

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

THURSDAY
October 3, 1996

MOTION DOCKET

88-1265. State v. Wiles.

Portage App. No. 1675. Upon consideration of the motion filed by counsel for appellant to continue stay of execution in the above-styled cause pending the exhaustion of state post-conviction remedies, and it appearing from the exhibits to the motion that a petition for post-conviction relief has been filed by appellant with the Portage County Common Pleas Court,

IT IS ORDERED by the court that said motion be, and the same is hereby, granted.

IT IS FURTHER ORDERED by the court that compliance with the mandate and execution of sentence be, and the same are hereby, stayed pending the exhaustion of all proceedings for post-conviction relief before courts of this state.

IT IS FURTHER ORDERED that counsel for the appellant and for the appellee shall notify this court when all proceedings for post-conviction relief before courts of this state have been exhausted.

91-2417. State v. Lewis.

Cuyahoga App. No. 59535. Upon consideration of the motion filed by counsel for appellant to continue stay of execution in the above-styled cause pending the exhaustion of state post-conviction remedies, and it appearing from the exhibits to the motion that a petition for post-conviction relief has been filed by appellant with the Cuyahoga County Common Pleas Court,

IT IS ORDERED by the court that said motion be, and the same is hereby, granted.

IT IS FURTHER ORDERED by the court that compliance with the mandate and execution of sentence be, and the same are hereby, stayed pending the exhaustion of all proceedings for post-conviction relief before courts of this state.

IT IS FURTHER ORDERED that counsel for the appellant and for the appellee shall notify this court when all proceedings for post-conviction relief before courts of this state have been exhausted.

93-7. State v. Willams.

Butler App. Nos. CA91-04-060 and CA92-06-110. Upon consideration of the motion filed by counsel for appellant to continue stay of execution in the above-styled cause pending the exhaustion of state post-conviction remedies, and it appearing from the exhibits to the motion that a petition for post-conviction relief has been filed by appellant with the Butler County Common Pleas Court,

IT IS ORDERED by the court that said motion be, and the same is hereby, granted.

IT IS FURTHER ORDERED by the court that compliance with the mandate and execution of sentence be, and the same are hereby, stayed pending the exhaustion of all proceedings for post-conviction relief before courts of this state.

IT IS FURTHER ORDERED that counsel for the appellant and for the appellee shall notify this court when all proceedings for post-conviction relief before courts of this state have been exhausted.

93-2179. State v. Lundgren.

Lake App. Nos. 90-L-15-140 and 91-L-036. Upon consideration of appellant's notice of filing petition for post-conviction relief and it appearing that a petition for post-conviction relief has been filed by appellant with the Lake County Common Pleas Court,

IT IS ORDERED by the court that the stay of execution pending exhaustion of state post-conviction remedies be, and the same is hereby, continued.

IT IS FURTHER ORDERED by the court that compliance with the mandate and execution of sentence be, and the same are hereby, stayed pending the exhaustion of all proceedings for post-conviction relief before courts of this state.

IT IS FURTHER ORDERED that counsel for the appellant and for the appellee shall notify this court when all proceedings for post-conviction relief before courts of this state have been exhausted.

94-372. State v. Joseph.

Allen App. No. 1-91-11. Upon consideration of the motion filed by counsel for appellant to continue stay of execution in the above-styled cause pending the exhaustion of state post-conviction remedies, and it appearing from the exhibits to the motion that a petition for post-conviction relief has been filed by appellant with the Allen County Common Pleas Court,

IT IS ORDERED by the court that said motion be, and the same is hereby, granted.

IT IS FURTHER ORDERED by the court that compliance with the mandate and execution of sentence be, and the same are hereby, stayed pending the exhaustion of all proceedings for post-conviction relief before courts of this state.

IT IS FURTHER ORDERED that counsel for the appellant and for the appellee shall notify this court when all proceedings for post-conviction relief before courts of this state have been exhausted.

94-756. State v. Gumm.

Hamilton App. No. C-920907. Upon consideration of appellant's notice of filing petition for post-conviction relief and it appearing that a petition for post-conviction relief has been filed by appellant with the Hamilton County Common Pleas Court,

IT IS ORDERED by the court that the stay of execution pending exhaustion of state post-conviction remedies be, and the same is hereby, continued.

IT IS FURTHER ORDERED by the court that compliance with the mandate and execution of sentence be, and the same are hereby, stayed pending the exhaustion of all proceedings for post-conviction relief before courts of this state.

IT IS FURTHER ORDERED that counsel for the appellant and for the appellee shall notify this court when all proceedings for post-conviction relief before courts of this state have been exhausted.

94-2208. State v. Phillips.

Summit App. No. 16487. Upon consideration of the motion filed by counsel for appellant to continue stay of execution in the above-styled cause pending the exhaustion of state post-conviction remedies, and it appearing from the exhibits to the motion that a petition for post-conviction relief has been filed by appellant with the Summit County Common Pleas Court,

IT IS ORDERED by the court that said motion be, and the same is hereby, granted.

IT IS FURTHER ORDERED by the court that compliance with the mandate and execution of sentence be, and the same are hereby, stayed pending the exhaustion of all proceedings for post-conviction relief before courts of this state.

IT IS FURTHER ORDERED that counsel for the appellant and for the appellee shall notify this court when all proceedings for post-conviction relief before courts of this state have been exhausted.

96-616. State v. Dicus.

Hardin App. No. 6-95-12. This cause is pending before the court on the certification of conflict by the Court of Appeals for Hardin County. On review of the order certifying a conflict,

IT IS DETERMINED by the court that a conflict exists.

IT IS ORDERED by the court, sua sponte, that this cause be consolidated with Supreme Court case No. 96-615, State v. Dicus, and held for the decision in Supreme Court case No. 96-838, Akron v. Kirby.

IT IS FURTHER ORDERED by the court that the briefing schedule be stayed.

96-838. Akron v. Kirby.

Summit App. No. 17307. This cause is pending before the court as an appeal from the Court of Appeals for Summit County.

IT IS ORDERED by the court, sua sponte, that the order holding this cause for the decision in Supreme Court case No. 95-1365, State v. Hochhausler, be, and hereby is, lifted.

IT IS FURTHER ORDERED by the court, sua sponte, that the order staying transmittal of the record be, and hereby is, lifted, and the Clerk shall issue an order for the transmittal of the record from the Court of Appeals for Summit County.

IT IS FURTHER ORDERED by the court, sua sponte, that the order staying the briefing schedule be, and hereby is, lifted, and the parties shall proceed pursuant to S.Ct.Prac.R. VI. The parties' briefs are to be on the following issues only:

- a. Whether application of R.C. 4511.191 violated appellant's right to equal protection;
- b. Whether application of R.C. 4511.191 violated appellant's right to be free from excessive fines and forfeitures;
- c. Whether application of R.C. 4511.191 violated appellant's right to protection from ex post facto laws.

96-1585. State v. Ashburn.

Hancock App. No. 5-96-11. This cause is pending before the court as an appeal from the Court of Appeals for Hancock County.

IT IS ORDERED by the court, sua sponte, that this cause be consolidated for purposes of oral argument with Supreme Court case No. 96-838, Akron v. Kirby.

96-2067. State ex rel. Purdy v. Clermont Cty. Bd. of Elections.

In Mandamus. This cause originated in this court on the filing of a complaint for a writ of mandamus regarding an expedited election matter. Upon consideration of relators' request for expedited oral argument,

IT IS ORDERED by the court that the request for expedited oral argument be, and hereby is, granted, and oral argument is set for October 8, 1996. Each side shall have fifteen minutes for oral argument.

RECONSIDERATION DOCKET

96-615. State v. Dicus.

Hardin App. No. 6-95-12. The decline of jurisdiction in this discretionary appeal is reconsidered, sua sponte, and it is ordered by the court, sua sponte, that the appeal be allowed. The Clerk shall issue an order for the transmittal of the record from the Court of Appeals for Hardin County.

IT IS FURTHER ORDERED by the court, sua sponte, that this cause be consolidated with Supreme Court case No. 96-616, State v. Dicus, and held for the decision in Supreme Court case No. 96-838, Akron v. Kirby.

IT IS FURTHER ORDERED by the court that the briefing schedule be stayed.

96-960. Smith v. Smith.

Summit App. No. 17462. On October 1, 1996, appellant filed a document titled "Objection to entry, a demand not to dismiss, a demand to correct errors, and a demand that the Court accept jurisdiction." Appellant's document is, in substance, a motion for reconsideration that was untimely filed. Whereas S.Ct.Prac.R. XI(2)(C) prohibits the filing of a motion for reconsideration that is not timely,

IT IS ORDERED by the court, sua sponte, that the document be, and hereby is, stricken.

96-1528. Smith v. Spicer.

In Mandamus. On October 1, 1996, relator filed a document titled "Objection to entry, a demand to annul the judgment, objections to dismissal, a demand that this case not be dismissed and a demand that the judge uphold his oath of office." Relator's document is, in substance, a motion for reconsideration that was untimely filed. Whereas S.Ct.Prac.R. XI(2)(C) prohibits the filing of a motion for reconsideration that is not timely,

IT IS ORDERED by the court, sua sponte, that the document be, and hereby is, stricken.

96-1834. Davis v. Davis.

Montgomery App. No. CA 15628. Reported at 76 Ohio St.3d 1480, ___ N.E.2d ___.

IT IS ORDERED by the court that the motion for reconsideration of the dismissal of this appeal for want of prosecution be, and hereby is, denied.