

04/23/97

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

9:00 A.M.

WEDNESDAY
April 23, 1997

MERIT DOCKET

97-362. State ex rel. Rollins 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.

97-374. State ex rel. Timson v. Petro.
In Mandamus and Procedendo. On answer of respondents Paul
Herbert et al. 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.

97-398. State ex rel. Simms v. Brown.
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.

97-404. State ex rel. Giles v. Ohio General Assembly.
In Mandamus. On motion for judgment on pleadings and on motion
for class certification. Sua sponte, cause dismissed.

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

97-419. State ex rel. Adams v. Ghee.
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.

97-423. State ex rel. Feher v. McGee.
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.

97-475. State ex rel. Nieves v. State.

In Mandamus. On answer of respondents. 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.

97-536. Gibbs v. State.

In Habeas Corpus. Sua sponte, cause dismissed.

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

97-537. State ex rel. Engle v. Lundy.

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

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

97-571. Yelling v. Mitchell.

In Habeas Corpus. Sua sponte, cause dismissed.

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

97-602. Salerno v. State.

In Habeas Corpus. Sua sponte, cause dismissed.

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

97-604. Walter v. State.

In Habeas Corpus. Sua sponte, cause dismissed.

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

97-607. State ex rel. Waller v. Ohio Adult Parole Auth.

In Mandamus and Habeas Corpus. 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

96-2382. State v. Allen.

Miami App. No. 95CA70.

96-2724. State v. Judd.

Franklin App. No. 96APA03-330.

96-2888. State v. Parsons.

Greene App. No. 96CA20.

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

97-23. State v. Whaley.

Jackson App. No. 95CA772.

Lundberg Stratton, J., dissents.

97-25. State v. Walker.

Franklin App. No. 95APA08-1010.

97-36. Adams v. Thomson Newspapers, Inc.
Scioto App. No. 95CA2357.
F.E. Sweeney, J., dissents.

97-42. State v. Hillman.
Franklin App. No. 96APA04-449.

97-45. State v. Jackson.
Hamilton App. No. C-960692.

97-48. State v. Smith.
Hamilton App. Nos. C-950847 and C-960125.
Douglas, F.E. Sweeney and Lundberg Stratton, JJ., dissent.

97-50. State v. Ledford.
Warren App. No. CA95-09-089. (Appeal of Willie Ledford and
cross-appeal of the state of Ohio.)

97-114. Carter v. Ohio Adult Parole Auth.
Lorain App. No. 96CA006413.

97-124. State v. Murphy.
Summit App. No. 17836.

97-135. State v. White.
Cuyahoga App. No. 71579.

97-155. MBA Realty v. Little G, Inc.
Cuyahoga App. No. 70545.

97-160. State v. Richard.
Cuyahoga App. No. 71610.

97-161. State v. Richard.
Cuyahoga App. No. 71611.

97-162. State v. Swain.
Erie App. No. E-95-011.
Resnick, J., not participating.

97-175. State v. Gibbs.
Trumbull App. No. 96-T-5545.

97-180. Heath v. Hutchinson.
Licking App. No. 96CA25.

97-185. In re Swank.
Cuyahoga App. No. 71570.

97-190. State v. Maynard.
Guernsey App. No. 96CA39.

97-203. State v. Swortcheck.
Cuyahoga App. No. 70500.

97-206. Pierce Processing, Inc. v. Hoffman.
Hamilton App. No. C-960343.

97-207. State v. Moore.
Wayne App. No. 96CA0029.

97-216. State v. Merriweather.
Lorain App. No. 96CA006627.

97-219. State v. Guess.
Franklin App. No. 94APA09-1278.

97-220. State v. Wescott.
Lake App. No. 96-L-016.

97-222. State v. Lang.
Hamilton App. No. C-950912.
Lundberg Stratton, J., dissents.

97-227. Williams v. 312 Walnut L.P.
Hamilton App. No. C-960368.

97-234. State v. Teixeira.
Cuyahoga App. No. 70619.
F.E. Sweeney, J., dissents.

97-235. Haven v. Solon.
Cuyahoga App. Nos. 70302 and 70303.
Douglas, Resnick and F.E. Sweeney, JJ., dissent.

97-237. Hoffman v. New Life Fitness Centers, Inc.
Hancock App. No. 5-96-21.
F.E. Sweeney, J., dissents.

97-238. State v. Shakoor.
Trumbull App. No. 93-T-4917.

97-243. In re Chambers.
Logan App. No. 8-96-14.
Moyer, C.J., and Resnick, J., dissent.

97-244. Mercer Sav. Bank v. Fullenkamp.
Mercer App. No. 10-96-07.

97-245. State v. Long.
Licking App. No. 96CA91.

97-246. State v. McFarland.
Hamilton App. No. C-961005.

97-247. State v. Bereschik.
Jefferson App. No. 95-JE-38.

97-249. State v. Elliott.
Hamilton App. No. C-950897.

97-251. State v. May.
Hamilton App. No. C-960124.

97-252. State v. Miller.
Stark App. No. 96CA0238.

97-253. State v. Childers.
Franklin App. No. 96APA05-640.
Douglas and Cook, JJ., dissent.

97-254. State v. Banks.
Crawford App. No. 3-96-23.
Douglas, J., dissents.

97-259. Cincinnati v. Chavez Properties.
Hamilton App. No. C-960073.

97-262. Tope v. Pamco, Inc.
Franklin App. No. 96APE04-397.
Douglas, J., dissents.

97-269. State v. Matthews.
Cuyahoga App. No. 70217.

97-273. Columbus v. Tuttle.
Franklin App. No. 95APC08-962.

97-278. State v. Gonzales.
Hamilton App. No. C-960101.

97-281. State v. Williams.
Hamilton App. No. C-950740.
Moyer, C.J., dissents.

97-282. State v. Rountree.
Summit App. No. 18168.

97-291. Karkow v. Keefner.
Trumbull App. No. 96-T-5483.

97-295. State v. Rudge.
Portage App. No. 95-P-0055.

97-302. State v. Billman.
Summit App. No. 18217.

97-303. State v. Collins.
Ashtabula App. No. 95-A-0044.
Lundberg Stratton, J., dissents.

97-313. In re Guardianship of Sechler.
Franklin App. No. 96APF03-359.

97-321. State v. Carr.
Hamilton App. No. C-960148.

97-356. State v. Hemsath.

Hamilton App. No. C-961036.

97-367. State v. Clark.
Hamilton App. No. C-960103.

97-392. State v. Esposito.
Medina App. No. 2337-M.

97-405. State v. Koble.
Seneca App. No. 13-96-32.

MOTION DOCKET

96-1389. State v. Schlosser.
Montgomery App. Nos. 14968 and 14976. On motion for leave to participate in oral argument. Motion denied.
Douglas and Pfeifer, JJ., dissent.

96-1390. State v. Schlosser.
Montgomery App. Nos. 14968 and 14976. On motion for leave to participate in oral argument. Motion denied.
Douglas and Pfeifer, JJ., dissent.

96-2247. State ex rel. The Plain Dealer v. Ohio Dept. of Ins. In Mandamus. On motion to strike affidavit of Douglas A. Andrews. Motion denied.
Cook and Lundberg Stratton, JJ., would also disqualify Douglas A. Andrews as counsel.
Moyer, C.J., and Resnick, J., dissent and would grant the motion to strike.

96-2248. USAir, Inc. v. Tracy.
Board of Tax Appeals, No. 94-S-276. On request for argument before full court. Request granted.

96-2311. State v. Keenan.
Cuyahoga App. No. 67452. On motion to participate in oral argument. Motion denied.
Douglas, Resnick and Lundberg Stratton, JJ., dissent.

96-2455. State v. Keene.
Montgomery App. No. 14375. On motion to strike exhibits. Motion denied.
On motion to unseal evidentiary exhibits. Motion granted.

97-490. State v. Dodson.
Muskingum App. No. 9616. On motion for leave to file delayed appeal. Motion denied.
Resnick and Pfeifer, JJ., dissent.

97-496. State v. McMullen.
Hamilton App. No. C-960088. On motion for leave to file delayed appeal. Motion granted.
Douglas, F.E. Sweeney and Cook, JJ., dissent.

97-497. State v. Davis.
Franklin App. No. 96APA02-233. On motion for leave to file delayed appeal. Motion denied.

Resnick, J., dissents.

97-548. State v. Yauger.
Summit App. No. 17782. On motion for leave to file delayed
appeal. Motion denied.

97-554. State v. Cooke.
Hamilton App. No. C-950736. On motion for leave to file delayed
appeal. Motion denied.
Resnick, J., dissents.

DISCRETIONARY APPEALS ALLOWED

97-17. Justis v. Justis.
Meigs App. No. 96CA11.
Resnick, F.E. Sweeney and Cook, JJ., dissent.

97-261. Middendorf v. Middendorf.
Shelby App. No. 17-96-5.
F.E. Sweeney and Cook, JJ., dissent.

97-289. Ladrigan v. Clermont Cty. Ohio Sewer & Water Co.
Clermont App. No. CA96-03-035. The discretionary appeal is
allowed; sua sponte, cause held for the decision in 95-1924,
Hill v. Urbana, Champaign App. No. 94CA22; briefing schedule
stayed.
Resnick, F.E. Sweeney and Cook, JJ., dissent.

DISCRETIONARY APPEALS NOT ALLOWED

96-2855. State v. Perkins.
Jackson App. No. 96CA792.

97-60. Jones v. Deputies.
Cuyahoga App. No. 71482.

97-104. State v. Minch.
Montgomery App. No. 15675.

97-173. Schaefer v. Schaefer.
Montgomery App. No. 15491.
Moyer, C.J., and Douglas, J., dissent.

97-188. Arbino v. Masters.
Hamilton App. No. C-960299.

97-195. State v. Walker.
Stark App. No. 1995CA00405.

97-209. Universal Windows & Doors, Inc. v. Eagle Window & Door,
Inc.
Hamilton App. No. C-950669.

97-236. Castle v. Seelig.
Huron App. No. H-96-030.
Douglas and F.E. Sweeney, JJ., dissent.
Resnick, J., not participating.

97-240. Barr v. Columbus S. Power Co.
Franklin App. Nos. 96APE05-638, 96APE05-708, 96APE05-709 and
96APE05-710.

97-241. Gleason v. Zimmerman.
Belmont App. No. 95-B-4.
Lundberg Stratton, J., dissents.
97-255. Bollinger, Inc. v. Mayerson.
Hamilton App. No. C-950238.
F.E. Sweeney, J., dissents.

97-257. Gureasko v. Bethesda Hosp.
Hamilton App. No. C-950713.

97-258. Bashore v. Adia Temporary Serv.
Shelby App. No. 17-96-9.
Douglas, Resnick and F.E. Sweeney, JJ., dissent.

97-260. Harris v. Ohio Bur. of Workers' Comp.
Hamilton App. No. C-960254.
Douglas and F.E. Sweeney, JJ., dissent.

97-266. Alkire v. Duellman Elec. Supply Co.
Jefferson App. No. 95-J-4.
Lundberg Stratton, JJ., dissents.

97-270. Toledo Edison Co. v. Petitioners for Incorporation of
Holiday City.
Williams App. No. WM-95-030.
Pfeifer, J., dissents.
Resnick, J., not participating.

97-299. Medley v. Portsmouth.
Scioto App. No. 96CA2426.
Moyer, C.J., dissents.

97-396. Lorenzo v. Fuerst.
Summit App. No. 17722.
Douglas, Resnick and Pfeifer, JJ., dissent.

RECONSIDERATION DOCKET

95-20. State ex rel. Midmark Corp. v. Indus. Comm.
Franklin App. No. 93APD10-1457. Reported at 78 Ohio St.3d 2,
___ N.E.2d ___. On motion for reconsideration. Motion denied.
Lundberg Stratton, J., dissents.

96-2623. Rupert v. State Farm Mut. Auto. Ins. Co.
Wood App. No. WD-95-103. Reported at 78 Ohio St.3d 1428, ___
N.E.2d ___. On motion for reconsideration. The motion fails
for want of four votes on the following vote:
Douglas, F.E. Sweeney and Pfeifer, JJ., vote to deny.
Moyer, C.J., Cook and Lundberg Stratton, JJ., vote to
grant.
Resnick, J., not participating.

96-2737. Painter v. State Auto Ins. Co.
Franklin App. No. 95APE12-1558. Reported at 78 Ohio St.3d 1424,
___ N.E.2d ___. On motion for reconsideration. Motion denied.
Moyer, C.J., dissents.
Lundberg Stratton, J., not participating.

96-2744. Platinum Fin. Serv. Ltd. v. Gurney.
Cuyahoga App. No. 69481. Reported at 78 Ohio St.3d 1428, ___
N.E.2d ___. On motion for reconsideration. Motion denied.
Moyer, C.J., dissents.

96-2765. State v. Kretzer.
Montgomery App. No. 15503. Reported at 78 Ohio St.3d 1425, ___
N.E.2d ___. On motion for reconsideration. Motion denied.

97-256. State ex rel. Young v. Montgomery.
In Quo Warranto. Reported at 78 Ohio St.3d 1423, ___ N.E.2d
___. On motion for reconsideration. Motion denied.