

ATTENTION

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

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

1:00 P.M.

WEDNESDAY  
July 14, 1993

MERIT DOCKET

92-566. Graham v. Mengel.

Sua sponte, cause dismissed for want of jurisdiction.

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

92-653. Montpelier Pub. Library v. Williams Cty. Budget Comm.

Appeal from the Board of Tax Appeals, Nos. 86-F-1282 and 88-F-838.  
Decision reversed and remanded.

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

92-1261. Narmac, Inc. v. Tracy.

Appeal from the Board of Tax Appeals, No. 88-Z-1062. Decision  
affirmed.

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

Resnick and Pfeifer, JJ., dissent.

92-1775. Gray Horse, Inc. v. Limbach.

Appeal from the Board of Tax Appeals, No. 89-M-33. Decision reversed.

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

92-2158. State ex rel. Peabody Coal Co. v. Indus. Comm.

Franklin County. Appeal from the Court of Appeals for Franklin  
County, No. 91AP-360. Judgment affirmed in part and reversed in part.

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

Wright, J., not participating.

92-2620. State ex rel. Barker v. Etheridge.

In Mandamus. On joint motion for dismissal with prejudice. Motion granted.

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

On joint motion for approval of settlement. motion denied.

Wright, J., dissents.

93-537. Sierra Club v. Pub. Util. Comm.

Public Utilities Commission, No. 92-790-EL-ECP. 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., not participating.

93-543. State ex rel. Gerhart v. Summit Cty. Court of Common Pleas.

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.

93-591. State ex rel. Hamilton v. Ohio Adult Parole Auth.

Hocking County, No. 92-CA-23. Sua sponte, cause dismissed for want of prosecution.

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

Moyer, C.J., Douglas and Pfeifer, JJ., dissent and would treat appellant's memorandum in support of jurisdiction as his brief on the merits.

93-638. State ex rel. Coker v. Bond.

In Mandamus. On motion to dismiss and on motion for summary judgment. Motion to dismiss sustained. Cause dismissed.

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

Douglas, Wright and Pfeifer, JJ., would grant the motion for summary judgment and issue a peremptory writ.

93-673. State ex rel. Mancini v. Rogers.

In Habeas Corpus. On motion to show cause, motion to amend, return of writ, motion to dismiss, motion to file additional authorities, and motion to proceed on pleadings. Motion to dismiss sustained. Cause dismissed.

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

93-710. State ex rel. Brown v. Franklin Cty. Court of Appeals.

In Mandamus. On motion for summary judgment. Motion treated as 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.

93-722. Williams-Bey v. Dallman.

In Habeas Corpus. Sua sponte, cause dismissed.

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

93-736. State ex rel. Austin v. Littlefield.

In Mandamus. On answer of respondent. Answer treated as 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.

93-787. Lewis v. Morris.

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.

93-803. State ex rel. Fears v. Fisher.

In Mandamus. On answer of respondent, motion for summary judgment, and motion to strike. Answer treated as 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.

93-852. Walton v. Evans.

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.

93-854. State ex rel. Jerningham v. Russell.

In Mandamus. On answer of respondent. Answer treated as 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.

93-860. Dusenbery v. Portage Cty. Sheriff's Dept.

In Mandamus. On motion to strike and motion for protective order. Sua sponte, cause dismissed.

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

Wright and Pfeifer, JJ., would grant an alternative writ.

93-915. State ex rel. Cotton v. Scott.

In Quo Warranto. 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.

93-922. State ex rel. Hedgedeos v. Dyke College Bd. of Trustees.

Cuyahoga County, No. 63905. 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.

93-974. State ex rel. Veasey v. Winkler.

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.

93-975. State ex rel. Bishop v. Supreme Court of Ohio Law Library.

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.

93-979. Howard v. Tate.

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.

93-1054. State ex rel. Brumley v. Ohio Adult Parole Auth.

In Mandamus. On motion for summary judgment. Motion treated as  
motion to dismiss. Motion to dismiss sustained. Cause dismissed.

A.W. Sweeney, Douglas, Wright and Resnick, JJ., concur.

Moyer, C.J., and F.E. Sweeney, J., would grant the motion for  
summary judgment.

Pfeifer, J., would grant the writ.

93-1090. Floyd v. Tenth Dist. Appellate Court of Ohio.

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.

93-1197. D'Amico v. Ohio Indus. Comm.

In Mandamus. On motion to advance on docket. Motion denied; sua  
sponte, cause dismissed.

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

#### MOTION DOCKET

90-1452. State v. Evans.

Cuyahoga County, No. 54883. On motions to remand to determine  
competency and for stay. Motions denied.

Douglas and Wright, JJ., dissent.

91-172. State v. Mills.

Hamilton County, No. C-880581. On motion to produce/transmit record.  
Motion denied.

Wright, J., dissents.

92-183. State ex rel. Fowkes v. Marchewka.

In Mandamus. On motion to clarify entry. Motion denied.

92-360. State ex rel. Fant v. Enright.

On motion to tax as costs. Motion granted.

92-1455. Dittman-Adams Co. v. Limbach.

Board of Tax Appeals, No. 88-G-737. On request for oral argument.  
Request granted.

92-1888. State ex rel. Ohio Civ. Serv. Emp. Assn. v. Ohio Bur. of  
Workers' Comp.

In Mandamus. On motion to amend briefing schedule. Motion granted.

92-1909. Brinkman v. Ross.  
Franklin County, No. 91AP-1510. On motion for leave to file amicus of Ohio Academy of Trial Lawyers. Motion granted.

Moyer, C.J., dissents because the motion is out of rule.

92-2240. Trinova Corp. v. Pilkington Bros., P.L.C.  
Lucas County, No. L-90-096. On motion for leave to supplement the record. Motion granted.

Resnick, J., not participating.

92-2255. State ex rel. Steffen v. Kraft.  
Hamilton County, No. C-920565. On motion for leave to file amicus of Cincinnati Post et al. Motion granted.

Moyer, C.J., dissents because the motion is out of rule.

92-2400. State v. Lentz.  
Trumbull County, No. 91-T-4622. On motion for leave to file amicus of Cuyahoga County Public Defender. Motion granted.

92-2605. Marks v. Univ. of Cincinnati.  
Hamilton County, No. C-910908. On motion for leave to file amicus of Ohio AFL-CIO. Motion granted.

93-13. Haring v. Triangle Equip. Corp.  
Knox County, No. 92-CA-03. On motion for leave to file amicus of Ohio Academy of Trial Lawyers. Motion granted.

93-25. State ex rel. Smith v. Franklin Cty. Bd. of Elections.  
In Mandamus. Sua sponte, the relator is ordered to show cause why this cause should not be dismissed for want of prosecution.

93-148. State ex rel. Talani v. O'Donnell.  
In Mandamus. On motion to dismiss. Motion denied. On motion to advance on docket. Motion denied. On motion for leave to amend complaint. Motion granted.

Douglas, J., would grant an alternative writ.

93-221. State v. Brown.  
Lucas County, No. L-92-145. On motion to reconsider denial of motion for leave to file instant. Motion denied.

93-358. State ex rel. Dublin Securities, Inc. v. Ohio Div. of Securities.  
Franklin County, No. 91AP-782. On motion for leave to file amicus of North American Securities Administrators Association, Inc. and on motion for leave to proceed pro hac vice. Motions granted.

93-484. State ex rel. Bass v. Logan Cty. Court of Common Pleas.  
In Prohibition. Sua sponte, the respondent is ordered to show cause why the writ should not be granted.

A.W. Sweeney and Douglas, JJ., would grant an alternative writ.

Moyer, C.J., would dismiss the cause.

93-505. Indus. Energy Consumers of the Ohio Power Co. v. Pub. Util. Comm.  
Public Utilities Commission, NO. 92-790-EL-ECP. On motion for leave to intervene of Sierra Club. Motion granted.

Wright, J., not participating.

93-680. Habe v. S. Euclid Civ. Serv. Comm.  
Cuyahoga County, No. 61786. On motion for leave to amend memorandum  
in support. Motion granted.

93-739. Sun Refining & Marketing Co. v. Crosby Valve & Gage Co.  
Certified Question of State Law, No. 389 CV 7588. Sua sponte, this  
cause is to be set for oral argument.

93-784. State v. Skelly.  
Montgomery County, No. 13306. On motion for leave to file notice of  
appeal instant. Motion denied.  
Resnick and Pfeifer, JJ., dissent.

93-789. State v. Black.  
Geauga County, No. 91-G-1662. On motions for leave to file delayed  
appeal and for extension of time. Motions granted.  
F.E. Sweeney, J., dissents.

93-881. State v. Knowles.  
Cuyahoga County, No. 61881. On motion for leave to file delayed  
appeal. Motion granted.  
Resnick and F.E. Sweeney, JJ., dissent.

93-883. State ex rel. Farmer v. Potter.  
In Mandamus. On motion to amend complaint. Motion granted; sua  
sponte, alternative writ granted.  
Wright, Resnick and F.E. Sweeney, JJ., dissent and would dismiss  
the cause sua sponte.

93-959. State ex rel. Jackson v. McMonagle.  
Cuyahoga County, No. 65070. On motion for leave to amend notice of  
appeal and for extension of time. Motion denied.  
Moyer, C.J., Douglas and Pfeifer, JJ., dissent.

93-990. State v. Thrower.  
Summit County, No. 15765. On motion for leave to file memorandum in  
support instant. Motion denied.  
Moyer, C.J., Douglas and Pfeifer, JJ., dissent.  
On motion for leave to exceed page limit. Motion denied.  
Moyer, C.J., and Douglas, J., dissent.

93-1001. Niesz v. N. Life Ins. Co.  
Stark County, No. CA-8818. On motion for leave to file amicus of  
American Council of Life Insurance. Motion granted.

93-1041. Clark v. Quality Stores, Inc.  
Certified Question of State Law, No. 391CV7704. On motion to  
consolidate with 92-2382, Sorrell v. Thevenir, Gallia County, No.  
91-CA-4. Motion granted.

93-1049. White v. Internatl. Union Plant Guard Workers, Local No. 166.  
Montgomery County, No. 13126. On motion for leave to file notice of  
appeal instant. Motion denied.  
Moyer, C.J., Douglas and Pfeifer, JJ., dissent.

93-1059. Putka v. Parma.  
Cuyahoga County, No. 61775. On motion for leave to file amicus of  
Fairview Park. Motion granted.

93-1073. State v. Grant.  
Cuyahoga County, No. 61862. On motion for leave to file delayed  
appeal. Motion granted.  
Wright and F.E. Sweeney, JJ., dissent.

93-1084. Holeski v. Lawrence.  
Geauga County, No. 92-G-1702. On motion to dismiss. Motion denied.

93-1118. State ex rel. May v. Hendon.  
Hamilton County, No. C-920381. On motion to file Civ.R. 60(B)  
motion. Motion denied.

93-1122. State v. Ellis.  
Tuscarawas County, No. 92AP050040. On motion to reconsider denial of  
extension. Motion denied.

93-1126. State v. Lawson.  
Licking County, No. 92-CA-66. On motion to amend notice of appeal and  
for extension. Motion granted.  
Wright, Resnick and F.E. Sweeney, JJ., dissent.

93-1138. In re Hiatt.  
Adams County, No. CA-541. On motion for leave to file notice of  
appeal instant. Motion denied.  
F.E. Sweeney, J., dissents.

93-1165. Wilkinson v. Voinovich.  
Franklin County, Nos. 92AP-674, 92AP-675, 92AP-677 and 92AP-678. On  
motion for leave to file amicus of Fraternal Order of Police of Ohio,  
Inc. Motion granted.

93-1178. Martin v. Midwestern Group Ins. Co.  
Ashtabula County, No. 92-A-1722. On motion for leave to file notice  
of appeal instant. Motion granted.

93-1188. State v. Miracle.  
Clermont County, No. CA85-11-091. On motion for leave to file delayed  
appeal. Motion denied.  
Douglas and Pfeifer, JJ., dissent.

93-1211. State v. Oberdick.  
Belmont County, No. 92-B-10. On joint motion to vacate and remand.  
Joint motion granted.  
Douglas, J., would grant the motion to remand, but deny the  
motion to vacate.  
Pfeifer, J., dissents.

93-1183. In re Petition for Writ of Habeas Corpus for Ortiz.  
In Habeas Corpus. On request for oral argument. Sua sponte, the writ  
is allowed; the return has been filed; the court will proceed to the  
claim on the merits.  
A.W. Sweeney and Resnick, JJ., would dismiss.  
Douglas, J., would dismiss as moot.

REHEARING DOCKET

92-405. State v. Hawkins.  
Hamilton County, Nos. C-900092 and C-910017. Reported at 66 Ohio  
St.3d 339, N.E.2d . On motion for rehearing. Rehearing denied.  
Wright, J., dissents.

92-1881. Campbell v. Ohio Dept. of Rehab. & Corr.  
Franklin County, No. 92AP-726. Reported at 66 Ohio St.3d 1430,  
N.E.2d . On motion on rehearing. Rehearing denied.

92-2563. Verbanic v. Verbanic.  
Trumbull County, No. 91-T-4521. Reported at 66 Ohio St.3d 1479,  
N.E.2d . On motion for rehearing. Rehearing granted; sua sponte,  
the motion to certify is allowed.  
Wright, J., dissents.

93-111. Williams v. O'Brien.  
Montgomery County, No. 12344. Reported at 66 Ohio St.3d 1501,  
N.E.2d . On motion for rehearing and to consolidate with 92-2444,  
Stinson v. England, Montgomery County, No. 13073. Motions denied.  
Resnick and Pfeifer, JJ., dissent.

93-152. Cleveland Elec. Illum. Co. v. Greene.  
Cuyahoga County, No. 61411. Reported at 66 Ohio St.3d 1499,  
N.E.2d . On motion for rehearing. Rehearing denied.  
F.E. Sweeney, J., not participating.

93-178. Triplett v. Rosen.  
Franklin County, Nos. 92AP-816 and 92AP-817. Reported at 66 Ohio  
St.3d 1497, N.E.2d . On second motion for rehearing.  
Rehearing denied.  
Pfeifer, J., dissents.

93-247. McGuire v. Erie Ins. Exchange.  
Coshocton County, No. 92-CA-5. Reported at 66 Ohio St.3d 1488,  
N.E.2d . On motion for rehearing. Rehearing denied.  
Moyer, C.J., Douglas and Wright, JJ., dissent.

93-361. In re Hearing of Fulk.  
Franklin County, No. 92AP-814. Reported at 66 Ohio St.3d 1489,  
N.E.2d . On motion for rehearing. Rehearing denied.  
Moyer, C.J., Douglas and Wright, JJ., dissent.

93-382. Gargallo v. Merrill Lynch, Pierce, Fenner & Smith, Inc.  
Franklin County, No. 92AP-1308. Reported at 66 Ohio St.3d 1485,  
N.E.2d . On motion for rehearing. Rehearing denied.  
Wright, J., not participating.

93-417. Longfellow v. Ohio Dept. of Transp.  
Franklin County, No. 92AP-549. Reported at 66 Ohio St.3d 1497,  
N.E.2d . On motion for rehearing. Rehearing denied.  
Douglas, J., dissents.

93-447. State v. Lewis.

Allen County, No. 1-92-42. Reported at 66 Ohio St.3d 1494,  
N.E.2d . On motion for rehearing. Rehearing denied.

93-461. Art v. Newcomerstown Bd. of Edn.  
Tuscarawas County, No. 92AP050038. Reported at 66 Ohio St.3d  
1494, N.E.2d . On motion for rehearing. Rehearing denied.

93-564. Pelkowski v. Nussbaumer.  
Stark County, No. CA-8928. Reported at 66 Ohio St.3d 1501,  
N.E.2d . On motion for rehearing. Rehearing denied.  
Moyer, C.J., and Wright, J., dissent.

93-616. Hornbeck v. Caterpillar, Inc.  
Belmont County, No. 91-B-18. Reported at 66 Ohio St.3d 1502,  
N.E.2d . On motion for rehearing. Rehearing denied.  
Wright, J., dissents.

#### DISCIPLINARY DOCKET

92-2527. Disciplinary Counsel v. Paxton.  
On motion for relief from judgment and to withdraw stipulation,  
sanctions and waiver of hearing. Motion denied.  
Douglas, Wright and Pfeifer, JJ., dissent.