

**SUPREME COURT OF OHIO**

**COLUMBUS**

**ANNOUNCEMENT**

1:00 P.M.

WEDNESDAY  
March 17, 1999

**MERIT DOCKET**

**99-49. Allen v. Hedrick.**

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

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

**99-71. Berthelot v. Dezso.**

In Procedendo. On motion to dismiss or motion for summary judgment. Motion  
to dismiss sustained. Cause dismissed.

Resnick, F.E. Sweeney, Pfeifer, Cook and Lundberg Stratton, JJ., concur.

Moyer, C.J., and Douglas, J., dissent and would grant an alternative writ and  
consolidate this cause with 99-359, *infra*.

**99-126. State ex rel. Davet v. Griffin.**

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.

**99-163. State ex rel. Rodgers 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.

**99-202. State ex rel. Shie v. Leonard.**

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 and Cook, JJ., concur.  
Lundberg Stratton, J., dissents and would grant an alternative writ.

**99-341. Donnell v. Weaver.**

In Prohibition. *Sua sponte*, cause dismissed.

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

Resnick, J., not participating.

**98-369. Butler v. Wilkerson.**

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**

**98-2465. State v. Thompson.**

Hancock App. No. 5-98-25.

**98-2497. State v. Owen.**

Butler App. No. CA97-12-229.

**98-2515. State v. Walkowicz.**

Delaware App. No. 98CAC03015.

Pfeifer, J., dissents.

**98-2520. State v. Harris.**

Cuyahoga App. No. 72767.

**98-2550. State v. Brown.**

Huron App. No. H-97-048.

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

Resnick, J., not participating.

**98-2571. State v. Wells.**

Cuyahoga App. No. 73481.

**98-2574. State v. Trif.**

Cuyahoga App. No. 72965.

**98-2576. State v. Johnson.**

Ross App. No. 98CA2397.

**98-2578. Pritt v. Edward J. DeBartolo Corp.**

Cuyahoga App. No. 73872.

**98-2580. State v. Ferrell.**

Clark App. No. 97CA114.

**98-2582. State v. Ayala.**

Franklin App. Nos. 98AP-349 and 98AP-350.

**98-2591. State v. Goodrich.**

Greene App. No. 98CA101.

**98-2601. Smith v. Goodwill Industries of the Miami Valley, Inc.**

Montgomery App. No. 16906.

**98-2602. Am. Rock Mechanics, Inc. v. Paul A. Stradtman Constr., Inc.**

Cuyahoga App. No. 72944.

**98-2604. State v. Sherrills.**

Cuyahoga App. No. 56777.

**98-2605. State v. Graham.**

Sandusky App. No. S-97-050.

**98-2608. State v. Boyd.**

Franklin App. No. 97APA12-1640.

**98-2611. State v. Davis.**

Cuyahoga App. No. 72920.

**98-2617. State v. Evans.**

Cuyahoga App. No. 72330.

Moyer, C.J., dissents.

**98-2619. State v. Moore.**

Greene App. No. 97CA137.

Moyer, C.J., dissents.

**98-2621. Farago v. Panini's Internatl., Inc.**

Cuyahoga App. No. 73463.

**98-2622. State v. Hooks.**

Montgomery App. Nos. 16978 and 17007.

Pfeifer, J., dissents.

**98-2623. Stover v. Erie Islands Resort & Marina.**

Ottawa App. No. OT-97-056.

**98-2626. Krain v. State Med. Bd. of Ohio.**

Franklin App. No. 97APE08-981.

Douglas and Resnick, JJ., dissent.

**98-2628. Wilson v. Palsa.**

Richland App. No. 97CA101.

**98-2633. State v. Tissandier.**

Clinton App. No. CA98-06-017.

**98-2635. State v. Crawford.**

Montgomery App. No. 16830.

**98-2639. State v. Young.**  
Darke App. No. 98CA1464.

**98-2645. State v. Mays.**  
Cuyahoga App. No. 73376.

**98-2650. Alpha Heat Treating Co. v. Devontenno.**  
Cuyahoga App. No. 73433.  
Lundberg Stratton, J., dissents.

**98-2652. Raceway Park, Inc. v. Ohio State Racing Comm.**  
Lucas App. No. L-98-1160.

**98-2670. State v. Reeves.**  
Hamilton App. No. C-980127.

**98-2677. Owens v. Boulevard Motel Corp.**  
Franklin App. No. 97APE12-1728.

**98-2681. Watson v. Cleaners Hanger Co.**  
Cuyahoga App. No. 74314.

**98-2682. State v. Robinson.**  
Cuyahoga App. No. 73523.

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

**98-2684. State v. Turner.**  
Stark App. No. 1998CA00018.

**98-2715. State v. Johnson.**  
Lorain App. No. 97CA006798.

**99-41. State v. Patterson.**  
Muskingum App. No. CT970035.

**99-310. Procter & Gamble Co. v. Stoneham.**  
Hamilton App. No. C-990030.  
Douglas, J., dissents.

Moyer, C.J., not participating.

**MOTION DOCKET**

**97-225. State ex rel. Roberds, Inc. v. Conrad.**

Franklin App. No. 96APD02-213. On request for oral argument. Request denied.

**98-1607. Hillyer v. State Farm Ins. Co.**

Lake App. No. 97-L-031. On response to show cause order. Show cause dismissed.

**98-2704. State ex rel. Suburban Constr. Co. v. Skok.**

Lake App. No. 98-L-116. On request for oral argument. Request denied.

**99-8. State v. Willis.**

Mahoning App. No. 95CA237. On motion to withdraw as counsel. Motion granted.

Cook, J., would also remand for appointment of counsel.

**99-279. State v. Stanley.**

Allen App. No. 1-96-11. On motion for leave to file delayed appeal. Motion denied.

Lundberg Stratton, J., dissents.

**99-298. State v. Blue.**

Lucas App. No. L-98-1362. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

Resnick, J., not participating.

**99-304. State v. Simms.**

Summit App. No. 17629. On motion for leave to file delayed appeal. Motion denied.

**99-318. State v. Burgess.**

Stark App. No. 1998CA00053. On motion for leave to file delayed appeal. Motion denied.

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

**99-351. Glendale Fed. Bank v. Brown.**

Montgomery App. No. 17068. On motion to continue stay. Motion denied.  
F.E. Sweeney, J., dissents.

**99-359. Berthelot v. Dezso.**

Summit App. No. 19349. On motion to consolidate with 99-71, *supra*. Motion denied.  
Moyer, C.J., and Douglas, J., dissent.

**DISCRETIONARY APPEALS ALLOWED**

**98-2495. Moore v. State Auto. Mut. Ins. Co.**

Huron App. No. H-98-012.

Moyer, C.J., dissents.

Cook and Lundberg Stratton, JJ., would hold this cause for the decision in 98-2452, *Clark v. Forney*, Sandusky App. No. S-97-053, and 98-2110, *Leisure v. State Farm Auto. Ins. Co.*, Stark App. Nos. 1997CA00417 and 1998CA00001.

Peggy Bryant, J., of the Tenth Appellate District, sitting for Resnick, J.

**98-2507. Crowe v. Owens Corning Fiberglas.**

Cuyahoga App. No. 73206. Discretionary appeal allowed; *sua sponte*, cause held for the decision in 97-2419, *State ex rel. Ohio Academy of Trial Lawyers v. Sheward*; briefing schedule stayed.

**98-2521. C.I.V.I.C. Group v. Warren.**

Trumbull App. No. 98-T-0001. Discretionary appeal allowed; *sua sponte*, oral argument to be scheduled for the same date as that in 98-2572, *Home Bldrs. Assn. of Dayton & the Miami Valley v. Beavercreek*, Greene App. Nos. 97CA113 and 97CA115.

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

**98-2598. State v. Swartz.**

Butler App. No. CA98-06-120.

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

**98-2688. State v. Chintalapalli.**

Erie App. No. E-97-148.

Cook, J., dissents.

Resnick, J., not participating.

## **DISCRETIONARY APPEALS NOT ALLOWED**

**98-2464. Glenwood Homes, Ltd. v. State Auto Mut. Ins. Co.**

Cuyahoga App. No. 72856. (Cross-appeal of Emanuel Diligente.)

Douglas, J., would allow the cross-appeal.

**98-2559. LeJeune v. Crocker Shell Food Mart & Car Wash.**

Cuyahoga App. No. 74262.

**98-2561. Robinson v. Motta.**

Cuyahoga App. No. 73220.

**98-2581. Leister v. Leister.**

Delaware App. No. 97CAF07027.

**98-2592. Eichenberger v. Eichenberger.**

Franklin App. No. 97APF12-1599.

Lundberg Stratton, J., not participating.

**98-2594. Gillin v. Indiana Ins. Co.**

Montgomery App. No. 17108.

Douglas and Resnick, JJ., dissent.

**98-2596. Vontsolos v. Stewart.**

Clermont App. No. CA98-05-032. (Appeal of State Automobile Mutual Insurance Company and cross-appeal of Abbey, Rebecca, and Michael Vontsolos.)

**98-2606. Galat v. Hamilton City School Dist. Bd. of Edn.**

Butler App. No. CA98-01-017.

Douglas, Resnick and Pfeifer, JJ., dissent.

**98-2609. Eve v. Johnson.**

Hamilton App. Nos. C-980395 and C-980522.

Douglas and Resnick, JJ., dissent.

**98-2612. Reich v. Wayne Mut. Ins. Co.**

Wayne App. No. 97CA0071.

Resnick and Pfeifer, JJ., dissent.



**98-2618. Pacific Great Lakes Corp. v. Bessemer & Lake Erie RR.**

Cuyahoga App. No. 70394. On discretionary appeal and motion for admission *pro hac vice* of Thomas E. Gilbertsen. Appeal and motion denied.

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

**98-2624. Peter v. Sterling-Mead Dev. Co.**

Hamilton App. No. C-971103.

Moyer, C.J., dissents.

**98-2665. Riffle v. AkkoFasteners, Inc.**

Hamilton App. No. C-980016.

**98-2673. Segal v. Folkers.**

Hamilton App. Nos. C-970986 and C-970993.

Douglas, J., dissents.

**98-2676. Wilson v. Procter & Gamble.**

Hamilton App. No. C-970778.

F.E. Sweeney, J., dissents.

Moyer, C.J., not participating.

**98-2699. Dieterich v. PCC Airfoils, Inc.**

Cuyahoga App. Nos. 73149, 73150, 73151, 73402, 73403 and 73404.

Douglas, Resnick and Pfeifer, JJ., dissent.

**98-2707. State v. Derkson.**

Hamilton App. No. C-971046.

Moyer, C.J., would allow on Proposition of Law No. IV and hold this cause for the decision in 98-2603, *State v. Edmonson*, Portage App. No. 97-P-0067.

**98-2722. In re Change of Name of Morton to Piazza.**

Greene App. No. 98CA14.

**RECONSIDERATION DOCKET**

**96-2804. State ex rel. Hinds v. Indus. Comm.**

Franklin App. No. 95APD12-1598. Reported at 84 Ohio St.3d 424, \_\_\_\_ N.E.2d \_\_\_\_\_. On motion for reconsideration. Motion denied.

Douglas and Resnick, JJ., dissent.

**97-2380 and 97-2510. Kaiser v. Ameritemps, Inc.**

Summit App. No. 18205. Reported at 84 Ohio St.3d 411, \_\_\_ N.E.2d \_\_\_. On *amicus curiae* motion for leave to file under S.Ct.Prac.R. XI. Motion denied.

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

**98-579 and 98-774. Planet Earth Entertainment, Inc. v. Ohio Liquor Control Comm.**

Franklin App. No. 97APE06-744. Reported at 84 Ohio St.3d 1500, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.

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

**98-2323. State ex rel. Lamp v. Indus. Comm.**

In Mandamus. Reported at 84 Ohio St.3d 1481, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.

**98-2348. State v. Love.**

Cuyahoga App. No. 75106. Reported at 84 Ohio St.3d 1483, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.

**98-2406. Cuyahoga Child Support Enforcement Agency ex rel. Drews v. Ambrosi.**

Cuyahoga App. No. 73761. Reported at 84 Ohio St.3d 1484, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion granted and discretionary appeal allowed.

Moyer, C.J., F.E. Sweeney and Cook, JJ., dissent.

**98-2407. McBroom v. Techneglas, Inc.**

Franklin App. No. 98AP-207. Reported at 84 Ohio St.3d 1502, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.

**98-2435. Hillabrand v. Drypers Corp.**

Marion App. No. 9-98-23. Reported at 84 Ohio St.3d 1484, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion granted and discretionary appeal allowed.

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

Cook, J., would consolidate this cause with 98-2444, *Hillabrand v. Drypers Corp.*, Marion App. No. 9-98-18.

**98-2615. State ex rel. Howard v. Weiher.**

Lucas App. No. L-98-1344. Reported at 84 Ohio St.3d 1500, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.

Resnick, J., not participating.