

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

THURSDAY
January 25, 1996

MOTION DOCKET

93-2592. State v. Berry.
Cuyahoga County, No. 60531. This court has ordered that an independent psychiatric expert be appointed to determine appellant's competency to waive further legal proceedings challenging the death penalty imposed upon him. In furtherance of that objective,

IT IS ORDERED by the court, sua sponte, effective January 24, 1996, that Dr. Phillip J. Resnick, the court-appointed psychiatrist, be given copies of and access to all of appellant's medical and psychological records and reports, wherever located.

IT IS FURTHER ORDERED, effective January 24, 1996, that counsel for the appellee and counsel for the appellant both cooperate with and assist Dr. Resnick by giving him copies of and access to all information relevant to appellant's competency to waive further proceedings.

FURTHERMORE, IT IS ORDERED, by the court, effective January 24, 1996, that, in evaluating appellant's competency to waive further legal proceedings challenging the death penalty imposed against him, Dr. Resnick apply the following standard:

A capital defendant is mentally competent to abandon any and all challenges to his death sentence, including appeals, state post-conviction collateral review, and federal habeas corpus, if he has the mental capacity to understand the choice between life and death and to make a knowing and intelligent decision not to pursue further remedies. See *Rees v. Peyton* (1966), 384 U.S. 312, 86 S.Ct. 1505, 16 L.Ed.2d 583; *Gilmore v. Utah* (1976), 429 U.S. 1012, 97 S.Ct. 436, 50 L.Ed.2d 632; *Whitmore v. Arkansas* (1990), 495 U.S. 149, 110 S.Ct. 1717, 109 L.Ed.2d 135; *Franz v. State* (1988), 296 Ark. 181, 188-89, 754 S.W.2d 839, 843; *Grasso v. State* (Okla.Crim.App.1993), 857 P.2d 802, 806; *State v. Dodd* (1992), 120 Wash.2d 1, 22-23, 838 P.2d 86, 97. The defendant must fully comprehend the ramifications of his decision, *Cole v. State* (1985), 101 Nev. 585, 588, 707 P.2d 545, 547, and must possess the "ability to reason logically," i.e., to choose "means which relate logically to his ends." *State v. Bailey* (Del.Super.1986), 519 A.2d 132, 137-138.

94-355. State v. Hill.
Hamilton County, No. C-920497. This court has received notification that on January 16, 1996, the Supreme Court of the United States entered an order in No. 95-6760, *Jeffrey Hill v. Ohio*, which stated:
"The petition for a writ of certiorari is denied."

Upon consideration that the stay of execution of sentence granted by this court on November 8, 1995 was conditioned upon final disposition of appellant's petition to the Supreme Court of the United States, and it appearing to this court that the Supreme Court of the United States has rendered a final disposition of the petition,

IT IS ORDERED that the stay of execution is hereby terminated as of the date of this entry.

IT IS HEREBY ORDERED by this court, effective January 24, 1996, 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 23rd day of April 1996, in accordance with the statutes so provided.

IT IS FURTHER ORDERED, effective January 24, 1996, 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 Hamilton County.

IT IS FURTHER ORDERED by the court, effective January 24, 1996, 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.

95-1069. Montpelier Pub. Library Bd. of Trustees v. Williams Cty. Budget Comm. Board of Tax Appeals, Nos. 89-G-811, 90-G-1365 and 91-G-1562. This cause is pending before the court as an appeal from the Board of Tax Appeals. Upon consideration of appellee Montpelier Public Library Board of Trustees' request for permission to participate in oral argument before the Master Commissioner on February 1, 1996,

IT IS ORDERED by the court that the request for permission to participate in oral argument be, and hereby is, granted, effective January 23, 1996.

DISCIPLINARY DOCKET

94-497. Cincinnati Bar Assn. v. Clark.

This cause came on for further consideration upon the filing of an application for reinstatement by respondent, Thomas H. Clark.

The court coming now to consider its order of December 14, 1994, suspending respondent, Thomas H. Clark, Attorney Registration No. 0009206, last known address in Cincinnati, Ohio, from the practice of law in Ohio for two years with one year suspended, pursuant to Gov.Bar R. V(6)(B)(3), finds that respondent has substantially complied with that order and with the provisions of Gov.Bar R. V(10)(A). Therefore,

IT IS ORDERED by the court that Thomas H. Clark be, and hereby is, reinstated to the practice of law in the state of Ohio, effective January 22, 1996.

IT IS FURTHER ORDERED that the Clerk of this court issue certified copies of this order as provided for in Gov.Bar R. V(8)(D)(1), that publication be made as provided for in Gov.Bar R. V(8)(D)(2), and that respondent bear the costs of publication.

For earlier case, see Cincinnati Bar Assn. v. Clark (1994), 71 Ohio St.3d 145, 642 N.E.2d 611.

95-837. Disciplinary Counsel v. Greene.

This cause came on for further consideration upon the filing of an application for reinstatement by respondent, Christopher L. Greene.

The court coming now to consider its order of November 1, 1995, suspending respondent, Christopher L. Greene, Attorney Registration No. 0042402, last known address in Mayfield Heights, Ohio, from the practice of law in Ohio for one year pursuant to Gov.Bar R. V(6)(B)(3), with ten months stayed on the condition that during the one-year period no disciplinary complaints against respondent are certified to the Board of Commissioners on Grievances and Discipline by a probable cause panel, finds that respondent has substantially complied with that order and with the provisions of Gov.Bar R. V(10)(A). Therefore,

IT IS ORDERED by the court that Christopher L. Greene be, and hereby is, reinstated to the practice of law in the state of Ohio, effective January 22, 1996.

IT IS FURTHER ORDERED that the Clerk of this court issue certified copies of this order as provided for in Gov.Bar R. V(8)(D)(1), that publication be made as provided for in Gov.Bar R. V(8)(D)(2), and that respondent bear the costs of publication.

For earlier case, see Disciplinary Counsel v. Greene (1995), 74 Ohio St.3d 13, 655 N.E.2d 1299.

MISCELLANEOUS DISMISSALS

95-2381. State v. Howard.

Cuyahoga County, No. 69435. This cause is pending before the court as a discretionary appeal. Appellant's motion for leave to file delayed appeal was granted on December 20, 1995 and appellant's memorandum in support of jurisdiction was due January 19, 1996. It appears from the records of this court that appellant has not filed a memorandum in support of jurisdiction 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 January 23, 1996.

95-2413. State v. Schofield.

Lucas County, No. L-94-020. This cause is pending before the court as a discretionary appeal and a claimed appeal of right. Appellant's motion for leave to file delayed appeal was granted on December 20, 1995 and appellant's memorandum in support of jurisdiction was due January 19, 1996. It appears from the records of this court that appellant has not filed a memorandum in support of jurisdiction 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 January 23, 1996.

96-150. Rudd v. Graham.

In Prohibition. This cause originated in this court on the filing of a complaint for a writ of prohibition. In lieu of payment of the filing fee and security deposit as required by S.Ct.Prac.R. XV, relator filed a statement seeking to proceed in forma pauperis. Relator's statement is not notarized.

S.Ct.Prac.R. XV requires that the docket fee imposed by R.C. 2503.17 and the security deposit be paid before an original action is docketed. Section 3 of the Rule permits an affidavit of indigency to be filed in lieu of docket fees or security deposits and provides that the court may review and determine the sufficiency of an affidavit of indigency at any stage in the proceeding.

Pursuant to S.Ct.Prac.R. XV(3), the court determines that, whereas relator's statement is not notarized, it does not meet the requirements of an

affidavit of indigency and therefore is not sufficient for waiver of the docket fee and security deposit in this case. Accordingly,

IT IS ORDERED by the court that this cause be, and hereby is, dismissed, effective January 23, 1996.