

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
December 14, 1994

MERIT DOCKET

93-667. Continental Ins. Co. v. Whittington.

Darke County. Appeal from the Court of Appeals for Darke County,
No. CA-1295. Judgment reversed.

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

Wright, J., dissents.

93-1139. State v. Morgan.

Fairfield County. Appeal and Cross-Appeal from the Court of Appeals
for Fairfield County, No. 14-CA-92. Judgment affirmed.

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

93-1367. Ede v. Atrium S. OB/GYN, Inc.

Stark County. Appeal from the Court of Appeals for Stark County,
No. CA-9041. Judgment reversed and cause remanded.

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

Moyer, C.J., concurs in the syllabus and judgment.

Wright, J., dissents.

93-1554. Springfield Local School Dist. Bd. of Edn. v. Lucas Cty.
Budget Comm.

Appeal from the Board of Tax Appeals, Nos. 90-G-87, 90-G-401,
91-G-26 and 91-G-293. Decision vacated.

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

Douglas, J., not participating.

93-1579. Cuyahoga Falls Edn. Assn. v. Cuyahoga Falls City School Dist. Bd. of Edn.

Summit County. Appeal from the Court of Appeals for Summit County, No. 15833. Judgment reversed and cause remanded.

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

Pfeifer, J., dissent.

93-1587. Associated Maintenance & Roofing Co. v. Rockwell Internatl. Corp.

Hardin County. Appeal from the Court of Appeals for Hardin County, No. 6-92-13. Sua sponte, cause dismissed as having been improvidently allowed.

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

93-1895. Cornell v. Parsons Coal Co.

Columbiana County. Appeal from the Court of Appeals for Columbiana County, No. 92-C-45. Sua sponte, cause dismissed as having been improvidently allowed.

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

93-1955. State ex rel. Yellow Freight Sys., Inc. v. Indus. Comm. Franklin County. Appeal from the Court of Appeals for Franklin County, No. 92AP-948. Judgment reversed.

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

Moyer, C.J., dissents.

93-1972. State ex rel. Ranomer v. Indus. Comm.

Franklin County. Appeal from the Court of Appeals for Franklin County, No. 92AP-703. Judgment reversed in part and writ granted.

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

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

93-2003. State ex rel. Sloman v. Indus. Comm.

Franklin County. Appeal from the Court of Appeals for Franklin County, No. 92AP-584. Judgment affirmed.

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

93-2139. State ex rel. Adams v. Teledyne Ohiocast.

Franklin County. Appeal from the Court of Appeals for Franklin County, No. 93AP-80. Judgment affirmed.

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

93-2207. State ex rel. Simon v. Indus. Comm.

Franklin County. Appeal from the Court of Appeals for Franklin County, No. 92AP-1626. Judgment affirmed.

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

Wright, J., concurs in part and dissents in part.

93-2399. State v. Murr.

Sandusky County. Appeal from the Court of Appeals for Sandusky County, No. S-91-13. Judgment affirmed.

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

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

94-23. Sweeney v. Sweeney.

Fayette County. Certified by the Court of Appeals for Fayette County, No. CA93-02-004. Judgment reversed.

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

Pfeifer, J., dissents.

94-79. Thompson v. Community Mental Health Centers of Warren Cty., Inc.

Warren County. Certified by the Court of Appeals for Warren County, No. CA92-08-072. Judgment affirmed.

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

94-288. Campbell v. Rockynol Retirement Community.

Summit County. Appeal from the Court of Appeals for Summit County, No. 16286. Judgment reversed and cause remanded.

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

Moyer, C.J., concurs separately.

F.E. Sweeney, J., dissents.

94-497. Cincinnati Bar Assn. v. Clark.

On Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 93-09. Thomas H. Clark is suspended from the practice of law for two years, with one year suspended.

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

94-895. Cleveland Bar Assn. v. Kelley.

On Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 92-35. Elliott Ray Kelley is suspended from the practice of law for two years, with one year suspended, on conditions.

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

94-1262. State v. Dozanti.

Cuyahoga County. Appeal from the Court of Appeals for Cuyahoga County, Nos. 61534 and 62190. Judgment affirmed.

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

Wright, J., dissents.

94-1473. State v. Leibtag.

Stark County. Appeal from the Court of Appeals for Stark County, No. CA-9365. Judgment affirmed.

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

Pfeifer, JJ., concur.
Wright, J., dissents.

94-1701. Purnell v. Orthopaedic Offices, Inc.
Hamilton County. Appeal from the Court of Appeals for Hamilton
County, No. C-930176. Judgment reversed and cause remanded.
A.W. Sweeney, Douglas, Wright, Resnick and Pfeifer, JJ., concur.
Moyer, C.J., concurs separately.
F.E. Sweeney, J., dissents.

94-1800. Fife v. Cent. Ins. Cos.
Paulding County. Appeal from the Court of Appeals for Paulding
County, No. 11-94-1. Judgment reversed and cause remanded.
A.W. Sweeney, Douglas, Resnick, F.E. Sweeney and Pfeifer, JJ.,
concur.
Moyer, C.J., concurs separately.
Wright, J., dissents.

94-1858. Disciplinary Counsel v. Palmer.
On Certified Report by the Board of Commissioners on Grievances and
Discipline of the Supreme Court, No. 93-76. Jack Harold Palmer is
indefinitely suspended from the practice of law in the state of Ohio.
Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E.
Sweeney and Pfeifer, JJ., concur.

94-1859. Cuyahoga Cty. Bar Assn. v. Caywood.
On Certified Report by the Board of Commissioners on Grievances and
Discipline of the Supreme Court, No. 93-72. James E. Caywood is
indefinitely suspended from the practice of law in the state of Ohio.
Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E.
Sweeney and Pfeifer, JJ., concur.

94-1866. Disciplinary Counsel v. McElrath.
On Certified Report by the Board of Commissioners on Grievances and
Discipline of the Supreme Court, No. 93-67. Lenza McElrath, Jr. is
suspended from the practice of law for two years, with one year
suspended, on conditions.
Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E.
Sweeney and Pfeifer, JJ., concur.

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

1:00 P.M.

WEDNESDAY
December 14, 1994

MERIT DOCKET

94-2153. State ex rel. Scripps Howard Broadcasting Co. v. Cuyahoga Cty. Court of Common Pleas, Juv. Div.
In Prohibition. On motion to consolidate with 94-2155, infra.
Motion granted.

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.

94-2155. New World Communications of Ohio, Inc. v. Ferreri.
In Mandamus and Prohibition. 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.

94-2267. State ex rel. Stevenson v. Jones.
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.

94-2317. State ex rel. Sims v. Burnside.
In Procedendo. Sua sponte, cause dismissed.

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

94-2321. Klein v. Craig.
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 DISCRETIONARY APPEALS, IF APPLICABLE, NOT ALLOWED

94-1748. State v. Miller.
Clark County, Nos. 3043, 3044, 3066, 3077 and 3079.

94-1807. In re Adler.
Cuyahoga County, No. 64994.

94-1884. Bocko v. Limoli.
Greene County, No. 93-CA-93.

94-1906. Marysville v. Wilson.
Union County, No. 14-94-8.

94-1910. Anthony v. Ada Exempted Village School Dist. Bd. of Edn.
Hardin County, No. 6-94-3.

94-1912. Jacks v. Jacks.
Licking County, No. 94-CA-3.
Wright and Resnick, JJ., dissent.

94-1916. Ramacciatti v. Cleveland.
Cuyahoga County, No. 66678.

94-1917. Heritage Mut. Ins. Co. v. Haas.
Summit County, Nos. 16488 and 16571.
Pfeifer, J., dissents.

94-1918. State v. Baldwin.
Allen County, No. 1-94-15.

94-1928. State v. Jackson.
Cuyahoga County, No. 65957.

94-1934. Smith v. Ameriflora 1992, Inc.
Franklin County, No. 93AP-970.

94-1936. State v. Hall.
Montgomery County, No. 13805.
Wright, J., dissents.

94-1940. State v. Sims.
Hamilton County, Nos. C-930500, C-930505 and C-930577.
Wright, J., dissents.

94-1943. State v. Miller.
Cuyahoga County, No. 65929.
Pfeifer, J., dissents.

94-1949. Evans v. Evans.
Hamilton County, No. C-920914.
Pfeifer, J., not participating.

94-1955. Weyls v. University Hosp. of Cleveland.
Cuyahoga County, No. 65803.

94-1959. State v. Smotherman.
Wood County, No. 93WD082.

94-1963. State v. Scott.
Butler County, No. CA92-03-052.
Moyer, C.J., dissents.

94-1978. State v. Shorter.
Cuyahoga County, No. 65827.

94-1986. Cent. Motors Corp. v. McCormack.
Cuyahoga County, Nos. 65876, 65877, 65878 and 65879.

94-1988. State v. Smith.

Hamilton County, No. C-930414.

94-2000. State v. Cox.
Delaware County, No. 93CAA10039.

94-2016. Cramer v. Greene Cty. Bd. of Edn.
Greene County, No. 94-CA-69.
Moyer, C.J., and Wright, J., dissent.

94-2064. Belmont Cty. Dept. of Human Serv. v. Alexander.
Belmont County, Nos. 93-B-28 and 93-B-29.
Wright, J., dissents.

94-2087. State v. Abboud.
Cuyahoga County, No. 64936.
Pfeifer, J., would allow on Proposition of Law No. 2 only.

MOTION DOCKET

94-1290. U.S. Corrections Corp. v. Ohio Dept. of Indus. Relations.
Hamilton County, Nos. C-920814 and C-920820. On motion to
supplement record by Jerry Monahan. Motion granted.

94-1924. Evilsizor v. Tracy.
Board of Tax Appeals, No. 93-B-1034. On motion to dismiss. Motion
denied.
Douglas, J., dissents.

94-1970. Huntington Ins. Agency, Inc. v. Duryee.
In Mandamus. On answer of respondent. Sua sponte, alternative writ
granted.
Pfeifer, J., would also order oral argument.
Wright, J., not participating.

94-2358. State v. Sandford.
Cuyahoga County, No. 66275. On motion for leave to file delayed
appeal. Motion denied.
Moyer, C.J., Douglas and Wright, JJ., dissent.

94-2418. State v. Patrick.
Lawrence County, No. 94CA02. On motion for leave to file delayed
appeal. Motion denied.
Moyer, C.J., and Resnick, J., dissent.

94-2422. State v. Price.
Cuyahoga County, No. 61891. On motion for leave to file delayed
appeal. Motion denied.

94-2427. State v. Ruiz.
Summit County, No. 16063. On motion for leave to file delayed
appeal. Motion denied.
Moyer, C.J., dissents.

94-2429. State ex rel. Fenley v. Kyger.
In Mandamus. On answer of respondent. Sua sponte, alternative writ
allowed.

Resnick and F.E. Sweeney, JJ., dissent and would dismiss the cause.

94-2439. Shaper v. Tracy.
Franklin County, No. 94APE01-32. On motion for admission pro hac vice by Clinton A. Krislov. Motion granted.

94-2479. State v. Lane.
Hamilton County, No. C-900837. On motion for leave to file delayed appeal. Motion denied.

94-2480. State v. Hughes.
Cuyahoga County, No. 62884. On motion for leave to file delayed appeal. Motion denied.

94-2484. State v. Luna.
Huron County, No. H9324. On motion for leave to file delayed appeal. Motion denied.
Resnick, J., dissents.

DISCRETIONARY APPEALS ALLOWED

94-1890. Faber v. Syed.
Cuyahoga County, No. 65359.
Moyer, C.J., Wright and Pfeifer, JJ., dissent.

94-1907. Fisher v. Neusser.
Summit County, No. 16491.
A.W. Sweeney, Resnick and F.E. Sweeney, JJ., dissent.

94-1962. Creed v. Sauline.
Trumbull County, No. 93-T-4977.
Wright, Resnick and Pfeifer, JJ., dissent.

94-2027. Smith v. Jordan.
Allen County, No. 1-94-27. Sua sponte, cause held for decision in 93-1381, Shump v. First Continental-Robinwood Assoc., Montgomery County, No. 13173; briefing schedule stayed.

DISCRETIONARY APPEALS NOT ALLOWED

94-1874. State v. St. Clair.
Hamilton County, No. C-940024.
Pfeifer, J., would allow on Proposition of Law No. 1 only.

94-1881. Musser v. Q.H.G. of Ohio, Inc.
Franklin County, No. 94APE01-62.

94-1883. Starlin v. Morgan Local School Dist. Bd. of Edn.
Morgan County, No. CA-9310.
A.W. Sweeney and Pfeifer, JJ., dissent.

94-1886. Butera v. Cordle.
Franklin County, No. 93AP10-81.
Douglas, J., dissents.

94-1891. Bruggeman v. Fishbaugh.
Shelby County, No. 17-94-4.

94-1911. Atlantic Mut. Ins. Co. v. Cuttaia.
Cuyahoga County, No. 65729.
Moyer, C.J., and Wright, J., dissent.

94-1927. Bucyrus City Bd. of Edn. v. Bucyrus Edn. Assn.
Crawford County, No. 3-94-8.
Douglas and F.E. Sweeney, JJ., dissent.

94-1929. Juergens v. Strang, Klubnik & Assoc.
Cuyahoga County, No. 65695.

94-1932. Bailey v. Searles-Bailey.
Mahoning County, No. 93-CA-107.
Moyer, C.J., Douglas and Wright, JJ., dissent.

94-1935. In re Seymour.
Hocking County, No. 94-CA-3.

94-1952. Synergystex Internatl., Inc. v. Motorists Mut. Ins. Co.
Medina County, No. 2290-M.
Moyer, C.J., and Pfeifer, J., dissent.

94-1953. Prudential-LMI Commercial Ins. Co. v. Jasko.
Lorain County, No. 93CA005740.
Douglas and Resnick, JJ., dissent.

94-1954. Erie House, Inc. v. Ohio Liquor Control Comm.
Cuyahoga County, No. 65822.

94-1958. State v. Johnson.
Erie County, No. E-93-29.

94-1960. Judy v. Wilson.
Hocking County, No. 93-CA-22.

94-1975. Harland v. W. Clermont Local School Dist.
Clermont County, No. CA94-01-006.

94-1987. Quick v. Hughes.
Hamilton County, No. C-930369.

94-1999. Moraine v. Rill.
Montgomery County, No. 13964.

94-2026. Barna v. Randall Park Assoc.
Cuyahoga County, No. 65998.

94-2065. Columbus Natl. Bank v. Babe.
Belmont County, No. 93-B-44.
Moyer, C.J., and Pfeifer, J., dissent.

94-2111. State v. Abram.
Perry County, No. 459.

RECONSIDERATION DOCKET

- 87-1159. State v. Van Hook.
Hamilton County, No. C-850565. Reported at 70 Ohio St.3d 1216,
N.E.2d . On motion for reconsideration. Motion denied.
- 93-705. State ex rel. Eberhardt v. Flxible Corp.
Franklin County, No. 92AP-492. Reported at 70 Ohio St.3d 649,
N.E.2d . On motion for reconsideration. Motion denied.
Moyer, C.J., Wright and Pfeifer, JJ., dissent.
- 93-2066. Cyrus v. Henes.
Lorain County, No. 92CA005527. Reported at 70 Ohio St.3d 640,
N.E.2d . On motion for reconsideration. Motion denied.
Wright, J., dissents.
- 94-717. FCC Natl. Bank v. Woods.
Montgomery County, No. 14452. Reported at 71 Ohio St.3d 1406,
N.E.2d . On motion for reconsideration. Motion denied.
- 94-1090. State v. Cockrell.
Knox County, No. 91-CA-30. Reported at 70 Ohio St.3d 643,
N.E.2d . On motion for reconsideration. Motion denied.
- 94-1439. Park Centre Party Ctr. v. Zell.
Cuyahoga County, No. 65221. Reported at 71 Ohio St.3d 1406,
N.E.2d . On motion for reconsideration. Motion denied.
Moyer, C.J., and Douglas, J., dissent.
- 94-1603. Frappier v. Excello Specialty Co.
Cuyahoga County, No. 65605. Reported at 71 Ohio St.3d 1406,
N.E.2d . On motion for reconsideration. Motion denied.
Pfeifer, J., dissents.
- 94-1677. State ex rel. Bayes v. Bayes.
Hardin County, No. 6-94-4. Reported at 71 Ohio St.3d 1404,
N.E.2d . On motion for reconsideration. Motion denied.
- 94-1691. State v. Smith.
Hamilton County, No. C-930404. Reported at 71 Ohio St.3d 1405,
N.E.2d . On motion for reconsideration. Motion denied.
Wright, J., dissents.
- 94-1742. State v. Wickline.
Franklin County, No. 93APA10-1411. Reported at 71 Ohio St.3d
1405, N.E.2d . On motion for reconsideration. Motion denied.
Wright and Pfeifer, JJ., dissent.

SUPREME COURT OF OHIO

COLUMBUS

SUPPLEMENTAL ANNOUNCEMENT

1:00 P.M.

WEDNESDAY
December 14, 1994

MOTION DOCKET

90-1433. State v. Smith.

Hamilton County, No. C-880287. On motion for reconsideration under
S.Ct.Prac.R. XI(1)(B). Motion denied.

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

Wright, J., dissents.