

ATTENTION

DIRECT ANY QUESTIONS ABOUT THE ANNOUNCEMENT TO WALTER S. KOBALKA,  
REPORTER OF DECISIONS, AND DEBORAH J. WHITTEN AT (614) 466-4961 OR  
1-800-826-9010.

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

9:00 A.M.

WEDNESDAY  
June 23, 1993

MERIT DOCKET

91-2536. Ohio Historical Soc. v. State Emp. Relations Bd.  
Franklin County. Appeal from the Court of Appeals for Franklin  
County, Nos. 91AP-97 and 91AP-98. Judgment affirmed in part and  
reversed in part.

Moyer, C.J., Wright and Pfeifer, JJ., concur.

Douglas, J., concurs separately.

A.W. Sweeney, Resnick and F.E. Sweeney, JJ., dissent.

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

Ross County. Appeal from the Court of Appeals for Ross County, No.  
1732. Judgment reversed.

A.W. Sweeney, Douglas, Resnick, F.E. Sweeney and Pfeifer, JJ.,  
concur.

Moyer, C.J., and Wright, J., concur in part and concur in  
judgment.

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

Clermont County. Appeal from the Court of Appeals for Clermont  
County, No. CA91-01-009. Judgment affirmed.

Moyer, C.J., A.W. Sweeney, Wright, Resnick and F.E. Sweeney, JJ.,  
concur.

Douglas and Pfeifer, JJ., dissent.

92-286. Hecht v. Levin.

Cuyahoga County. Appeal from the Court of Appeals for Cuyahoga County, Nos. 59445 and 59496. Judgment reversed.

Moyer, C.J., A.W. Sweeney, Wright, Resnick and F.E. Sweeney, JJ., concur.

Douglas and Pfeifer, JJ., dissent.

92-510. OsAir, Inc. v. Limbach.

Appeal from the Board of Tax Appeals, No. 87-A-893. Decision affirmed.

Moyer, C.J., A.W. Sweeney, Douglas, Resnick and F.E. Sweeney, JJ., concur.

Wright and Pfeifer, JJ., dissent.

92-557. State Med. Bd. of Ohio v. Murray.

Franklin County. Appeal from the Court of Appeals for Franklin County, No. 91AP-519. Judgment affirmed in part, reversed in part and the judgment of the trial court is reinstated.

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick and F.E. Sweeney, JJ., concur.

Pfeifer, J., concurs separately.

92-719. State v. West.

Hamilton County. Appeal from the Court of Appeals for Hamilton County, No. C-910380. Judgment affirmed.

A.W. Sweeney, Douglas, Resnick and F.E. Sweeney, JJ., concur.

Moyer, C.J., and Wright, J., concur in judgment only.

Pfeifer, J., dissents.

92-953. State v. Yoder.

Union County. Certified by the Court of Appeals for Union County, No. 14-91-31. Judgment affirmed.

Moyer, C.J., A.W. Sweeney, Douglas, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

Wright, J., dissents.

92-954. State v. Grigsby.

Union County. Certified by the Court of Appeals for Union County, No. 14-91-33. Judgment affirmed.

Moyer, C.J., A.W. Sweeney, Douglas, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

Wright, J., dissents.

92-981. State v. Davidson.

Union County. Certified by the Court of Appeals for Union County, No. 14-91-36. Judgment affirmed.

Moyer, C.J., A.W. Sweeney, Douglas, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

Wright, J., dissents.

92-2024. State ex rel. Basluke v. McGraw Nursing Home.

Franklin County. Appeal from the Court of Appeals for Franklin County, No. 91AP-720. Judgment affirmed.

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

93-420. State v. Messineo.

Athens County. Appeal from the Court of Appeals for Athens County, Nos. 1488 and 1493. On second motion for leave to exceed page limit

and on motion to dismiss. Motion to dismiss sustained. Cause dismissed.

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick and F.E. Sweeney, JJ., concur.

Pfeifer, J., dissents.

93-471. Indus. Energy Consumers of the Ohio Power Co. v. Pub. Util. Comm.

Public Utilities Commission, Nos. 92-01-EL-EFC and 92-101-EL-EFC. On motion of Sierra Club for leave to intervene. Motion granted.

Wright, J., not participating.

Sua sponte, cause dismissed.

Moyer, C.J., A.W. Sweeney, Douglas, Resnick and F.E. Sweeney, JJ., concur.

Pfeifer, J., dissents.

Wright, J., not participating.

93-507. Block v. Littlefield.

Pickaway County. Appeal from the Court of Appeals for Pickaway County, No. 91CA34. Judgment affirmed.

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick and Pfeifer, JJ., concur.

F.E. Sweeney, J., dissents.

93-538. Sierra Club v. Pub. Util. Comm.

Public Utilities Commission, Nos. 92-01-EL-EFC and 92-101-EL-EFC. Sua sponte, cause dismissed.

Moyer, C.J., A.W. Sweeney, Douglas, Resnick and F.E. Sweeney, JJ., concur.

Pfeifer, J., dissents.

Wright, J., not participating.

93-553. State ex rel. Pizza v. Eubank.

In Habeas Corpus. Sua sponte, cause dismissed.

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

93-585. State ex rel. Martinelli v. Cleveland Police Dept.

Cuyahoga County. Appeal from the Court of Appeals for Cuyahoga County, No. 56461. Judgment affirmed.

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

93-587. State ex rel. The Limited, Inc. v. Franklin Cty. Bd. of Elections.

In Mandamus and Prohibition. Opinion announced.

A.W. Sweeney, Acting C.J., Shannon, O'Neill, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

Douglas, J., concurs separately.

Raymond E. Shannon, J., of the First Appellate District, sitting for Moyer, C.J.

Joseph E. O'Neill, J., of the Seventh Appellate District, sitting for Wright, J.

93-590. Tekancic v. Todia.

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

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

93-606. State ex rel. Graybill v. Fleisher.  
In Habeas Corpus. On motion to dismiss. Motion to dismiss sustained. Cause dismissed.

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

93-728. Cowden v. Dallman.  
In Habeas Corpus. On motion to dismiss. Motion to dismiss sustained. Cause dismissed.

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

93-781. State ex rel. Spirko v. Judges of the Court of Appeals for the Third App. Dist.  
In Mandamus. On motion to dismiss. Motion to dismiss sustained. Cause dismissed.

Moyer, C.J., A.W. Sweeney, Douglas, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

Wright, J., dissents and would grant an alternative writ.

93-791. Missionary Church, Ohio Dist., Inc. v. Limbach.  
Board of Tax Appeals, No. 90-A-504. On motion to dismiss. Motion to dismiss sustained. Cause dismissed.

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick and F.E. Sweeney, JJ., concur.

Pfeifer, J., dissents.

93-801. State ex rel. Fears v. Klusmeier.  
In Mandamus. On motion to dismiss. Motion to dismiss sustained. Cause dismissed.

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

93-889. State ex rel. Rodgers v. Corrigan.  
In Mandamus. On motion to dismiss. Motion to dismiss sustained. Cause dismissed.

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

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

93-171. McMaster v. Akron Hous. App. Bd.  
Summit County, No. 15650.

93-192. Nacelle Land Mgt. Corp. v. Painesville.  
Lake County, Nos. 92-L-033 and 92-L-034.

93-292. Waste Technologies Industries v. Tri-State Environmental Council.  
Columbiana County, No. 91-C-69.

Wright, J., not participating.

93-333. State v. Workman.  
Summit County, No. 15730.

93-341. State v. Ogilbee.  
Licking County, No. 92-CA-40.  
Douglas and Resnick, JJ., dissent.

93-508. State v. King-El.  
Cuyahoga County, No. 64109.

93-552. State v. Harris.  
Fayette County, No. CVA924010.

93-562. State v. Felder.  
Miami County, No. 92-CA-35. On motion and cross-motion to certify the  
record. Motions denied.  
Wright, J., dissents.

93-601. McDermott v. Lynch.  
Cuyahoga County, No. 64119.

93-624. State v. Jones.  
Stark County, No. CA-9055.  
Wright, J., dissents.

93-629. State v. Mosley.  
Lorain County, Nos. 90CA004782 and 90CA004783.

93-630. State v. Mancini.  
Cuyahoga County, No. 63892.

93-644. Goodwin v. Karlshamns USA, Inc.  
Franklin County, No. 92AP-1122.

93-652. Richland Eng., Ltd. v. Siemer.  
Richland County, No. 92-CA-31.

93-669. State v. Weese.  
Champaign County, No. 91-CA-14.  
Wright, J., dissents.

93-681. State v. Kobi.  
Fulton County, No. 92FU000024.

93-684. Rose v. U.S. Vend, Snak Stix, Inc.  
Cuyahoga County, No. 61626.  
Wright, J., dissents.

93-688. State v. Mitchell.  
Franklin County, No. 88AP-695.

93-702. State v. Clontz.  
Butler County, No. CA92-02-028.  
Moyer, C.J., and Wright, J., dissent.

93-711. State v. Greene.

Summit County, No. 15944.

93-719. Meek v. Gem Boat Serv., Inc.  
Ottawa County, No. 92-OT-010.  
Wright, J., dissents.

93-727. State v. Abed.  
Franklin County, No. 93AP-21.

93-741. State v. Hill.  
Cuyahoga County, Nos. 61685 and 61686.

93-743. State v. Curry.  
Summit County, No. 15718.  
Wright, J., dissents.

93-767. Kammer v. Akron Christian Schools.  
Summit County, No. 15672.  
Pfeifer, J., dissents.

93-812. State v. Ragen.  
Hamilton County, No. C-890137.

93-841. State v. Williams.  
Hocking County, No. 92-CA-07.

93-850. State v. West.  
Cuyahoga County, Nos. 63497 and 63498.  
F.E. Sweeney and Pfeifer, JJ., dissent.

93-853. State v. Byrd.  
Greene County, No. 91-CA-99.  
Moyer, C.J., dissents.

93-886. State v. McKinney.  
Cuyahoga County, No. 64063.

#### MOTION DOCKET

92-2043. Naylor v. Cardinal School Dist. Bd. of Edn.  
Geauga County, No. 91-G-1629. On motion for leave to file amicus of  
Ohio School Boards Association. Motion granted.  
Wright and F.E. Sweeney, JJ., would grant and allow twenty days  
to respond.  
Moyer, C.J., dissents.

92-2122. State v. Bailey.  
Lake County, No. 91-L-021. On motions to tax expenses as costs and to  
strike. Motion to tax denied and motion to strike granted.  
Douglas, Wright and Pfeifer, JJ., dissent.

92-2235. Citizens For Fair Taxation v. Toledo.  
Lucas County, No. L-91-302. On motion for leave to file amicus of  
Ohio Municipal Attorneys' Association et al. Motion granted.

92-2307. Kraly v. Vannewkirk.

Medina County, No. 2098M. On motion for leave to file amicus of Ohio Academy of Trial Lawyers. Motion granted.

Moyer, C.J., dissents.

92-2358. State ex rel. Transit Mgt. Serv., Inc. v. Bur. of Workers' Comp.

Franklin County, No. 91AP-517. On request for oral argument. Request denied.

92-2392. Doe v. First United Methodist Church.

Lorain County, Nos. 91CA005260 and 92CA005318. On motion for leave to file amicus of Ohio Academy of Trial Lawyers. Motion granted.

93-264. State ex rel. Parker v. Ohio Bd. of Parole.

Allen County, No. 1-92-106. On motion for leave to file appellant's brief instant. Motion granted.

Wright, Resnick and F.E. Sweeney, JJ., dissent.

93-596. Paroline v. Cincinnati Ins. Co.

Montgomery County, Nos. CA 13241 and CA 13110. On motion to dismiss. Motion denied.

93-611. Flora v. Rogers.

Marion County, No. 9-93-09. On motion for leave to amend brief. Motion granted.

93-740. Henderson v. Lincoln Natl. Speciality Ins. Co.

Certified Question of State Law, No. 393CV7036. On motion for leave to file brief instant. Motion granted.

93-742. Williams v. Genesis Med. Corp.

Cuyahoga County, No. 61681. On motion for leave to file memorandum in support instant. Motion granted.

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

93-954. State v. Cabrera.

Franklin County, No. 92AP-1028. On motion to produce/transmit record. Motion denied.

Pfeifer, J., dissents.

93-996. Matan & Smith v. Dornbirer.

Franklin County, No. 92AP-1451. On motion for leave to file memorandum in support. Motion denied.

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

93-1001. Niesz v. N. Life Ins. Co.

Stark County, No. CA-8818. On motion to consolidate with 93-829, Niesz v. N. Life Ins. Co., Stark County, No. CA-8818. Motion granted.

93-1013. Yoder v. Stocker & Sitler Oil Co.

Holmes County, No. CA-465. On motion for leave to file amicus of John N. Teeple. Motion granted.

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

93-517. Leedy v. Cleveland Clinic.  
Cuyahoga County, No. 64642.

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

93-570. Ohio State Chiropractic Assn. v. Ohio Bur. of Workers' Comp.  
Franklin County, No. 92AP-874.

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

93-588. Schwartz v. Comcorp, Inc.  
Cuyahoga County, No. 63479. On motion to certify record. Motion  
allowed on Proposition of Law No. I only.

Moyer, C.J., Douglas and Pfeifer, JJ., would allow the entire  
cause.

A.W. Sweeney, Resnick and F.E. Sweeney, JJ., dissent.

93-626. Ramsey v. Neiman.  
Summit County, No. 15786.

Wright, J., would allow on Propositions of Law Nos. I and II only.

Moyer, C.J., and A.W. Sweeney, J., dissent.

93-646. Leber v. Smith.

Erie County, No. E-87-43. On motion to certify the record. Motion  
allowed on Propositions of Law Nos. I, II, III, IV, V, VI and VII only.

Wright, J., dissents.

Moyer, C.J., and Resnick, J., not participating.

Sua sponte, Propositions of Law Nos. VIII and IX are dismissed.

Moyer, C.J., and Resnick, J., not participating.

Sua sponte, the following causes are dismissed: 89-688, Leber v.  
Smith, Erie County, No. E-87-43; 92-1987, Leber v. Smith, Erie County,  
No. E-87-43; and 93-832, State ex rel. Erie Cty. Bd. of Commrs. v.  
Kobalka.

Moyer, C.J., and Resnick, J., not participating.

93-718. Ohio Council 8, AFSCME, AFL-CIO v. Cincinnati.  
Franklin County, No. 92AP-782.

#### JURISDICTIONAL MOTIONS OVERRULED

92-2345. Charter Oak Fed. Savings Bank v. Salaam.  
Hamilton County, No. C-910760.

93-117. State v. Tinch.  
Warren County, No. CA91-10-074.

93-297. State v. Edwards.  
Lorain County, Nos. 92CA005345 and 92CA005346.

93-308. Medina v. Perumbeti.  
Cuyahoga County, No. 64795.

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

93-378. E.D. Masonry, Inc. v. R.P. Carbone Constr. Co.  
Cuyahoga County, No. 63936.



Wright, J., dissents.

93-506. In re Petition to Annex 941 Acres From Genoa & Orange Twps.  
Delaware County, No. 92CAE06020.

Pfeifer, J., dissents.

93-573. Fant v. Bd. of Trustees.  
Cuyahoga County, No. 61659.

93-609. Sykes v. L'Ermitage.  
Summit County, No. 15792.

Pfeifer, J., dissents.

93-614. Dannemiller v. Western-Southern Life Ins. Co.  
Hamilton County, No. C-910306.

Wright and Resnick, JJ., dissent.

93-618. Harris v. Fifth Quarter, Inc.  
Lucas County, Nos. L-92-137 and L-92-028.

Resnick, J., not participating.

93-648. Prarat v. Am. Analytical Laboratories, Inc.  
Summit County, No. 15715.

93-650. Griffin v. Youth, Inc.  
Hamilton County, No. C-910844.

93-660. Fraser v. Bastin.  
Butler County, Nos. CA91-11-200 and CA91-12-208.

93-662. Jerusalem Twp. Bd. of Trustees v. Batt.  
Lucas County, No. L-92-083.

Resnick, J., not participating.

93-668. Langford v. Green.  
Summit County, No. 15673.

93-672. Couch v. Middletown.  
Butler County, No. CA92-05-074.

93-676. Grauel v. Grauel.  
Lorain County, No. 92CA005368.

93-677. Vaughn v. Ohio Bur. of Emp. Serv.  
Guernsey County, No. 92-CA-18.

Douglas, J., dissents.

93-678. Pierce v. Transport Ins. Co.  
Licking County, No. 92-CA-75.

Douglas and Wright, JJ., dissent.

93-679. State v. Appleman.  
Muskingum County, No. CA-928.

Wright and Pfeifer, JJ., dissent.

93-682. Forbes v. Fair.  
Summit County, No. 15762. On motion and cross-motion to certify the

record. Motions denied.

Pfeifer, J., dissents.

93-687. Vandemark v. Brown.

Clermont County, No. CA92-09-088.

93-690. Union Ladies Shoes Partners v. Manley.

Franklin County, Nos. 92AP-1008 and 92AP-1049.

93-692. Cummings v. B.F. Goodrich Co.

Washington County, No. 91-CA-25.

A.W. Sweeney, Douglas and Resnick, JJ., dissent.

93-694. Adair v. Dayton Walther Corp.

Montgomery County, No. 13429.

Pfeifer, J., dissents.

93-699. Lexington v. Reddington.

Richland County, No. 92-CA-46.

93-703. Salyers v. McArtor.

Licking County, No. 92-CA-80.

Douglas, J., dissents.

93-706. Walling v. Joy.

Cuyahoga County, No. 61715.

93-708. Williamson v. Belovich.

Lucas County, No. L-92-068.

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

93-709. Cataffa v. Tele-Solutions, Inc.

Trumbull County, No. 92-T-4677.

Pfeifer, J., dissents.

93-724. Newsome v. Grange Mut. Cas. Co.

Franklin County, No. 92AP-1172.

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

93-726. Vasas v. Univ. Hosp. of Cleveland.

Cuyahoga County, No. 64129.

Douglas, Resnick and Pfeifer, JJ., dissent.

93-748. State v. Lechner.

Highland County, No. 825.

93-763. Farmers Natl. Bank of Canfield v. Dollar Savings & Trust Co.

Mahoning County, No. 92 C.A. 23.

Moyer, C.J., dissents.

93-775. In re Sycamore Glen Health Ctr.

Franklin County, Nos. 92AP-433 and 92AP-434.

Pfeifer, J., dissents.

93-793. Antwerp v. Amherst Hosp.

Cuyahoga County, No. 61680.

Resnick and Pfeifer, JJ., dissent.

93-823. State v. Hall.  
Mahoning County, Nos. 90 C.A. 68 and 90 C.A. 122.

93-824. State v. Johnson.  
Lorain County, No. 88CA004325.

#### REHEARING DOCKET

92-1878. State ex rel. Pratt v. Cartolano.  
Hamilton County, No. C-920464. Reported at 66 Ohio St.3d 1477,  
N.E.2d . On motion for rehearing. Rehearing denied.

#### DISCIPLINARY DOCKET

DD 87-1. Disciplinary Counsel v. Bica.  
On motion to discontinue monitoring. Motion granted.

92-1730. Mahoning Cty. Bar Assn. v. Strobel.  
On motion to vacate or modify court's order. Leave granted to pay in  
installments.

F.E. Sweeney, J., would require full payment by installments in  
one year.

Moyer, C.J., dissents.

93-704. In re O'Leary.  
On motion to show cause. Joseph O'Leary is found in contempt and is  
ordered to appear before the court.

Douglas, Wright and Resnick, JJ., would defer action pending the  
decision in 93-433, Disciplinary Counsel v. O'Leary.