

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

1:00 P.M.

WEDNESDAY  
November 18, 1992

MERIT DOCKET

91-2266. State ex rel. Jackson v. Lanzinger.

Lucas County. Appeal from the Court of Appeals for Lucas County, No.  
L-91-264. Judgment affirmed.

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

91-2522. State ex rel. Jones v. Indus. Comm.

Franklin County. Appeal from the Court of Appeals for Franklin County,  
No. 90AP-1318. Judgment reversed.

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

92-1272. State ex rel. Hampton v. Ohio Adult Parole Auth.

Franklin County. Appeal from the Court of Appeals for Franklin County,  
No. 91AP-1248. Judgment affirmed.

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

92-1290. State ex rel. Mormile v. Garfield Hts. Mun. Court.

Cuyahoga County, No. 62976. On motion to dismiss. Motion to dismiss  
sustained. Cause dismissed.

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

92-1358. State ex rel. Richard v. Wells.

Cuyahoga County. Appeal from the Court of Appeals for Cuyahoga County,  
No. 63461. Judgment affirmed.

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

92-1678. State ex rel. Hill v. Ohio State Parole Auth.  
In Mandamus. On request to dismiss. Request to dismiss sustained.  
Cause dismissed.

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

92-1737. State ex rel. Morrow v. Voinovich.  
In Mandamus. On request to dismiss. Request to dismiss sustained.  
Cause dismissed.

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

92-1819. State v. Smith.  
Allen County, No. 1-91-45. On motion to dismiss. Motion to dismiss  
sustained. Cause dismissed.

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

92-1846. Akron v. Bilder.  
Summit County, No. 15795. On motion to dismiss. Motion to dismiss  
sustained. Cause dismissed.

Sweeney, Douglas, Wright, H. Brown and Resnick, JJ., concur.

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

92-1861. State ex rel. Gaston v. Ohio Adult Parole Auth.  
In Mandamus. Sua sponte, cause dismissed.

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

92-1870. State ex rel. Harris v. Ohio Court of Appeals, Eighth 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.

92-1912. Cripple v. State.  
In Habeas Corpus. Sua sponte, cause dismissed.

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

92-1926. State ex rel. Griffin v. Reece.  
In Mandamus. Sua sponte, cause dismissed.

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

92-1929. State ex rel. Brofford v. Judges of the Court of Appeals,  
Franklin Cty.  
In Mandamus. Sua sponte, cause dismissed.

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

92-1935. State ex rel. Mancini v. Garfield Hts. Mun. Court.  
In Mandamus. Sua sponte, cause dismissed.

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

92-2001. Robinson v. Littlefield.

In Habeas Corpus. Sua sponte, 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

92-1186. State v. Toney.  
Cuyahoga County, No. 59630.

92-1210. Swinderman v. Dover City School Dist. Bd. of Edn.  
Tuscarawas County, No. 91AP110091.

92-1449. State v. Esparza.  
Lucas County, No. L-90-235.  
Wright, J., would allow on Propositions of Law Nos. I and II only.

92-1547. Blake v. Faulkner.  
Shelby County, No. 17-91-18.

92-1551. State v. Ashby.  
Cuyahoga County, No. 59616.

92-1593. State v. Bulerin.  
Allen County, No. 1-91-24.  
Douglas, J., dissents.

92-1601. State v. Southers.  
Stark County, No. CA-8682.  
H. Brown, J., dissents.

92-1604. State v. Little.  
Allen County, No. 1-90-100.

92-1606. Ohio Assn. of Pub. School Emp., AFSCME/AFL-CIO v. Lorain Cty.  
Bd. of Mental Retardation & Developmental Disabilities.  
Lorain County, No. 91CA005218. On motion to certify the record and on  
motion for leave to file amicus of Ohio Association of County Boards of  
MRDD. Motions denied.  
Sweeney, Douglas and Resnick, JJ., dissent.

92-1612. State ex rel. Becker v. Lions Den Adult Book Store.  
Licking County, No. 92-CA-16.  
H. Brown, J., dissents.

92-1614. State v. Stercz.  
Hamilton County, Nos. C-910860 and C-910861.

92-1615. State v. Waiters.  
Stark County, No. CA-8877.  
Wright, J., dissents.

92-1620. Hersh bain v. Cleveland.  
Cuyahoga County, Nos. 60331 and 61121.

92-1634. Gomia v. Napier.  
Butler County, No. CA91-11-194.  
Holmes, J., dissents.

92-1642. State v. Lemke.  
Summit County, No. 15404. On motions to certify the record, for  
evidentiary hearing, for appointment of counsel, and for leave to file  
memorandum in opposition instanter. Motions denied.

92-1648. Moavero v. Bush.  
Stark County, No. CA-8760.  
H. Brown, J., dissents.

92-1650. Akron v. Hornig.  
Summit County, No. 15383.

92-1655. Carrelli v. Goodwin.  
Clinton County, No. CA91-08-020.

92-1659. State v. Halczyzak.  
Cuyahoga County, Nos. 62833 and 62834.

92-1667. State v. Ingram.  
Cuyahoga County, No. 60072.  
Holmes and Douglas, JJ., dissent.

92-1668. State v. Houseman.  
Allen County, No. 1-92-23.

92-1672. Sherman v. Millhon.  
Franklin County, No. 92AP-89.  
Douglas, J., dissents.  
H. Brown, J., not participating.

92-1675. Monfort Supply Co. v. Cheviot.  
Hamilton County, No. C-910558.  
Douglas, J., dissents.

92-1684. State v. Black.  
Lawrence County, No. 92-CA-8.  
Wright, J., dissents.

92-1698. Holt v. Cline.  
Richland County, No. CA-2905.

92-1699. In re Sliker.  
Pickaway County, No. 92CA000002.

92-1700. State v. Kirkbride.  
Lorain County, Nos. 91CA005208 and 91CA005209.

92-1711. State v. Dabbs.  
Warren County, No. CA92-03-021.  
Holmes, Douglas and Resnick, JJ., dissent.

92-1715. Axmacher v. Oches.  
Butler County, No. CA91-04-073. On motion and cross-motion to certify

the record. Motions denied.  
Resnick, J., dissents.

92-1719. Hackley v. Tomioka.  
Union County, No. 14-91-56.

92-1720. State v. Johnson.  
Franklin County, No. 91AP-1526.  
Holmes, J., dissents.  
Moyer, C.J., not participating.

92-1721. Lornic Corp. v. D'Ambrosi.  
Mahoning County, No. 91 C.A. 86.

92-1728. State v. Cochran.  
Franklin County, No. 91AP-1371.  
Moyer, C.J., Douglas and Resnick, JJ., dissent.

92-1748. State v. McDonald.  
Franklin County, Nos. 91AP-791 and 91AP-793.

92-1750. Whiteco Metrocom, Inc. v. Ohio Dept. of Transp.  
Franklin County, No. 92AP-201.  
H. Brown, J., dissents.

92-1757. State v. Cedeno.  
Cuyahoga County, No. 63420.

92-1759. Duvall v. Titan Equip. Corp.  
Cuyahoga County, No. 62809.  
Wright, J., dissents.

92-1762. Edinburg Twp. Trustees v. 14 & 76 Novelty Co., Inc.  
Portage County, No. 91-P-2366.  
Douglas, J., dissents.

92-1764. State v. Phillips.  
Franklin County, Nos. 92AP-223, 92AP-224, 92AP-225 and 92AP-226.

92-1788. State v. Remalia.  
Hamilton County, No. C-910917.  
Resnick, J., dissents.

92-1795. State v. Starling.  
Franklin County, No. 91AP-1348.

92-1799. State v. Browne.  
Montgomery County, No. 13155.  
Wright and H. Brown, JJ., dissent.

#### MOTION DOCKET

86-1130. State v. Zuern.  
Hamilton County, No. C-840803. On motion for delayed reconsideration and  
on motion to dismiss. Motion to dismiss granted.

91-1315. In re Poling.  
Franklin County, No. 91AP-8. On motion to reconsider amount of attorney fees. Motion granted.

Wright, J., dissents.

Holmes, J., not participating.

91-2001. Rockey v. 84 Lumber Co.  
Cuyahoga County, Nos. 58610 and 58654. On motion for leave to file amicus of Ohio Academy of Trial Lawyers instant. Motion granted.

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

92-194. State v. Nicholas.  
Warren County, No. CA91-01-004. On motion for leave to exceed page limit. Motion granted.

Holmes, Wright and Resnick, JJ., dissent.

92-207. Community Concerned Citizens, Inc. v. Union Twp. Bd. of Zoning Appeals.

Clermont County, No. CA91-01-009. On motion for leave to file brief and record instant. Motion granted.

On motion to dismiss. Motion denied.

92-559. Bell v. Mt. Sinai Med. Ctr.  
Cuyahoga County, No. 63061. On motion to dismiss. Motion denied.

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

92-943. State v. Franklin.  
Hamilton County, No. C-910300. On motion for leave to file notice of appeal instant. Motion granted.

Wright and H. Brown, JJ., dissent.

92-1018. Crock Constr. Co. v. Stanley Miller Constr. Co.  
Noble County, No. 206. On motion to consolidate with 92-1389, Crock Constr. Co. v. Stanley Miller Constr. Co., Noble County, No. 206. Motion granted.

H. Brown, J., would grant the alternative relief of extension.

92-1113. State ex rel. Laguta v. Corrigan.  
In Mandamus. On motion to produce/transmit record. Motion denied.

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

92-1130. Bresnik v. Beulah Park Ltd. Partnership.  
Franklin County, No. 91AP-1068. On motion for leave to file amicus of Daniel A. Frasher. Motion granted.

92-1431. Cleveland Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision.  
Board of Tax Appeals, Nos. 89-H-909, 89-C-972, 89-H-910. On motion for leave to file record instant. Motion granted.

92-1708. State v. Wiggins.  
Hamilton County, No. C-910620. On motion for leave to file memorandum in support instant. Motion granted.

Wright, J., dissents.

92-2005. State v. Thornton.  
Cuyahoga County, No. 59619. On motion for leave to file delayed appeal.

Motion granted.

Holmes and Wright, JJ., dissent.

92-2014. State v. Marcum.

Butler County, Nos. CA91-05-0081 and CA91-04-0068. On motion for leave to withdraw pleading without prejudice. Motion granted.

Douglas and Wright, JJ., dissent and would dismiss this cause.

92-2016. State v. Bernard.

Cuyahoga County, No. 59452. On motion for leave to file delayed appeal. Motion granted.

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

92-2021. State v. Doyle.

Summit County, No. 14503. On motion for leave to file notice of appeal instant. Motion denied.

92-2032. Interam. Trade Corp. v. Phillips.

Montgomery County, Nos. CA 13664 and CA 13677. On motion to reconsider or in the alternative motion for stay. Motion denied.

Holmes and Resnick, JJ., dissent.

On motion to strike. Motion granted.

Holmes and Resnick, JJ., dissent.

92-2047. State v. Johnson.

Summit County, No. 12307. On motion for leave to file delayed appeal. Motion denied.

92-2058. State v. Butts.

Cuyahoga County, No. 60089. On motion for leave to file delayed appeal. Motion denied.

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

92-2068. Greene v. Brighton Hotel Corp.

Cuyahoga County, No. 60838. On motion to reconsider denial of extension. Motion granted.

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

#### JURISDICTIONAL MOTIONS ALLOWED

92-1545. Reynolds v. Physicians Ins. Co. of Ohio.

Lucas County, No. L-91-148.

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

92-1628. Koury v. North Canton Properties.

Stark County, No. CA-8855.

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

92-1671. Yaklevich v. Kemp, Schaeffer & Rowe Co., L.P.A.

Franklin County, No. 91AP-1296.

Holmes, J., dissents.

92-1682. Hyde v. Reynoldsville Casket Co.

Ashtabula County, No. 91-A-1660.

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

92-1758. State v. Amato.  
Lake County, No. 91-L-092.  
Moyer, C.J., Sweeney and Wright, JJ., dissent.

JURISDICTIONAL MOTIONS OVERRULED

92-1354. Bank One, Columbus, N.A. v. O'Brien.  
Franklin County, Nos. 91AP-166 and 91AP-441. On motion to certify the  
record and on motion for leave to file memorandum in support instanter.  
Motions denied.

Wright, J., dissents.  
H. Brown, J., not participating.

92-1438. Marous v. Ohio Bell Tel. Co.  
Cuyahoga County, No. 60470. On motion to certify the record and on  
motion to file supplemental memorandum instanter. Motions denied.  
Holmes, J., dissents.

92-1471. Kelly v. Clark.  
Hamilton County, No. C-910491.  
Holmes, J., dissents.

92-1524. Lasiewski v. Landen Farm Community Serv. Assoc., Inc.  
Warren County, No. CA91-12-095.

92-1526. State v. Scarbrough.  
Stark County, No. CA-8766.

92-1602. Lovell v. Acme Furniture Mfg. Co.  
Clark County, No. 2805.  
Moyer, C.J., Holmes and Wright, JJ., dissent.

92-1619. Marino v. Mayfield.  
Lake County, No. 91-L-084.  
Holmes and Wright, JJ., dissent.

92-1626. In re Hobbs.  
Franklin County, No. 91AP-1478.

92-1627. Wilson v. LTV Steel Co.  
Cuyahoga County, Nos. 59515 and 59955.  
Moyer, C.J., and Wright, J., dissent.  
H. Brown, J., not participating.

92-1629. Lewandowski v. W.E. Mikhail M.D., Inc.  
Lucas County, No. L-91-161. Motion and cross-motion overruled.  
Moyer, C.J., and Wright, J., dissent.  
Resnick, J., not participating.

92-1633. State v. Nolan.  
Morgan County, No. CA-915.

92-1635. In re Adoption of Carletti.  
Muskingum County, No. CA-9131.



92-1636. Dayton Metro. Housing Auth. v. Dayton Human Relations Council.  
Montgomery County, No. CA 13106.

Moyer, C.J., and Douglas, J., dissent.

92-1638. Buehler v. State Farm Mut. Auto. Ins. Co.  
Mahoning County, No. 91 C.A. 209. On motion to certify the record and on  
motion for leave to file amicus of Progressive Casualty Insurance  
Company. Motions denied.

Moyer, C.J., Wright and H. Brown, JJ., dissent.

92-1639. State v. Smith.  
Cuyahoga County, No. 60817.

Wright, J., dissents.

92-1646. Parrot v. Spring Indus., Inc.  
Tuscarawas County, No. 91AP090070.

92-1647. Babal v. Babal.  
Cuyahoga County, No. 63044.

92-1653. PDT & Co. v. Ballinger.  
Hamilton County, No. C-910452. On motion and cross-motion to certify the  
record. Motions denied.

Wright, J., dissents.

92-1660. Porter v. Tamarkin Co.  
Trumbull County, No. 91-T-4540.

92-1662. Hickey v. Joint Bd. of Cty. Commrs.  
Sandusky County, No. S-91-35.

Resnick, J., not participating.

92-1663. Buttermore v. Thompson.  
Stark County, No. CA-8754.

Douglas and H. Brown, JJ., dissent.

92-1664. Miller v. Barry.  
Franklin County, No. 91AP-966.

92-1669. Lightning Rod Mut. Ins. Co. v. Ray.  
Lake County, No. 91-L-073.

Resnick, J., dissents.

92-1674. Smith v. Town.  
Franklin County, No. 91AP-1410.

Holmes and Wright, JJ., dissent.

92-1679. Plazzo v. Nationwide Mut. Ins. Co.  
Summit County, No. 15370. On motion and cross-motion to certify the  
record. Motions denied.

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

92-1680. State v. Babers.  
Seneca County, No. 13-91-48.

92-1681. In re Fleegle.

Hancock County, No. 5-92-3.

92-1683. State v. Ward.  
Cuyahoga County, No. 60068.  
Wright, J., dissents.

92-1689. Thames v. Asia's Janitorial Serv., Inc.  
Lucas County, No. L-91-180.  
Moyer, C.J., and Holmes, J., dissent.  
Resnick, J., not participating.

92-1693. Trussell v. Masco Indus., Inc.  
Carroll County, No. 610.  
Douglas, J., dissents.

92-1694. Columbus Dept. of Dev. v. Harambee Uhuru School, Inc.  
Franklin County, No. 91AP-1170.  
H. Brown, J., not participating.

92-1696. Buckeye Gypsum, Inc. v. Martin.  
Franklin County, No. 91AP-1323.

92-1703. Shafron Ent. Defined Benefit Pension Plan v. Midland Title  
Security, Inc.  
Cuyahoga County, No. 60922.

92-1713. Vassil v. Able Fence & Guardrail, Inc.  
Cuyahoga County, No. 60757.  
H. Brown, J., dissents.

92-1722. State v. Hunter.  
Delaware County, No. 91-CA-24.  
Douglas and Resnick, JJ., dissent.

92-1723. Empire-Detroit Steel Div., Cyclops Corp. v. Westinghouse Elec.  
Corp.  
Richland County, No. CA-2903.

92-1733. State v. Hunsaker.  
Auglaize County, No. 2-90-21.

92-1735. Burick v. Nationwide Ins. Co.  
Stark County, No. CA-8542.  
Holmes and Wright, JJ., dissent.

92-1736. Akron-Canton Waste Oil Co. v. Safety-Kleen Oil Serv., Inc.  
Summit County, Nos. 15230 and 15298. (Notice of appeal of Akron/Canton  
Waste, cross-appeal by Safety-Kleen, and second cross-appeal by Grote.)  
Holmes, Douglas and Wright, JJ., dissent.

92-1738. State ex rel. Ney v. Maloney.  
Hamilton County, Nos. C-910151 and C-910152. (Notice of appeal by  
DeCourcy and second notice of appeal by Grote.)  
Moyer, C.J., Holmes and H. Brown, JJ., dissent.

92-1739. Allgire v. Allstate Ins. Co.  
Franklin County, No. 91AP-1473.

Sweeney, Douglas and Resnick, JJ., dissent.

92-1752. Walton v. Ohio Dept. of Rehab. & Corr.  
Franklin County, No. 91AP-935.

Holmes and Wright, JJ., dissent.

92-1766. Belonsky v. Kennamer.  
Hamilton County, No. C-910401.

92-1769. Garfield Hts. School Dist. v. State Bd. of Edn.  
Franklin County, No. 91AP-1120.

Moyer, C.J., and Douglas, J., dissent.

92-1770. Landis v. Hunt.  
Franklin County, No. 91AP-1337.  
Resnick, J., not participating.

92-1771. Williams v. State Farm Mut. Ins. Co.  
Montgomery County, No. CA 13242.

92-1772. Solon Chamber of Commerce v. Women's Gen. Hosp.  
Cuyahoga County, Nos. 60523 and 60621.

92-1778. Cincinnati Equitable Ins. Co. v. Ott.  
Mahoning County, No. 92 C.A. 5.  
Douglas and Wright, JJ., dissent.

92-1779. Toms v. Ohio Unemp. Comp. Bd. of Review.  
Clark County, No. 2872.

92-1782. Fultz v. State Farm Mut. Auto. Ins. Co.  
Clermont County, No. CA91-12-101.  
Resnick, J., dissents.

92-1789. Smith v. Katzman.  
Cuyahoga County, No. 62847.  
Wright, J., dissents.

92-1794. State v. Rice.  
Fulton County, No. 91-FU-18.  
Wright and H. Brown, JJ., dissent.

#### REHEARING DOCKET

91-1470. State ex rel. Double v. Indus. Comm.  
Franklin County, No. 90AP-1241. Reported at 65 Ohio St.3d 13,  
N.E.2d . On motion for rehearing. Rehearing denied.  
On request for oral argument. Request denied.

92-527. State v. Moreland.  
Franklin County, No. 91AP-742. Reported at 65 Ohio St.3d 1406,  
N.E.2d . On motion for rehearing. Rehearing denied.

92-748. Ramos v. Kuzas.  
Cuyahoga County, Nos. 60495 and 60932. Reported at 65 Ohio St.3d

42, N.E.2d . On motion for rehearing. Rehearing denied.

92-1267. Botker v. West Geauga Local School Dist. Bd. of Edn.  
Gauga County, No. 91-G-1641. Reported at 65 Ohio St.3d 1421,  
N.E.2d . On motion for rehearing. Rehearing denied.  
Douglas, J., dissents.

92-1268. Rickel v. Cloverleaf Local School Dist. Bd. of Edn.  
Medina County, No. 2045. Reported at 65 Ohio St.3d 1421,  
N.E.2d . On motion for rehearing. Rehearing denied.  
Douglas, J., dissents.

92-1334. State ex rel. Gutierrez v. Trumbull Cty. Bd. of Elections.  
Trumbull County, No. 92-T-4698. Reported at 65 Ohio St.3d 1404,  
N.E.2d . On motion for rehearing. Rehearing denied.

92-1346. State ex rel. Crenshaw v. Morris.  
In Mandamus. Reported at 65 Ohio St.3d 1406, N.E.2d . On  
motion for rehearing. Rehearing denied.

92-1574. State v. Rankin.  
Hamilton County, No. C-900843. Reported at 65 Ohio St.3d 1419,  
N.E.2d . On motion for rehearing. Rehearing denied.  
H. Brown, J., dissents.

#### DISCIPLINARY DOCKET

91-1741. Disciplinary Counsel v. Slavens.  
On response to show cause order and request for extension. Request  
granted.

92-460. Disciplinary Counsel v. Callery.  
On answer to order to show cause. A three-month extension is granted.  
Holmes, J., not participating.