



**Major Theodore Owens, USA, Ret.**  
**Executive Director for**  
**OASIS – Ohio Association of Security & Investigation Services**  
**Written Testimony - before Ohio House Criminal Justice Committee**  
**Senate Bill 100**  
**December 10, 2024**

Good morning, Chair Cindy Abrams, Vice-Chair Josh Williams, and Ranking Member Richard Brown and members of the Ohio House Criminal Justice Committee. Thank you for allowing me to address you on behalf of my association (OASIS) and its members who represent Ohio's subject matter experts in the fields of Private Investigation and Private Security once again.

On November 19, 2024 after my oral testimony, I was asked a few questions regarding specific case law surrounding "privacy concerns" and the definition of "trespass". As all of you are aware I'm neither an attorney nor do I possess a Juris Doctorate. However, the answers to those questions posed to me have already been litigated in *Moran vs. Lewis* a 2018 opinion in the Court of Appeals in Ohio in the Eighth Appellate District in Cuyahoga County. For ease of reference, it is attached here along with the Motion for Reconsideration to the Ohio Supreme Court and the subsequent denial by the Ohio Supreme Court to reconsider.

For any follow-up questions or concerns I can be contacted by email at the following address:  
[executive.director@ohoasis.com](mailto:executive.director@ohoasis.com)

Respectfully,

*Theodore S. Owens*

Major Theodore Owens USA, Ret.  
OASIS Executive Director

Encl: 3

1. *Moran v Lewis* 2018 Court of Appeals of Ohio
2. Motion to Reconsider in Ohio Supreme Court
3. Ohio Supreme Court Case Announcements 2019 (see pg. 6 – highlighted text)

[Cite as *Moran v. Lewis*, 2018-Ohio-4423.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
**No. 106634**

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**RICHARD MORAN**

PLAINTIFF-APPELLANT

vs.

**MICHAEL A. LEWIS**

DEFENDANT-APPELLEE

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**JUDGMENT:**  
AFFIRMED

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Civil Appeal from the  
Cuyahoga County Court of Common Pleas  
Case No. CV-14-832343

**BEFORE:** S. Gallagher, J., Boyle, P.J., and Keough, J.

**RELEASED AND JOURNALIZED:** November 1, 2018

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SEAN C. GALLAGHER, J.:

{¶1} Richard Moran appeals the entry of judgment upon the pleadings entered in Michael Lewis’s favor. Moran claims that Lewis, a private investigator hired to conduct surveillance of Moran’s activities for a then-pending civil action, violated Moran’s “right to privacy” and trespassed by installing global positioning system (“GPS”) tracking devices on two of Moran’s vehicles. According to Moran, he has an expectation of privacy while traveling on public roads and that privacy was violated by Lewis’s conduct. Moran further argues that such a violation should essentially amount to a per se invasion of privacy under Ohio law. As much as

Moran would prefer to argue that he has a recognized expectation of privacy while traveling on public roads, this case turns on the allegations in the complaint or, better stated, the failure to properly plead an invasion of privacy claim under Ohio law.

{¶2} Before the trial court granted judgment in favor of Lewis, Moran joined Lewis in seeking leave to file dispositive motions on whether the complaint set forth a viable claim for invasion of privacy and trespass. Thus, any issues with the procedural posture of the dispositive ruling would be, at best, invited error. Further, in this appeal Moran asked us to disregard any perceived error in granting judgment in favor of Lewis upon the claims for trespass. The only issue before this court is whether the allegations that a private citizen installed a GPS tracking device on another individual's motor vehicle to track its movement on public roads sufficiently pled a violation of the right to seclusion that is recognized as an invasion of privacy under Ohio law. It does not, and therefore, the allegations in the complaint failed to set forth a claim upon which relief could be granted.

{¶3} We review a ruling on a motion for judgment on the pleadings de novo. *Thornton v. Cleveland*, 176 Ohio App.3d 122, 2008-Ohio-1709, 890 N.E.2d 353, ¶ 3 (8th Dist.). Motions for judgment on the pleadings are governed by Civ.R. 12(C), which states as follows: "After the pleadings are closed but within such time as not to delay the trial, any party may move for judgment on the pleadings." "In order to be entitled to a dismissal under Civ.R. 12(C), it must appear beyond doubt that [the nonmovant] can prove no set of facts warranting the requested relief, after construing all material factual allegations in the complaint and all reasonable inferences therefrom in [the nonmovant's] favor." *State ex rel. Toledo v. Lucas Cty. Bd. of Elections*, 95 Ohio St.3d 73, 74, 2002-Ohio-1383, 765 N.E.2d 854. Parties may seek a dismissal for failure to state a claim within the context of Civ.R. 12(C). When reviewing a Civ.R.

12(B)(6) motion to dismiss under this framework, we must accept the material allegations of the complaint as true and make all reasonable inferences in favor of the plaintiff. *Johnson v. Microsoft Corp.*, 106 Ohio St.3d 278, 2005-Ohio-4985, 834 N.E.2d 791, ¶ 6.

{¶4} In Ohio, an actionable invasion of privacy is (1) the unwarranted appropriation or exploitation of one's personality; (2) the publicizing of one's private affairs with which the public has no legitimate concern; or (3) the wrongful intrusion into one's private activities in such a manner as to outrage or cause mental suffering, shame, or humiliation to a person of ordinary sensibilities. *Housh v. Peth*, 165 Ohio St. 35, 133 N.E.2d 340 (1956), paragraph two of the syllabus. Invasion of privacy under Ohio law is generally derived from the Restatement of Torts. Under Restatement of the Law 2d, Torts, Section 652B (1977), a defendant may be liable for intrusion upon another's seclusion if the defendant intentionally intrudes upon the "solitude or seclusion" or the private affairs or concerns of another, and if such an intrusion would be highly offensive to a reasonable person. Moran invoked that third prong of the invasion of privacy claim as stated in *Housh*; however, Moran failed to allege any intrusion, much less a wrongful one, into his private activities or his right to seclusion.

{¶5} Instead, Moran claims that the installation of the GPS tracking device was a per se invasion into his private activities and the law should be expanded to prevent private citizens from using modern technology to track another's travels on public roads. According to Moran, the act of attaching a GPS device to another's vehicle is prima facie evidence supporting the invasion of privacy claim. He "urges this Court to reject the old thinking that you cannot have privacy driving your car along Ohio's highways." Moran has not cited any authority supporting the proposition that, as a matter of law, a private citizen tortiously invades the privacy of another merely through the act of attaching a GPS device on another's vehicle for the purpose of tracking

public movements. App.R. 16(A)(7); *see, e.g., Turner v. Am. Car Rental, Inc.*, 92 Conn.App. 123, 130, 884 A.2d 7 (2005) (acknowledging the lack of legal authority demonstrating an expectation of privacy on a public highway). In order to properly plead an invasion of privacy claim, there must be allegations that the tracking invaded the seclusion or private affairs of another. *See Troeckler v. Zeiser*, S.D.Ill. No. 14-cv-40-SMY-PMF, 2015 U.S. Dist. LEXIS 27594, 7 (Mar. 5, 2015) (plaintiffs failed to plead that the placement of the GPS led to the disclosure of private facts); *Villanova v. Innovative Investigations, Inc.*, 420 N.J. Super. 353, 21 A.3d 650, 652 (N.J.App.2011) (no evidence that the vehicle was driven into a private or secluded location where one would have a reasonable expectation of privacy). The act of attaching a GPS device does not in and of itself constitute the invasion into one's seclusion or private affairs.

{¶6} Moran alleges that Lewis (1) attached a GPS tracking device to two of Moran's vehicles deceptively without his consent, (2) had no right to enter the private property to install the devices, (3) recorded the locations of Moran's vehicles on a continuing basis, and (4) hid the information from Moran. However, there are no allegations that the recording of the tracking information gleaned any private information or that an intrusion into Moran's solitude, seclusion, or private affairs was accomplished. Further, there are no allegations that the GPS tracking of Moran's public travels would be highly offensive to a reasonable person when the tracking occurs with a device rather than physically tailing the vehicles. In this case, the complaint fails to state a claim upon which relief can be granted — the plaintiff failed to allege facts that would satisfy the elements of an invasion of privacy claim as articulated in *Housh*.

{¶7} In support of Moran's request to expand the invasion of privacy claim to encompass his generalized allegations that fail to allege each element of an invasion of privacy tort claim, he cites the Supreme Court's decision in *United States v. Jones*, 565 U.S. 400, 132 S.Ct. 945, 181

L.Ed.2d 911 (2012), in which it was held that law enforcement's act of trespass, by placing a GPS tracking device on a suspect's vehicle, was an unreasonable search. According to Moran, however, *Jones* stands for the proposition that citizens have an expectation of privacy while traveling on public roads, as articulated in *Katz v. United States*, 389 U.S. 347, 351, 88 S.Ct. 507, 19 L.Ed.2d 576 (1967). He is mistaken. Justice Antonin Scalia, writing for the majority in *Jones*, specifically rejected the government's claim that the expectation of privacy line of cases applied or impacted the determination of whether the installation of a GPS tracking device violated the Fourth Amendment. *Jones* at 405-406; *but see State v. White*, 5th Dist. Fairfield No. 2010-CA-60, 2011-Ohio-4526, ¶ 66 (GPS technology infringes on the reasonable expectation of privacy). *Jones* did not recognize an expectation of privacy in this context.

{¶8} In the alternative, Moran asks to supplant the law stated in *Housh*, 165 Ohio St. 35, 133 N.E.2d 340, and the Restatement of Torts with a bad faith or corrupt motive standard — according to Moran any attachment of a GPS tracking device that was done in bad faith or with a corrupt motive would be an invasion of privacy regardless of whether the device was used to track public or private movements. In support of this new standard, Moran cites *Sustin v. Fee*, 69 Ohio St.2d 143, 145, 431 N.E.2d 992 (1982).

{¶9} That case is not applicable to the particular facts of this case, and it did not create a new standard for invasion of privacy. *Sustin* reiterated Ohio's reliance on the Restatement of the Law 2d, Torts, Section 652B, as the foundation for the invasion of privacy claims as set forth in *Housh*. *Sustin* merely added an additional caveat to address the situation in which the surveillance is conducted by a public official acting within the scope of his or her official duties. In that situation, an additional pleading requirement is necessary because in order to avoid immunity, the plaintiff must allege that the official acted in bad faith or with a corrupt motive.

*Id.* In light of the fact that Lewis is a private citizen, *Sustin* does not impact our analysis, nor does it create a new standard to review invasion of privacy claims. The elements of an invasion into another's seclusion claim as articulated in *Housh* have not been altered.

{¶10} Under Ohio law, in order to properly plead an invasion of privacy claim premised on the invasion into another's seclusion, at a minimum, there must be allegations demonstrating an intrusion, physical or otherwise, into another's solitude or private affairs. *Housh* at paragraph two of the syllabus. The Restatement of the Law 2d, Torts, Section 652B, provides that “the defendant is subject to liability under the rule stated in this Section only when he has intruded into a private place, or has otherwise invaded a private seclusion that the plaintiff has thrown about his person or affairs.” *Salupo v. Fox, Inc.*, 8th Dist. Cuyahoga No. 82761, 2004-Ohio-149, ¶ 23, quoting *Haynik v. Zimlich*, 30 Ohio Misc.2d 16, 22, 508 N.E.2d 195, 201 (1986). In *Salupo*, it was held that the failure to plead particular facts that the defendant wrongfully intruded upon the plaintiff's private affairs was dispositive — in such a situation the complaint fails to set forth a claim upon which relief could be granted and the case should be dismissed. *Id.* at ¶ 23-24.

{¶11} In this case, Moran's complaint merely alleges that Lewis attached a GPS tracking device to two of Moran's vehicles and such conduct was a per se violation of Moran's privacy because Ohioans should have an expectation of privacy while traveling on public roads. Such an allegation is insufficient to state a claim for invasion of privacy under Ohio law. The failure to plead facts, private or otherwise, establishing that the defendant wrongfully intruded into the seclusion or private affairs of the plaintiff is fatal to the pleading. The mere act of monitoring another's public movements through the attachment of a GPS tracking device is not, in and of itself, sufficient to state an invasion of privacy claim. As it stands under Ohio law, liability for



intrusion into another's seclusion or private affairs does not exist where the defendant observes or records a person in a public place. *Salupo* at ¶ 25, citing *Pollock v. Rashid*, 117 Ohio App.3d 361, 369, 690 N.E.2d 903 (1st Dist.1996).

{¶12} The increased use of readily available technology has transformed an individual's expectations of privacy. We appreciate, and empathize with, Moran's concerns. Nevertheless, as an intermediate appellate court of law, we cannot change Ohio's existing tort standard for invasion of privacy. Although we are sensitive to individual privacy concerns, it is the role of the Ohio legislature to expand the right to privacy to include a prohibition against tracking devices as used in this case. *See, e.g.*, Alaska Stat. 11.41.270(b)(4)(H) (prohibiting the use of global positioning or other similar devices to monitor or track a person); Cal.Pen.Code 637.7 (prohibiting the use of electronic tracking devices to determine the location or movement of a person); 720 ILCS 5/21-2.5(b) (prohibiting the use of an electronic tracking device to determine another's movement or locations). Moving Ohio to a per se standard, in the effort to advance policy considerations, is beyond the role of this court. Under the existing tort law, Moran needed to plead facts demonstrating the intrusion into his seclusion or private affairs along with facts demonstrating mental suffering, shame, or humiliation. *Housh*, 165 Ohio St. 35, 133 N.E.2d 340.

{¶13} According to Moran, the GPS tracking devices in this case recorded his movements on public roads and there were no allegations that the recording or dissemination of the information intruded into Moran's solitude, seclusion, or private affairs. The solitary claim that the use of the GPS device was a per se invasion of privacy is overruled. The complaint fails to set forth a claim for invasion of privacy under Ohio law, and the judgment on the pleadings in favor of Lewis is affirmed.

It is ordered that appellee recover from appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

SEAN C. GALLAGHER, JUDGE

MARY J. BOYLE, P.J., and  
KATHLEEN ANN KEOUGH, J., CONCUR

**IN THE SUPREME COURT OF OHIO**

**RICHARD MORAN**

**Plaintiff-Appellant,**

**v.**

**MICHAEL A. LEWIS**

**Defendant-Appellee.**

**CASE NO. 2019-0160**

**On Appeal from the Cuyahoga  
County Court of Appeals, Eighth  
Appellate District**

**Court of Appeals Case No. 106634**

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**MOTION FOR RECONSIDERATION  
AS TO DENIAL TO ACCEPT JURISDICTIONAL APPEAL**

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## **I. INTRODUCTION**

Now comes Attorney Mary Jo Hanson, counsel for Plaintiff-Appellant Richard Moran, and pursuant to S.Ct.Prac.R.18.02, respectfully moves this Honorable Supreme Court for reconsideration of this Honorable Court's Entry of April 17, 2019, in which the Court declined to accept jurisdiction of Plaintiff-Appellant Richard Moran's appeal, found in *04/17/2019 Case Announcements*, 2019-Ohio-1421. The reasons for this request are specified in the following Memorandum in Support. Respectfully, Appellant prays for your reconsideration and that you grant certiorari.

Further, this would simply bring the case back to the trial court as the case was summarily dismissed. This would still undergo the scrutiny of all the courts once again.

## **II. MEMORANDUM IN SUPPORT OF RECONSIDERATION**

This case presents issues of great public concern to Ohio Residents and this issue is of great importance to all Ohioan's right to privacy. It is easy to get sidetracked on the issue of trespass to chattels. On the last page of Appellant's brief, Appellant gives up his claim for Trespass to Chattels. Appellant realized that pleading this in the way it was pled by Counsel Avery Friedman, was scrutinized by the Court. The Appellate Court was persuaded to focus on the claim of trespass to chattels, but the real issue was the right to privacy and the invasion of such surveillance on Americans.

The claim to be concerned about is the claim of personal privacy, civil rights of privacy, and the intrusion upon seclusion that can cause humiliation and emotional distress, which Appellant never had the chance to tell the court or the jury. Further review would encourage you to evaluate the safety and protection of Ohio Residents regarding this claim.

This matter involves the deprivation of privacy rights of Appellant, Mr. Richard Moran, and would apply to all citizens, which arises out of an unreasonable and obtrusive surveillance. This case turns on the major questions of whether Ohio recognizes the existence of the right of privacy when a person secretly installs – as in this case, on a motor vehicle – a GPS device for the purpose of monitoring another person. Moreover, does this mean a GPS or monitoring device could be placed in anything to track people, a purse, for example, or a briefcase, or a coat? The acts and conduct of the Appellee were intentional and in reckless disregard of Mr. Moran’s civil rights of privacy. Mr. Moran suffered a loss of personal privacy and his civil rights to privacy. This, on its face, is actionable. He never had a chance to have his voice heard. All Ohioans would want to be able to prevent someone from secretly following them. This is sneaky and unwelcome. Further, imagine if someone is a terrorist, or want to stalk a person, or wants to trap a person?

In the Court of Appeals Brief, Attorney Hanson, on behalf of Appellant Moran, asked the Appellate Court to consider that the trial court abused its discretion by dismissing the Plaintiff-Appellant’s claim that the attaching of a GPS device to an automobile, without owner’s consent, is an unreasonable surveillance, violating Ohio’s right to privacy. See Appellant’s Brief in *Moran v. Lewis*, CA 17 106634, filed on April 4, 2018, at Page 7. (Subsequent references in this memorandum to Appellant’s brief shall be rendered as “Brief,” followed by a page number.)

This is a restriction, as placed by the lower court, that no Ohio citizen, or any American, should have to endure. The danger of leaving this case without making law in Ohio against the unreasonable surveillance of GPS devices being placed on cars without an owner’s permission is the equivalent of saying that stalking, following, furtive surveillance, spying, and reporting someone’s whereabouts too others, is acceptable and welcome. Federal and state law

enforcement authorities, and government actors, must get a search warrant to do this to citizens. How can one suggest for a moment that private citizens have more rights than the law enforcement officers? They would need a search warrant.

The issue at hand in this case is the intrusion upon one's seclusion. Your decision not to hear this case would have great implications to Ohio residents, as the holding of the Court of Appeals would affect many areas of the law, including domestic issues, domestic violence issues, custody issues<sup>1</sup> stalking, and criminal and civil issues.

This Court can rely on the Law of Torts as to the essence of the right to privacy. "Privacy is the claim of individuals, groups, or institutions to determine for themselves when, how, and to what extent information about them is communicated to others." W. Prosser. See generally W. Prosser, *The Law of Torts* 802, 814 (4th ed. 1971). (*Brief, p. 10*)

The Appellate Court acknowledged the issue of intrusion upon seclusion when it stated:

"Our understanding of the case law as it applies to the intrusion-upon-seclusion branch of this tort allows this court, by analogy, to find that appellant, and those class members she seeks to represent, need not allege that she and the others were actually spied upon in order to defeat a motion to dismiss for failure to state a claim.... The invasion consists solely of an intentional interference with the person's interest in solitude or seclusion."

*Geraci v. Conte*, No. 72440, 1998 WL 323564, at 3-4, 1998 Ohio App. LEXIS 2727 (Ohio App. 8th Dist.Ct.App.1998) This issue has not yet been heard in the trial court. Further, the legal question of whether the type of GPS tracking in the instant case is a violation of an individual's right to privacy should be decided only after a full factual discovery, as in the *Geraci* ruling. (*Brief, p. 12*)

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<sup>1</sup> This was the case in the present case, where the father of Moran's grandchild was hiring a private investigator to stalk his ex-girlfriend by these GPS devices or stalk the grandfather and transmit the data to a third party.

This case, and “many others demonstrate an alarming trend whereby the privacy and dignity of our citizens is being whittled away by sometimes imperceptible steps. Taken individually, each step may be of little consequence. But when viewed as a whole, there begins to emerge a society quite unlike any we have seen in society in which government [or private actors] may intrude into the secret regions of man’s life at will.” *Osborn v. United States* (1966), 385 U.S. 323, 341-343. Ohio beware, but more importantly, American Citizens should beware. We ask that this Court consider that Ohio law recognizes a right of privacy of a person to be free from unreasonable stalking or shadowing, even in public places. (*Brief*, p. 13)

In *Olmstead v United States*, 277 US 438 (1928), the U.S. Supreme Court, adhering to the notion that a Fourth Amendment infringement was essentially one affecting property, refused to find that a telephone wiretap was a search because the wiretap involved no trespass into the houses or offices of the defendants. Justice Brandeis’s dissent differed and offered as an alternative to the majority’s understanding of a Fourth Amendment with a much more encompassing view:

“The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognized the significance of man's spiritual nature, of his feelings and of his intellect. They knew that only a part of the pain, pleasure and satisfactions of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. They conferred, as against the Government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men. To protect that right, every unjustifiable intrusion by the Government upon the privacy of the individual, whatever the means employed, must be deemed a violation of the Fourth Amendment.” (*Id.* at 478-479 [dissenting op])

This dissenting opinion is now the law of the land. *Katz v. United States*, 389 U.S. 347, 353 fn 13 (1967). The U.S. Supreme Court’s precedent, while not binding, can be persuasive in the development of Ohio’s common-law invasion of privacy tort. *Cf State ex rel. Plain Dealer*

*Publishing Co. v. Cleveland*, 106 Ohio St.3d 70; see also *State ex rel. Beacon Journal Publishing Co. v. Akron*, 70 Ohio St.3d 605, 640 N.E.2d 164 (1994) (*Brief*, pp. 13 – 14)

The special circumstances of GPS tracking provide extensive, invasive and technological observations of a person on a 24/7 basis, creating unreasonable surveillance and violating the right to privacy. In *United States v. Jones*, U.S. 132 S. Ct. 945, 964 (2012), Justice Sotomayor explained, that GPS tracking – as it increasingly does today – can reveal “a wealth of detail about [an individual’s] familial, political, professional, religious, and sexual associations.” *Jones*, U.S. 132 S. Ct. 945, 964 (2012), Sotomayor J., concurring. (*Brief*, p. 23) The rapidly advancing capabilities of technology make comprehensive intrusions on seclusion increasingly possible to the extent that compromise expectations of privacy.

The fact is that this question is of major significance to the citizens of Ohio. The Ohio Supreme Court must analyze the decision of the 8th District for the protection of Ohio citizens, Ohio citizens deserve to be free from this type of harassment and stalking by GPS, which is, on its face, a total violation of privacy.

The Appellate Court rejected the notion of a person’s expectation of privacy, and wrongly adopted a rule that there is no privacy for Ohioans while they travel on public roads. The Appellate Court disregarded the significance of important elements in the case, namely that the Appellee, by attaching GPS devices to the vehicles owned by Mr. Moran, violated Mr. Moran’s right to privacy and caused an invasion of his privacy by intrusion upon seclusion. In its decision, the Appellate Court failed to respond to important issues which impact Ohioans through common law. The Appellant seeks to provide the Court with the law to make decisions that will protect the citizens of Ohio. Ohioans deserve your honorable attention to thses most significant matter: privacy and unreasonable surveillance.



### III. CONCLUSION

This case presents great questions of public interest and concern for all Americans. Mr. Moran's case should not be summarily dismissed, as dismissal would create a precedent that would encourage other individuals in Ohio to secretly install GPS devices, and further, disseminate data from GPS tracking to third parties. This is dangerous. This would result, as it did in Appellant Richard Moran's case, in unreasonable surveillance, violating Ohioans' right to privacy causing him humiliation, emotional distress, and frustration that his whereabouts and his daughter's whereabouts, are being tracked. Tracking has led to death in cases of domestic issues.

All citizens of Ohio should be protected from invasion of privacy and unwelcome surveillance. Every citizen in Ohio should be entitled to that. More importantly, an opinion from this Honorable Supreme Court, explaining the parameters of a decision with regard to a right to privacy for Ohioans, would be of great benefit to the public and the legal community. It would give clarity to the statutory framework, and provide guidance to judges, attorneys, and some of the other states that are struggling with this material in this modern age. Please reconsider Ohio citizens right to privacy by unwanted surveillance. This decision left alone would grant higher rights to citizens than to law enforcement officials, who must obtain warrants. Please grant certiorari to Appellant Mr. Moran on behalf of Ohio residents.

Respectfully Submitted,

***/S/ MARY JO HANSON***

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## **CERTIFICATE OF SERVICE**

This will certify that on April 26, 2019, the foregoing Memorandum in Support of Jurisdiction of Plaintiff-Appellant Richard Moran was filed electronically, and a true and accurate copy was duly served by operation of the Court's electronic filing system or via fax or by email or by regular U.S. mail to the following:

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***/S/ MARY JO HANSON***

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*Counsel for Plaintiff-Appellant Richard Moran*

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS

**June 26, 2019**

[Cite as *06/26/2019 Case Announcements #3*, 2019-Ohio-2498.]

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## MOTION AND PROCEDURAL RULINGS

**2019-0565. *State v. Kyle v. Woods.***

Cuyahoga App. No. 106476, 2018-Ohio-4856. Appellant's motion for delayed appeal denied.

Fischer and Donnelly, JJ., dissent.

Stewart, J., not participating.

## APPEALS ACCEPTED FOR REVIEW

**2019-0531. *Defender Sec. Co. v. Testa.***

Franklin App. No. 18AP-238, 2019-Ohio-725.

O'Connor, C.J., and Donnelly and Stewart, JJ., dissent.

## APPEALS NOT ACCEPTED FOR REVIEW

**2019-0152. *State v. Kennedy.***

Clark App. No. 2017-CA-100, 2018-Ohio-4997.

**2019-0171. *State v. King.***

Cuyahoga App. No. 106709, 2018-Ohio-4780.

Donnelly, J., dissents and would accept the appeal and appoint counsel.

**2019-0381. *State v. Jones.***

Summit App. No. 28063, 2019-Ohio-289.

Donnelly, J., dissents.

**2019-0459. State v. Miller.**

Hancock App. No. 5-19-03. Appellant's motion to amend notice of appeal and memorandum in support of jurisdiction granted.

Kennedy and Fischer, JJ., would deny the motion.

Stewart, J., dissents and would deny the motion as moot.

**2019-0483. State v. Spurling.**

Hamilton App. No. C-170531.

**2019-0485. State v. Mitchell.**

Portage App. No. 2018-P-0047, 2019-Ohio-844.

**2019-0490. State v. Farmer.**

Knox App. No. 17CA05.

**2019-0494. P.J. Lindy & Co., Inc. v. Savage.**

Erie App. No. E-18-028, 2019-Ohio-736.

**2019-0495. State v. Watkins.**

Allen App. No. 1-18-32, 2018-Ohio-5055.

**2019-0498. State v. Johnson.**

Cuyahoga App. No. 107126, 2019-Ohio-632.

**2019-0502. State v. Reynolds.**

Cuyahoga App. No. 106979, 2019-Ohio-630.

Donnelly, J., dissents.

**2019-0504. Kraft v. OMCO Bldg., LLC.**

Franklin App. No. 17AP-743.

**2019-0505. Dyer v. Dalton.**

Summit App. No. 28892, 2019-Ohio-602.

**2019-0507. State v. Vicario.**

Cuyahoga App. No. 106373, 2019-Ohio-784.

**2019-0508. State v. Jackson.**

Allen App. No. 1-18-20, 2019-Ohio-665.

Donnelly, J., dissents.

**2019-0509. State v. Wallace.**

Franklin App. No. 17AP-818, 2019-Ohio-1005.

Stewart, J., dissents and would accept the appeal on proposition of law Nos. I and II.

**2019-0510. Marshall v. Marshall.**

Franklin App. No. 18AP-543, 2019-Ohio-684.

**2019-0512. State v. Johnson.**

Fayette App. No. CA2018-06-013, 2019-Ohio-754.

**2019-0517. Waterford Pointe Condominium Assn. v. Res. Domiciles, Ltd.**

Summit App. No. 28766, 2019-Ohio-691. Appellant's motion to stay denied.

O'Connor, C.J., and Donnelly and Stewart, JJ., would deny the motion as moot.

**2019-0520. State v. Cotten.**

Richland App. No. 18CA105, 2019-Ohio-828. Appellant's request for leave denied.

**2019-0522. State v. Cruz.**

Cuyahoga App. No. 107174, 2019-Ohio-792.

**2019-0523. King v. King.**

Franklin App. No. 18AP-84, 2019-Ohio-722.

Kennedy and French, JJ., dissent.

**2019-0527. CMHA v. Overall.**

Cuyahoga App. No. 107885.

**2019-0528. Bill Swad Chevrolet, Inc. v. Dunson.**

Franklin App. No. 18AP-233, 2019-Ohio-680.

Kennedy and French, JJ., dissent.

**2019-0530. Arnold v. Allen.**

Stark App. No. 2018CA00130.

**2019-0532. Champion Chrysler v. Dimension Serv. Corp.**

Franklin App. No. 17AP-860, 2018-Ohio-5248.

**2019-0534. In re B.S.**

Warren App. No. CA2018-11-129, 2019-Ohio-758.

**2019-0536. Mousa v. Saad.**

Marion App. No. 9-18-12, 2019-Ohio-742.

**2019-0545. State v. Little.**

Wyandot App. No. 16-18-06, 2019-Ohio-745.

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

**2019-0564. State v. M.J.**

Ashtabula App. No. 2018 A 0046, 2019-Ohio-1420. Appellee's motion to strike granted.

O'Connor, C.J., and Kennedy and Fischer, JJ., would deny the motion to strike.

**2019-0568. State v. Mazzola.**

Trumbull App. No. 2018-T-0029, 2019-Ohio-845.

**2019-0579. State v. Horton.**

Muskingum App. No. CT2018-0066, 2019-Ohio-625.

**2019-0581. State v. Kwambana.**

Clermont App. No. CA2018-10-074, 2019-Ohio-1197.

**2019-0604. State v. Nelson.**

Franklin App. No. 18AP-659, 2019-Ohio-1075.

**2019-0607. State v. Darden.**

Lucas App. No. L-17-1283, 2019-Ohio-1175.

**2019-0610. State v. Moten.**

Clark App. Nos. 2018-CA-19 and 2018-CA-20, 2019-Ohio-1473.

**2019-0611. State v. Jackson.**

Lorain App. No. 18CA011363, 2019-Ohio-1153.

Donnelly, J., dissents and would accept the appeal on proposition of law No. II.

**2019-0615. State v. Irvine.**

Summit App. No. 28998, 2019-Ohio-959.

Donnelly, J., dissents.

**2019-0630. State v. Bloodworth.**

Summit App. No. 29025, 2019-Ohio-1222.

Donnelly, J., dissents and would accept the appeal on proposition of law No. I.  
O'Connor, C.J., not participating.

**2019-0632. In re L.R.**

Lorain App. Nos. 18CA011378 and 18CA011385, 2019-Ohio-1152.

**2019-0637. State v. Houston.**

Montgomery App. No. 28189, 2019-Ohio-1479.

Donnelly, J., dissents and would accept the appeal and hold the cause for the decision in 2017-1575, *State v. Parker*.

Stewart, J., dissents.

**2019-0644. State v. Gilbert.**

Cuyahoga App. No. 106358, 2019-Ohio-1117.

**2019-0647. State v. Austin.**

Mahoning App. No. 16 MA 0068, 2019-Ohio-1185.

**2019-0648. State v. Marshall.**

Cuyahoga App. No. 87334, 2019-Ohio-1114.

**2019-0652. State v. Taylor.**

Montgomery App. No. 28166, 2019-Ohio-1376.

## **RECONSIDERATION OF PRIOR DECISIONS**

**2019-0036. Sharp v. Miller.**

Jefferson App. No. 17 JE 0022, 2018-Ohio-4740. Reported at 155 Ohio St.3d 1421, 2019-Ohio-1421, 120 N.E.3d 867. On appellants' motion for reconsideration. Motion denied. Cross-appellants' motion for reconsideration denied.



Kennedy, J., dissents.

**2019-0115. State v. Billiter.**

Monroe App. No. 17 MO 0019, 2018-Ohio-5424. Reported at 155 Ohio St.3d 1421, 2019-Ohio-1421, 120 N.E.3d 867. On motion for reconsideration. Motion denied.

**2019-0160. Moran v. Lewis.**

Cuyahoga App. No. 106634, 2018-Ohio-4423. Reported at 155 Ohio St.3d 1422, 2019-Ohio-1421, 120 N.E.3d 868. On motion for reconsideration. Motion denied.

Donnelly, J., dissents.

**2019-0224. R. L. Best Co. v. Testa.**

Mahoning App. No. 18MA0001. Reported at 155 Ohio St.3d 1422, 2019-Ohio-1421, 120 N.E.3d 1422. On motion for reconsideration. Motion denied.

Kennedy and French, JJ., dissent.