

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
October 19, 1994

MERIT DOCKET

92-1820. Cablevision of the Midwest, Inc. v. Gross.
Cuyahoga County. Appeal and Cross-Appeal from the Court of Appeals
for Cuyahoga County, No. 60703. Judgment affirmed.

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

Pfeifer, J., dissents.

93-646. Leber v. Smith.
Erie County. Appeal from the Court of Appeals for Erie County, No.
E-87-43. Judgment affirmed in part and reversed in part.

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

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

Leo Spellacy, J., of the Eighth Appellate District, sitting for
Resnick, J.

93-1514. State ex rel. Carver v. Hull.
Scioto County. Appeal and Cross-Appeal from the Court of Appeals
for Scioto County, No. 90CA1907. Judgment affirmed.

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

Douglas, J., concurs in judgment only.

93-1572. State ex rel. Beeler v. RCA Rubber Co.
Franklin County. Appeal from the Court of Appeals for Franklin

County, No. 92AP-316. Judgment reversed and cause returned.

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

93-1891. State ex rel. First Natl. Supermarkets, Inc. v. Indus. Comm.

Franklin County. Appeal from the Court of Appeals for Franklin County, No. 92AP-253. Judgment reversed in part, affirmed in part and writ allowed.

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

93-1893. State ex rel. Dingus v. Quinn Dev. Co.

Franklin County. Appeal from the Court of Appeals for Franklin County, No. 92AP-605. Judgment affirmed.

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

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

93-1900. State ex rel. Nutt v. Cincinnati.

Franklin County. Appeal from the Court of Appeals for Franklin County, No. 92AP-876. Judgment affirmed.

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

93-2354. Armstrong Util., Inc. v. Waldon Mgt. Corp.

Mahoning County. Appeal from the Court of Appeals for Mahoning County, No. 92 C.A. 168. Judgment vacated and cause remanded.

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

Pfeifer, J., dissents.

94-108. State ex rel. Howard v. Ferreri.

In Mandamus. Writ granted in part and denied in part.

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

Douglas, J., concurs in judgment only.

94-516. State ex rel. Howard v. Ferreri.

Cuyahoga County. Appeal from the Court of Appeals for Cuyahoga County, No. 66559. Judgment affirmed.

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

94-525 and 94-692. Ohio Farmers Ins. Co. v. Binegar.

Montgomery County. Appeal and Cross-Appeal from and Certified by the Court of Appeals for Montgomery County, No. 13906. Motion to certify overruled; cross-motion to certify allowed; judgment reversed and cause remanded. See opinion.

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

Moyer, C.J., concurs separately.

Wright, J., dissents.

94-977. In re Application of Samuels.

On Report by the Board of Commissioners on Character and Fitness, No. 101. Application for registration disapproved. See opinion.

Moyer, C.J., A.W. Sweeney, Douglas, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.
Wright, J., not participating.

94-1125. Luna v. Russell.
Allen County. Appeal from the Court of Appeals for Allen County, No. 1-94-18. Judgment affirmed.

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

94-1373. Butler Cty. Bar Assn. v. Packard.
On Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 93-78. Dwight Packard is suspended from the practice of law for six months, stayed on conditions.

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

MOTION DOCKET

86-413. State v. Carpenter.
Cuyahoga County, No. 49951. On motion for delayed reinstatement of appeal under S.Ct.Prac.R. XI(1)(B). Motion denied.

87-1159. State v. Van Hook.
Hamilton County, No. C-850565. On motion for delayed reinstatement of appeal under S.Ct.Prac.R. XI(1)(B). Motion denied.

SUPREME COURT OF OHIO

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WEDNESDAY
October 19, 1994

MERIT DOCKET

93-2045. State ex rel. Sweet v. Hancock Cty. Bd. of Elections.
Hancock County, No. 5-93-15. Sua sponte, cause dismissed as moot.
Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E.
Sweeney and Pfeifer, JJ., concur.

94-1586. Crosby v. Baker.
In Habeas Corpus. Sua sponte, cause dismissed.
Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E.
Sweeney and Pfeifer, JJ., concur.

94-1749. State ex rel. Brown v. Littlefield.
In Habeas Corpus. Sua sponte, cause dismissed.
Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E.
Sweeney and Pfeifer, JJ., concur.

94-1842. In re Manogg.
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.

94-1848. State ex rel. Vasquez v. Markovitch.
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.

94-1875. State ex rel. Cotton v. Ohio Adult Parole Auth.
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.

94-1880. State ex rel. LaGuta v. Fuerst.
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.

94-1888. State ex rel. Watts v. Ohio Adult Parole Auth.
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.

94-1921. State ex rel. Scott v. McGinty.
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.

94-1937. State ex rel. Persley v. Ohio Adult Parole Auth.
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.

94-1950. State ex rel. Foster v. McAninch.
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.

DISMISSALS, SUA SPONTE, NO SUBSTANTIAL CONSTITUTIONAL
QUESTION AND DISCRETIONARY APPEALS, IF APPLICABLE, NOT ALLOWED

94-657. Harbeitner v. Harbeitner.
Cuyahoga County, No. 64489.

94-735. State v. Arnold.
Medina County, No. 2247-M.

94-832. Ferguson v. Strader.
Clermont County, No. CA93-02-010.
Douglas, J., dissents.

94-923. Akron v. Darulis.
Summit County, No. 16420.

94-995. State v. Jackson.
Clark County, No. 3058.
Wright, J., dissents.

94-1031. State v. Showalter.
Stark County, No. CA-9349.

94-1299. State v. Sweet.
Knox County, No. 94-CA-07.

94-1344. Araca v. Metro. Cablevision.
Cuyahoga County, No. 65452.

94-1384. Delaney v. Skyline Lodge, Inc.
Hamilton County, No. C-920924.
Moyer, C.J., and Wright, J., dissent.

94-1391. State v. Burston.
Cuyahoga County, No. 65128.

94-1394. Kester v. Rodgers.
Lake County, Nos. 93-L-56 and 93-L-72.

94-1402. State v. Shipley.
Licking County, No. 93-CA-101.
Moyer, C.J., and Resnick, J., dissent.

94-1405. E. Liverpool v. Chisler.
Columbiana County, No. 93-C-19.

94-1413. Malone v. Courtyard by Marriott, L.P.
Franklin County, No. 93APE10-1407.
Wright and Pfeifer, JJ., dissent.

94-1421. Brown v. Fitzpatrick.
Hamilton County, No. C-930233.

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

94-1423. State v. Calloway.
Cuyahoga County, Nos. 65431, 65432 and 65433. On motion for leave
to appeal and on emergency motion to hold in abeyance pending
reconsideration under State v. Murnahan. Motions denied.

94-1425. McCann v. Lakewood.
Cuyahoga County, Nos. 64508 and 64631.

94-1429. State v. Allen.
Hamilton County, Nos. C-930159 and C-930160.

94-1431. Lenart v. Craig.
Cuyahoga County, Nos. 65372 and 65373.
F.E. Sweeney, J., dissents.

94-1453. Nwabara v. Willacy.
Cuyahoga County, No. 65450.
Pfeifer, J., dissents.

94-1459. Bradford v. Surgical & Med. Neurology Assoc., Inc.
Summit County, No. 15938.
Resnick, J., dissents.

94-1467. State v. Anderson.
Cuyahoga County, Nos. 65378 and 65379.

94-1468. State v. Coeey.
Summit County, Nos. 15895 and 15966.
Wright and Pfeifer, JJ., dissent.

94-1472. Erie Cty. Drug Task Force v. Cunningham.
Erie County, No. E-93-74.
Douglas and Pfeifer, JJ., dissent.

94-1497. State v. Bivens.
Licking County, No. 89CA3430.

94-1500. State v. Artis.
Cuyahoga County, No. 65311.

94-1518. State v. Stone.
Hamilton County, No. C-930775.
Wright, J., dissents.

94-1525. In re Parenting of Lamey-Zimmerman.
Franklin County, No. 93APF12-1716.

94-1529. State v. Sandovall.
Hamilton County, No. C-930726. (Appeal by Jesse R. Sandovall, pro
se; second appeal by attorney Craig M. Peters for Sandovall.)

94-1537. Shaker Hts. v. Fillinger.
Cuyahoga County, No. 65354.

Pfeifer, J., dissents.

94-1541. State v. Carpenter.
Cuyahoga County, No. 65722.

94-1548. State v. Bell.
Cuyahoga County, No. 65356.
Resnick, J., dissents.
Moyer, C.J., not participating.

94-1552. Granville v. Brennan.
Licking County, No. 93-CA-125.

94-1554. Thacker v. Franklin Cty.
Franklin County, Nos. 94APE01-0010 and 94APE01-0011.

94-1564. State v. Barnett.
Franklin County, No. 93APA12-1686.
Resnick, J., dissents.

94-1569. Access Nursing Care, Inc. v. Trimble.
Franklin County, No. 93APE09-1332.

94-1592. State v. Kruegel.
Columbiana County, No. 92-C-7.

94-1598. Witcher v. Fairlawn.
Summit County, No. 16591.
Moyer, C.J., dissents.

94-1599. Heatwall v. Boston Hts.
Summit County, No. 16563.

94-1605. State v. Baker.
Cuyahoga County, No. 65316.

94-1608. State v. Thompson.
Cuyahoga County, No. 63369.

94-1620. State v. Peeples.
Hamilton County, No. C-940353.

94-1627. State v. Beitzel.
Tuscarawas County, No. 93APO50036.
Moyer, C.J., and Douglas, J., dissent.

94-1629. SST Bearing Corp. v. Texas Bearing, Inc.
Hamilton County, No. C-930464.

94-1666. State v. DiPaolo.
Belmont County, No. 92-B-55.

MOTION DOCKET

93-2371. 155 N. High, Ltd. v. Cincinnati Ins. Co.
Franklin County, No. 93AP-45. On motion to seal appellee's merit

brief. Motion denied.

Wright and Resnick, JJ., dissent.

On motion for leave to file substitute brief. Motion granted.

94-1571. Greene Metro. Hous. Auth. v. Newsome.
Greene County, No. 93-CA-84. On motion to withdraw as counsel for
appellant by William Washington. Motion granted.

94-1831. State ex rel. Heck v. Kessler.
In Mandamus and Prohibition. On motion to dismiss. Motion denied
and alternative writs granted.

Wright and Pfeifer, JJ., dissent.

94-1897. Brecksville v. Cook.
Cuyahoga County, No. 65766. On review of order certifying a
conflict. The court determines that a conflict exists; the parties
are to brief the issues stated in the speedy-trial assignment of
error discussed in the court of appeals' opinion of August 22, 1994,
beginning at page 4.

94-1961. State v. Jones.
Cuyahoga County, No. 53365. On motion for leave to file delayed
appeal. Motion denied.

94-1969. State v. Scales.
Hamilton County, No. C-910513. On motion for leave to file delayed
appeal. Motion denied.

94-1982. State v. Buhrman.
Montgomery County, No. 14598. On motion for leave to file delayed
appeal. Motion denied.

Moyer, C.J., dissents.

94-2008. State v. Lamb.
Lorain County, No. 93CA005665. On motion for leave to file delayed
appeal. Motion denied.

Moyer, C.J., dissents.

94-2068. In re William S.
Erie County, No. E-93-58. On review of order certifying a
conflict. The court determines that a conflict exists; the parties
are to brief the issue (called the "question presented") found at
pages 18-19 of the court of appeals' Opinion and Judgment Entry,
filed September 2, 1994.

Wright, J., dissents.

DISCRETIONARY APPEALS ALLOWED

94-1388. In re Special Grand Jury Investigation Concerning Organic
Technologies.

Licking County, No. 93CA00077.

Wright and Pfeifer, JJ., dissent.

94-1389. Kendrick v. Cleveland Metroparks Bd. of Commrs.
Cuyahoga County, Nos. 65388 and 65525.

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

94-1424. Beshara v. Schindler.
Summit County, No. 16507.

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

94-1477. Trumbull Cty. Bd. of Health v. Snyder.
Trumbull County, No. 93-T-4899. On motion and cross-motion to
certify the record. Motions allowed.

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

94-1483. State v. Beeman.
Cuyahoga County, No. 67207.

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

94-1484. State v. Beeman.
Cuyahoga County, No. 67208.

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

DISCRETIONARY APPEALS NOT ALLOWED

94-638. Tussing v. Powell.
Lucas County, No. L-93-349.

Wright, J., dissents.

94-753. Jefferson Ins. Group v. Gilliam.
Franklin County, No. 93APG08-1082.

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

94-872. Smith v. Wagner.
Montgomery County, No. 13762.

Moyer, C.J., dissents.

94-1302. State v. Perotti.
Cuyahoga County, Nos. 67160 and 67161.

94-1355. Kuppin v. Ohio State Dental Bd.
Montgomery County, No. 14117.

94-1383. State v. Penn.
Cuyahoga County, No. 65234.

94-1387. DiPrima v. A.W. Tavern, Inc.
Cuyahoga County, No. 65289.

94-1416. Crowther v. Holtkamp.
Cuyahoga County, No. 65337.

94-1433. Prather v. Liberty Mut. Ins. Co.
Cuyahoga County, No. 66131.

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

94-1466. Ina v. George Fraam & Sons, Inc.
Lorain County, No. 93CA005646.

94-1502. Culbertson v. Reed.
Lucas County, No. L-93-256.

Resnick, J., not participating.

94-1519. Hussey v. Daum.
Montgomery County, No. 14246.
Pfeifer, J., dissents.

94-1550. Sibilsky v. Morton's of Chicago/Cincinnati, Inc.
Hamilton County, No. C-930318.

94-1555. Jenkins v. Talda.
Franklin County, No. 94APE02-137.
A.W. Sweeney and F.E. Sweeney, JJ., dissent.
Moyer, C.J., not participating.

RECONSIDERATION DOCKET

93-1098. State v. Gill.
Franklin County, No. 92AP-945. Reported at 70 Ohio St.3d 150,
N.E.2d . On motion for reconsideration by appellant, motion for
reconsideration by appellee, and on amicus curiae motion for leave
to file under S.Ct.Prac.R. XI by Central Ohio Association of
Criminal Defense Lawyers. Motions denied.
Wright and Pfeifer, JJ., dissent.
Resnick, J., not participating.

94-38. Sylvania v. Robinson.
Lucas County, No. L-93-197. Reported at 70 Ohio St.3d 150,
N.E.2d . On motion for reconsideration and/or motion to clarify
court order. Motions denied.
Wright and Pfeifer, JJ., dissent.
Resnick, J., not participating.

94-718. Woods v. Woods.
Montgomery County, No. 13487. Reported at 70 Ohio St.3d 1427,
N.E.2d . On motion for reconsideration. Motion denied.

94-1025. In re Aultman Hosp.
Franklin County, No. 93APH08-1210. Reported at 70 Ohio St.3d
1427, N.E.2d . On motion for reconsideration. Motion denied.
Douglas, J., dissents.

94-1098. Snyder v. Parkway Local Schools.
Mercer County, No. 10-93-18. Reported at 70 Ohio St.3d 1427,
N.E.2d . On motion for reconsideration. Motion granted and
discretionary appeal allowed.
Moyer, C.J., Wright and Pfeifer, JJ., dissent.

94-1123. Fiste v. Atlantic Mut. Ins. Co.
Franklin County, No. 93APE09-1353. Reported at 70 Ohio St.3d
1425, N.E.2d . On motion for reconsideration. Motion denied.
Douglas, Resnick and F.E. Sweeney, JJ., dissent.

94-1440. State v. Lundgren.
Lake County, No. 90-L-15125. Reported at 70 Ohio St.3d 1423,
N.E.2d . On motion for reconsideration. Motion denied.
Moyer, C.J., dissents.

94-1542. State ex rel. Wilson v. Sweeney.
In Mandamus. Reported at 70 Ohio St.3d 1436, N.E.2d . On
motion for reconsideration. Motion denied.

ADMINISTRATIVE DOCKET

1. Amendments to Canon 3A of the Code of Judicial Conduct and DR 7-111 (solicitation or release of confidential information) were adopted, effective upon their publication in the Ohio Official Reports Advance Sheets.

2. Beginning with 93 Ohio App.3d and 64 Ohio Misc.2d, court of appeals opinions and trial court opinions will be published in combined, not separate, volumes.

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

1:00 P.M.

WEDNESDAY
October 19, 1994

DISCRETIONARY APPEALS NOT ALLOWED

94-1516. Portage Trail Dental Bldg. v. Venarge.
Summit County, No. 16525.
Moyer, C.J., Wright and Resnick, JJ., dissent.