildings and storefronts and has a modern look with touches of Italianate architecture in certain features. Once the common pleas court relocates, the county expects to restore and expand the current 140-year-old facility for the juvenile and probate courts.

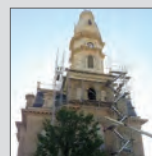
Seneca County chose to start fresh. The prior courthouse, built in 1884 and torn down in 2012, will be the site for a rebuilt common pleas court, the *Toledo Blade* reported. Tiffin's municipal court may also be headquartered at the new location. The proposed joint justice center is slated at 36,000 square feet and four stories. The county commissioners think construction will begin sometime in the spring or summer.

In Lancaster, county and court officials decided to revive a historic building for the Fairfield County Municipal Court. In late February or early March, the court expects to leave its city hall offices for the renovated Columbian, which was a department store for many decades. In November, a turret designed to mirror an earlier version was set atop the 19th-century brick structure.

Last summer, Licking County's commissioners announced plans to renovate its 139-year-old courthouse, the *Dispatch* reported. The two-year project set to start this year will replace windows, restore the exterior, and replace the roof, among other fixes.

PICTURED ABOVE, FAR LEFT: In the coming months, the Fairfield County Municipal Court will leave its city hall offices for the renovated Columbian building (pictured when purchased in 2012). **CENTER:** Finishing touches are in the works at the new site of the Fairfield County Municipal Court. **RIGHT:** The new home of the Madison County Municipal Court sits across from the street from the original, century-old court building. Photo Credit: Dean Shipley, *The Madison Press*.

Maintenance and Repairs Ongoing at Numerous Courthouses



Other courts in the state have devoted dollars to fix crumbling or damaged parts of their courthouses.

Winds damaged delicate architectural features of both the Athens County Courthouse in 2014, and the Logan County Courthouse in 2012. Last November, scales were returned to the outstretched arm of Lady Justice atop the Athens building, and workers spent hours to precisely place the restored clock tower on the courthouse in Bellefontaine.

After about a year of repairs, a restored copper dome and white clock tower were unveiled last October at the Wyandot County Courthouse, famous because one of its courtrooms appeared in the movie *The Shawshank Redemption*. Restorations continue with a spring celebration expected, according to the *Toledo Blade*.

Butler, Coshocton, Hancock, and Wayne counties have also been undergoing various renovations, among others.

HappeningNow

News and Notes from Courthouses Across the Buckeye State



Schools Awarded Grants to Visit Ohio Judicial Center

Eager hands went up as a tour guide asked who in the group from Lindbergh Elementary School wanted to be a lawyer or a judge. For the 34 fourth-grade students from Columbus' Hilltop area, it was their first visit to the Thomas J. Moyer Ohio Judicial Center.

Lindbergh was one of 60 Ohio schools awarded transportation grants to visit the home of the Ohio Supreme Court and its Visitor Education Center.

While the school is just a few miles from the Moyer Judicial Center, teacher Kristine Casper said, "Eighty percent of the students receive free breakfast and lunch. Our kids don't get the experience to be in a building like this. Being able to come here will help take the abstract concepts we talk about in class and make them real for the students."

The nearly \$20,000 in grants provided by the Thomas J. Moyer Ohio Judicial Center Foundation will allow students from 19 high schools, 14 middle schools, and 27 elementary schools to visit the historic building in downtown Columbus by the end of the school year. Since the transportation grant program started in 2011, more than \$76,000 has been awarded to Ohio schools that might not otherwise have been able to afford the field trip.

"The foundation is pleased to be able to provide these grants as a way to support the mission of providing opportunities for Ohio students to learn about their court system and the importance of the judiciary and the rule of law in our society," said Pierre Bergeron, the foundation's treasurer.

More than 60 students from Northwest High School in Scioto County recently made their first trip to the Moyer Judicial Center with the help of a grant.

"The students were impressed with the building and how well-maintained it was, and they liked the car display in the education center about a search-and-seizure case," teacher Craig Havens said of the experience.

The Visitor Education Center features interactive displays designed to provide visitors with an understanding and appreciation of the history, role, and responsibilities of the Ohio court system. School tours include a mock trial and a visit to the main Courtroom, which features artwork that portrays the state's history, culture, and commerce.

Groups of all ages are encouraged to visit the Moyer Judicial Center, and tours can be scheduled by emailing courtours@sc.ohio.gov or calling 614.387.9223.

Board of Professional Conduct Re-Elects Leaders



The leaders of the Ohio Supreme Court board that investigates judges and attorneys and conducts hearings about their ethical misconduct were re-elected as the 2016 board chair and vice chair.

Cincinnati attorney **Paul M. De Marco** (left) will again serve as the chair of the Board of Professional Conduct. De Marco has served on the board since 2008. De Marco practices at Markovits, Stock & De Marco, LLC and is an appellate law specialist certified by the Ohio State Bar Association.

Serving on the board since 2008, Cleveland attorney **William J. Novak** was re-elected to serve as the vice chair for 2016. Novak previously served as a member of one of the board's two probable cause panels. Novak practices at Novak Pavlik Attorneys.

De Marco's and Novak's new one-year terms begin on Jan. 1, 2016.

Unauthorized Practice of Law Board Selects 2016 Leadership



The Ohio Supreme Court board that investigates the unauthorized practice of law has re-elected its leadership for next year.

Robert V. Morris II (left), the administrative magistrate at the Franklin County Probate Court, will serve a second year as chair of the Board on the Unauthorized Practice of Law (UPL) and **Leo Spellacy Jr.**, a partner at Porter, Wright, Morris & Arthur LLP in Cleveland, was re-elected vice chair.

Two members are leaving the board on Dec. 31. **John J. Chester Jr.**, a former UPL board chair and a partner at Taft Stettinius & Hollister LLP in Columbus, served two terms. Julie P. Hubler of Hubler & Hubler, LLC of Columbus is leaving after a three-year term.



CNO Legislative Digest

Each month, Court News Ohio Review tracks bills and resolutions pending in the Ohio General Assembly that are of interest to the judicial community.

Photo courtesy of the Ohio Statehouse Photo Archive

HB 50, Rep. Dorothy Pelanda (R-Marysville); Rep. Cheryl Grossman (R-Grove City)

To extend the age for which a person is eligible for federal foster care and adoption assistance payments under Title IV-E to age twenty-one, to provide a ward's bill of rights, to require that a guardian receive the Ohio Guardianship Guide, and to make an appropriation.

STATUS: Introduced in the House and referred to the House Community & Family Advancement Committee on Feb. 10, 2015. Amended and reported out of committee on Nov. 16, 2015. Passed the House on Dec. 1, 2015 (91-2).

HB 123, Rep. Greta Johnson (D-Akron); Rep. Bob Cupp (R-Lima)

To change the time for notification of an alibi defense in a criminal case, to allow the court in a felony case to impose community control sanctions without a presentence investigation report upon agreement of the defendant and the prosecutor, and to request the Supreme Court to modify Criminal Rule 32.2 to allow the court in a felony case to impose community control sanctions without a presentence investigation report upon agreement of the defendant and the prosecutor.

STATUS: Introduced in the House on March 17, 2015, and referred to the House Judiciary Committee. Passed the House on May 19, 2015 (96-1). Referred to the Senate Criminal Justice Committee on May 27, 2015. Its third Senate committee hearing was on Nov. 18, 2015.

HB 387, Rep. Louis Terhar (R-Cincinnati); Rep. Jonathan Dever (R-Cincinnati)

To raise the maximum allowable limit of the monetary jurisdiction of small claims divisions of municipal courts.

STATUS: Introduced in the House on Nov. 2, 2015, and referred to the House Local Government Committee. Sponsor testimony presented during committee hearing on Dec. 8, 2015.

HB 388, Rep. Gary Scherer (R-Circleville)

To authorize a court to grant unlimited driving privileges with an ignition-interlock device to first-time OVI offenders, to expand the penalties related to ignition-interlock-device violations, to modify the law governing the installation and monitoring of ignition-interlock devices, to extend the look-back period for OVI and OVI-related offenses from six to 10 years, and to modify the penalties for OVI offenses.

STATUS: Introduced in the House on Nov. 5, 2015, and referred to the House Armed Services, Veterans Affairs & Public Safety Committee. Sponsor testimony presented during committee hearing on Dec. 8, 2015.

SB 161, Sen. Scott Oelslager (R-Canton)

To authorize probate judges to issue search warrants.

STATUS: Introduced in the Senate on May 12, 2015 and referred to the Criminal Justice Committee. Passed the Senate on June 18, 2015 (33-0). Passed the House on Dec. 9, 2015 (90-0). Awaits the Governor's consideration.

ON THE BENCH: JUDICIAL APPOINTMENT



Former magistrate **Matthew A. McMonagle** will become a new Cuyahoga County Common Pleas Court judge starting on Jan. 4. Gov. **John Kasich** named McMonagle to replace former Judge **Lance T. Mason**, who resigned. McMonagle must win the November 2016 general election to retain the seat for the full term commencing on Jan. 5, 2017.

McMonagle most recently served as a partner at Kelley & Ferraro, LLP in Cleveland. He also served as a Rocky River Municipal Court magistrate. McMonagle received his law degree from Cleveland-Marshall College of Law and was admitted to the practice of law in Ohio on Nov. 8, 2004.

The Agenda

Upcoming events, training opportunities, and conferences for judges and court staff. For more information, contact the event sponsor at the website provided.

Judicial College Courses

judicialacademy.ohio.gov

Jan. 12

Probation Officer Training Program: Introduction to Motivational Interviewing
Probation Officers
Perrysburg

Jan. 13

Guardian ad Litem Continuing Education Course: Understanding Child Development
Guardians ad Litem
Columbus
1:00 – 4:30 p.m.

Jan. 14

Guardian ad Litem Continuing Education Course: Understanding Child Development
Guardians ad Litem
Columbus
8:30 a.m. – Noon

Jan. 20

Probation Officer Training Program: Introduction to Assessment & Case Planning
Probation Officers
Akron

Fundamentals of Adult Guardianship Course BROADCAST
Adult Guardians (Laypersons)

Jan. 21

Fundamentals of Adult Guardianship Course BROADCAST
Adult Guardians (Professionals)

Jan. 26

Probation Officer Training Program: Introduction to Motivational Interviewing
Probation Officers
Columbus

Jan. 27

Guardian ad Litem Pre-Service Course
Guardians ad Litem
Columbus

Judicial Candidates Seminar

Judicial Candidates
Dayton
1:30 – 3:30 p.m.

Feb. 2

Probation Officer Training Program: Professional Communication
Probation Officers
Dayton

Feb. 3

Guardian ad Litem Continuing Education Course: Divorce: The Impact on Children
Guardians ad Litem
Dayton
1 p.m. – 4:30 p.m.

Fundamentals of Adult Guardianship Course
Adult Guardians (Laypersons)
Findlay

Feb. 4

Fundamentals of Adult Guardianship Course
Adult Guardians (Professionals)
Findlay

Guardian ad Litem Continuing Education Course: Divorce: The Impact on Children
Guardians ad Litem
Dayton
8:30 a.m. – Noon

Feb. 5

Probate Judge Course
Judges
Columbus

Supreme Court of Ohio

sc.ohio.gov

Jan. 5 & 6

Oral Arguments

Jan. 15

Late Registration Deadline to Register as a Candidate for the July 2016 Ohio Bar Exam

Mayor's Court Quarterly Report Deadline

Jan. 18

Martin Luther King Jr. Holiday
Court Offices Closed

Jan. 26 & 27

Oral Arguments

Feb. 3

Laptop Registration for the February 2016 Ohio Bar Exam closes at 4 p.m. (EST)

Ohio Center for Law-Related Education

ocle.org

Jan. 22

High School We the People State Competition
Columbus

Jan. 29

Ohio Mock Trial High School District Competition

Miscellaneous

Jan. 25 – 27

Association of Municipal & County Judges of Ohio (AMCJO) Winter Conference
Columbus