

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

9:00 A.M.

WEDNESDAY
August 26, 1998

MERIT DOCKET

98-1171. State ex rel. Kurk v. Turner.

In Mandamus. *Sua sponte*, cause dismissed.

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

Douglas and Pfeifer, JJ., dissent.

98-1183. State ex rel. Harden v. Wilkinson.

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.

98-1193. State ex rel. Cornwell v. Mansfield Gen. Hosp. Records Dept.

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, Cook and Lundberg Stratton, JJ., concur.

Pfeifer, J., dissents.

98-1207. State ex rel. Williams v. Mengel.

In Mandamus and 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.

98-1229. Blackburn v. Petree.

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.

98-1251. State ex rel. Schnell v. McGimpsey.

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.

98-1262. State ex rel. Harman v. Waite.

In Procedendo. On motion to dismiss. Motion to dismiss sustained. Cause dismissed.

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

Cook, J., dissents.

98-1269. State v. McFarland.

Ross App. No. 97CA2322. 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.

98-1289. State ex rel. Costakos v. Donchatz.

In Mandamus. On motion to dismiss, motion to amend complaint, and motion to seal record of proceedings. Motion to dismiss sustained. Cause dismissed.

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

98-1318. State v. Jack.

Athens App. No. 97CA10. 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.

98-1319. State ex rel. Pohlable v. Wilkinson.

In Declaratory Judgment. 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.

98-1334. Thomas v. Mack.

In Habeas Corpus. *Sua sponte*, cause dismissed.

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

98-1336. State ex rel. Kleve v. Green Twp. Bd. of Trustees.

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.

98-1353. State ex rel. Taylor v. Bedford Hts. Police Dept.

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

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

Lundberg Stratton, J., dissents.

98-1385. Vich v. Tate.

In Habeas Corpus. *Sua sponte*, cause dismissed.

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

98-1398. State ex rel. Pilgrim v. Ohio Dept. of Rehab. & Corr.

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, Cook and Lundberg Stratton, JJ., concur.

Pfeifer, J., dissents.

98-1411. State ex rel. Hudson v. Ohio Adult Parole Auth.

In Prohibition. 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.

98-1418. Fetzer v. Morgan.

In Habeas Corpus. *Sua sponte*, cause dismissed.

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

98-1481. Key v. Mohr.

In Habeas Corpus. *Sua sponte*, cause dismissed.

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

98-1505. State ex rel. Beane v. Ohio Adult Parole Auth.

In Habeas Corpus. *Sua sponte*, cause dismissed.

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

98-1539. Russell v. Mitchell.

In Habeas Corpus. *Sua sponte*, cause dismissed.

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

98-1549. Bocook v. Huffman.

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**

98-1019. State v. Miller.

Hamilton App. No. C-950677.

98-1085. State v. Mock.

Cuyahoga App. No. 66682.

98-1086. State v. Griffin.

Cuyahoga App. No. 61436.

98-1152. State v. Marlowe.

Montgomery App. No. 14410.

MOTION DOCKET

97-1013. State ex rel. Toledo Blade Co. v. Hancock Cty. Bd. of Commrs.

In Mandamus. On bill and documentation in support of request for attorney fees. Attorney fees granted in the amount of \$5,628 plus costs of \$140.

98-206. Sasaki v. McKinnon.

Cuyahoga App. No. 71941. On motion for admission *pro hac vice* of J. Andrew Heaton. Motion granted.

98-449. State ex rel. LTV Steel Co. v. Conrad.

In Mandamus and Procedendo. On answer of respondents. *Sua sponte*, alternative writs granted.

98-547. State ex rel. McVay v. Indus. Comm.

In Mandamus. On request for oral argument. Request denied.

98-616. State v. Climaco, Climaco, Seminatore, Lefkowitz & Garofoli Co., L.P.A.

Franklin App. No. 97APA03-429. On joint motion to supplement the record. Motion granted.

98-980. State v. Campbell.

Franklin C.P. No. 97CR042020. On motion to provide transcript at state expense. Motion granted.

Lundberg Stratton, J., dissents.

98-1074. State v. Jalowiec.

Lorain App. No. 96CA006445. On motion to remand to trial court to complete record or, in the alternative, to stay proceedings. Motion denied.

F.E. Sweeney and Lundberg Stratton, JJ., dissent.

98-1280. State v. Ward.

Hamilton App. Nos. C-910878 and C-910881. On motion for leave to file delayed appeal. Motion denied.

98-1303. State v. Ross.

Clark App. Nos. 96CA53 and 96CA54. On motion for leave to file delayed appeal. Motion denied.

98-1309. State v. Jones.

Summit App. No. 18942. On motion for leave to file delayed appeal. Motion denied.

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

98-1329. State v. Nelson.

Clermont App. No. CA96-09-077. On motion for leave to file delayed appeal. Motion denied.

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

98-1342. State v. Sandlin.

Clermont App. No. CA97-10-092. On review of order certifying a conflict. The court determines that a conflict exists; the parties are to brief the issue stated in the court of appeals' order rendered on June 11, 1998, at pages 2-3:

"[W]hether a conviction for violation of R.C. 4511.19, which 'shall be considered a previous or subsequent conviction' pursuant to R.C. 2953.31(A), precludes a defendant from satisfying the statutory definition of a 'first offender' contained in R.C. 2953.31(A) even if the conviction sought to be expunged resulted from or was connected with the R.C. 4511.19 violation."

The conflict case is *State v. McGinnis* (1993), 90 Ohio App.3d 479, 629 N.E.2d 1084.

98-1354. State v. Glavic.

Lake App. No. 96-L-135. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

98-1359. State v. Brown.

Hamilton App. No. C-980060. On motion for leave to file delayed appeal. Motion granted.

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

98-1401. State v. Le.

Cuyahoga App. No. 74244. On motion for leave to file delayed appeal. Motion denied.

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

98-1402. State v. Turner.

Summit App. No. 18618. On motion for leave to file delayed appeal. Motion granted.

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

98-1413. State v. Corner.

Shelby App. No. 17-97-13. On motion for leave to file delayed appeal. Motion denied.

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

98-1424. Brecksville v. Linn.

Cuyahoga App. No. 72808. On motion to stay judgment of court of appeals. Motion denied.

98-1425. State v. Cooper.

Summit App. No. 18931. On motion for leave to file delayed appeal. Motion denied.

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

98-1452. State v. Jacks.

Licking App. No. 97CA3. On motion for leave to file delayed appeal. Motion denied.

98-1453. State v. Jacks.

Licking App. No. 95CA157. On motion for leave to file delayed appeal. Motion denied.

98-1456. State v. Ayers.

Franklin App. No. 89AP384. On motion for leave to file delayed appeal. Motion denied.

98-1460. Headley v. Ohio Govt. Risk Mgt. Plan.

Muskingum App. No. CT970022. On motion to consolidate with 98-856, *Headley v. Ohio Govt. Risk Mgt. Plan*, Muskingum App. No. CT970017, or, in the alternative, for stay. Motion to consolidate granted.

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

98-1464. State v. Kelly.

Medina App. No. 2670-M. On motion for delayed appeal. Motion granted.

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

98-1476. State v. Jenkins.

Stark App. No. 1998CA0082. On motion for leave to file delayed appeal. Motion denied.

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

98-1482. State v. Hill.

Hamilton App. No. C950581. On motion for leave to file delayed appeal. Motion denied.

98-1519. Sharwell v. Wimberly.

Cuyahoga App. No. 73299. On motion for stay. Motion denied.

98-1531. State v. Gress.

Montgomery App. No. 16899. On motion for stay. Motion denied.

RECONSIDERATION DOCKET

95-2303. State ex rel. Chaffins v. Indus. Comm.

Franklin App. No. 94APD091380. Reported at 82 Ohio St.3d 268, 695 N.E.2d 253. On motion for reconsideration. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

97-73. State ex rel. Boggs v. Springfield Local School Dist. Bd. of Edn.

Summit App. No. 16451. Reported at 82 Ohio St.3d 222, 694 N.E.2d 1346. On motion for reconsideration. Motion denied.

Lundberg Stratton, J., dissents.

Cook, J., not participating.

97-137. Buckeye Community Hope Found. v. Cuyahoga Falls.

Summit App. No. 17933. Reported at 82 Ohio St.3d 539, 697 N.E.2d 181. On motion for reconsideration. Motion denied.

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

97-231. State ex rel. Mallory v. Pub. Emp. Retirement Bd.

Franklin App. No. 96APD05-674. Reported at 82 Ohio St.3d 235, 694 N.E.2d 1356. On motions for reconsideration. Motions denied.

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

97-1112. Salem Med. Arts & Dev. Corp. v. Columbiana Cty. Bd. of Revision.

Board of Tax Appeals, No. 95-S-839. Reported at 82 Ohio St.3d 193, 694 N.E.2d 1324. On motion for reconsideration. Motion denied.

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

98-592. United Auto Workers Local Union 1112 v. Philomena.

Franklin App. Nos. 97APE01-100 and 97APE01-69. Reported at 82 Ohio St.3d 1450, 695 N.E.2d 1148. On motion for reconsideration. Motion denied.

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

98-876. Fioretti v. Lottery Channel, Inc.

Hamilton App. Nos. C-970320 and C-970321. Reported at 82 Ohio St.3d 1453, 695 N.E.2d 1150. On motion for reconsideration. Motion denied.

Douglas, J., dissents.

98-907. State v. Decker.

Lucas App. No. L-98-1088. Reported at 82 Ohio St.3d 1474, 696 N.E.2d 602. On motion for reconsideration. Motion denied.

98-911. Naragon v. Dayton Power & Light Co.

Shelby App. No. 17-97-21. Reported at 82 Ohio St.3d 1477, 696 N.E.2d 604. On motion for reconsideration. Motion denied.

Douglas, J., dissents.

98-1007. State v. Treen.

Ottawa App. No. OT-95-023. Reported at 82 Ohio St.3d 1474, 696 N.E.2d 602. On motion for reconsideration. Motion denied.

Resnick, J., not participating.