

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

TUESDAY
December 9, 1997

MOTION DOCKET

97-1778. State v. Rush.

Stark App. No. 96CA419. This cause is pending before the court as an appeal from the Court of Appeals for Stark County. Upon consideration of the motion of appellee for appointment of the Ohio Public Defender to represent him in this appeal,

IT IS ORDERED by the court that the motion be, and hereby is, granted.

IT IS FURTHER ORDERED by the court, *sua sponte*, that this case be consolidated with Supreme Court case Nos. 97-2121, *State v. Mitchell*; 97-2123, *State v. Mitchell*; 97-2266, *State v. Toler*; and 97-2290, *State v. Mills*.

IT IS FURTHER ORDERED by the court, *sua sponte*, that an expedited briefing schedule be set; appellant's merit brief shall be due on or before January 5, 1998; appellee's merit brief shall be due within fifteen days of the filing of appellant's merit brief; appellant's reply brief shall be due within ten days of the filing of appellee's merit brief; and the parties shall otherwise comply with the requirements of S.Ct.Prac.R. VI.

97-2123. State v. Mitchell.

Franklin App. No. 97APA03-351. This cause is pending before the court on the certification of conflict by the Court of Appeals for Franklin County. On review of the order certifying a conflict,

IT IS DETERMINED by the court that a conflict exists and it is ordered by the court that the parties brief the issue stated in the court of appeals' entry filed October 7, 1997, as follows:

"Can a criminal defendant who committed a crime before July 1, 1996, be sentenced under the terms of Amended Substitute Senate Bills 2 and 269 which became effective July 1, 1996?"

IT IS ORDERED by the court, *sua sponte*, that this case be consolidated with Supreme Court case Nos. 97-1778, *State v. Rush*; 97-2121, *State v. Mitchell*; 97-2266, *State v. Toler*, and 97-2290, *State v. Mills*.

IT IS FURTHER ORDERED by the court, *sua sponte*, that an expedited briefing schedule be set; appellant's merit brief shall be due on or before January 5, 1998; appellee's merit brief shall be due within fifteen days of the filing of appellant's merit brief; and appellant's reply brief shall be due within ten days of the filing of appellee's merit brief.

IT IS FURTHER ORDERED by the court, *sua sponte*, that the parties shall combine the briefing of case Nos. 97-2123 and 97-2121, and file one brief for each brief permitted under S.Ct.Prac.R. VI; the parties shall file an original of the brief in each case and eighteen copies of the brief; and the parties shall otherwise comply with the requirements of S.Ct.Prac.R. VI.

IT IS FURTHER ORDERED by the court that the Clerk shall issue an order for the transmittal of the record from the Court of Appeals for Franklin County.

97-2266. State v. Toler.

Hamilton App. No. C-960835. This cause is pending before the court on the certification of conflict by the Court of Appeals for Hamilton County. On review of the order certifying a conflict,

IT IS DETERMINED by the court that a conflict exists and it is ordered by the court that the parties brief the issue stated in the court of appeals' entry filed June 15, 1997, as follows:

"[W]hether Senate Bill 2 sentencing guidelines apply to a defendant whose crime was committed before July 1, 1996, but who was sentenced after July 1, 1996."

IT IS ORDERED by the court, *sua sponte*, that this case be consolidated with Supreme Court case Nos. 97-1778, *State v. Rush*; 97-2121, *State v. Mitchell*; 97-2123, *State v. Mitchell*; and 97-2290, *State v. Mills*.

IT IS FURTHER ORDERED by the court, *sua sponte*, that an expedited briefing schedule be set; appellant's merit brief shall be due on or before January 5, 1998; appellee's merit brief shall be due within fifteen days of the filing of appellant's merit brief; appellant's reply brief shall be due within ten days of the filing of appellee's merit brief; and the parties shall otherwise comply with the requirements of S.Ct.Prac.R. VI.

IT IS FURTHER ORDERED by the court that the Clerk shall issue an order for the transmittal of the record from the Court of Appeals for Hamilton County.

97-2290. State v. Mills.

Wood App. No. WD-97-012. This cause is pending before the court on the certification of conflict by the Court of Appeals for Wood County. On review of the order certifying a conflict,

IT IS DETERMINED by the court that a conflict exists and it is ordered by the court that the parties brief the issue stated in the court of appeals' entry filed October 6, 1997, as follows:

"[W]hether a defendant who committed a felony before the effective date but is not sentenced until after the effective date should be sentenced pursuant to Senate Bill 2[.]"

IT IS ORDERED by the court, *sua sponte*, that this case be consolidated with Supreme Court case Nos. 97-1778, *State v. Rush*; 97-2121, *State v. Mitchell*; 97-2123, *State v. Mitchell*; and 97-2266, *State v. Toler*.

IT IS FURTHER ORDERED by the court, *sua sponte*, that an expedited briefing schedule be set; appellant's merit brief shall be due on or before January 5, 1998; appellee's merit brief shall be due within fifteen days of the filing of appellant's merit brief; appellant's reply brief shall be due within ten days of the filing of appellee's merit brief; and the parties shall otherwise comply with the requirements of S.Ct.Prac.R. VI.

IT IS FURTHER ORDERED by the court that the Clerk shall issue an order for the transmittal of the record from the Court of Appeals for Wood County.

Resnick, J., not participating.

DISCRETIONARY APPEALS ALLOWED

97-2121. State v. Mitchell.

Franklin App. No. 97APA03-351. Upon consideration of the jurisdictional memoranda filed in this case, the court hereby allows the appeal.

IT IS ORDERED by the court, *sua sponte*, that this case be consolidated with Supreme Court case Nos. 97-1778, *State v. Rush*; 97-2123, *State v. Mitchell*; 97-2266, *State v. Toler*; and 97-2290, *State v. Mills*.

IT IS FURTHER ORDERED by the court, *sua sponte*, that an expedited briefing schedule be set; appellant's merit brief shall be due on or before January 5, 1998; appellee's merit brief shall be due within fifteen days of the filing of appellant's merit brief; and appellant's reply brief shall be due within ten days of the filing of appellee's merit brief.

IT IS FURTHER ORDERED by the court, *sua sponte*, that the parties shall combine the briefing of case Nos. 97-2123 and 97-2121, and file one brief for each brief permitted under S.Ct.Prac.R. VI; the parties shall file an original of the brief in each case and eighteen copies of the brief; and the parties shall otherwise comply with the requirements of S.Ct.Prac.R. VI.

IT IS FURTHER ORDERED by the court that the Clerk shall issue an order for the transmittal of the record from the Court of Appeals for Franklin County.