

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

1:00 P.M. WEDNESDAY

June 12, 1996

MERIT DOCKET

96-650. State ex rel. Greer v. Parrott.

In Mandamus. On motion to dismiss. Motion to dismiss sustained. Cause dismissed.

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

96-846. State ex rel. Gaines v. Kinkela.

In Mandamus. On motion to dismiss. Motion to dismiss sustained. Cause dismissed.

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

96-878. Powell v. Saffold.

In Mandamus. On motion to dismiss. Motion to dismiss sustained. Cause dismissed.

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

96-931. State ex rel. Luna v. Sixth Dist. Court of Appeals.

In Mandamus. On motion to dismiss. Motion to dismiss sustained. Cause dismissed.

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

Resnick, J., not participating.

96-976. State ex rel. Conley v. N. Cent. Correctional Inst.

In Habeas Corpus. Sua sponte, cause dismissed.

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

Stratton, J., dissents.

96-980. Fischer v. Anderson.

In Habeas Corpus. Sua sponte, cause dismissed.

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

96-993. Durr v. Shiplevy.

In Habeas Corpus. Sua sponte, cause dismissed.

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

96-1002. Mundy v. Turner.

In Habeas Corpus. Sua sponte, cause dismissed. On motion to dismiss. Motion to dismiss sustained. Cause dismissed.

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

96-1008. Pratt v. Ruehlman.

In Habeas Corpus. Sua sponte, cause dismissed.

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

96-1016. Cowans v. Mohr.

In Mandamus. Sua sponte, cause dismissed.

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

96-1017. Coleman v. McManish.

In Habeas Corpus. Sua sponte, cause dismissed.

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

96-1085. Donald v. Russell.

In Habeas Corpus. Sua sponte, cause dismissed.

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

96-1135. Mobley v. State.

In Habeas Corpus. Sua sponte, cause dismissed.

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

96-1214. State ex rel. Garnett v. Harper.

In Prohibition. Sua sponte, cause dismissed.

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

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

95-2511. State v. Robinson.

Scioto County, No. 94CA2277.

95-2568. State v. Ayala.

Franklin County, Nos. 95APA02-145 and 95APA02-165.

95-2571. State v. Thomas.

Cuyahoga County, No. 68579.

95-2578. Soltesz v. Diversitec Image Technology, Inc.

Lucas County, No. L-94-371.

Douglas, J., not participating.

95-2653. State v. Braxton.
Lucas County, No. L-94-355.
Douglas and Pfeifer, JJ., dissent.
Resnick, J., not participating.

96-12. Bedel v. Univ. of Cincinnati Hosp.
Franklin County, No. 95API02-210.

96-13. Deaton v. Burney.
Montgomery County, No. 15133.

96-16. Rolfes v. Harlem Twp. Bd. of Trustees.
Delaware County, No. 94CAE12038.
Pfeifer, J., dissents.

96-180. Strongsville v. Russell.
Cuyahoga County, No. 68316.
Stratton, J., dissents.

96-231. State ex rel. Harris v. Indus. Comm.
Franklin County, No. 95APE07-891.

96-237. State v. Croom.
Cuyahoga County, No. 67135.
Moyer, C.J., dissents.

96-239. State ex rel. Normand v. Wilkinson.
Franklin County, No. 95APE05-563.
Moyer, C.J., dissents.
Stratton, J., not participating.

96-240. Browning v. Chillicothe.
Ross County, No. 95CA2086.
Pfeifer, J., dissents.

96-284. Freeman v. Holzer Med. Ctr.
Gallia County, No. 94CA20.

96-290. State v. Simmons.
Scioto County, No. 94CA2281.
Moyer, C.J., dissents.

96-305. State v. Day.
Cuyahoga County, No. 67767.
Moyer, C.J., dissents.

96-359. State v. Lewis.
Mahoning County, No. 93 C.A. 162.

96-374. May v. Bowland.
Hamilton County, No. C-950633.

Cook and Stratton, JJ., would also grant the appellee's motion to dismiss and issue an order to prohibit the filing by appellant of further frivolous appeals.

96-375. State v. Drain.

Franklin County, No. 95APA03-351.
Moyer, C.J., dissents.

96-376. Lakewood v. Shaw.
Cuyahoga County, No. 67733.

96-380. State v. Pangle.
Hamilton County, No. C-950499.
Stratton, J., not participating.

96-401. State v. Cornell.
Cuyahoga County, No. 69457.

96-402. State v. Howard.
Cuyahoga County, No. 68977.
Moyer, C.J., dissents.

96-439. State v. Mays.
Cuyahoga County, No. 67262.
Moyer, C.J., dissents.

96-498. State v. Bell.
Scioto County, No. 94CA2270.

96-864. State v. Thompson.
Hardin County, No. 6-95-20.

MOTION DOCKET

94-2458. Cargill, Inc. v. Tracy.
Board of Tax Appeals, No. 91-G-827. On motion to vacate and remand. Motion granted.

95-1330. State v. Esparza.
Lucas County, No. L-84-225. On motion to set execution date. Motion granted.
F.E. Sweeney, J., dissents.
Resnick, J., not participating.

95-1841. State ex rel. Kabert v. Shaker Hts. School Dist. Bd. of Edn.
In Mandamus. On answer of respondent. Sua sponte, alternative writ granted on relators' complaint. On motion to dismiss of third-party respondent. Third-party respondent's motion to dismiss respondent/third-party relator's complaint granted.

95-1925. Harbeitner v. Ohio Dept. of Commerce.
Cuyahoga County, No. 68483. On motion to strike. Motion denied.
Cook, J., would also grant leave to file.

95-2449. Olmsted Falls Bd. of Edn. v. Tracy.
Board of Tax Appeals, No. 93-P-1382. Sua sponte, cause consolidated with 95-2451, Olmsted Falls Bd. of Edn. v. Tracy, Board of Tax Appeals, No. 93-P-1383.

95-2453. Olmsted Falls Bd. of Edn. v. Tracy.
Board of Tax Appeals, No. 93-P-1381. On request for oral argument before full court. Request denied.

95-2639. Kayser v. Hutman.

Lorain County, Court of Common Pleas, No. 95CV115361. On request for oral argument. Request denied.

96-541. Reynoldsburg City School Bd. of Edn. v. Franklin Cty. Bd. of Revision. Board of Tax Appeals, Nos. 93-T-28, 93-T-29, 93-T-49, 93-T-50, 93-T-51 and 93-T-52. On motion to consolidate with 96-542, Chatterton Club, L.P. v. Franklin Cty. Bd. of Revision, Board of Tax Appeals, No. 93-A-172, and 96-545, C.O.A. Hous., Inc. v. Van Wert Cty. Bd. of Revision, Board of Tax Appeals, No. 94-P-759. Motion granted.

96-593. State ex rel. Durkin v. Ungaro.

In Mandamus. Sua sponte, alternative writ granted.

96-635. State v. Sanders.

Montgomery County, No. 13925. On motion for leave to file delayed appeal. Motion denied.

Resnick and Pfeifer, JJ., dissent.

96-658. Adkins v. McFaul.

Cuyahoga County, No. 70210. On motion to expedite. Motion denied.

Resnick, Pfeifer and Cook, JJ., dissent.

96-866. State v. Thompson.

Hardin County, No. 6-95-20. On review of order certifying a conflict. The court determines that a conflict exists; sua sponte, cause held for the decision in 95-1377 and 95-1466, State v. Gustafson, Mahoning County, No. 94 C.A. 232; briefing schedule stayed.

96-1004. State v. Lutchev.

Fulton County, No. F-95-009. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, Cook and Stratton, JJ., dissent.

96-1005. State v. Huff.

Lorain County, No. 96CA006348. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents and would deny the motion to strike.

96-1023. State v. Brown.

Cuyahoga County, No. 68761. On motion for leave to file delayed appeal. Motion granted.

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

96-1035. State v. McElfresh.

Licking County, No. 94-CA44. On motion for leave to file delayed appeal. Motion denied.

Moyer, C.J., and Douglas, J., dissent.

96-1044. State v. Neubauer.

Union County, No. 14-96-4. On motion to consolidate with 95-1271, State v. Miller, Auglaize County, No. 2-94-32; 95-1303, State v. Smith, Auglaize County, No. 2-95-3; 95-1304, State v. Brown, Auglaize County, No. 2-95-6; 95-1305, State v. Roth, Auglaize County, No. 2-95-4; and 95-1307, State v. Bayman, Auglaize County, No. 2-95-7. Motion denied.

Resnick, Cook and Stratton, JJ., dissent.

96-1213. State v. McGuire.
Preble County, No. CA95-01-001. On motion to withdraw as counsel. Motion granted.

DISCRETIONARY APPEALS ALLOWED

96-198. Felton v. Felton.
Carroll County, No. 94CA646.
F.E. Sweeney, Pfeifer and Cook, JJ., dissent.

96-200. State v. Strode.
Franklin County, No. 95APC07-852. Discretionary appeal allowed; sua sponte, cause held for the decision in 95-1377 and 95-1466, State v. Gustafson, Mahoning County, No. 94 C.A. 232; briefing schedule stayed.

96-207. State v. Nowling.
Franklin County, No. 95APC07-867. Discretionary appeal allowed; sua sponte, cause held for the decision in 95-1377 and 95-1466, supra; briefing schedule stayed.

96-219. Twinsburg v. Buckley.
Summit County, No. 17226. Discretionary appeal allowed; sua sponte, cause held for the decision in 95-1377 and 95-1466, supra; briefing schedule stayed.

96-229. State v. Reynolds.
Erie County, No. E-95-041.
Stratton, J., dissents.
Resnick, J., not participating.

96-249. Rulli v. Fan Co.
Mahoning County, No. 94 C.A. 14.
Moyer, C.J., and Cook, J., dissent.

96-502. Bar-Tec, Inc. v. Ohio Dept. of Liquor Control.
Franklin County, No. 95APE10-1331.
Resnick, Pfeifer and Cook, JJ., dissent.

96-526. In re Hayes.
Hancock County, No. 5-95-19.
Resnick and Pfeifer, JJ., dissent.

DISCRETIONARY APPEALS NOT ALLOWED

96-17. Darvanan v. Home S. & L. Co. of Youngstown.
Mahoning County, No. 93 C.A. 180.
Moyer, C.J., and Pfeifer, J., dissent.

96-202. Smith v. Leone.
Cuyahoga County, No. 68381.
Stratton, J., dissents.

96-214. In re Estate of Reese.
Madison County, No. CA95-02-008.
Pfeifer, J., dissents.

96-225. Snyder v. Fulkrod.
Summit County, No. 17225.

96-230. Aeroquip Corp. v. Miller.
Lucas County, No. L-95-080.
Douglas, J., dissents.

96-242. Roberson v. Insignia Mgt. Group, L.P.
Hamilton County, No. C-940968.
Stratton, J., not participating.

96-245. Pittman v. Kothari.
Stark County, No. 1995CA00105.
Douglas, Resnick and F.E. Sweeney, JJ., dissent.

96-311. Mayfield Hts. v. Riddle.
Cuyahoga County, No. 68868.

96-329. Kelley v. Ernst.
Hamilton County, No. C-940495.
Moyer, C.J., Douglas and Pfeifer, JJ., dissent.

96-332. Braun v. Pikus.
Cuyahoga County, No. 68949.

96-339. Westgate Hawks Boys Club, Inc. v. Brunner.
Franklin County, No. 95APE07-873.
Douglas and Pfeifer, JJ., dissent.

96-341. Maple Hts. v. Harris.
Cuyahoga County, No. 68068, 68069 and 68070.

96-352. State v. Mason.
Hamilton County, No. C-950926.

96-363. State v. Emerick.
Hamilton County, Nos. C-940915 and C-941048.

96-379. Soc. Natl. Bank v. Natl. Union Fire Ins. Co. of Pittsburgh, Pa.
Cuyahoga County, No. 68624.
Douglas and Pfeifer, JJ., dissent.
Resnick, J., not participating.

96-381. Self v. Kenney Trucking, Inc.
Lake County, No. 95-L-027.
Moyer, C.J., and Pfeifer, J., dissent.

96-393. State v. Drabic.
Tuscarawas County, No. 95AP020005.
Moyer, C.J., dissents.

96-394. Weiland v. Benton.
Cuyahoga County, No. 68976.
Moyer, C.J., and Stratton, J., dissent.

96-406. State v. Bowman.
Tuscarawas County, No. 95AP060043.

96-416. In re Brittany and Marcus B.
Wood County, No. WD95002.

96-429. Robiner v. Robiner.
Cuyahoga County, No. 67195.
Moyer, C.J., and F.E. Sweeney, J., dissent.
Douglas, J., not participating.

96-444. Ciriello v. Phelps.
Summit County, No. 17261.
Moyer, C.J., dissents.

96-445. Calvaruso v. Ohio Biodyne, Inc.
Summit County, No. 17273.
Resnick and F.E. Sweeney, JJ., dissent.

96-451. Zielinski v. Elyria Mem. Hosp.
Lorain County, No. 95CA006119.
F.E. Sweeney, J., dissents.

96-455. Knowlton v. Nationwide Mut. Ins. Co.
Franklin County, No. 95APE02-225.
Moyer, C.J., Douglas and Cook, JJ., dissent.

96-484. Roberts v. Trimble.
Trumbull County, No. 95-T-5302.

96-489. Barendsfeld v. Coventry Twp. Bd. of Zoning Appeals.
Summit County, No. 17308.
Resnick, J., dissents.
Cook, J., not participating.

RECONSIDERATION DOCKET

95-2141. Garfield Hts. v. Pub. Util. Comm.
Public Utilities Commission, Nos. 94-1176-EL-CMR, 94-1177-EL-CMR and 94-578-EL-CMR. Reported at 75 Ohio St.3d 1473, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

95-2366. Cran v. Drabek.
Cuyahoga County, No. 67801. Reported at 75 Ohio St.3d 1473, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

95-2598. State v. Guerra.
Miami County, No. 94CA62. Reported at 75 Ohio St.3d 1473, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

95-2613. Keider v. Fed. Ins. Co.
Cuyahoga County, No. 68196. Reported at 75 Ohio St.3d 1477, ___ N.E.2d ___. On motion for reconsideration. Motion denied.
Pfeifer, J., dissents.

95-2645. Hayes v. Sorg Paper Co.
Butler County, No. CA95-06-114. Reported at 75 Ohio St.3d 1470, ___ N.E.2d ____.
On motion for reconsideration. Motion denied.
Douglas, Resnick and F.E. Sweeney, JJ., dissent.

95-2659. Giallombardo v. Terhune.
Lake County, No. 95-L-046. Reported at 75 Ohio St.3d 1474, ___ N.E.2d _____. On
motion for reconsideration. Motion denied.

95-2665. State v. Dye.
Lorain County, No. 95CA006097. Reported at 75 Ohio St.3d 1477, ___ N.E.2d _____.
On motion for reconsideration. Motion denied.
Moyer, C.J., and Douglas, J., dissent.

95-2666. Cole v. Broomsticks, Inc.
Hamilton County, Nos. C-950058 and C-950086. Reported at 75 Ohio St.3d 1474,
___ N.E.2d _____. On motion for reconsideration. Motion denied.
Douglas, J., dissents.
Stratton, J., not participating.

95-2671. Osborne v. Revco Drug Stores, Inc.
Summit County, No. 17138. Reported at 75 Ohio St.3d 1477, ___ N.E.2d _____. On
motion for reconsideration. Motion denied.
F.E. Sweeney, J., dissents.

96-87. Grimes v. Nationwide Mut. Ins. Co.
Stark County, No. 1995CA00145. Reported at 75 Ohio St.3d 1474, ___ N.E.2d _____.
On motion for reconsideration. Motion denied.
Cook and Stratton, JJ., dissent.

96-136. In re Election of November 7, 1995, for the Office of Member of Rock
Hill Local School Dist. Bd. of Edn.
Lawrence County, No. 95OC873. Reported at 75 Ohio St.3d 1475, ___ N.E.2d _____.
On motion for reconsideration of the May 8, 1996 dismissal of the Lawrence
County Board of Elections. Motion denied.

NOTE TO THE PUBLISHER:

THERE IS A REVISION ON PAGE 11 AT CASE NO. 96-429