

07/02/97

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

9:00 A.M.

WEDNESDAY
July 2, 1997

MERIT DOCKET

96-2836. State ex rel. Tribble v. Turjanica.
Franklin App. No. 96APD06-797. On motion to dismiss. Motion to
dismiss sustained. Cause dismissed.

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

Douglas and Lundberg Stratton, JJ., would deny the motion
to dismiss.

On motion to expedite oral argument. Motion denied.

Lundberg Stratton, J., dissents.

97-682. State ex rel. Robison v. Court.
In Mandamus. On motion to dismiss. Motion to dismiss
sustained. Cause dismissed.

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

97-804. State ex rel. Hairston v. McMonagle.
In Mandamus. On motion to dismiss. Motion to dismiss
sustained. Cause dismissed.

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

Lundberg Stratton, J., dissents and would grant the writ of
mandamus and order the judge to issue findings of fact and
conclusions of law.

97-860. Iden v. Wilkinson.
In Prohibition. On answer of respondent Reginald Wilkinson.
Sua sponte, cause dismissed.

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

97-868. In re Myers.
In Habeas Corpus. Sua sponte, cause dismissed.

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

97-882. Johnson v. Fuerst.

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

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

97-909. Tackett v. Ohio Adult Parole Auth.

In Mandamus. On answer of respondent. Answer treated as motion to dismiss. Motion to dismiss sustained. Cause dismissed.

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

97-914. State ex rel. Thorne v. Wilson.

In Mandamus. Sua sponte, cause dismissed.

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

97-960. State ex rel. Wallace v. Cuyahoga Cty. Court Clerk.

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

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

Lundberg Stratton, J., would deny the motion to dismiss, grant the writ of mandamus, and order the entries to be served.

97-966. State ex rel. Wiley v. Schneiderman.

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

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

97-969. State ex rel. Leal v. Ohio Adult Parole Auth.

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

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

Douglas and Resnick, JJ., not participating.

97-1065. State ex rel. Williams v. Money.

In Habeas Corpus. Sua sponte, cause dismissed.

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

97-1072. In re Smiddle.

In Habeas Corpus. Sua sponte, cause dismissed.

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

97-1083. Jancuk v. Donofrio.

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

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

97-1100. State ex rel. Dye v. Morgan.

In Habeas Corpus. Sua sponte, cause dismissed.

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

97-1210. Komarek v. Bd. of Commrs. on Grievances & Discipline.
Sua sponte, cause dismissed.

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

Douglas, J., would wait for an answer before ruling.

Pfeifer, J., would grant an alternative writ.

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

95-2079. State v. Liebttag.
Summit App. No. 17418.

96-2829. State v. Sirk.
Hamilton App. No. C-960175.

96-2870. Zaller v. Zaller.
Geauga App. Nos. 95-G-1949 and 96-G-1968.

96-2880. State v. Fuller.
Athens App. No. 95CA1653.

97-696. Mary B. v. Zollie M.
Lucas App. No. L-96-120.

97-732. State v. Whittsette.
Cuyahoga App. No. 70091.

Lundberg Stratton, J., would allow Proposition of Law No. I
only.

97-739. Cornacchione v. Akron Bd. of Zoning Appeals.
Summit App. No. 17882.

Pfeifer, J., dissents.

97-744. Lowry v. Ohio State Hwy. Patrol.
Franklin App. No. 96API07-835.

97-745. Paramount Auto, Inc. v. Ohio Motor Vehicle Dealers Bd.
Franklin App. No. 96APE07-843.

97-749. State v. Turner.
Hancock App. No. 5-96-31.

97-750. State v. Turner.
Allen App. No. 1-96-27.

97-756. Miller v. Loveland.
Hamilton App. No. C-961090.

Moyer, C.J., Douglas and Lundberg Stratton, JJ., dissent.

97-758. State v. Herring.
Stark App. No. 1996CA00383.

97-759. Gen. Motors Corp. v. Joe O'Brien Chevrolet, Inc.
Franklin App. No. 96APE06-779. (Appeal of General Motors
Corporation; appeal by Bass Chevrolet, Inc.)

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

97-760. State v. Stokes.
Stark App. No. 1996CA00008.

97-764. Brittain v. Brown's Run Country Club, Inc.
Butler App. No. CA96-09-187.
Resnick, J., dissents.

97-769. State v. Ackles.
Allen App. No. 1-96-65.

97-770. State v. Long.
Hamilton App. No. C-970072.

97-777. State v. Phillips.
Hamilton App. No. C-960670.

97-778. State v. Bannerman.
Franklin App. No. 96APA06-791.
Lundberg Stratton, J., not participating.

97-784. State v. Woods.
Medina App. No. 2589-M.

97-787. Schmidt v. Marymount Hosp.
Cuyahoga App. No. 71564.

97-789. Carter v. Fostoria Realty Mgt. Co.
Franklin App. No. 96APE08-1061.
Pfeifer, J., dissents.

97-793. State v. Powers.
Medina App. No. 2285-M.

97-794. State v. Jefferson.
Montgomery App. No. 15828.

97-796. Clark v. Clark.
Lorain App. No. 96CA006383.

97-800. State v. Robbins.
Licking App. No. 96CA140.

97-802. State v. Nelson.
Summit App. No. 18420.

97-803. State v. Dever.
Hamilton App. No. C-970103.

97-805. State v. Nieves.
Lorain App. No. 96CA006379.

97-810. State v. Simmons.
Cuyahoga App. No. 69238.

97-815. State v. Askins.
Hamilton App. No. C-961000.

97-817. State v. Hughes.
Tuscarawas App. No. 96AP010002.

97-818. State v. Lucas.
Allen App. No. 1-96-85.

97-821. State v. Wyrick.
Hamilton App. No. C-970131.

97-826. State v. Long.
Franklin App. No. 96APA04-468.

97-836. State v. Rudert.
Delaware App. No. 96CAA11060.

97-837. State v. Brasch.
Warren App. No. CA96-10-099.
Lundberg Stratton, J., dissents.

97-839. State v. Pitcher.
Cuyahoga App. No. 72054.

97-841. State v. Troutman.
Lorain App. No. 96CA00618.

97-843. State v. Licitri.
Summit App. No. 17981.

97-850. State v. Key.
Cuyahoga App. No. 69852.

97-853. State v. Cady.
Crawford App. No. 3-96-26.

97-855. State v. Currie.
Cuyahoga App. No. 70022.

97-863. State v. Watson.
Cuyahoga App. No. 70344.

97-864. State v. Caston.
Erie App. No. E-95-035.
Resnick, J., not participating.

97-881. State v. Bradford.
Butler App. No. CA96-10-211.

97-964. Mary B. v. Zollie M.
Lucas App. No. L-96-120.

MOTION DOCKET

96-1875. Consumers' Counsel v. Pub. Util. Comm.
Public Utilities Commission, Nos. 94-1964-EL-CSS, 95-1139-EL-COI, 95-1140-EL-COI, 95-299-EL-AIR and 95-300-EL-AIR. On motion for stay of appeal. Motion granted.

Resnick, J., not participating.

96-2578. J.A. Croson Co. v. J.A. Guy, Inc.
Pickaway App. No. 95CA10. On motion for admission pro hac vice
of Maurice Baskin. Motion granted.

96-2620. Grace v. Koch.
Hamilton App. No. C-950802. On motion for leave to supplement
the record. Motion granted.

96-2657. State ex rel. Red Head Brass, Inc. v. White.
Holmes App. No. 96CA556. On request for oral argument and on
motion to participate in oral argument. Request and motion
denied.

97-14. J.A. Croson Co. v. J.A. Guy, Inc.
Pickaway App. No. 95CA10. On motion for admission pro hac vice
of Maurice Baskin. Motion granted.

97-686. State ex rel. Wadd v. Cleveland.
In Mandamus. On answer of respondents. Sua sponte, alternative
writ granted.

Pfeifer, J., dissents and would dismiss the cause.

97-797. State ex rel. Wilson-Simmons v. Lake Cty. Sherriff's
Dept.
In Mandamus. On answer of respondent. Sua sponte, alternative
writ granted.

Pfeifer, J., dissents and would grant a peremptory writ.

97-819. State v. Edgington.
Ross App. No. 95CA2151. On motion for leave to file delayed
appeal. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

97-899. State v. Thomas.
Hamilton App. No. C-910892. On motion for leave to file delayed
appeal. Motion denied.

97-933. State v. Hawthorne.
Hamilton App. No. C-960225. On motion for leave to file delayed
appeal. Motion granted.

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

97-940. State v. Cleveland.
Lorain App. No. 96CA006357. On motion for leave to file delayed
appeal. Motion denied.

Moyer, C.J., Pfeifer and Lundberg Stratton, JJ., dissent.

97-955. State v. Foster.
Washington App. No. 94CA4. On motion for leave to file delayed
appeal. Motion denied.

97-958. State v. Israfil.
Montgomery App. No. 15572. On motion for leave to file delayed
appeal. Motion denied.

Resnick, J., dissents.

97-967. State v. Flontek.

Lorain App. No. 96CA6392. On review of order certifying a conflict. The court determines that a conflict exists; the parties are to brief the following issue stated in the court of appeals' Journal Entry:

"Does R.C. 2919.21(A)(3) contemplate `support' to include proper care, feeding and medical attention as well as financial support[?]"

The conflict case is State v. Holder (1991), 72 Ohio App.3d 374, 594 N.E.2d 981.

97-1025. State v. Jones.

Lucas App. No. L-95-265. On motion for leave to file delayed appeal. Motion granted.

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

Resnick, J., not participating.

97-1039. State v. Lee.

Cuyahoga App. No. 70122. On motion for leave to file delayed appeal. Motion granted.

Resnick, F.E. Sweeney and Pfeifer, JJ., dissent.

97-1117. Simmons-Harris v. Goff.

Franklin App. Nos. 96APE08-982 and 96APE08-991. On motion to expedite. Motion denied.

Douglas and Resnick, JJ., dissent.

97-1230. State v. Parks.

Clark App. No. 96CA99. On motion for stay. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

97-1231. State ex rel. Tubbs Jones v. Suster.

In Prohibition. On motion for issuance of immediate alternative writ. Motion denied pending receipt of response from respondents.

Douglas, J., dissents and would grant a peremptory writ.

Resnick, J., would grant an alternative writ and set a briefing schedule.

DISCRETIONARY APPEALS ALLOWED

97-568. Am. Assn. of Univ. Professors, Cent. State Univ. Chapter v. Cent. State Univ.

Greene App. No. 96CA21. (Appeal of Central State University; cross-appeal of American Association of University Professors, Central State Chapter.)

Resnick and Pfeifer, JJ., dissent.

97-783. Hannah v. Dayton Power & Light Co.

Montgomery App. No. 16209.

Moyer, C.J., Cook and Lundberg Stratton, JJ., dissent.

97-831. Clagg v. Baycliffs Corp.

Ottawa App. No. OT-96-023.

Pfeifer, Cook and Lundberg Stratton, JJ., dissent.

DISCRETIONARY APPEALS NOT ALLOWED

97-609. Gen. Tire, Inc. v. Mehlfeldt.
Summit App. No. 17793. (Appeal of General Tire, Inc.; cross-
appeal of Horst K. Mehlfeldt.)

97-650. Rajan v. State Med. Bd. of Ohio.
Franklin App. No. 96APE07-914. (Appeal of State Medical Board
of Ohio; cross-appeal of Semur P. Rajan, M.D.)
Moyer, C.J., and Pfeifer, J., dissent.

97-728. Cleveland Police Patrolmen's Assn. v. Cleveland.
Cuyahoga App. No. 70380.
Moyer, C.J., Cook and Lundberg Stratton, JJ., dissent.

97-734. McGhee v. McGhee.
Montgomery App. No. 16093.
Douglas, J., dissents.

97-751. Oliver v. Palmentara.
Cuyahoga App. No. 70885.

97-761. Bush v. Anchor Hocking Corp.
Fairfield App. No. 96CA75.

97-762. In re Claim of Kayafas.
Stark App. No. 1996CA00004.
Moyer, C.J., dissents.

97-772. Bloom-Carroll Edn. Assn., OEA/NEA v. Bloom-Carroll
Local School Bd. of Edn.
Fairfield App. No. 96CA0068.
Douglas, J., dissents.

97-773. McKean v. Journal News, Inc.
Tuscarawas App. No. 96AP040036.
Moyer, C.J., Pfeifer and Lundberg Stratton, JJ., dissent.

97-775. Reid v. Esprit Contrs., Inc.
Summit App. No. 17870.
F.E. Sweeney, J., dissents.

97-782. Bank One, Dover, N.A. v. J.A.M. Transp. Serv., Inc.
Tuscarawas App. No. 96AP040040.

97-785. State v. Williams.
Lucas App. No. L-96-295.

97-786. Miko v. Lincoln Natl. Corp.
Cuyahoga App. No. 70826.
Resnick and Pfeifer, JJ., dissent.

97-790. In re Ghadr.
Hocking App. Nos. 95CA22 and 96CA6.

97-827. Murphy v. Ganley Pontiac, Inc.
Cuyahoga App. No. 70644.
Douglas, J., dissents.

97-830. Contract Crush & Screen Co. v. Jack F. Neff Sand & Gravel, Inc.
Lake App. No. 96-L-043.

97-832. Murphy v. Indus. Comm..
Cuyahoga App. No. 71149.
Resnick, J., dissents.

97-835. State v. Stoudemire.
Cuyahoga App. No. 69335.

97-838. In re Petition for Disclosure of Evidence Presented to Certain Cuyahoga Cty. Grand Juries in 1993.
Cuyahoga App. No. 69941.

97-840. Martinez v. Ohio Dept. of Adm. Serv.
Franklin App. No. 96API06-772.

97-845. In re Estate of Doh.
Franklin App. No. 96APF07-939.
Lundberg Stratton, J., dissents.

97-846. West v. Otis Elevator Co.
Franklin App. No. 96APE07-957.
Douglas, J., dissents.

97-847. Permanent Gen. Ins. Co. v. Fuller.
Franklin App. No. 96APE07-945.

97-862. Nakoff v. Fairview Gen. Hosp.
Cuyahoga App. No. 71081.
Moyer, C.J., Pfeifer and Cook, JJ., dissent.

97-904. Norton v. Galyk.
Marion App. No. 9-96-55.
Moyer, C.J., F.E. Sweeney and Cook, JJ., dissent.

97-905. Reineck v. Westfield Natl. Ins. Co.
Huron App. No. H-96-037.
Moyer, C.J., and Lundberg Stratton, J., dissent.
Cook, J., dissents and would hold this cause for the decision in 97-707, Landis v. Grange Mut. Ins. Co., Erie App. No. E-96-034.

97-917. Lintner v. Norfolk & W. Ry. Co.
Preble App. No. CA96-09-015.
Douglas and F.E. Sweeney, JJ., dissent.

97-925. Lewis v. Dobyns.
Clinton App. No. CA96-08-012.

RECONSIDERATION DOCKET

95-2591. Sharon Village Ltd. v. Licking Cty. Bd. of Revision. Board of Tax Appeals, No. 94-M-1214. Reported at 78 Ohio St.3d 479, ____ N.E.2d _____. On motion for reconsideration. Motion denied.

Lundberg Stratton, J., dissents.

95-2594. Derby Downs Ltd. v. Licking Cty. Bd. of Revision.
Board of Tax Appeals, No. 94-M-1215. Reported at 78 Ohio St.3d
479, ___ N.E.2d ___. On motion for reconsideration. Motion
denied.

Lundberg Stratton, J., dissents.

95-2596. Cherry Lee Ltd. v. Realty Dev. Co., #3.
Board of Tax Appeals, Nos. 94-M-1325 and 94-M-1326. Reported at
78 Ohio St.3d 479, ___ N.E.2d ___. On motion for
reconsideration. Motion denied.

Lundberg Stratton, J., dissents.

95-2647. State v. Thompkins.
Hamilton App. No. C-940513. Reported at 78 Ohio St.3d 380, ___
N.E.2d ___. On motion for reconsideration. Motion denied.

96-423. State v. Biros.
Trumbull App. No. 91-T-4632. Reported at 78 Ohio St.3d 426, ___
N.E.2d ___. On motion for reconsideration. Motion denied.

96-541. King Dev. Co. 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. Reported at 78 Ohio St.3d 483, ___ N.E.2d
___. On motion for reconsideration. Motion denied.

Lundberg Stratton, J., dissents.

96-542. Chatterton Club, L.P. v. Franklin Cty. Bd. of Revision.
Board of Tax Appeals, No. 93-A-172. Reported at 78 Ohio St.3d
483, ___ N.E.2d ___. On motion for reconsideration. Motion
denied.

Lundberg Stratton, J., dissents.

96-545. C.O.A. Hous., Inc. v. Van Wert Cty. Bd. of Revision.
Board of Tax Appeals, No. 94-P-759. Reported at 78 Ohio St.3d
483, ___ N.E.2d ___. On motion for reconsideration. Motion
denied.

Lundberg Stratton, J., dissents.

96-2752. State ex rel. Williams v. Brigano.
Warren App. No. CA96-10-108. Reported at 78 Ohio St.3d 413, ___
N.E.2d ___. On motion for reconsideration. Motion denied.

95-2801. State v. Bagley.
Franklin App. Nos. 96APA04-554 and 96APA05-614. Reported at 78
Ohio St.3d 1488, ___ N.E.2d ___. On motion for reconsideration.
Motion denied.

97-306. Wang v. Hurley.
Franklin App. No. 96APG05-639. Reported at 78 Ohio St.3d 1489,
___ N.E.2d ___. On motion for reconsideration. Motion denied.

97-320. Ferbstein v. Silver.
Summit App. No. 18045. Reported at 78 Ohio St.3d 1495, ___
N.E.2d ___. On motion for reconsideration. Motion denied.

97-360. Glickman Properties, Inc. v. Crow.

Cuyahoga App. No. 70577. Reported at 78 Ohio St.3d 1495, ____
N.E.2d _____. On motion for reconsideration. Motion denied.

97-380. State v. Mease.

Franklin App. No. 95APA05-614. Reported at 78 Ohio St.3d 1490,
____ N.E.2d _____. On motion for reconsideration. Motion denied.

97-431. State ex rel. McIntosh v. Osnaburg Local School Dist.

Stark App. No. 95CA0357. Reported at 78 Ohio St.3d 1491, ____
N.E.2d _____. On motion for reconsideration. Motion denied.

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

97-771. State ex rel. Wheeling-Pittsburgh Steel Corp. v.
Bruzzese.

In Mandamus and Prohibition. Reported at 78 Ohio St.3d 1470,
____ N.E.2d _____. On motion for reconsideration. Motion denied.

Moyer, C.J, and Lundberg Stratton, J., dissent.