

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

1:00 P.M.

WEDNESDAY
February 10, 1993

MERIT DOCKET

92-2290. State ex rel. Fields v. Ohio Adult Parole Auth.
In Mandamus. On answer of respondent, on motion to file answer
instanter, and on motion to amend complaint. Sua sponte, cause dismissed.
Moyer, C.J., A.W. Sweeney, Douglas, Wright and Resnick, JJ., concur.
F.E. Sweeney and Pfeifer, JJ., would deny the writ.

92-2327. State ex rel. May v. Hendon.
Hamilton County, Appeal from the Court of Appeals for Hamilton County,
No. C-920381. Judgment affirmed.
Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E. Sweeney and
Pfeifer, JJ., concur.

92-2438. State ex rel. Foti v. Ohio Adult Parole Auth.
In Mandamus. On answer of respondent. Sua sponte, cause dismissed.
Moyer, C.J., A.W. Sweeney, Douglas and Resnick, JJ., concur.
F.E. Sweeney and Pfeifer, JJ., would deny the writ.
Wright, J., would grant an alternative writ.

92-2457. State v. Casteel.
Hancock County, No. 59142. On motion to dismiss. Motion to dismiss
sustained. Cause dismissed.
Moyer, C.J., A.W. Sweeney, Wright, Resnick and F.E. Sweeney, JJ.,
concur.
Douglas and Pfeifer, JJ., dissent.

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

92-1893. Paxton v. Hench.

Allen County, No. 1-92-36.
Resnick, J., dissents.

92-2089. State v. Campbell.
Athens County, No. 1542.

92-2279. In re Pieper Children.
Preble County, No. CA90-10-019.

92-2287. In re Bowens.
Ashtabula County, No. 92-A-1725.

92-2305. State v. Bonskowski.
Cuyahoga County, No. 61390.

92-2318. State v. Arnold.
Greene County, No. 91-CA-43.
Wright and Pfeifer, JJ., dissent.

92-2319. State v. Douglas.
Summit County, No. 15479.

92-2324. BancOhio Natl. Bank v. Rice.
Franklin County, No. 92AP-320. On motion and cross-motion to certify the
record. Motions denied.
Moyer, C.J., Wright and Resnick, JJ., dissent.

92-2332. State v. Maxwell.
Wood County, No. 91-WD-107. On motion for leave to appeal, to supplement
memorandum, and for leave to proceed pro hac vice. Motions denied.

92-2344. State v. Thomas.
Erie County, No. E-91-21.

92-2363. State v. Hall.
Cuyahoga County, No. 63159.

92-2368. Callias v. Case Western Reserve Univ.
Cuyahoga County, No. 64356.
Wright and Pfeifer, JJ., dissent.

92-2393. Hiatt v. S. Health Facilities, Inc.
Scioto County, No. 91-CA-2025.
Moyer, C.J., and Wright, J., dissent.

92-2403. State v. Turner.
Lake County, No. 91-L-043.

92-2413. State v. Valentine.
Portage County, No. 91-P-2403.

92-2414. State v. Furlow.
Montgomery County, No. CA 12801.

92-2427. State v. Bridges.
Montgomery County, No. 13283.

92-2491. State v. Haywood.
Hamilton County, No. C-900916.

MOTION DOCKET

90-2524. State v. Davis.
Butler County, No. CA89-09-123. On motion to set execution date. Motion granted.

91-2200. Eastwood Mall, Inc. v. Slanco.
Trumbull County, No. 90-T-4433. On motion for leave to file amicus of International Council of Shopping Centers, Inc. et al. Motion granted.
Moyer, C.J., and Wright, J., not participating.

92-30. Belvedere Condominium Owners Assn. v. R.E. Roark Cos., Inc.
Hamilton County, No. C-900581. On motion for leave to appear pro hac vice. Motion granted.

92-823. Gallimore v. Children's Hosp. Med. Ctr.
Hamilton County, Nos. C-890808 and C-890824. 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.
Resnick, J., not participating.

92-1102. Pleasant City v. Ohio Div. of Reclamation.
Guernsey County, No. 91-CA-09. On motion for leave to file amicus of Sierra Club et al. Motion granted.

92-1120. Akron v. Rowland.
Summit County, No. 15307. On motion for leave to file amicus of American Civil Liberties Union of Ohio. Motion granted.
Moyer, C.J., dissents because the motion is out of rule.
Resnick, J., dissents.

92-1130. Bresnik v. Beulah Park Ltd. Partnership.
Franklin County, No. 91AP-1068. On motion for leave to file amicus of Horseman's Benevolent and Protective Association-Ohio Division, Inc. Motion granted.

92-1505. State v. Houston.
Montgomery County, No. 12513. On motion for leave to file delayed appeal. Motion granted.
Resnick and F.E. Sweeney, JJ., dissent.

92-1523. Kelm v. Kelm.
Franklin County, No. 91AP-1406. On motion to dismiss. Motion denied and ten-day extension granted.
Douglas, J., would dismiss the cause as moot.
Moyer, C.J., not participating.

92-1682. Hyde v. Reynoldsville Casket Co.
Ashtabula County, No. 91-A-1660. On motions for leave to file amicus of Brown & Szaller Co., L.P.A., and Spangenberg, Shibley, Traci, Lancione & Liber. Motions granted.

92-1744. Cincinnati Gas & Elec. Co. v. Pub. Util. Comm.

Public Utilities Commission, No. 91-410-EL-AIR. On motions for leave to intervene of Armco Steel Company et al., Cincinnati, Industrial Energy Consumers, University of Cincinnati, Miami University, and Office of Consumers' Counsel. Motions granted.

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

92-1773. Columbus S. Power Co. v. Pub. Util. Comm. Public Utilities Commission, No. 91-418-EL-AIR. On motions for leave to intervene of Industrial Energy Consumers and Office of Consumers' Counsel. Motion granted.

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

92-2078. Citywide Coalition for Util. Reform v. Pub. Util. Comm. Public Utilities Commission, No. 91-410-EL-AIR. On motion for leave to intervene of Cincinnati as appellant. Motion denied.

Moyer, C.J., not participating.

On motion for leave to intervene of Cincinnati Gas and Electric Company. Motion granted.

F.E. Sweeney, J., dissents.

Moyer, C.J., not participating.

92-2101. Cincinnati v. Pub. Util. Comm. Public Utilities Commission, No. 91-410-EL-AIR. On motion for leave to intervene of Cincinnati Gas and Electric Company. Motion granted.

Moyer, C.J., not participating.

92-2109. State ex rel. Slone v. Campbell. In Mandamus. On motion for findings of fact and conclusions of law. Motion denied.

F.E. Sweeney, J., not participating.

92-2171. Tresner v. Pepsi Cola Bottling Co. of Columbus. Franklin County, No. 91AP-1093. On motion for leave to file memorandum in support instant and on motion to dismiss. Motion for leave granted and motion to dismiss denied.

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

92-2252. Office of Consumers' Counsel v. Pub. Util. Comm. Public Utilities Commission, No. 91-1648-TP-ATA. On motion for leave to intervene of Cincinnati Bell Telephone Company. Motion granted.

Resnick, J., not participating.

92-2345. Charter Oak Fed. Savings Bank v. Salaam. Hamilton County, No. C-910760. On motion to dismiss. Motion denied.

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

92-2380. Morrow Chamber of Commerce v. Pub. Util. Comm. Public Utilities Commission, No. 90-1760-TP-PEX. On motion for leave to intervene of Cincinnati Bell Telephone Company. Motion granted.

Resnick, J., not participating.

92-2394. Hal Artz Lincoln-Mercury, Inc. v. Ford Motor Co., Lincoln-Mercury Div. Franklin County, No. 91AP-1493. On motions for leave to file amicus of Ohio Automobile Dealers Association and Greater Cleveland Automobile Dealers Association. Motions granted.

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

On motions to strike. Motions denied.

Pfeifer, J., would also grant a ten-day extension of time.

92-2617. State v. Owens.

Summit County, No. 15607. On motion for leave to file delayed appeal.
Motion granted.

92-2626. State v. Johnson.

Cuyahoga County, No. 61140. On motion for leave to file delayed appeal.
Motion granted.

93-1. State v. Jamar.

Van Wert County, No. 15-85-25. On motion for leave to file delayed
appeal. Motion denied.

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

93-4. State v. Copeland.

Cuyahoga County, No. 61607. On motion for leave to file delayed appeal,
motion to withdraw as assigned counsel, and motion for extension.
Motions granted.

93-18. State v. Creveniak.

Lorain County, No. 90CA004860. On motion for leave to file delayed
appeal. Motion granted.

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

93-19. Crosby v. Beam.

Lucas County, No. L-91-116. On motion for leave to file notice of appeal
instantly and motion to dismiss. Motion for leave granted and motion to
dismiss overruled.

Resnick, J., not participating.

93-20. State v. Wilson.

Cuyahoga County, No. 62805. On motion for leave to file delayed appeal.
Motion granted.

93-22. Broadview Hts. v. Abkemeier.

Cuyahoga County, No. 60297. On motion for leave to file notice of appeal
instantly. Motion granted.

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

93-34. Lakewood v. Pfeifer.

Cuyahoga County, No. 62564. On motion for leave to file amicus of Ohio
Municipal Attorneys Association. Motion granted.

93-126. State ex rel. Papp v. Norton.

In Mandamus. On motion to expedite and on motion for peremptory writ.
Sua sponte, alternative writ granted.

Resnick, J., would grant the peremptory writ.

JURISDICTIONAL MOTIONS ALLOWED

92-2307. Kraly v. Van Newkirk.

Medina County, No. 2098M.

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

92-2330. Hillman v. Hastings Mut. Ins. Co.
Franklin County, No. 92AP-717. On motion and cross-motion to certify the record. Motions allowed.

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

92-2343. Cook v. Naveau.
Allen County, No. 1921. On motion to certify the record. Motion allowed; sua sponte, this cause is held for the decision in 91-2001, Rockey v. 84 Lumber Co., Cuyahoga County, Nos. 58610 and 58654; 91-2335, Walsh v. Jagadeesan, Stark County, No. CA-8407; and 92-248, Copes v. Good Samaritan Hosp., Montgomery County, No. CA 12726; briefing schedule stayed.

92-2346. Reilly v. Richards.
Franklin County, No. 91AP-1446.
Pfeifer, J., not participating.

92-2382. Sorrell v. Thevenir.
Gallia County, No. 91-CA-4.
Moyer, C.J., and Wright, J., dissent.

JURISDICTIONAL MOTIONS OVERRULED

92-2135. Poole v. Euclid.
Cuyahoga County, No. 62988.

92-2237. Poole v. Euclid.
Cuyahoga County, No. 62988.

92-2300. State v. Green.
Franklin County, No. 92AP-447.

92-2301. LeForge v. Nationwide Mut. Fire Ins. Co.
Clinton County, No. CA91-12-025.

92-2306. Blackburn v. Tudor.
Scioto County, No. 2021.

92-2308. Dickey v. Hook-Super X, Inc.
Franklin County, No. 92AP-168.
Resnick and Pfeifer, JJ., dissent.

92-2317. Sarbiewski v. Ball.
Ashtabula County, No. 92-A-1669.

92-2328. Kromer v. Island Recreation Assn., Inc.
Warren County, No. CA91-10-1077.
Pfeifer, J., dissents.

92-2334. Costell v. Toledo Hosp.
Lucas County, No. L-91-125. (Notice of appeal by Van Bergen, second notice of appeal by Toledo Hospital, third notice of appeal by Stevens.)
Douglas, Wright and Resnick, JJ., dissent.

92-2335. Mallory v. CSX Transp., Inc.

Allen County, No. 1-92-33.

92-2337. Vorhees v. Cincinnati Ins. Co.
Miami County, No. 91-CA-66.

Douglas and Resnick, JJ., dissent.

92-2339. Lawson v. Lawson.
Lorain County, No. 91CA005243.

92-2347. Oneida Sand & Gravel, Inc. v. Messer.
Carroll County, No. 601.

92-2353. Biddle v. Brown.
Franklin County, No. 91AP-1066.
Moyer, C.J., and Wright, J., dissent.

92-2354. Milledgeville v. Blair.
Fayette County, No. CA92-01-003.

92-2355. Valloric v. Shadyside.
Belmont County, No. 91-B-29.
Douglas, J., dissents.

92-2356. Buckeye Union Ins. Co. v. Spaulding.
Brown County, No. CA92-03-004.

92-2357. Moore v. Columbus.
Franklin County, No. 92AP-121. (Notice of appeal by Columbus, second
notice of appeal by Kelly.)
Pfeifer, J., dissents.

92-2360. State v. Duncan.
Belmont County, No. 92-B-3.

92-2371. Nationwide Mut. Ins. Co. v. Clow.
Hamilton County, No. C-910511.
Douglas, F.E. Sweeney and Pfeifer, JJ., dissent.

92-2372. McCullom v. Clow.
Hamilton County, No. C-910442.
Douglas, F.E. Sweeney and Pfeifer, JJ., dissent.

92-2374. Anthony v. Clark.
Franklin County, No. 92AP-596.

92-2375. Plumber's Local Union No. 94, AFL-CIO v. Kokosing Constr. Co.
Stark County, No. CA-8865.
Moyer, C.J., and Wright, J., dissent.

92-2381. In re Claim of Gerken.
Wood County, No. 92-WD-007.
Resnick, J., not participating.

92-2386. Cacolici v. Cacolici.
Lake County, No. 91-L-146.

92-2391. Bahleda v. Continental Natl. Indemn. Co.

Geauga County, No. 91-G-1639.
F.E. Sweeney and Pfeifer, JJ., dissent.

92-2416. State v. Oberdick.
Belmont County, No. 92-B-10.
Resnick, J., dissents.

92-2420. State v. Olding.
Shelby County, No. 17-92-8.
Wright and Pfeifer, JJ., dissent.

92-2465. State v. Ferrell.
Hamilton County, No. C-910876.
Wright and Pfeifer, JJ., dissent.

REHEARING DOCKET

90-1815. State v. Slagle.
Cuyahoga County, No. 55759. Reported at 65 Ohio St.3d 597, N.E.2d
. On motion for rehearing. Rehearing denied.
Wright, J., dissents.
F.E. Sweeney, J., not participating.

91-1675. State v. Murphy.
Marion County, No. 9-87-35. Reported at 65 Ohio St.3d 554, N.E.2d
. On motion for rehearing. Rehearing denied.
Moyer, C.J., and Wright, J., dissent.
F.E. Sweeney, J., not participating.

91-1776. Cleveland City School Dist. Bd. of Edn. v. Dan M. Hisaka &
Assoc., Inc.
Cuyahoga County, No. 60374. Reported at 65 Ohio St.3d 1214, N.E.2d
. On motion for rehearing. Rehearing denied.
Wright, J., dissents.
F.E. Sweeney, J., not participating.

91-2132. State v. McCarthy.
Montgomery County, No. CA 12123. Reported at 65 Ohio St.3d 589,
N.E.2d . On motion for rehearing. Rehearing denied.
Wright and Resnick, JJ., dissent.
F.E. Sweeney, J., not participating.

91-2294. State ex rel. Weiss v. Indus. Comm.
In Mandamus. Reported at 65 Ohio St.3d 470, N.E.2d , and 65 Ohio
St.3d 1483, N.E.2d . On second motion for rehearing. The motion
fails on the following vote:
Moyer, C.J., Wright and Pfeifer, JJ., would deny.
A.W. Sweeney, Douglas and Resnick, JJ., would grant.
F.E. Sweeney, J., not participating.

92-150. State ex rel. B & C Machine Co. v. Indus. Comm.
Franklin County, No. 90AP-624. Reported at 65 Ohio St.3d 538,
N.E.2d . On motion for rehearing. Rehearing denied.
Moyer, C.J., dissents.
F.E. Sweeney, J., not participating.

92-1308. Cleveland v. Willis.
Cuyahoga County, No. 63309. Reported at 65 Ohio St.3d 1489, N.E.2d
. On motion for rehearing. Rehearing denied.

92-1779. Toms v. Ohio Unemp. Comp. Bd. of Review.
Clark County, No. 2872. Reported at 65 Ohio St.3d 1458, N.E.2d .
On motion for rehearing. Rehearing denied.
F.E. Sweeney, J., not participating.

92-1816. State v. Campbell.
Fulton County, No. 91FU000017. Reported at 65 Ohio St.3d 1477,
N.E.2d . On motion for rehearing. Rehearing denied.
Douglas and Resnick, JJ., dissent.
F.E. Sweeney, J., not participating.

92-1818. State v. Stark.
Fulton County, No. 91FU000022. Reported at 65 Ohio St.3d 1466,
N.E.2d . On motion for rehearing. Rehearing denied.
Pfeifer, J., dissents.
Resnick and F.E. Sweeney, JJ., not participating.

92-1829. Toms v. Ohio Unemp. Comp. Bd. of Review.
Clark County, No. 2871. Reported at 65 Ohio St.3d 1477, N.E.2d .
On motion for rehearing. Rehearing denied.
F.E. Sweeney, J., not participating.

92-1941. August v. Lightning Rod Mut. Ins. Co.
Lucas County, No. L-92-025. Reported at 65 Ohio St.3d 1478, N.E.2d
. On motion for rehearing. The motion fails on the following vote:
Moyer, C.J., A.W. Sweeney and Wright, JJ., would deny.
Douglas, Resnick and Pfeifer, JJ., would grant.
F.E. Sweeney, J., not participating.

92-1987. Leber v. Smith.
Erie County, No. E-87-43. Reported at 65 Ohio St.3d 1475, N.E.2d ,
and 65 Ohio St.3d 1484, N.E.2d . On second motion for rehearing.
The motion is denied on the following vote:
Moyer, C.J., A.W. Sweeney and Wright, JJ., would deny.
Douglas and Pfeifer, JJ., would grant.
Resnick and F.E. Sweeney, JJ., not participating.

92-1995. Bartholomy v. Maeda.
Mahoning County, No. 91 C.A. 171. Reported at 65 Ohio St.3d 1478,
N.E.2d . On motion for rehearing. Rehearing denied.
F.E. Sweeney, J., not participating.