

05/28/97

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

1:00 P.M.

WEDNESDAY
May 28, 1997

MERIT DOCKET

97-336. State ex rel. Kouzelos v. State.
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.

97-477. State ex rel. Kline v. Crow.
In Mandamus. On motion to dismiss of Jack Dennin, motion to
dismiss of Frederick W. Crow III, and motion to strike motion to
dismiss of Frederick Crow. Motions to dismiss sustained. Cause
dismissed.

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

Lundberg Stratton, J., dissents, would grant the writ of
mandamus, and would order the return of the tapes.

97-531. State ex rel. Edgington v. Fourth Appellate Dist.
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.

97-559. State ex rel. Jerningham v. Cuyahoga Cty. Court of
Common Pleas.

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.

97-575. Dewey v. Ghee.

On motion for temporary restraining order and 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.

97-582. State ex rel. Isreal v. Rosmarin.

In Mandamus. On motion for judicial notice and on motion to dismiss or for judgment on the pleadings. Motion to dismiss sustained. Cause dismissed.

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

97-598. State ex rel. Spillman v. Dept. of Pub. Safety, Div. of Police, Pub. Records Unit.

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.

97-615. State ex rel. Myers v. Ohio Adult Parole Auth.

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.

97-627. State ex rel. Snitzky v. Suster.

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.

97-640. State ex rel. Lemasters v. Soullisby.

In Mandamus. Sua sponte, cause dismissed.

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

Moyer, C.J., and Lundberg Stratton, J., dissent and would grant an alternative writ.

97-657. State ex rel. Miyagishima v. Funk.

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

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

Moyer, C.J., and Lundberg Stratton, J., dissent and would grant an alternative writ.

97-662. State ex rel. Campbell v. Miller.

In Procedendo. 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.

97-694. State ex rel. Richard v. Eighth Dist. Court of Appeals.

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.

97-814. In re Sidney.

In Habeas Corpus. Sua sponte, cause dismissed.

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

97-816. Villa v. Anderson.

In Habeas Corpus. Sua sponte, cause dismissed.

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

97-922. Korecky v. Wilkinson.

In Prohibition. Sua sponte, cause dismissed.

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

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

97-31. State v. Young.

Lucas App. No. L-95-288.

Resnick, J., dissents.

97-44. State v. King.

Cuyahoga App. No. 68726.

97-422. Blessing v. Blessing.

Ottawa App. No. OT-96-016.

97-427. State v. Bryant-Bey.

Lucas App. No. L-96-402.

97-462. State v. Cook.

Summit App. No. 17446.

97-473. State v. Harris.

Lucas App. No. L-96-275.

Resnick, J., not participating.

97-484. Kovacs v. Thomson, Hewitt & O'Brien.

Summit App. No. 17834.

Lundberg Stratton, J., dissents.

97-488. Winkler v. Stowe.

Jackson App. No. 95CA763.

97-489. State v. Hiatt.

Auglaize App. No. 2-96-26.

97-503. Rafferty v. Scurry.

Madison App. No. CA96-01-001.

97-505. Cravat Coal Co. v. Commercial Union Ins. Co.

Belmont App. No. 95-BA-26. (Appeal of Commercial Union
Insurance Company, appeal of St. Paul Fire & Marine Insurance
Company et al., and motion for admission pro hac vice of Paul S.
Ryerson.) Appeals and motion denied.

97-511. Sikorski v. Link Elec. & Safety Control Co.

Cuyahoga App. No. 70187.

F.E. Sweeney, J., dissents.

97-513. State v. Lazich.
Mahoning App. No. 93 C.A. 127.

97-520. State v. Meek.
Lorain App. No. 96CA006454.

97-530. State v. Solat.
Franklin App. No. 96APC06-815.

97-533. Pepper Pike v. Garson.
Cuyahoga App. No. 70180.
Moyer, C.J., Resnick and Lundberg Stratton, JJ., dissent.

97-540. State v. Wheatt.
Cuyahoga App. No. 70197.

97-542. Thompson v. Mabon, Nugent & Co.
Cuyahoga App. No. 69126.

F.E. Sweeney, J., dissents.
97-543. State v. Wallace.
Cuyahoga App. No. 69588.

97-545. State v. Rivers.
Cuyahoga App. No. 70385.

97-550. DeLevie v. DeLevie.
Franklin App. No. 96APF06-765.

97-556. White v. Richfield Hospitality Serv., Inc.
Hamilton App. No. C-960378.

97-558. State v. Yelling.
Summit App. No. 17674.

97-560. State v. Haygood.
Montgomery App. No. 15878.

97-561. State v. Collins.
Montgomery App. No. 15724.

97-562. State v. Bailey.
Montgomery App. No. 15669.

97-563. State v. Baldwin.
Montgomery App. No. 15730.

97-564. State v. Kibble.
Franklin App. No. 96APA04-555.

97-572. State v. Robbins.
Muskingum App. No. 9355.

97-586. In re Fetzer.
Allen App. No. 1-96-55.

97-587. State v. Wolf.
Lake App. No. 94-L-047.

97-591. State v. Winstead.
Hamilton App. No. C-970027.

97-594. State v. Rowe.
Summit App. No. 17954.
Moyer, C.J., dissents.

97-596. Columbus v. Tradesmen Internatl., Inc.
Franklin App. No. 96APC06-762.
Douglas, J., dissents.
Lundberg Stratton, J., not participating.

97-599. Moore v. Univ. of Cincinnati Hosp.
Franklin App. No. 96API05-560.
F.E. Sweeney and Pfeifer, JJ., dissent.

97-600. State v. Arieta-Salmonega.
Lucas App. No. L-96-144.

97-610. In re Koballa.
Cuyahoga App. No. 69511.

97-617. State v. McDonald.
Erie App. No. E-95-046.
Douglas, J., dissents.
Resnick, J., not participating.

97-621. State v. Butler.
Lorain App. No. 96CA006343.
Lundberg Stratton, J., dissents.

97-623. State v. Roudebush.
Wayne App. No. 96CA0025.

97-624. Hutchins v. Delco Chassis.
Montgomery App. No. 15953.

97-634. State v. Robinson.
Summit App. No. 17640.

97-637. State v. Hill.
Hamilton App. No. C-830716.

97-643. Colby v. Terminix Internatl. Co., L.P.
Stark App. No. 96CA0241. Discretionary appeal and motion for
admission pro hac vice of Mitchell S. Pinsly and Gregory J. May
denied.
Resnick, J., dissents.

97-649. State v. Looker.
Fairfield App. No. 96CA62.

97-692. State v. Miller.
Cuyahoga App. No. 59987.

MOTION DOCKET

88-1524. State v. Johnson.
Cuyahoga App. No. 53323. On motion to set execution date.
Motion denied.

Pfeifer and Cook, JJ., dissent.

94-1776. State ex rel. Patterson v. Indus. Comm.
Franklin App. No. 93APD03-318. On motion to vacate and/or
motion for relief from judgment. Motions denied.

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

95-1774. L.J. Minor Corp. v. Breitenbach.
Cuyahoga App. No. 67885. On motion for order to show cause.
Motion denied.

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

96-1997. State ex rel. Rea v. Ohio Dept. of Edn.
In Mandamus. Sua sponte, this cause shall be set for oral
argument.

96-2578 and 97-14. J.A. Croson Co. v. J.A. Guy, Inc.
Pickaway App. No. 95CA10. On motion to seal portions of record
and Vol. II of supplement of United Association of Journeymen,
etc., motion for admission pro hac vice of Robert L. Duston, and
motion for admission pro hac vice of Terry R. Yellig. Motions
granted.

97-4. Dublin Senior Community, L.P. v. Franklin Cty. Bd. of
Revision.
Board of Tax Appeals, No. 95-S-390. On motion to strike merit
brief of appellant. Motion denied; sua sponte, extension of
time granted to file.

97-208. State ex rel. LTV Steel Co. v. Indus. Comm.
Franklin App. No. 95APD12-1622. On motion to strike appellant's
brief and supplement and for sanctions. Motion to strike denied
and motion for sanctions denied.

Lundberg Stratton, J., concurs except that she would strike
the report by Dr. Kang.

Moyer, C.J., would grant the motion to strike and deny the
motion for sanctions.

97-578. State v. Furr.
Hamilton App. No. C-940326. On motion for leave to file delayed
appeal. Motion denied.

97-630. State ex rel. Serv. Emp. Internatl. Union, Dist. 925 v.
State Emp. Relations Bd.
In Mandamus. On answer of respondent and on motion for judgment
on the pleadings. Sua sponte, alternative writ granted.

Sua sponte, this cause is to be set for oral argument.

Cook, J., dissents and would defer ruling on this issue
until after briefing.

97-667. State v. Dorsey.

Summit App. No. 17468. On motion for leave to file delayed appeal. Motion denied.

Resnick and Cook, JJ., dissent.

97-673. State v. Schilling.

Delaware App. No. 88CA38. On motion for leave to file delayed appeal. Motion denied.

97-702. State v. Ellis.

Franklin App. No. 95APA10-1399. On motion for leave to file delayed appeal. Motion denied.

97-703. State v. Martin.

Franklin App. Nos. 96APA04-450 and 96APA04-459. On motion for leave to file delayed appeal. Motion denied.

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

97-746. State v. Bass.

Stark App. No. 1995CA00347. On motion for leave to file delayed appeal. Motion granted.

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

97-747. State v. Sizemore.

Cuyahoga App. No. 69944. On motion for leave to file delayed appeal. Motion denied.

Moyer, C.J., Resnick and Pfeifer, JJ., dissent.

97-752. State v. Phelps.

Cuyahoga App. No. 69157. On motion for leave to file delayed appeal. Motion denied.

97-766. State v. Samples.

Hamilton App. No. C-960241. On motion for leave to file delayed appeal. Motion denied.

Moyer, C.J., Pfeifer and Cook, JJ., dissent.

97-767. State v. Bowen.

Licking App. No. 95CA22. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

97-768. State v. Bowen.

Licking App. No. 96CA80. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

DISCRETIONARY APPEALS ALLOWED

97-517. George v. Ohio Bur. of Workers' Comp.

Montgomery App. No. 16081.

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

97-534. State v. Nemeth.

Jefferson App. No. 95JE32.

Pfeifer and Cook, JJ., dissent.

97-565. Rulli v. Rulli.

Mahoning App. No. 94 C.A. 134. Discretionary appeal allowed;

sua sponte, cause held for the decision in 96-249, Rulli v. Fan Co., Mahoning App. No. 94 C.A. 14; briefing schedule stayed.
F.E. Sweeney, J., dissents.
Douglas, J., not participating.

97-567. Cope v. Metro. Life Ins. Co.
Columbiana App. No. 95CO46.
Moyer, C.J., and Cook, J., dissent.

97-628. State v. Perry.
Hamilton App. No. C-960297.
Resnick, Cook and Lundberg Stratton, JJ., dissent.

DISCRETIONARY APPEALS NOT ALLOWED

96-2454. Westfield Ins. Co. v. Jarrett Reclamation Serv., Inc.
Belmont App. No. 95-B-7. (Appeal of Jarrett Reclamation Services, Inc. and appeal of Deborah J. Abbott.)
Douglas and F.E. Sweeney, JJ., dissent.

97-344. Schultz v. Lincoln Natl. Life Ins. Co.
Cuyahoga App. No. 69499. (Appeal of John A. Mannen, appeal of Carl R. Barricelli and Ontario Stone Corporation, and appeal of Prudential Insurance Company of America.)
Douglas, J., dissents.

97-351. Schultz v. Lincoln Natl. Life Ins. Co.
Cuyahoga App. No. 69499.
Douglas, J., dissents.

97-464. Office v. Office.
Montgomery App. No. 15298. (Appeal of Gerald S. Office, Jr.)

97-483. Cleveland's PM on the Boardwalk, LTD v. Ohio Liquor Control Comm.
Cuyahoga App. No. 69779.
Moyer, C.J., and Lundberg Stratton, J., dissent.

97-485. State v. Becker.
Clermont App. No. CA96-07-057.

97-494. Clinical Components, Inc. v. Leffler Industries, Inc.
Wayne App. No. 95CA0085.
Resnick, J., dissents.

97-500. Evangelinos v. Ohio Dept. of Natural Resources, Div. of Reclamation.
Belmont App. No. 95-BA-27.

97-502. In re Adoption of Wagner.
Trumbull App. No. 95-T-5228.
Moyer, C.J., Pfeifer and Lundberg Stratton, JJ., dissent.

97-504. In re Adoption of Wagner.
Trumbull App. No. 95-T-5229.
Moyer, C.J., Pfeifer and Lundberg Stratton, JJ., dissent.

97-508. Tennessee Sword & Stein, Inc. v. Gunn.
Montgomery App. No. 15639.
Douglas and Pfeifer, JJ., dissent.

97-509. Kincer v. Am. Brick & Block, Inc.
Montgomery App. No. 16073.
Douglas and F.E. Sweeney, JJ., dissent.

97-510. ESSROC Materials, Inc. v. Poland Twp. Bd. of Zoning Appeals.
Mahoning App. No. 96 C.A. 74.
Douglas, J., dissents.

97-518. Boser v. Bd. of Mgrs. of the Mansions Condominium Unit Owners Assn.
Franklin App. No. 96APE12-1752.
Douglas and F.E. Sweeney, JJ., dissent.

97-522. Logan v. School Emp. Retirement Bd.
Belmont App. No. 95-BA-59. (Appeal of School Employees Retirement Board and appeal of Aetna Life Insurance Company.)

97-552. Titanium Industries v. S.E.A., Inc.
Mahoning App. No. 94 C.A. 130.
Moyer, C.J., Douglas and Pfeifer, JJ., dissent.

97-553. Slawter v. Nationwide Mut. Ins. Co.
Athens App. No. 96CA1739.

97-557. State v. Mills.
Hamilton App. No. C-960391.

97-566. Amwest Sur. Ins. Co. v. Hunkler.
Belmont App. No. 93-B-50.

97-576. State v. Yingling.
Lorain App. No. 97CA006656.
F.E. Sweeney and Pfeifer, JJ., dissent.

97-585. Ins. Co. of N. Am. v. Travelers Ins. Co.
Cuyahoga App. No. 70147 and 71044.
Moyer, C.J., dissents.

97-592. Ed Wolf, Inc. v. Natl. City Bank, Cleveland.
Cuyahoga App. No. 68898.

97-593. State v. Parker.
Summit App. No. 17871.

97-597. State v. Brooks.
Summit App. No. 17922.
F.E. Sweeney and Lundberg Stratton, JJ., dissent.
Cook, J., not participating.

97-603. State v. Long.
Franklin App. No. 96APA04-511. (Appeal of state of Ohio and cross-appeal of Montez Jermaine Long.)

Lundberg Stratton, J., not participating.

97-605. State v. Smith.
Wood App. No. WD-96-028.

97-606. Soc. Natl. Bank v. NCON Corp.
Lucas App. No. L-96-108.
Douglas and Pfeifer, JJ., dissent.
Resnick, J., not participating.

97-608. Massi v. Stringfield.
Medina App. No. 2607-M.
Douglas, F.E. Sweeney and Pfeifer, JJ., dissent.

97-619. State v. Shrader.
Ottawa App. No. OT-96-037.
Resnick, J., not participating.

RECONSIDERATION DOCKET

95-2279. Feichtner v. Ohio Dept. of Transp.
Franklin App. No. 95API01-47. Reported at 78 Ohio St.3d 1207,
___ N.E.2d ___. On motion for reconsideration. Motion denied.

95-2577. W. Side Deutscher Frauen Verein v. Tracy.
Board of Tax Appeals, No. 94-K-702. Reported at 78 Ohio St.3d
124, ___ N.E.2d ___. On motion for reconsideration. Motion
denied.
Moyer, C.J., F.E. Sweeney and Pfeifer, JJ., dissent.

96-346. State v. Baker.
Montgomery App. No. 15051. Reported at 78 Ohio St.3d 108, ___
N.E.2d ___. On motion for reconsideration. Motion denied.
Moyer, C.J., dissents.

96-1406 and 96-1407. NFI Metro Ctr. II Assoc. v. Franklin Cty.
Bd. of Revision.
Board of Tax Appeals, Nos. 95-J-80 and 95-J-79. Reported at 78
Ohio St.3d 105, ___ N.E.2d ___. On motion for reconsideration.
Motion denied.
Douglas, J., dissents.

97-149. State v. Gonzalez.
Lorain App. No. 96CA006330. Reported at 78 Ohio St.3d 1456, ___
N.E.2d ___. On motion for reconsideration. Motion denied.

97-184. Taylor v. McCullough-Hyde Mem. Hosp.
Butler App. No. CA96-02-032. Reported at 78 Ohio St.3d 1453,
___ N.E.2d ___. On motion for reconsideration. Motion denied.

97-193. State v. Holbert.
Cuyahoga App. No. 71601. Reported at 78 Ohio St.3d 1453, ___
N.E.2d ___. On motion for reconsideration. Motion denied.
Pfeifer, J., dissents.

97-242. State v. Garland.
Fayette App. No. CA96-05-011. Reported at 78 Ohio St.3d 1453,
___ N.E.2d ___. On motion for reconsideration. Motion denied.

Moyer, C.J., and Cook, J., dissent.

97-332. Green v. Cumberland.

Highland App. No. 95CA893. Reported at 78 Ohio St.3d 1457, ____
N.E.2d _____. On motion for reconsideration. Motion denied.