

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

1:00 P.M.                    WEDNESDAY  
October 18, 1995

MOTION DOCKET

93-569.        State v. Simko.  
Lorain County, No. 91CA005214. This court has received notification that on October 2, 1995, the Supreme Court of the United States entered an order in No. 94-9317, John Simko, Jr. v. Ohio, which stated:

"On consideration of the petition for a writ of certiorari herein to the Supreme Court of Ohio, IT IS ORDERED by this Court that said petition be, and the same is hereby, denied."

It appearing to this court that the stay of execution of sentence granted by the Supreme Court of the United States on March 8, 1995, terminated automatically upon the denial of the petition for writ of certiorari,

IT IS HEREBY ORDERED by this court, effective October 17, 1995, that the sentence be carried into execution by the Warden of the Southern Ohio Correctional Facility or, in his absence, by the Deputy Warden on Tuesday, the 16th day of January 1996, in accordance with the statutes so provided.

IT IS FURTHER ORDERED that a certified copy of this entry and a warrant under the seal of this court be duly certified to the Warden of the Southern Ohio Correctional Facility and that the Warden shall make due return thereof to the Clerk of the Court of Common Pleas of Lorain County.

IT IS FURTHER ORDERED by the court that, upon written application of appellant, and pursuant to State v. Glenn (1987), 33 Ohio St.3d 601, 514 N.E.2d 869, this court will grant one additional stay for a period ending six months from the date of this entry to allow appellant an opportunity to file a petition for post-conviction relief.

RECONSIDERATION DOCKET

95-1609.        State v. Banks.  
Franklin County, No. 87AP-83. Reported at 73 Ohio St.3d 1456, \_\_\_ N.E.2d \_\_\_. On October 4, 1995, appellant filed an untimely motion for reconsideration of this court's entry of September 21, 1995. Rule XIV(1)(C) of the Rules of Practice of the Supreme Court prohibits the filing of a document that is not timely tendered for filing. Accordingly,

IT IS ORDERED by the court, sua sponte, that appellant's motion for reconsideration be, and hereby is, stricken, effective October 17, 1995.

#### MISCELLANEOUS DISMISSALS

95-1629. State ex rel. Wade v. Indus. Comm.

Franklin County, No. 94APD06-783. This cause is pending before the court as an appeal from the Court of Appeals for Franklin County. Upon consideration of the joint application for dismissal,

IT IS ORDERED by the court that the application for dismissal be, and hereby is, granted, effective October 17, 1995.

ACCORDINGLY, IT IS FURTHER ORDERED by the court that this cause be, and hereby is, dismissed.

95-1660. State ex rel. Fraley v. ATO, Inc., Div. of Figgie Internatl.

Franklin County, No. 94APD06-874. This cause is pending before the court as an appeal from the Court of Appeals for Franklin County. It appears from the records of this court that appellant has not filed a merit brief, due October 10, 1995, in compliance with the Rules of Practice of the Supreme Court and therefore has failed to prosecute this cause with the requisite diligence. Upon consideration thereof,

IT IS ORDERED by the court that this cause be, and hereby is, dismissed sua sponte, effective October 17, 1995.

95-1685. Niehaus v. Brigano.

Warren County, No. CA95-05-042. This cause is pending before the court as an appeal from the Court of Appeals for Warren County. It appears from the records of this court that appellant has not filed a merit brief, due October 3, 1995, in compliance with the Rules of Practice of the Supreme Court and therefore has failed to prosecute this cause with the requisite diligence. Upon consideration thereof,

IT IS ORDERED by the court that this cause be, and hereby is, dismissed sua sponte, effective October 17, 1995.