

ATTENTION

DIRECT ANY QUESTIONS ABOUT THE ANNOUNCEMENT TO WALTER S. KOBALKA,  
REPORTER OF DECISIONS, OR JUSTINE MICHAEL, ADMINISTRATIVE ASSISTANT, AT  
(614) 466-4961 OR 1-800-826-9010.

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

9:00 A.M.

WEDNESDAY  
June 24, 1992

MERIT DOCKET

91-351, 91-370 and 91-371. Ramage v. Central Ohio Emergency Serv., Inc.  
Guernsey County. Certified by and Appeal from the Court of Appeals for  
Guernsey County, Nos. 90-CA-20, 89-CA-43 and 89-CA-49. Judgment affirmed  
in part, reversed in part and cause remanded.

Moyer, C.J., Sweeney, Holmes, Wright and H. Brown, JJ., concur.

Douglas and Resnick, JJ., concur in part and dissent in part.

91-601. Wise v. Timmons.

Pickaway County. Appeal and Cross-Appeal from the Court of Appeals for  
Pickaway County, No. 89CA14. Judgment affirmed in part and reversed in  
part.

Moyer, C.J., Sweeney, Douglas, Wright, H. Brown and Resnick, JJ.,  
concur.

Holmes, J., concurs separately.

91-892. High v. Howard.

Allen County. Appeal from the Court of Appeals for Allen County, No.  
1-90-39. Judgment affirmed.

Moyer, C.J., Holmes, Wright and H. Brown, JJ., concur.

Sweeney, Douglas and Resnick, JJ., dissent.

92-350. Millar v. Beacon Ins. Co. of Am.

Licking County, No. CA-3674. On motion to certify the record. Motion  
allowed, and cause reversed and remanded.

Moyer, C.J., Sweeney, Douglas, H. Brown and Resnick, JJ., concur.

Holmes and Wright, JJ., dissent.

92-724. State ex rel. Whitehead v. Wilkinson.

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

Moyer, C.J., Sweeney, Holmes, Douglas, Wright, H. Brown and Resnick,

JJ., concur.

92-765. State ex rel. Adams v. Denniss.

On motion to dismiss. Motion to dismiss sustained. Cause dismissed.

Moyer, C.J., Sweeney, Holmes, Douglas, Wright, H. Brown and Resnick, JJ., concur.

92-770. State ex rel. Adams v. Wise.

On motion to dismiss. Motion to dismiss sustained. Cause dismissed.

Moyer, C.J., Sweeney, Holmes, Douglas, Wright, H. Brown and Resnick, JJ., concur.

92-772. State ex rel. Adams v. Falvey.

On motion to dismiss. Motion to dismiss sustained. Cause dismissed. On motion for sanctions. Motion denied.

Moyer, C.J., Sweeney, Holmes, Douglas, Wright, H. Brown and Resnick, JJ., concur.

92-773. State ex rel. Adams v. Harmon.

On motion to dismiss. Motion to dismiss sustained. Cause dismissed. On motion for sanctions. Motion denied.

Moyer, C.J., Sweeney, Holmes, Douglas, Wright, H. Brown and Resnick, JJ., concur.

92-829. State ex rel. Meyer v. Ohio Adult Parole Auth.

In Mandamus. On answer of respondent. Answer treated as motion to dismiss. Motion to dismiss sustained. Cause dismissed.

Moyer, C.J., Sweeney, Holmes, Douglas, Wright, H. Brown and Resnick, JJ., concur.

92-915. State ex rel. Davis v. Judges of the Court of Appeals, Ninth Judicial Dist.

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

Moyer, C.J., Sweeney, Holmes, Douglas, Wright, H. Brown and Resnick, JJ., concur.

DISMISSALS, SUA SPONTE, NO SUBSTANTIAL CONSTITUTIONAL  
QUESTION AND JURISDICTIONAL MOTIONS OVERRULED

91-2270. Ohio Bd. of Chiropractic Examiners v. Schone.

Franklin County, No. 90AP-1347.

92-384. State v. Chinn.

Montgomery County, No. CA 11835. On motion and cross-motion for leave to appeal. Motions overruled.

Resnick, J., would allow the appeal only.

92-439. Bank One, Columbus, N.A. V. O'Brien.

Franklin County, Nos. 91AP-165 and 91AP-440.

H. Brown, J., not participating.

92-455. Wolff v. Kuralak.

Cuyahoga County, No. 59569.

H. Brown, J., dissents.

92-467. State v. Webb.  
Cuyahoga County, No. 59544.

92-470. State v. Carrick.  
Licking County, No. CA-3619.

92-504. State v. Dodson.  
Franklin County, No. 91AP-411.  
Moyer, C.J., not participating.

92-506. State v. Casey.  
Lucas County, No. L-90-221.  
H. Brown, J., dissents.

92-540. State v. New.  
Lake County, No. 90-L-15-112.

92-542. Martin v. Manning.  
Cuyahoga County, No. 62039.

92-562. State v. Jordan.  
Cuyahoga County, No. 59555.  
Douglas, J., dissents.

92-565. State v. Jakub.  
Cuyahoga County, No. 59762.

92-567. State v. Boroski.  
Cuyahoga County, No. 59725.

92-582. RCR Serv., Inc. v. Ceranowski.  
Franklin County, No. 91AP-450.

92-592. State v. Palmer.  
Cuyahoga County, No. 58828.  
Holmes, J., dissents.

92-600. State v. Hanifon.  
Lake County, No. 90-L-15-173.  
Douglas and Resnick, JJ., dissent.

92-608. State v. Peak.  
Cuyahoga County, No. 59726.

92-610. State v. Bobo.  
Cuyahoga County, No. 60013.

92-611. State v. Jenkins.  
Cuyahoga County, No. 59737.  
Wright, J., dissents.

92-612. Wolf v. Metropolitan Life Ins. Co.  
Hamilton County, No. C-910081.  
Douglas, J., dissents.

92-614. State v. Brooks.

Lorain County, Nos. 91CA005035 and 90CA004960.

Wright, J., dissents.

92-617. State v. Marini.

Cuyahoga County, No. 59482.

92-618. Klaben v. Tracy.

Franklin County, No. 91AP-689. On motion and cross-motion to certify the record. Motions denied.

Wright, H. Brown and Resnick, JJ., dissent.

92-628. State v. Bell.

Cuyahoga County, No. 59701.

Moyer, C.J., Holmes and Resnick, JJ., dissent.

92-629. Columbus v. Eley.

Franklin County, No. 91AP-803.

92-630. Galasso v. Civil Serv. Comm.

Franklin County, No. 91AP-741.

92-633. State v. Seals.

Cuyahoga County, No. 59841.

92-641. State v. Shorter.

Montgomery County, No. CA 12292.

92-644. State v. Harris.

Summit County, No. 15568.

92-647. State v. Jackson.

Lucas County, No. L-91-087. On motion to consolidate with 91-2266, State ex rel. Jackson v. Lanzinger, Lucas County, No. L-91-264. Motion denied.

92-648. Johnson v. Cline.

Fairfield County, No. 10-CA-91. On motion and cross-motion to certify the record. Motions denied.

Douglas, J., dissents.

92-656. Osborne v. Lake Cty. Bd. of Revision.

Lake County, No. 91-L-076.

92-658. State v. Campbell.

Warren County, No. CA92-01-003.

Moyer, C.J., dissents.

92-665. State v. Heaston.

Summit County, No. 15138.

92-667. State v. Kuntz.

Ross County, No. 1691.

Wright, J., dissents.

92-670. Bronson v. Bronson.

Franklin County, No. 91AP-904.

92-674. Smith v. Cicchini Enterprises, Inc.

Stark County, No. CA-8622.  
H. Brown, J., dissents.

92-680. State v. Jennings.  
Hamilton County, No. C-910439.

92-683. Bueter v. Churchill's Super Markets, Inc.  
Lucas County, No. L-90-296.

92-684. State v. Funari.  
Lorain County, No. 90CA004928.

92-686. Zanesville v. Osborne.  
Muskingum County, No. CA-9132.

92-687. State v. Hill.  
Ashland County, No. CA-993.  
H. Brown, J., dissents.

92-694. State v. Deckard.  
Seneca County, No. 13-91-11.

92-700. Barbeck v. Twinsburg Twp. Bd. of Trustees.  
Summit County, Nos. 14538, 14561, 15243 and 15262.  
Moyer, C.J., Douglas and Wright, JJ., dissent.

92-704. State v. Van Johnson.  
Cuyahoga County, No. 59820.

92-710. Manogg v. Spangler.  
Licking County, Nos. CA-3679 and CA-3694.

92-712. State v. Rich-Bey.  
Montgomery County, No. 12762.

#### MOTION DOCKET

90-1929. Sturm v. Sturm.  
Cuyahoga County, No. 57380. On motion to substitute the parties. Motion granted.

Wright, J., not participating.

91-1657. State ex rel. Fant v. Flaherty.  
Franklin County, No. 90AP-1323. On submission of expenses. Submission granted in the prayed-for amount of \$231.93.

91-1760. State ex rel. Donaldson v. Alfred.  
In Mandamus. On motion to vacate protective order and request for oral argument. Motion and request denied.  
Douglas, J., not participating.

91-1785. State ex rel. Toledo Blade Co. v. Univ. of Toledo Found.  
In Mandamus. On motion for leave to exceed page limit. Motion granted.  
Holmes, J., dissents.

91-2218. State v. Storch.

Erie County, No. E-90-18. On motion for leave to file amicus of Ohio Prosecuting Attorneys Association. Motion granted.

91-2247. In re Shaker Hts.

Cuyahoga County, No. 62323. On motion for leave to amend reply brief. Motion granted.

91-2472. In re Annexation of 466.112 Acres from Washington Twp.

Montgomery County, No. 12567. On motions for leave to file amicus of Ohio Municipal League and Ohio Township Association. Motions granted.

91-2476. Case v. Norfolk & Western RR. Co.

Sandusky County, No. S-90-24. On motion for leave to file amicus of Ohio Academy of Trial Lawyers. Motion granted.

91-2536. Ohio Historical Society v. Ohio Council 8, AFSCME, AFL-CIO.

Franklin County, Nos. 91AP-97 and 91AP-98. On motion for leave to supplement the record. Motion granted.

H. Brown, J., not participating.

92-80. State ex rel. Litten v. Indus. Comm.

Franklin County, No. 91AP-80. On motion to dismiss. Motion overruled.

On motion for leave to file appellant's brief instant. Motion granted.

92-135. State Emp. Relations Bd. v. Adena Local School Dist. Bd. of Edn.

Ross County, No. 1732. On motion to substitute original transcript. Motion granted.

92-198. Shaffer v. Maier.

Hamilton County, Nos. C-900573 and C-900600. On motion for leave to proceed in pro hac vice. Motion granted.

92-448. State ex rel. Reese v. Ohio Adult Parole Auth.

In Mandamus. On motion for parole records. Motion denied.

92-722. State ex rel. Freeman v. Wilkinson.

Franklin County, No. 91AP-580. On motion for injunctive relief. Motion denied.

92-742. Garrett v. Sandusky.

Erie County, No. E-91-5. On motion for leave to file notice of cross-appeal instant. Motion granted.

Resnick, J., not participating.

92-839. State v. McCullough.

Lucas County, No. L-91-128. On motion for leave to file notice of appeal instant. Motion granted.

92-895. Reeser v. Weaver Bros., Inc.

Darke County, No. 1280. On motion for leave to file notice of cross-appeal instant. Motion granted.

92-899. Dingus v. Kirwan.

Erie County, No. E-91-2. On motion to consolidate with 92-842, Dingus v. Kirwan, Erie County, No. E-91-2. Motion granted.

92-969. State v. Sherrills.  
Cuyahoga County, No. 35912. On motion for leave to file delayed appeal.  
Motion denied.

Holmes and Resnick, JJ., dissent.

92-989. State ex rel. Celebrezze v. National Lime & Stone Co.  
Wyandot County, No. 16-91-7. On motions for leave to file amicus of Ohio  
Aggregates Association et al. and Greater Cincinnati Chamber of  
Commerce. Motions granted.

Resnick, J., not participating.

92-990. State v. Eberling.  
Cuyahoga County, No. 58559. On motion for leave to exceed page limit.  
Motion granted.

Moyer, C.J., Holmes and Wright, JJ., dissent.

92-992. State v. Pennymon.  
Cuyahoga County, No. 59654. On motion for leave to file delayed appeal.  
Motion granted.

Holmes and Sweeney, JJ., dissent.

92-997. State v. Allen.  
Licking County, No. 3723. On motion for leave to file delayed appeal.  
Motion denied.

Resnick, J., dissents.

92-998. State v. Griffen.  
Cuyahoga County, No. 47321. On motion for leave to file delayed appeal.  
Motion denied.

Resnick, J., dissents.

92-1004. State v. Henderson.  
Cuyahoga County, No. 58560. On motion for leave to exceed page limit.  
Motion granted.

Moyer, C.J., Holmes and Wright, JJ., dissent.

92-1006. Discount Drug Mart, Inc. v. Ohio Liquor Control Comm.  
Franklin County, No. 92AP-85. On motion for leave to file memorandum in  
support instant. Motion granted.

92-1017. State v. Rivers.  
Franklin County, No. 92AP-432. On motion for leave to file delayed  
appeal. Motion granted.

Wright and H. Brown, JJ., dissent.

#### JURISDICTIONAL MOTIONS ALLOWED

92-281. State v. Ullis.  
Lucas County, No. L-90-264. On motion and cross-motion for leave to  
appeal. Motions allowed.

92-515. Pariano v. Kerr.  
Cuyahoga County, No. 63077. On motion to certify the record and on  
motion to consolidate with 91-1720, Pariano v. Kerr, Cuyahoga County, No.

61973. Motions granted.

Wright and Resnick, JJ., dissent.

92-516. Pariano v. Kerr.

Cuyahoga County, No. 62984. On motion to certify the record and on motion to consolidate with 91-1720, supra. Motions granted.

Wright and Resnick, JJ., dissent.

92-625. Gergely v. Van Voorhis.

Erie County, Nos. E-90-36 and E-89-10.

Resnick, J., not participating.

92-690. State v. Bethel.

Stark County, No. CA-8629.

H. Brown, J., dissents.

92-767. Kennecorp Mortgage Brokers, Inc. v. Country Club Convalescent Hosp., Inc.

Lucas County, No. L-91-157.

Moyer, C.J., Holmes and Resnick, JJ., dissent.

#### JURISDICTIONAL MOTIONS OVERRULED

92-301. Brotherton v. Cleveland.

Hamilton County, No. C-910111.

H. Brown and Resnick, JJ., dissent.

92-361. Butler Cty. Bd. of Mental Retardation & Developmental Disabilities v. State Emp. Relations Bd.

Franklin County, No. 91AP-802.

Douglas, J., dissents.

92-397. Stellar Satellite Sys., Inc. v. Warrensville Hts.

Cuyahoga County, No. 59633.

Holmes and Wright, JJ., dissent.

92-435. Admr. of Veterans Affairs v. Koryta.

Cuyahoga County, No. 58616.

92-484. Petrick v. Barrett.

Cuyahoga County, No. 63094.

92-512. Davis v. Loopco Indus., Inc.

Cuyahoga County, No. 59594.

Wright and H. Brown, JJ., dissent.

92-529. Frasher v. Beulah Park Ltd. Partnership.

Franklin County, No. 91AP-930.

92-530. Estate of Kirby v. Hamilton Cty. Court of Common Pleas, Juvenile Div.

Hamilton County, No. C-910100.

92-541. Lazzaro v. Picardini.

Lake County, Nos. 91-L-023 and 91-L-024.



Holmes, Douglas and Wright, JJ., dissent.

92-543. Tri-County Assembly of God, Butler Cty. v. Limbach.  
Butler County, No. CA91-06-105.

92-550. Medrano v. Leader Natl. Ins. Co.  
Crawford County, No. 3-91-42.  
Douglas, H. Brown and Resnick, JJ., dissent.

92-554. McKinney v. Walterhouse.  
Crawford County, No. 3-90-27.

92-558. Gardner v. Kines.  
Stark County, No. CA-8674.  
H. Brown, J., dissents.

92-560. Ohio Office of Collective Bargaining v. Ohio Civ. Serv. Emp.  
Assn., Local 11, AFSCME.  
Franklin County, No. 91AP-902.

92-570. Orrville Products, Inc. v. MPI, Inc.  
Cuyahoga County, No. 59772.  
Wright, J., dissents.

92-577. Hines v. Aetna Cas. & Sur. Co.  
Cuyahoga County, No. 59600.  
Sweeney, Douglas and Resnick, JJ., dissent.

92-584. Cleveland v. Limbach.  
Cuyahoga County, No. 59722.  
Holmes, Wright and H. Brown, JJ., dissent.

92-585. Durbin v. Schober.  
Butler County, No. CA91-03-048.  
Douglas, J., dissents.

92-590. Croxford v. Litchfield.  
Athens County, No. 1491.  
Douglas, J., dissents.

92-594. Columbus Bd. of Edn. v. Franklin Cty. Bd. of Revision.  
Franklin County, Nos. 90AP-317 and 90AP-324.  
Resnick, J., dissents.

92-595. State v. Everson.  
Summit County, No. 15246.  
Douglas and Resnick, JJ., dissent.

92-599. State v. Holloway.  
Hamilton County, No. C-900805.

92-601. Centerville v. Curran.  
Montgomery County, No. CA 13008.  
Moyer, C.J., Douglas and Wright, JJ., dissent.

92-603. Gholston v. Mihm.  
Brown County, No. CA91-07-012.

Wright, J., dissents.

92-607. Fessenmeyer v. Celina Ins. Co.  
Sandusky County, No. S-90-22.  
Moyer, C.J., Holmes and Wright, JJ., dissent.

92-615. Akers v. Levitt.  
Montgomery County, No. 12471.

92-616. Kelly v. Reed.  
Medina County, No. 2008.  
Douglas, J., dissents.

92-622. Uihlein v. Lauch.  
Hamilton County, No. C-900907.  
Holmes, Douglas and Wright, JJ., dissent.

92-623. Clark v. Sed.  
Portage County, No. 91-P-2314.

92-624. In re Adoption of Darnall.  
Hancock County, No. 5-91-27.  
Moyer, C.J., Holmes and Douglas, JJ., dissent.

92-634. State v. Darden.  
Erie County, E-90-70.  
Resnick, J., not participating.

92-642. E.S. Preston Assoc., Inc. v. Weimer.  
Franklin County, No. 91AP-557.  
Wright and Resnick, JJ., dissent.

92-643. Sengsourichanh v. Hall.  
Shelby County, No. 17-91-24.

92-646. Snyder v. Snyder.  
Cuyahoga County, No. 59814.  
Holmes, J., dissents.

92-649. Coshocton v. Foreman.  
Coshocton County, No. 91-CA-26. On motion to consolidate with 92-387,  
Coshocton v. Forbes, Coshocton County, Nos. 91-CA-11, 91-CA-12, 91-CA-15  
and 91-CA-20. Motion denied; sua sponte, the motion to certify in 92-387  
is overruled.

92-650. Butler Cty. Bd. of Mental Retardation & Developmental  
Disabilities v. State Emp. Relations Bd.  
Franklin County, No. 91AP-802.  
Douglas, J., dissents.

92-655. Bullock v. Beacon Ins. Co. of Am.  
Allen County, No. 1-91-69.  
Holmes and Wright, JJ., dissent.

92-666. Vanderbeck v. CSX RR.  
Huron County, No. H-90-45.  
Resnick, J., dissents.

Wright, J., not participating.

92-669. State v. Branscome.  
Clermont County, No. CA91-07-045.

92-672. Carney v. B.F. Goodrich.  
Lorain County, No. 91CA005087.  
Douglas and Resnick, JJ., dissent.

92-676. Decker v. Rightnour.  
Summit County, No. 15195.

92-681. Landen Farm Comm. Serv. Assn., Inc. v. Schube.  
Warren County, Nos. CA91-07-060 and CA91-07-061.

92-685. Conley v. Holiday Inns, Inc.  
Washington County, No. 91-CA-6.

92-691. State v. Tolliver.  
Hamilton County, Nos. C-910507 and C-910520.  
Wright, J., dissents.

92-692. Brown v. Invacare Corp.  
Richland County, No. CA-2858.  
Holmes, Wright and H. Brown, JJ., dissent.

92-717. Smith Ins. Serv. Agency, Inc. v. C.D. Werner Ins. Agency, Inc.  
Lucas County, No. L-90-369.  
Holmes and Wright, JJ., dissent.  
Resnick, J., not participating.

92-729. State v. Jones.  
Franklin County, Nos. 91AP-796 and 91AP-797.  
Wright, J., dissents.

92-774. State v. Ross.  
Huron County, No. H-91-17.

#### REHEARING DOCKET

91-142. State v. Rhodes.  
Franklin County, No. 90AP-289. Reported at 63 Ohio St.3d 613,  
N.E.2d . On motion for rehearing. Rehearing denied.  
Moyer, C.J., Douglas and H. Brown, JJ., dissent.

91-890. Dunville v. Eid.  
Hamilton County, No. C-890826. Reported at 63 Ohio St.3d 1213,  
N.E.2d . On motion for rehearing. Rehearing denied.  
Moyer, C.J., dissents.

91-1830. Russell v. Foldes.  
Allen County, No. CA91070046. Reported at 63 Ohio St.3d 1454,  
N.E.2d . On motion for rehearing. Rehearing denied.

91-2576. In re Application of Waite.

In Habeas Corpus. Reported at 63 Ohio St.3d 1471, N.E.2d . On motion for rehearing. Rehearing denied.

92-30. Belvedere Condominium Owners Assn. v. R.E. Roark Companies, Inc. Hamilton County, No. C-900581. Reported at 63 Ohio St.3d 1461, N.E.2d . On motion for rehearing. Rehearing granted; sua sponte, motion to certify allowed.

H. Brown and Resnick, JJ., dissent.

92-236. Kreiner, Uhlinger & Edmones Co., L.P.A. v. State Farm Fire & Cas. Co.

Licking County, No. CA-3602. Reported at 63 Ohio St.3d 1463, N.E.2d . On motion for rehearing. Rehearing denied.

Holmes and Wright, JJ., dissent.

92-272. Witchey v. Prudential Ins. Co. of Am.

Richland County, No. CA-2866. Reported at 63 Ohio St.3d 1464, N.E.2d . On motion for rehearing. Rehearing denied.

H. Brown, J., dissents.

92-297. Griffin v. Akron Adult Parole Auth.

Summit County, Nos. 15202 and 15203. Reported at 63 Ohio St.3d 1464, N.E.2d . On motion for rehearing. Rehearing denied.

92-366. State v. McMillan.

Lorain County, No. 91CA005081. Reported at 63 Ohio St.3d 1444, N.E.2d . On motion for rehearing. Rehearing denied.

92-609. State ex rel. Howell v. Rogers.

In Habeas Corpus. Reported at 63 Ohio St.3d 1467, N.E.2d . On motion for rehearing. Rehearing denied.

92-660. State v. Boyle.

Reported at 63 Ohio St.3d 1460, N.E.2d . On motion for rehearing. Rehearing denied.

#### DISCIPLINARY DOCKET

92-905. Cuyahoga Cty. Bar Assn. v. Berger.

On respondent's motions to abstain or, in the alternative, for extension of time to file objections and brief. Motions denied.

92-906. Cuyahoga Cty. Bar Assn. v. Fertel.

On respondent's motions to abstain or, in the alternative, for extension of time to file objections and brief. Motions denied.

92-1082. In re Resignation of Miller.

The resignation of Otto Miller III as an attorney, Registration No. 0003636, is accepted.