

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

FRIDAY
December 1, 1995

MOTION DOCKET

93-2592. State v. Berry.
Cuyahoga County, No. 60531. On November 16, 1995, this Court entered an order in this case remanding to the Court of Common Pleas of Cuyahoga County for appointment of an independent psychiatric expert and for hearing for the purpose of determining appellant's competency to waive further legal proceedings challenging the death penalty imposed upon him.

IT IS ORDERED by the court, sua sponte, effective November 30, 1995, that the entry of November 16, 1995 be and hereby is, vacated.

IT IS FURTHER ORDERED by the court that the following order is entered, nunc pro tunc:

Upon consideration of appellee's motion for an order appointing an independent psychiatric expert, appointing independent counsel and scheduling a competency hearing, appellant's motion to strike appellee's motion, and appellant's pro se motion to dismiss the Ohio Public Defender's Office and retain Cynthia A. Yost,

IT IS ORDERED by the court that appellee's motion is granted to the extent that a psychiatric expert shall be appointed by this court and, if determined to be necessary by this court, a competency hearing will be scheduled.

IT IS FURTHER ORDERED that costs entered in this case for the services of the psychiatric expert shall be paid by appellee.

IT IS FURTHER ORDERED that all other motions be, and hereby are, denied.

Cook, J., dissents.

MISCELLANEOUS DISMISSALS

95-2406. State v. Alexander.
Muskingum County, Nos. 9134A and 9135A. Appellant has filed an untimely notice of appeal and motion for delayed appeal with regard to Muskingum County Court of Appeals case Nos. CA9134 and CA9135, a discretionary appeal involving a felony

and with regard to case Nos. 9134A and 9135A, an appeal filed pursuant to State v. Murnahan (1992), 63 Ohio St.3d 60, 584 N.E.2d 1204.

The appeal of case Nos. 9134A and 9135A involves a civil, post-conviction matter and not an appeal of a felony case to which the provisions for delayed appeal in S.Ct.Prac.R. II(2)(A)(4) apply. Therefore,

IT IS ORDERED by the court, sua sponte, that the motion for delayed appeal be, and hereby is, stricken as to case Nos. 9134A and 9135A.

IT IS FURTHER ORDERED by the court, sua sponte, that, in that appellant failed to perfect an appeal pursuant to S.Ct.Prac.R. II(2)(A)(1), the appeal of case Nos. 9134A and 9135A be, and hereby is, dismissed for lack of jurisdiction.

Appellant's appeal of case Nos. CA9134 and CA9135 remains pending.