

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
September 29, 1993

MERIT DOCKET

92-1035. State ex rel. Hughes v. Celeste.

Franklin County. Appeal from the Court of Appeals for Franklin
County, Nos. 91AP-1167 and 91AP-1168. Judgment reversed.

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

Douglas, J., concurs separately.

Pfeifer, J., dissents.

93-433. Disciplinary Counsel v. O'Leary.

On Certified Report by the Board of Commissioners on Grievances and
Discipline of the Supreme Court, No. 92-03. Joseph J. O'Leary is
permanently disbarred.

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

93-1113. State ex rel. Brown v. State.

In Mandamus. On response to show cause order and motion to proceed to
judgment. Sua sponte, cause dismissed.

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

Wright, F.E. Sweeney and Pfeifer, JJ., would deny the writ.

93-1431. State v. Clinton.

Erie County, No. E-92-15. On motion to dismiss. Motion to dismiss
sustained. Cause dismissed.

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

concur.

Resick and Pfeifer, JJ., dissent.

93-1441. State ex rel. Harding v. Ohio Parole Bd.

In Mandamus. On answer of respondent and motion for judgment on the pleadings. Sua sponte, cause dismissed.

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

Wright, J., would deny the motion for judgment on the pleadings.

93-1452. State ex rel. Powell v. Wilkerson.

In Mandamus. On motion for summary judgment. Sua sponte, cause dismissed.

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

Wright, J., would deny the motion.

93-1568. McDonald v. Court of Appeals, Eighth Judicial Dist. 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.

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

92-2309. State v. Jacobs.

Franklin County, No. 92AP-266.

93-765. Bartak v. Bartak.

Cuyahoga County, No. 61913.

93-977. State v. Kutz.

Lucas County, No. L-92-208.

Moyer, C.J., dissents.

Resnick, J., not participating.

93-995. State v. Rausch.

Cuyahoga County, No. 51329.

Wright, J., dissents.

93-1064. Ohio Cas. Ins. Co. v. United S. Assur. Co.

Clark County, No. CA-2957.

Pfeifer, J., dissents.

93-1079. Bland v. Graves.

Summit County, No. 15586. On motion and cross-motion to certify the record, and on motion for leave to exceed page limit. Motions denied.

93-1093. State v. Williams.

Cuyahoga County, No. 62066.

Wright, J., dissents.

93-1123. State v. Penton.

Marion County, No. 9-91-25.

93-1129. State v. Cotton.
Cuyahoga County, No. 62105.

93-1143. State v. Cotton.
Cuyahoga County, No. 62104.

93-1144. State v. DeMars.
Cuyahoga County, No. 62148.

93-1235. State v. Van Horn.
Cuyahoga County, No. 61981.

93-1267. State v. Bell.
Cuyahoga County, No. 62325.
Wright, J., dissents.

93-1274. State v. Luff.
Lucas County, No. L-91-226.
Wright, J., dissents.
Resnick, J., not participating.

93-1281. State v. President.
Lorain County, No. 92CA005408.

93-1292. State v. Webb.
Lucas County, No. L-92-016.

93-1297. State ex rel. Russell v. Shaker Hts. Mun. Court.
Cuyahoga County, No. 64332.

93-1308. State v. Smith.
Tuscarawas County, No. 92AP060044.
Moyer, C.J., dissents.

93-1316. State v. Riley.
Montgomery County, No. 13418.

93-1323. Intergy, Inc. v. Carrigan.
Cuyahoga County, No. 62210.
Moyer, C.J., and Wright, J., dissent.
Wright, J., would also grant the motion for leave to proceed pro
hac vice and deny the motion to strike.

93-1326. State v. Guy.
Ottawa County, No. 92OT023.
Resnick, J., not participating.

93-1327. State v. Banks.
Delaware County, No. 92CAA09031.

MOTION DOCKET

92-1909. Brinkman v. Ross.
Franklin County, No. 91AP-1510. On motion for leave to file amicus of
Ohio Association of Civil Trial Attorneys instanter. Motion granted.
Moyer, C.J., dissents because the motion is out of rule.

92-2302. Hamilton v. Ohio Savings Bank.
Cuyahoga County, No. 61908. On motion for leave to file amicus of
Ohio Public Interest Research Group et al. Motion granted.

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

93-225. Kucharski v. Natl. Eng. & Contr. Co.
Cuyahoga County, No. 62273. On motion for leave to file amicus of
Ohio Contractors Association. Motion granted.

93-278. Moskovitz v. Mt. Sinai Med. Ctr.
Cuyahoga County, Nos. 60464 and 61166. On motions for leave to appear
pro hac vice and to deem amicus brief timely filed. Motions granted.

93-515. State v. Lewis.
Lawrence County, Nos. 1920, 1924 and 1943. On request for findings of
fact and conclusions of law. Request denied.

93-592. Horton v. Addy.
Montgomery County, No. 13524. On motions for leave to file amicus of
Ohio Association of Civil Trial Attorneys and for extension of time.
Motions granted.

Moyer, C.J., dissents.

93-787. Lewis v. Morris.
In Habeas Corpus. On request for findings of fact and conclusions of
law. Request denied.

93-810. Ault v. Jasko.
Lorain County, No. 92CA005344. On motion for leave to file amicus of
Adult Support for Incest Survivors of Today. Motion granted.

93-942. Nationwide Ins. Co. v. Estate of Kollstedt.
Butler County, No. CA92-06-101. On motion to dismiss. Motion denied.
F.E. Sweeney, J., dissents.

93-1056. State ex rel. Beacon Journal Publishing Co. v. Kent State of
Ohio.
Portage County, No. 92-P-0042. On motion to file surreply brief.
Motion granted.

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

Wright, J., not participating.

93-1289. Bank One v. Merola.
Stark County, No. CA-9086. On motion for more definitive statement.
Motion denied.

93-1371. State v. Turner.
Cuyahoga County, No. 64656. On motion for leave to file delayed
appeal. Motion granted.

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

93-1449. State ex rel. Haddix v. Indus. Comm.
Franklin County, No. 92AP-858. On motion for leave to withdraw
memorandum in support. Motion granted.

93-1454. State v. Mosey.

Summit County, No. 16048. On motion for leave to file memorandum in support instanter. Motion granted.

F.E. Sweeney, J., dissents.

93-1522. State v. Hudson.

Jefferson County, No. 88-J-40. On motion for leave to exceed page limit. Motion granted.

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

93-1553. In re Martin.

Lucas County, No. L-92-375. On motion for leave to file memorandum in support instanter. Motion granted.

93-1589. Zimmerman v. Kalu Canfield Driving Range.

Mahoning County, No. 92 C.A. 98. On motions for leave to amend memorandum in support of cross-appeal and for leave to file memorandum in support of cross-appeal instanter. Motions granted.

93-1612. Allnet Communications Serv., Inc. v. Pub. Util. Comm.

Public Utilities Commission, No. 86-771-TP-CSS. On motion for leave to intervene of Ohio Bell Telephone Company. Motion granted.

93-1649. State v. King.

Clark County, No. CA-2959. On motion for leave to file memorandum in support instanter. Motion granted.

93-1684. State v. McDonald.

Stark County, No. CA-9033. On motion for leave to file delayed appeal. Motion granted.

93-1688. State v. Sowell.

Cuyahoga County, No. 62601. On motion for leave to file delayed appeal. Motion granted.

93-1727. State v. Dussell.

Cuyahoga County, No. 62457. On motion for leave to file memorandum in support instanter. Motion granted.

Wright, J., dissents.

93-1761. Parr v. Winner.

Ashtabula County, No. 92-A-1759. On motion for leave to file memorandum in support instanter. Motion granted.

F.E. Sweeney, J., dissents.

93-1771. State v. Cripple.

Cuyahoga County, No. 61773. On motion for leave to file delayed appeal. Motion granted.

93-1775. State v. Juchem.

Medina County, No. 2186-M. On motion for leave to file delayed appeal. Motion granted.

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

93-1776. State v. Rudge.

Trumbull County, No. 93-T-4858. On motion for leave to exceed page limit. Motion granted.

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

JURISDICTIONAL MOTIONS ALLOWED

93-1002. James H. Washington Ins. Co. v. Nationwide Mut. Ins. Co.
Cuyahoga County, Nos. 62347 and 62392.

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

93-1074. Reber v. Ohio Bell Tel. Co.
Franklin County, No. 92AP-1066.

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

93-1165. Wilkinson v. Maurer.
Franklin County, Nos. 92AP-674, 92AP-675, 92AP-677 and 92AP-678.

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

Pfeifer, J., not participating.

93-1206. Internatl. Union, United Auto, Aerospace & Agr. Implement
Workers v. McFaul.
Cuyahoga County, No. 62286.

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

93-1273. Lunar v. Cleveland.
Cuyahoga County, No. 61968.

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

93-1310. Handler v. Merrill Lynch Life Agency, Inc.
Franklin County, No. 92AP-1613.

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

JURISDICTIONAL MOTIONS OVERRULED

93-742. Williams v. Genesis Med. Corp.
Cuyahoga County, No. 61681.

93-1068. Regec v. J.W. Johnson & Woods Tree Serv.
Summit County, No. 15838.

Wright, J., would also grant leave to file the memorandum in
support instanter.

93-1103. Mueller v. Toledo.
Lucas County, No. L-91-421. On motion and cross-motion to certify the
record. Motions denied.

Douglas and Wright, JJ., dissent.

Resnick, J., not participating.

93-1136. Schweisberger v. State Med. Bd.
Franklin County, No. 92AP-1766.

Douglas, J., dissents.

93-1146. McCollum v. Continental Ins. Co.
Lucas County, No. L-92-141. On motion and cross-motion to certify the
record. Motions denied.

Douglas and Wright, JJ., dissent.

Resnick, J., not participating.

93-1148. Linndale v. Anthony.
Cuyahoga County, No. 62326.
Douglas, J., dissents.

93-1158. Green v. Green.
Warren County, No. CA92-06-051.

93-1194. Katz v. Maple Hts. City School Dist. Bd. of Edn.
Cuyahoga County, No. 62082.

93-1207. Frankow v. Thorn EMI, Inc.
Richland County, No. 92-CA-83.
Pfeifer, J., dissents.

93-1226. Production Credit Assn. v. Hedges.
Pickaway County, No. 92-CA-09.
Pfeifer, J., dissents.

93-1270. Howell v. Dayton Power & Light Co.
Adams County, No. 93CA549.

93-1280. Dover v. Morales.
Summit County, No. 15817.

93-1295. Plasticolors, Inc. v. Cincinnati Ins. Co.
Ashtabula County, No. 91-A-1673.
Pfeifer, J., dissents.

93-1300. Gerijo, Inc. v. Fairfield.
Butler County, No. CA92-07-116.

93-1301. Assoc. Leasing, Inc. v. Eaton.
Hamilton County, Nos. C-920176 and C-920745.
Pfeifer, J., dissents.

93-1306. Stebler v. Hoover Co.
Stark County, No. CA-9080.
Wright, J., dissents.

93-1309. Edelman v. Franklin Iron & Metal Corp.
Montgomery County, No. 13663.
Douglas and Pfeifer, JJ., dissent.

93-1311. Royal Doors, Inc. v. Hamilton-Parker Co.
Franklin County, No. 92AP-938. On motion and cross-motion to certify
the record. Motions denied.
Douglas, J., dissents.

93-1312. Guider v. LCI Communications Holdings Co.
Franklin County, No. 92AP-1585.
Wright, J., dissents.

93-1317. Cordiano v. Consol. Rail Corp.
Crawford County, Nos. 3-92-18 and 3-92-29.
Wright, J., dissents.

93-1318. Henninger v. Sabatini.

Trumbull County, No. 92-T-4822.

93-1319. State v. McCall.

Mahoning County, No. 91 C.A. 66.

REHEARING DOCKET

91-2417. State v. Lewis.

Cuyahoga County, No. 59535. Reported at 67 Ohio St.3d 200,
N.E.2d . On motion for rehearing. Rehearing denied.

92-1375. Aetna Life Ins. Co. v. Schilling.

Licking County, No. CA-3762. Reported at 67 Ohio St.3d 164,
N.E.2d . On motion for rehearing. Rehearing denied.
A.W. Sweeney and F.E. Sweeney, JJ., dissent.

92-2278. State ex rel. Rodriguez v. Indus. Comm.

Franklin County, No. 92AP-469. Reported at 67 Ohio St.3d 210,
N.E.2d . On motion for rehearing. Rehearing denied.
A.W. Sweeney, Douglas and Resnick, JJ., dissent.

93-866. Telmark, Inc. v. P.J.T., Inc.

Gallia County, No. 92-CA-17. Reported at 67 Ohio St.3d 1438,
N.E.2d . On motion for rehearing. Rehearing denied.

93-1087. Goodin v. Alexander Local School Dist.

Athens County, No. 92CA1531. Reported at 67 Ohio St.3d 1434,
N.E.2d . On motion for rehearing. Rehearing denied.
Douglas and Pfeifer, JJ., dissent.

DISCIPLINARY DOCKET

92-1391. Dayton Bar Assn. v. Susser.

On response to show cause order. Gary E. Susser is found in contempt.
Wright, J., would permit a payment schedule of \$100 per month.
Pfeifer, J., would permit Susser to make payments of \$50 per
month.

92-1730. Mahoning Cty. Bar Assn. v. Strobel.

On response to show cause order. Albert L. Strobel is found in
contempt.
Wright, J., would grant Strobel a further extension of time and
permit payments of \$100 per month.
Pfeifer, J., would permit Strobel to make payments of \$50 per
month.

93-1678. Disciplinary Counsel v. Pagac.

On motions for contempt and on corrected memorandum in opposition to
motions for contempt. Motions denied.
Wright, J., not participating.

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

WEDNESDAY
September 29, 1993

MERIT DOCKET

93-1778. State ex rel. Sterne v. Hamilton Cty. Bd. of Elections.
In Mandamus. Writ granted, consistent with the opinion to follow.

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

Douglas, J., concurs separately.

Pfeifer, J., concurs for the reasons stated in his dissenting
opinion in State ex rel. Mirlisena v. Hamilton Cty. Bd. of Elections
(1993), Ohio St.3d , N.E.2d .

MOTION DOCKET

93-111. Williams v. O'Brien.
Montgomery County, No. 12344. On motion for stay. Motion denied.
Resnick, F.E. Sweeney and Pfeifer, JJ., dissent.

93-1822. State v. Stonerock.
Miami County, No. 92CA41. On motion for stay. Motion granted.

Douglas, J., concurring. I concur with the judgment of the
majority even though I find the judgment to be result oriented given
the majority decision in State ex rel. Mirlisena v. Hamilton Cty. Bd.
of Elections (1993), Ohio St.3d , N.E.2d . I would
grant a writ of mandamus to relator based upon the reasoning set forth
in my dissent in Mirlisena, supra.

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

WEDNESDAY
September 29, 1993

MOTION DOCKET

93-1778. State ex rel. Sterne v. Hamilton Cty. Bd. of Elections. In Mandamus. This cause originated in this court on the filing of a complaint for a writ of mandamus regarding an expedited election matter.

IT IS ORDERED by the court, sua sponte, effective September 28, 1993, that the Hamilton County Board of Elections shall cease distribution of sample ballots of the candidates for the Cincinnati City Council Elections of November 2, 1993, until further order of the court.