

03/26/97

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

9:00 A.M.

WEDNESDAY
March 26, 1997

MERIT DOCKET

96-2775. MCI Telecommunications Corp. v. Pub. Util. Comm. Public Utilities Commission, No. 95-790-TP-COI. Appellant, having not set forth in its notice of appeal the final order of the commission on rehearing, the court is without jurisdiction to hear appellant's appeal, and the case is dismissed sua sponte. See R.C. 4903.13, Hall China Co. v. Pub. Util. Comm. (1977), 50 Ohio St.2d 206, 4 O.O.3d 390, 364 N.E.2d 852, and Senior Citizens Coalition v. Pub. Util. Comm. (1988), 40 Ohio St.3d 329, 533 N.E.2d 353.

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

97-49. State ex rel. Russell v. Dunlap. 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.

97-76. Pauline v. United Church Homes. In Quo Warranto. 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.

97-89. State ex rel. Griffin v. Curl. In Mandamus. On motion to dismiss by Gloria Orians and on answer of respondent David L. Remy. Motion to dismiss sustained. Cause dismissed.

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

97-116. In re Writ of Procedendo for State ex rel. Fisher v. Sandusky Cty. Court of Common Pleas.

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.

97-125. State ex rel. Troutman v. Voinovich.

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.

97-215. State ex rel. Feher v. Belmont Cty. Court of Common Pleas.

In Mandamus. On answer of respondent and on motion for judgment on pleadings. 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.

97-228. State ex rel. Culp v. Erie Cty. Court of Common Pleas.

In 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.

97-229. State ex rel. Johnson v. Fais.

In Procedendo. On answer of respondent and on motion for summary judgment. 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.

97-263. State ex rel. Montgomery 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.

97-283. State ex rel. Woods v. Niehaus.

In 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.

97-394. Scott v. Money.

In 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

96-2462. State v. Wells.

Stark App. No. 95CA0374.

Moyer, C.J., dissents.

96-2688. State v. Jones.
Warren App. No. CA95-12-122.

96-2689. State v. Welch.
Lucas App. No. L-95-353.
Resnick, J., not participating.

96-2690. Hicks v. O'Brien.
Licking App. No. 96CA32.

96-2793. Pernell v. Montgomery Cty. Bd. of Commrs.
Montgomery App. No. 15810.

96-2828. Henry v. Ohio Blenders, Inc.
Lucas App. No. L-96-082.
Resnick, J., not participating.

96-2834. State v. Caldwell.
Hamilton App. No. C-960933.

96-2848. State v. Lucas.
Van Wert App. No. 15-96-8.

96-2856. State v. Moore.
Hamilton App. No. C-960785.

96-2857. State v. Williams.
Hocking App. No. 96CA9.

96-2859. State v. Jones.
Mahoning App. No. 93 C.A. 18.

96-2866. State v. Egantoff.
Portage App. No. 96-P-0147.

96-2868. Emanuel v. Columbus Recreation & Parks Dept.
Franklin App. No. 95APE12-1593.
Resnick, J., dissents.

96-2873. State v. Cochran.
Montgomery App. No. 12763.
Douglas, J., would affirm.

96-2876. State v. Cabrera.
Franklin App. No. 92AP10-28.
Douglas, J., would affirm.

96-2877. State v. Bivens.
Licking App. No. 96CA129.

96-2882. State v. Berry.
Hamilton App. No. C-960136.

96-2884. State v. Hayes.
Erie App. No. E-96-068.

96-2887. GTE Directories Serv. Corp. v. Ohio Dept. of Taxation.
Franklin App. No. 96API06-728.

Douglas, J., dissents.

96-2889. State v. Costella.
Cuyahoga App. No. 70096.

97-1. Pryor v. State.
Franklin App. No. 96APE05-653.

97-3. State v. Arnold.
Greene App. No. 91CA43.
Douglas, J., would affirm.

97-5. State v. Smith.
Auglaize App. No. 2-95-20.
Moyer, C.J., dissents.

97-7. State v. Rosado.
Cuyahoga App. No. 70428.

97-11. Smith v. Ohio Dept. of Human Serv.
Clermont App. No. CA96-05-045.

97-20. Foster v. Turner.
Madison App. No. CA96-07-028.

97-27. State v. Frazier.
Butler App. No. CA96-02-023.

97-29. State v. McCoy.
Tuscarawas App. No. 94AP090062.
Douglas, J., would affirm.

97-35. State v. Hollingsworth.
Cuyahoga App. No. 69955.

97-39. State v. Glass.
Cuyahoga App. No. 70506.
Lundberg Stratton, J., dissents.

97-40. State v. Nowlin.
Highland App. No. 96CA896.
Moyer, C.J., dissents.

97-56. State v. Davenport.
Warren App. No. CA96-03-020.

97-59. Ryan v. Osman.
Lake App. No. 95-L-198.

97-62. State v. Brown.
Montgomery App. No. 15774.
Pfeifer, J., dissents.

97-67. State v. Gates.
Cuyahoga App. No. 70265.

97-68. State v. Davis.

Cuyahoga App. No. 69954.

97-69. O'Neill v. St. Luke's Med. Ctr.
Cuyahoga App. No. 70372.

97-77. State v. Kassis.
Summit App. No. 17385.

97-78. State v. Hannan El Kassis.
Summit App. No. 17384.

97-82. State v. Habash.
Summit App. No. 17386.

97-100. State v. Lacy.
Butler App. No. CA95-12-221.

97-103. Bailey v. Bailey.
Lorain App. No. 96CA006320.

97-105. Pruden v. Pruden.
Franklin App. No. 96APF04-528.

97-115. State v. Sullivan.
Hamilton App. No. C-960894.

97-121. State v. Blanchard.
Cuyahoga App. No. 70361.

97-128. State v. Julious.
Scioto App. No. 96CA2409.

97-145. Henry v. Newby.
Guernsey App. No. 96CA10.
Douglas, J., dissents.

97-168. State v. Dukes.
Franklin App. No. 96APA03-333.

97-176. State v. Booker.
Cuyahoga App. No. 62841.
Douglas, J., would affirm.

97-325. State v. Manning.
Delaware App. No. 95CAA07044.
Douglas, J., would affirm.

MOTION DOCKET

96-1628. Garnett v. Public Storage.
Cuyahoga App. No. 67458. On statement of fees and costs. Fees
and costs granted in the amount requested, \$1,840.63.

96-1828. Justice v. Hurley.
Franklin App. No. 95APD07-918. On motion to strike appendix to
appellee brief, related argument and cases cited, and statement
made at oral argument. Motion denied.

Lundberg Stratton, J., not participating.

97-226. State v. Harrington.
Lorain App. No. 95CA006114. On motion for leave to file delayed
appeal. Motion denied.
Resnick, J., dissents.

97-309. State v. Ware.
Hamilton App. No. C-950939. On motion for leave to file delayed
appeal. Motion denied.

97-339. State v. McKnight.
Cuyahoga App. No. 62808. On motion for leave to file delayed
appeal. Motion denied.
Douglas, J., dissents.

97-340. State v. Cole.
Cuyahoga App. No. 96CA18. On motion for leave to file delayed
appeal. Motion denied.
Resnick and Lundberg Stratton, JJ., dissent.

97-355. State v. Reed.
Hamilton App. No. C-950682. On motion for leave to file delayed
appeal. Motion denied.
Resnick, J., dissents.

97-378. State v. Cheirs.
Mahoning App. No. 95 C.A. 139. On motion for leave to file
delayed appeal. Motion denied.
Resnick and Lundberg Stratton, JJ., dissent.

DISCRETIONARY APPEALS ALLOWED

96-2656. Castle Nursing Home, Inc. v. Sullivan.
Holmes App. No. 95CA541. Sua sponte, cause held for the
decision in 95-2014 and 95-2031, Goldfuss v. Davidson, Portage
App. No. 94-P-0010; briefing schedule stayed.

96-2865. State v. Golphin.
Cuyahoga App. No. 69266.
Pfeifer and Cook, JJ., dissent.

97-19. State v. Sallie.
Lucas App. No. L-95-263.
F.E. Sweeney and Cook, JJ., dissent.
Resnick, J., not participating.

97-61. Kinkle v. Kinkle.
Allen App. No. 1-96-40.
F.E. Sweeney, Cook and Lundberg Stratton, JJ., dissent.

97-64. State v. Patterson.
Cuyahoga App. Nos. 69551, 69552 and 69553.
Pfeifer, J., dissents.

97-137. Buckeye Community Hope Found. v. Cuyahoga Falls.
Cuyahoga App. No. 17933.

Cook, J., dissents.

DISCRETIONARY APPEALS NOT ALLOWED

96-2792. In re Henry B. Calvelage Trust.
Putnam App. No. 12-96-8.

96-2815. White v. Nationwide Fire Ins. Co.
Cuyahoga App. No. 71304.
Resnick, J., not participating.

96-2837. State v. McCown.
Cuyahoga App. No. 69683.

96-2841. State v. Miller.
Ashtabula App. No. 95-A-0077.

96-2845. Rose v. Miami Valley Hosp.
Montgomery App. No. 16107.

96-2846. Brionez v. Auto-Owners Ins. Co.
Sandusky App. No. S-95-049.

96-2850. Com-Corp. Industries, Inc. v. H&H Machine Tool Co. of
Iowa.
Cuyahoga App. No. 69318.

96-2851. Elder v. Scott Lifetime, Inc.
Cuyahoga App. No. 69594.

96-2862. Michael v. Mem. Hosp.
Sandusky App. No. S-95-056.
Resnick, J., not participating.

96-2864. Smith v. Bassett.
Ottawa App. No. OT-96-018.
96-2869. Snell v. Englefield.
Knox App. No. 96CA13.
Moyer, C.J., dissents.

97-8. Cochran v. Cochran.
Seneca App. No. 13-96-31.

97-10. Baker v. Ohio Bur. of Emp. Serv.
Carroll App. No. 670.
Resnick and F.E. Sweeney, JJ., dissent.

97-15. Lee v. United Church Homes, Inc.
Wyandot App. No. 16-96-06.
Moyer, C.J., and F.E. Sweeney, J., dissent.

97-18. State v. Feliciano.
Lorain App. No. 95CA006278.

97-37. Adams v. Casey Sales & Serv.
Wood App. No. WD-96-030.
Resnick, J., not participating.

97-53. Gregory v. Ohio Bur. of Workers' Comp.
Franklin App. No. 96APE04-490.

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

97-57. Bohme, Inc. v. Sprint Internatl. Communications Corp.
Cuyahoga App. No. 70331.

97-70. Kniess v. Bob Roark Floor Coverings.
Miami App. No. 96CA23.

97-72. Modon v. Modon.
Summit App. No. 17713.

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

97-83. State v. Barrett.
Cuyahoga App. Nos. 70038, 70039, 70040 and 70041.

RECONSIDERATION DOCKET

95-1535. Ardire v. Tracy.
Board of Tax Appeals, No. 94-K-347. Reported at 77 Ohio St.3d
409, ___ N.E.2d ___. On motion for reconsideration. Motion
denied.

95-2453. Olmsted Falls Bd. of Edn. v. Tracy.
Board of Tax Appeals, No. 93-P-1381. Reported at 77 Ohio St.3d
393, ___ N.E.2d ___. On motion for reconsideration. Motion
denied.

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

96-2430. Hoeffel v. Henry Cty. Bd. of Commrs.
Henry App. No. 7-95-9. Reported at 77 Ohio St.3d 1547, ___
N.E.2d ___. On motion for reconsideration, motion for leave to
file motion for reconsideration by amicus curiae Ohio Nurses
Association, and motion for leave to file motion for
reconsideration by amicus curiae Ohio Board of Nursing. Motions
denied.

Lundberg Stratton, JJ., dissents.

96-2523. Martin v. Gen. Motors Corp.
Trumbull App. No. 96-T-5387. Reported at 77 Ohio St.3d 1548,
___ N.E.2d ___. On motion for reconsideration. Motion denied.

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