

**SUPREME COURT OF OHIO**

**COLUMBUS**

**ANNOUNCEMENT**

9:00 A.M.

WEDNESDAY  
December 16, 1998

**MERIT DOCKET**

**98-2131. State v. Ingram.**

Hamilton App. No. C-970687. On review of order certifying a conflict. The court determines that no conflict exists within the meaning of S.Ct.Prac.R. IV(2)(B). This cause is therefore dismissed.

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

**98-2132. State v. Knapp.**

Hamilton App. No. C-970690. On review of order certifying a conflict. The court determines that no conflict exists within the meaning of S.Ct.Prac.R. IV(2)(B). This cause is therefore dismissed.

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

**98-2133. State v. Grandstaff.**

Hamilton App. No. C-970684. On review of order certifying a conflict. The court determines that no conflict exists within the meaning of S.Ct.Prac.R. IV(2)(B). This cause is therefore dismissed.

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

**98-2136. State v. Brown.**

Hamilton App. No. C-970693. On review of order certifying a conflict. The court determines that no conflict exists within the meaning of S.Ct.Prac.R. IV(2)(B). This cause is therefore 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**

**98-1359. State v. Brown.**

Hamilton App. No. C-980060.

**98-1656. Schnitzler v. AgriGeneral Co., L.P.**

Marion App. No. 9-98-29.

Resnick and Lundberg Stratton, JJ., dissent.

**98-1720. State v. Jones.**

Trumbull App. No. 96-T-5607.

**98-1726. White v. Rogers.**

Union App. No. 14-98-02.

**98-1730. State v. Bradford.**

Medina App. No. 2752-M.

Lundberg Stratton, J., dissents.

**98-1739. Looman v. Bell-Heron Middle School.**

Carroll App. No. 690.

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

**98-1741. Am. Compressed Steel v. Rider.**

Hamilton App. No. C-960721.

Douglas, J., dissents.

**98-1743. State v. Taylor.**

Stark App. No. 1997CA00321.  
Lundberg Stratton, J., dissents.

**98-1746. Hodge v. King.**  
Cuyahoga App. No. 72823.

**98-1748. Point E. Condominium Assoc., Inc. v. Cuyahoga Cty. Bd. of Revision.**  
Cuyahoga App. Nos. 73083 and 73084.  
Lundberg Stratton, J., dissents.

**98-1756. Amada, Inc. v. Zaggario.**  
Cuyahoga App. No. 73089.

**98-1757. Sharwell v. Wimberly.**  
Cuyahoga App. No. 73299.

**98-1761. State v. Collier.**  
Cuyahoga App. No. 73894.  
Pfeifer, J., dissents.

**98-1765. State v. Ransby.**  
Montgomery App. No. 16138.

**98-1773. State v. Lewis.**  
Franklin App. No. 97APA09-1263.  
Pfeifer, J., dissents.

**98-1778. Chudzinski v. Mosser.**  
Sandusky App. Nos. S-97-30 and S-97-33.  
Moyer, C.J., and Pfeifer, J., dissent.

**98-1783. State v. Kirk.**  
Franklin App. No. 97APA09-1247.

**98-1788. State v. Warren.**  
Stark App. No. 98CA0155.

**98-1790. Brown v. Brown.**  
Franklin App. No. 97APF11-1514.

**98-1792. Shaker Hts. v. Greenfelder.**

Cuyahoga App. No. 73046.

Douglas, J., dissents.

**98-1795. State v. Golden.**

Franklin App. Nos. 97APC12-1593, 97APC12-1594, 97APC12-1595 and 97APC12-1596.

**98-1799. State v. Walker.**

Franklin App. No. 97APA09-1219.

**98-1800. State v. Pratts.**

Summit App. No. 18705.

**98-1801. Young v. The Morning Journal.**

Lorain App. No. 97CA006889.

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

**98-1802. State v. Phelps.**

Summit App. No. 18745.

**98-1804. State v. Conkle.**

Wayne App. No. 98CA0005.

**98-1810. State v. Pugh.**

Summit App. No. 19166.

**98-1811. Leybovich v. Grover.**

Cuyahoga App. No. 74830.

**98-1816. State v. Quinnie.**

Cuyahoga App. No. 72580.

**98-1818. State v. Fala.**

Cuyahoga App. No. 73074.

**98-1819. State v. Phillips.**

Medina App. No. 2876-M.

**98-1820. State v. Winters.**

Licking App. No. 97CA144.

Moyer, C.J., dissents.

**98-1821. State v. Kent.**

Cuyahoga App. No. 72435.

**98-1822. State v. Jackson.**

Hamilton App. No. C-970201.

**98-1824. State v. Vidu.**

Cuyahoga App. Nos. 71703 and 71704.

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

**98-1825. Lewis v. TNT Holland Motor Express, Inc.**

Summit App. No. 18726.

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

**98-1828. Briskey v. Briskey.**

Cuyahoga App. No. 73368.

Douglas and Resnick, JJ., dissent.

**98-1829. State v. Lee.**

Cuyahoga App. No. 73158.

**98-1833. State v. Miller.**

Lorain App. Nos. 98CA007139 and 98CA007141.

**98-1835. State v. Lockridge.**

Hamilton App. No. C-970745.

**98-1836. State v. Jones.**

Auglaize App. No. 2-98-1.

**98-1837. State v. Caslin.**

Franklin App. No. 97APA09-1275.

**98-1839. Flowers v. Ohio State Dental Bd.**

Franklin App. No. 97APE12-1632.

**98-1840. State v. Shaddoan.**

Hamilton App. No. C-970502.

Moyer, C.J., would allow.

**98-1842. Elder v. Fischer.**

Hamilton App. No. C-970738.

Moyer, C.J., dissents.

**98-1846. Winkle v. Toledo.**

Lucas App. No. L-97-1335.

Douglas and Pfeifer, JJ., dissent.

Resnick, J., not participating.

**98-1847. Hazley v. Akron.**

Summit App. No. 18756.

Moyer, C.J., and Douglas, J., dissent.

**98-1849. Waggoner v. Carsey.**

Wood App. No. WD-97-121.

Resnick, J., not participating.

**98-1850. State v. Price.**

Hamilton App. Nos. C-970334 and C-970376.

Moyer, C.J., would allow on Proposition of Law No. II.

**98-1856. State v. Hill.**

Montgomery App. No. 16791.

Moyer, C.J., and Lundberg Stratton, J., would allow on Proposition of Law No. I.

**98-1860. Wildblood v. Union Cent. Life Ins. Co.**

Hamilton App. No. C-970585.

Pfeifer, J., dissents.

**98-1863. State v. Mullins.**

Summit App. No. 19153.

**98-1865. State v. LeMasters.**

Meigs App. No. 97CA15.

Cook, J., would hold this cause for the decision in 98-1627, *State v. Calhoun*, Lake App. No. 97-L-063.

**98-1871. State v. Gallo.**

Portage App. No. 96-P-0236.

**98-1872. State v. Patton.**

Union App. No. 14-98-37.

**98-1873. State v. Olivarez.**

Lucas App. No. L-97-1328.

**98-1874. State v. Pollina.**

Franklin App. No. 97APA12-1626.

**98-1877. Green v. Wayne Mut. Ins. Co.**

Stark App. No. 1997CA00359.

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

**98-1882. State v. Harney.**

Crawford App. No. 3-98-07.

**98-1884. State v. Shipman.**

Warren App. No. CA97-11-113.

**98-1885. State v. Howard.**

Montgomery App. No. 16900.

Cook, J., would hold this cause for the decision in 98-1627, *State v. Calhoun*, Lake App. No. 97-L-063.

**98-1886. State v. Lippert.**

Stark App. No. 1998CA0031.

**98-1890. State v. Lewis.**

Cuyahoga App. No. 74858.

**98-1893. Wood v. Health Care & Retirement Corp. of Am.**



Franklin App. No. 97APE10-1398.

**98-1896. Yatsko v. Yatsko.**

Medina App. No. 2681-M.

Moyer, C.J., and Douglas, J., dissent.

**98-1902. State v. Thomas.**

Franklin App. Nos. 98AP-474 and 98AP-475.

**98-1921. State v. Hirsch.**

Hamilton App. No. C-970315.

**98-1922. Shutts v. Economy Machine & Tool N., Inc.**

Williams App. No. WM-98-004.

**98-1933. State v. Nemitz.**

Hamilton App. No. C-970561.

Moyer, C.J., and Cook, J., would allow on Propositions of Law Nos. III, IV, and V.

**98-1940. SuperAmerica Group, Div. of Ashland Oil, Inc. v. Licking Cty. Bd. of Elections.**

Licking App. No. 97CA00131.

**98-1941. State v. Beasley.**

Hamilton App. No. C-970959.

**98-1956. State v. Burley.**

Mahoning App. No. 93 C.A. 204.

**98-1958. In re Guardianship of Brunstetter.**

Trumbull App. No. 97-T-0089.

**98-1967. State v. Bowling.**

Hamilton App. No. C-970595.

**98-1972. State v. Brewer.**

Highland App. No. 98CA5.

**98-1975. State v. Driscoll.**

Hamilton App. No. C-970838.

Moyer, C.J., and Cook, J., would allow on Propositions of Law Nos. II, III, IV, and VI.

**98-2025. Schaffer v. Gateway Harvestore, Inc.**

Auglaize App. No. 2-98-03.

**98-2079. Schnitzler v. AgriGeneral Co., L.P.**

Marion App. No. 9-98-38.

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

**98-2128. State v. Knapp.**

Hamilton App. No. C-970690.

Moyer, C.J., and Cook, J., would allow on Propositions of Law Nos. III, IV, and V.

**98-2129. State v. Ingram.**

Hamilton App. No. C-970687.

Moyer, C.J., and Cook, J., would allow on Propositions of Law Nos. III, IV, and V.

**98-2130. State v. Grandstaff.**

Hamilton App. No. C-970684.

Moyer, C.J., and Cook, J., would allow on Propositions of Law Nos. III, IV, and V.

**98-2134. State v. Brown.**

Hamilton App. No. C-970693.

Moyer, C.J., and Cook, J., would allow on Propositions of Law Nos. III, IV, and V.

**DISCRETIONARY APPEALS ALLOWED**

**98-1751. United States Fid. & Guar. Co. v. St. Elizabeth Med. Ctr.**

Montgomery App. No. 16518.

Cook, J., dissents.

**98-1775. Perez v. Falls Fin., Inc.**

Summit App. Nos. 18334 and 18335.

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

**98-1779. State v. Conyers.**

Lucas App. No. L-97-1327. Discretionary appeal allowed; *sua sponte*, cause consolidated with 98-1929, *infra*.

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

**98-1807. In re Guardianship of Lombardo.**

Summit App. No. 18605. Discretionary appeal allowed on Propositions of Law Nos. I and II only.

F.E. Sweeney, Pfeifer and Lundberg Stratton, JJ., would allow all propositions of law.

Douglas, Resnick and Cook, JJ., dissent.

**98-1808. Richey v. Johnson & Hardin Co.**

Hamilton App. No. C-970767. Discretionary appeal allowed; *sua sponte*, cause held for the decision in 97-2723, *Johnson v. BP Chem., Inc.*, Allen App. No. 1-97-32; briefing schedule stayed.

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

**98-1826. Cole v. Am. Industries & Resources Corp.**

Jefferson App. No. 96JE51. On motion for admission *pro hac vice* of Melvin L. Moser and John H. Williams, Jr. Motion granted.

Cook and Lundberg Stratton, JJ., dissent.

Discretionary appeal allowed.

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

**98-1843. Rush v. Astro Container Co.**

Hamilton App. No. C-970759. Discretionary appeal allowed; *sua sponte*, cause held for the decision in 97-2723, *Johnson v. BP Chem., Inc.*, Allen App. No. 1-97-32; briefing schedule stayed.

**98-1855. Plumbers & Steamfitters Local Union 83 v. Union Local School Dist. Bd. of Edn.**

Belmont App. No. 97-BA-40.

Moyer, C.J., would allow on Proposition of Law No. III.

Cook and Lundberg Stratton, JJ., dissent.

**98-1915. H & D Steel Serv., Inc. v. Weston, Hurd, Fallon, Paisley & Howley.**  
Cuyahoga App. No. 72758.

Moyer, C.J., and Douglas, J., dissent.

**98-1929. State v. Schultz.**

Hamilton App. No. C-970954. Discretionary appeal allowed and cause consolidated with 98-1779, *supra*.

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

**98-1990. Allstate Ins. Co. v. Cole.**

Summit App. No. 18733.

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

### **DISCRETIONARY APPEALS NOT ALLOWED**

**98-1580. Maple Hts. v. Spearman.**

Cuyahoga App. No. 72988. On discretionary appeal and motion for stay. Appeal and motion denied.

Moyer, C.J., dissents.

**98-1723. Loyer v. Turner.**

Erie App. No. E-97-143.

Cook and Lundberg Stratton, JJ., dissent.

Resnick, J., not participating.

**98-1724. Butts v. Troy-Bilt Mfg. Co.**

Richland App. No. 97CA103.

Pfeifer, J., dissents.

**98-1728. State v. Foster.**

Ashland App. No. 98COA01247.

**98-1747. Ferbstein v. Silver.**

Summit App. No. 18684.

**98-1753. Kirk v. Mettler-Toledo, Inc.**

Franklin App. No. 97APE12-1647.

**98-1762. State v. Mason.**

Hamilton App. Nos. C-970391 and C-970392.

**98-1764. State v. Schoonover.**

Allen App. No. 1-97-54.

**98-1769. In re Claim of Richardson.**

Erie App. No. E-97-140.

**98-1771. Carey v. AK Steel Corp.**

Butler App. No. CA98-02-022.

F.E. Sweeney, J., dissents.

**98-1780. State v. Spain.**

Hamilton App. No. C-970564.

**98-1781. State v. Juarez.**

Hamilton App. No. C-970368.

**98-1787. Pond v. Thompson.**

Franklin App. No. 97APG12-1634.

**98-1791. Baldner v. G. & S. Titanium, Inc.**

Wayne App. No. 97CA0059.

Douglas, J., dissents.

**98-1803. Clark v. Crew.**

Summit App. No. 18706.

**98-1812. Shinaberry v. Toledo Edison Co.**

Lucas App. No. L-97-1389. The discretionary appeal is denied for want of four votes on the following vote:

F.E. Sweeney and Lundberg Stratton, JJ., vote to deny.

Moyer, C.J., and Pfeifer, J., vote to allow.

Douglas, Resnick and Cook, JJ., not participating.

**98-1813. McDonald v. Edwards.**

Cuyahoga App. Nos. 72698 and 72768.

**98-1817. Beder v. Cleveland Browns, Inc.**

Cuyahoga App. No. 72500.

Moyer, C.J., would allow on Proposition of Law No. I.

Douglas and Lundberg Stratton, JJ., would allow.

**98-1830. Thompson v. Thompson.**

Cuyahoga App. No. 74013.

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

**98-1834. Corbin v. Mosier.**

Union App. No. 14-97-47.

Douglas, J., dissents.

**98-1841. State v. Heck.**

Marion App. No. 9-98-12.

Pfeifer, J., dissents.

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

**98-1845. Bobash v. Toledo.**

Lucas App. No. L-97-1391.

Douglas and Resnick, JJ., dissent.

**98-1848. Swartz v. Toledo.**

Lucas App. No. L-98-1034.

Douglas and Pfeifer, JJ., dissent.

**98-1851. Stanovic v. Natl. City Corp.**

Summit App. No. 18784.

**98-1854. In re Estate of Haddad.**

Cuyahoga App. No. 72664.

Pfeifer and Lundberg Stratton, JJ., dissent.

**98-1858. Sciulli v. Rocky River.**

Cuyahoga App. No. 73716.

**98-1862. State v. Griffin.**

Hamilton App. Nos. C-970507 and C-970527.

**98-1875. Ohio Civ. Rights Comm. v. Kent State Univ.**  
Portage App. No. 97-P-0066.

**98-1876. Hollandsworth v. Hollandsworth.**  
Ashland App. No. 98COA01246.  
Lundberg Stratton, J., dissents.

**98-1887. Turton v. York Internatl.**  
Lorain App. No. 97CA006790. (Appeal of York International Corporation and cross-appeal by Jeffrey Turton.)

**98-1898. Day v. Beau Townsend Ford.**  
Montgomery App. No. 17001.  
Cook, J., dissents.

**98-1908. Randles v. Ohio Dept. of Transp.**  
Franklin App. No. 97API11-149.  
Resnick, J., dissents.

**98-1911. Thompson v. Thogus Products Co.**  
Cuyahoga App. No. 72840.  
Pfeifer, J., dissents.

**98-1919. Springfield Twp. v. Grable.**  
Summit App. No. 18832.  
Douglas, Resnick and Pfeifer, JJ., dissent.

**98-1924. Ratliff v. Ratliff.**  
Franklin App. No. 97APF10-1294.