

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

9:00 A.M. WEDNESDAY
February 14, 1996

MERIT DOCKET

95-2198. State ex rel. Palich v. James.
In Mandamus. On motion for order to show cause. Sua sponte, motion denied and cause dismissed.

Moyer, C.J., Douglas, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.
Wright and Cook, JJ., dissent and would order briefing on fees.

95-2549. Blanchard v. Character.
In Mandamus. On motion to dismiss. Motion to dismiss sustained. Cause dismissed.

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

95-2604. Morehouse v. Gallagher.
In Procedendo. Sua sponte, cause dismissed.

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

96-34. Brown v. Rogers.
In Habeas Corpus. Sua sponte, cause dismissed.

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

96-36. Guess v. Judges.
In Mandamus and Procedendo. On answer of respondent. Answer treated as motion to dismiss. Motion to dismiss sustained. Cause dismissed.

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

96-51. Cole v. Ohio Dept. of Corr.
In Habeas Corpus. Sua sponte, cause dismissed.

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

96-95. McCoy v. Russell.
In Habeas Corpus. Sua sponte, cause dismissed.

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

96-104. Neace v. Anderson.
In Habeas Corpus. Sua sponte, cause dismissed.
Moyer, C.J., Douglas, Wright, Resnick, F.E. Sweeney, Pfeifer and Cook,
JJ., concur.

96-178. Keyes v. Ohio Dept. of Rehab. & Corr.
In Habeas Corpus. Sua sponte, cause dismissed.
Moyer, C.J., Douglas, Wright, Resnick, F.E. Sweeney, Pfeifer and Cook,
JJ., concur.

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

95-1082. McIe v. Angelica Health Care Serv. Group, Inc.
Lorain County, No. 94CA005916.
Douglas, J., dissents.

95-1639. State v. Young.
Cuyahoga County, No. 67684.
Moyer, C.J., dissents.

95-2092. Columbus v. Henry.
Franklin County, No. 95APC02-159.

95-2097. Cincinnati v. May.
Hamilton County, No. C-940862.

95-2120. State ex rel. Fox v. Orwig.
Trumbull County, No. 94-T-5100.

95-2123. Nofel v. Bank of N. Am.
Cuyahoga County, No. 68636.

95-2138. State v. Sullins.
Ross County, No. 94CA2058.

95-2142. In re Szabat.
Portage County, No. 94-P-0049.

95-2143. State v. Reddy.
Lorain County, No. 94CA005972.
Wright and Cook, JJ., dissent.

95-2145. State v. Hunter.
Hamilton County, No. C-950533.

95-2152. State v. Williams.
Franklin County, No. 94APA12-1786.

95-2153. Euclid v. McGraw.
Cuyahoga County, No. 68591.

95-2156. State v. O'Connell.
Hamilton County, No. C-950588.

95-2158. Brust v. Brust.
Pike County, No. 94CA542.

95-2161. Yoder v. Stocker & Sitler Oil Co.
Holmes County, Nos. 507 and 510. (Cross-appeal by Columbia Natural Resources, Inc.)
Pfeifer, J., dissents.

95-2167. State v. Luna.
Huron County, No. H-95-002.

95-2171. Cleveland v. Dixon.
Cuyahoga County, No. 68095.
Douglas, J., dissents.

95-2173. D'Antonio v. Allegheny Gen. Hosp.
Mahoning County, No. 94 C.A. 191. On motion for admission pro hac vice of Jane Howard-Martin and Priscilla Hapner. Motion denied.

95-2178. Franken v. Youngstown.
Mahoning County, No. 92 C.A. 193.

95-2191. State v. Ortiz.
Cuyahoga County, No. 68454.
Moyer, C.J., and Wright, J., dissent.

95-2197. Emery v. Galose.
Lucas County, No. L-95-172.
Douglas and Resnick, JJ., not participating.

95-2205. State v. Christopher.
Cuyahoga County, No. 66251.

95-2207. State v. Hull.
Cuyahoga County, No. 68743.

95-2231. State v. Brown.
Allen County, No. 1-95-54.

95-2253. Lorain v. McFarland.
Lorain County, Nos. 95CA006057 and 95CA006058.

95-2257. Davis v. Green.
Summit County, No. 17093.
Pfeifer, J., dissents.

95-2264. State v. Jennings.
Huron County, No. H-94-012.
Moyer, C.J., and Wright, J., dissent.

95-2273. State v. Woods.
Butler County, No. CA94-12-255.

95-2325. State v. Jones.
Hamilton County, No. C-940691.
Wright, J., would allow on Propositions of Law Nos. I and II only.

95-2326. State v. Haile.
Hamilton County, No. C-940690.
Wright, J., dissents.

95-2329. Mootispaw v. Doe.
Fayette County, No. CA95-03-009.

MOTION DOCKET

93-1144. State v. Demars.
Cuyahoga County, No. 62148. On motion for reconsideration under S.Ct.Prac.R.
XI(1)(B). Motion denied.

95-572. Grafton v. Ohio Edison Co.
Lorain County, No. 94CA005877. On motion of amicus curiae Ohio Electric Utility
Institute to file reply brief. The motion fails for want of four votes on the
following vote:
Moyer, C.J., and F.E. Sweeney, J., vote to deny.
Douglas, Resnick and Pfeifer, JJ., vote to grant.
Wright and Cook, JJ., not participating.

95-694. N. Olmstead Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision.
Board of Tax Appeals, Nos. 93-A-347 and 93-A-348. On motion to dismiss. Motion
denied.
Douglas, J., dissents.

95-839. Olmstead Falls Village Assn. v. Cuyahoga Cty. Bd. of Revision.
Board of Tax Appeals, No. 93-X-998. On motion to dismiss. Motion denied.
Douglas, J., dissents.

95-1151. Fawn Lake Apts. v. Cuyahoga Cty. Bd. of Revision.
Board of Tax Appeals, No. 93-D-954. On motion to dismiss. Motion denied.
Douglas, J., dissents.

95-2363. Holman v. Licking Cty.
Licking County, No. 94CA50. On motion to dismiss. Motion denied; sua sponte,
leave of fourteen days granted to file.
Moyer, C.J., dissents and would grant the motion to dismiss.

95-2447. Maxxim Med., Inc. v. Tracy.
Board of Tax Appeals, No. 94-X-224. On motion to expedite briefing schedule and
oral argument. Motion denied.

96-24. State v. Davis.
Columbiana County, No. 94CO12. On motion for leave to file delayed appeal.
Motion denied.
Douglas, Resnick and Pfeifer, JJ., dissent.

96-26. State v. Hill.
Franklin County, No. 91AP-792. On motion for leave to file delayed appeal.
Motion denied.

96-55. State v. Holmes.
Licking County, No. 95CA61. On motion for appeal bond. Motion denied.

96-63. State v. Cooper.
Hamilton County, No. C-870520. On motion for leave to file delayed appeal.
Motion denied.

96-99. State v. Howell.
Warren County, No. CA95-06-057. 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.

96-113. Thompson v. Utomo.
Lucas County, No. L-95-034. On review of order certifying a conflict. The court determines that a conflict exists; the parties are to brief the issue stated at page 3 of the court of appeals' Decision and Judgment Entry, filed January 5, 1996:

"Upon consideration thereof, this court finds that our decision in this case is in conflict with the decisions in Dion and Lynch [infra] on the issue of whether R.C. 3937.18 and the rule announced in [State Farm Auto. Ins. Co. v.] Alexander [(1992), 62 Ohio St.3d 397, 583 N.E.2d 309] require that a wrongful death claimant who is a statutory beneficiary of the insured decedent be allowed to recover under the uninsured motorist provision of the policy even though such beneficiary is not a defined insured.

"On consideration whereof, this court finds appellant/cross-appellee's motion to certify well taken. This case is hereby ordered certified to the Supreme Court of Ohio as it is in conflict with Dion v. State Farm Mut. Automobile Ins. Co. (March 24, 1992), Defiance App. No. 4-91-14, unreported [___ WL ___], and Lynch v. State Farm Automobile Ins. Co. (March 21, 1994), Butler App. No. CA93-06-099, unreported [___ WL ___], as set forth above. It is so ordered."

Sua sponte, this cause is consolidated with 95-2509, infra.

DISCRETIONARY APPEALS ALLOWED

95-2189. BCL Ent., Inc. v. State.
Franklin County, No. 95APE02-224.
Resnick, F.E. Sweeney and Pfeifer, JJ., dissent.

95-2196. Vahila v. Hall.
Stark County, No. 94CA0184.
Moyer, C.J., Wright and Cook, JJ., dissent.

95-2509. Thompson v. Utomo.
Lucas County, No. L-95-034. (Appeal by Thompson.)

DISCRETIONARY APPEALS NOT ALLOWED

95-2078. White v. Internatl. Union Plant Guard Workers, Local No. 166.
Montgomery County, No. 15252.

95-2125. Spildener v. Edgehouse.
Cuyahoga County, No. 68342.

95-2134. Donnell v. Donnell.
Sandusky County, No. S-94-031.
Resnick, J., not participating.

95-2135. Togo Internatl., Inc. v. Mound Steel Corp.
Butler County, No. CA94-12-228.

95-2136. State v. Weinert.
Lucas County, No. L-95-179.
Resnick, J., not participating.

95-2144. State v. Jones.
Cuyahoga County, Nos. 68284, 68285, 68286, 68287 and 68288.

95-2148. Cowan v. Hidden Lake.
Summit County, No. 17053.
Douglas and Pfeifer, JJ., dissent.

95-2163. State v. Alford.
Seneca County, No. 13-95-40.

95-2164. Davis v. Davis.
Morrow County, No. CA-817.

95-2165. State v. Rodriguez.
Cuyahoga County, No. 67912.

95-2166. Clare v. Dick.
Hamilton County, No. C-940815.
Douglas, J., dissents.

95-2169. Whitener v. Firwood Invest. Co.
Montgomery County, No. 14938.
Wright, J., dissents.

95-2170. Wheeler v. Hagood.
Warren County, No. CA95-03-025.

95-2177. In re Passon.
Portage County, No. 94-P-0135.

95-2186. Buie v. Chippewa Local School Dist. Bd. of Edn.
Wayne County, No. 2924.

95-2187. Atkinson v. Internatl. Technegroup, Inc.
Hamilton County, No. C-930694.
Wright and Cook, JJ., would allow on Proposition of Law No. I only.
Moyer, C.J., would allow all propositions of law.

95-2188. State v. McCleskey.
Montgomery County, No. 15165.
Moyer, C.J., and Douglas, J., dissent.

95-2192. Basil v. Wagoner.
Franklin County, Nos. 94APE12-1716 and 94APE12-1792.
Moyer, C.J., Douglas and Wright, JJ., dissent.

95-2195. Nu-Trend Homes, Inc. v. Cartee.
Franklin County, No. 94APE10-1483.

95-2202. Sapir v. Kitner.
Cuyahoga County, No. 68204.

95-2222. Balazs v. Watts.
Summit County, No. 17164.
Wright, J., dissents.

95-2225. In re Lomeli.
Putnam County, No. 12-95-7.
Moyer, C.J., and Douglas, J., dissent.

95-2244. Ohio State Univ. Hosp. v. Evans.
Licking County, No. 95CA00019.
Wright, J., dissents.

95-2246. Blankenship v. Am. Consulting & Leasing.
Franklin County, No. 95APE02-156.
Pfeifer, J., dissents.

95-2248. Hayes v. Montgomery Cty. Bd. of Commrs.
Montgomery County, No. 15086.

95-2269. Goetz v. Kinney.
Hamilton County, No. C-941029.
Moyer, C.J., and Douglas, J., dissent.

95-2272. Reitz v. Howlett.
Summit County, No. 16818.
Wright and Pfeifer, JJ., dissent.

95-2286. Springer v. Emerson Elec. Co.
Cuyahoga County, No. 67705.
Wright, J., dissents.

RECONSIDERATION DOCKET

95-816. State v. Winstead.
Hamilton County, No. C-940046. Reported at 74 Ohio St.3d 277, ____ N.E.2d ____.
On motion for reconsideration. Motion denied.
Wright, J., dissents.

95-1214. State v. Davie.
Summit County, No. 16252. Reported at 74 Ohio St.3d 232, ____ N.E.2d _____. On
motion for reconsideration. Motion denied.
Cook, J., not participating.