

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

9:00 A.M.

WEDNESDAY

April 21, 1999

MERIT DOCKET

98-1017. State ex rel. Eckstein v. Midwest Pride IV, Inc.

Fayette App. Nos. CA97-03-007 and CA97-04-011. On motion to dismiss. Motion to dismiss sustained. Cause dismissed as moot.

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

99-141. Pankey v. Ohio Adult Parole Auth.

Franklin App. No. 98AP-1120. On motion to dismiss. Motion to dismiss sustained. Cause dismissed.

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

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

99-177. Harless v. State.

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

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

99-332. State ex rel. Taylor v. Burt.

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.

99-367. State ex rel. Brewer v. Eighth Dist. Court of Appeals.

In Mandamus. On motion for summary judgment and 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.

99-386. State ex rel. Koblitz v. Fuerst.

In Mandamus. *Sua sponte*, cause dismissed.

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

99-387. State ex rel. Abelt v. Eighth Dist. Court of Appeals.

In Procedendo. 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 and would grant the writ.

99-540. Hart v. Wilkerson.

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

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

99-560. Davis 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.

99-594. Montecalvo v. Montecalvo.

Trumbull App. No. 98-T-0175. 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.

Douglas, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

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

**DISMISSALS, SUA SPONTE, NO SUBSTANTIAL
CONSTITUTIONAL QUESTION AND DISCRETIONARY
APPEALS, IF APPLICABLE, NOT ALLOWED**

99-88. State v. Montesi.

Hamilton App. No. C-970858.

Lundberg Stratton, J., dissents.

99-89. State v. Hartman.

Hamilton App. No. C-971035.

Lundberg Stratton, J., dissents.

99-90. Caron v. Caron.

Franklin App. No. 98AP-369.

Lundberg Stratton, J., dissents, would allow this cause, and would reverse the judgment of the court of appeals on authority of *Cuyahoga Support Enforcement Agency v. Guthrie* (1999), 84 Ohio St.3d 437, ___ N.E.2d ___.

99-97. Roe v. Shaia Parking, Inc.

Cuyahoga App. No. 73756.

99-99. Miller v. Leesburg.

Franklin App. Nos. 97APE10-1379 and 97APE10-1380.

Moyer, C.J., dissents.

Lundberg Stratton, J., not participating.

99-104. State v. Gulertekin.

Franklin App. No. 97APA12-1607. On appeal of Fugen Gulertekin. Appeal denied.

On cross-appeal of state of Ohio (felony only). Cross-appeal denied.

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

99-113. Black v. Pheils.

Wood App. No. WD-98-029.

Resnick, J., not participating.

99-114. State v. Caudill.

Hancock App. No. 5-97-35.

99-116. State v. Schultz.

Pickaway App. No. 98CA07.

99-117. State v. Boyd.

Lucas App. No. L-97-1366.

Resnick, J., not participating.

99-121. State v. Vroman.

Ross App. No. 98CA2404.

99-127. State v. Adelman.

Summit App. No. 18824.

99-130. State v. Gamboa.

Cuyahoga App. No. 72986.

99-136. State v. Mirmohamed.

Franklin App. No. 97APA11-1492.

Douglas, J., would allow.

Moyer, C.J., and Cook, J., would allow on Proposition of Law No. I and hold this cause for the decision in 98-2, *State v. Rance*, Lucas App. No. L-96-277.

99-137. State v. Scudder.

Franklin App. No. 97APA12-1642.

99-142. Houk v. State Farm Mut. Auto. Ins. Co.

Williams App. No. WM-98-014.

Douglas and Pfeifer, JJ., dissent.

Resnick, J., not participating.

99-145. State v. Bias.

Hamilton App. No. C-980165.

99-147. State v. Huntsman.

Stark App. No. 98CA0012.

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

99-148. State v. Pitchford.

Cuyahoga App. No. 73795.

99-155. State v. Dotson.

Summit App. No. 19053.

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

99-170. FOE Aerie 0895 v. Ohio Liquor Control Comm.

Lawrence App. No. 98CA09.

99-171. State v. Young.

Medina App. No. 2818-M.

99-173. State v. Epps.

Cuyahoga App. No. 73308.

99-175. State v. Hutton.

Lucas App. No. L-98-1199.

Douglas, J., dissents.

Resnick, J., not participating.

99-178. State v. Freeman.

Cuyahoga App. Nos. 73784, 73785, 73786 and 73787.

99-179. Bryant v. Conrad.

Cuyahoga App. No. 73408.

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

99-187. State v. Erwin.

Perry App. No. CA9766.

99-188. State v. Wilson.

Cuyahoga App. No. 72165.

99-189. State v. Gau.

Lake App. No. 97-L-197.

99-193. Napier v. Middletown.

Butler App. No. CA98-06-128.

Resnick, J., dissents.

99-194. State v. Slocum.

Mahoning App. No. 97CA168.

99-195. State v. Simpson.

Cuyahoga App. No. 75527.

99-198. State v. Johnson.

Cuyahoga App. No. 72541.

99-207. In re Grand Jury.

Huron App. No. H-98-034.

Pfeifer, J., dissents.

Resnick, J., not participating.

99-208. State v. Wells.

Hamilton App. No. C-980296.

99-217. State v. Platt.

Summit App. No. 18835.

Douglas, J., dissents.

99-221. State v. Fox.

Cuyahoga App. No. 74641.

99-227. State v. Loper.

Cuyahoga App. No. 73578.

99-241. State v. Sharpless.

Portage App. No. 97-P-0065.

99-259. State v. Owens.

Cuyahoga App. No. 73889.

99-308. State v. Riegel.

Delaware App. No. 98CA32.

Douglas, J., dissents.

99-366. State v. Thomas.
Montgomery App. No. CA11861.

99-409. State v. Davis.
Clark App. No. 96CA116.

99-412. State v. Bishop.
Summit App. No. 18564.

99-414. State v. Lambert.
Richland App. No. 97CA342.

MOTION DOCKET

96-536. State v. Henness.
Franklin App. No. 94APA02-240. On motion for stay of execution scheduled for May 3, 1999. Stay granted for six months.
Pfeifer, J., dissents.

98-2144. State v. Weitbrecht.
Holmes App. No. 97CA588. On motion to strike brief of *amicus curiae* Ohio Association of Criminal Defense Lawyers. Motion denied.

98-2251. True Christianity Evangelism v. Tracy.
Board of Tax Appeals, No. 96-K-904. On request for argument before full court. Request denied.

98-2252. Maxxim Med., Inc. v. Tracy.
Board of Tax Appeals, No. 94-X-224. On request for argument before full court. Request denied.

99-395. State v. Myers.
Greene App. No. 96CA38. On motion to withdraw as counsel and request for expedited ruling. Motion granted, cause remanded to court of appeals for appointment of counsel, and appellant's brief due ninety days after the appointment of counsel.
Douglas, J., dissents.

99-423. State v. Sledge.

Summit App. No. 19258. On motion for leave to file delayed appeal. Motion denied.

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

99-426. State v. Randall.

Clark App. No. 96CA0091. On motion for leave to file delayed appeal. Motion granted.

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

99-434. State v. Freeman.

Hamilton App. No. C-970945. On motion for leave to file delayed appeal. Motion denied.

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

99-454. State v. Martinson.

Lucas App. No. L-98-1402. On motion for leave to file delayed appeal. Motion denied.

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

99-465. State v. Ware.

Licking App. No. 98109. On motion for leave to file delayed appeal. Motion denied.

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

99-466. State v. Fox.

Franklin App. No. 98AP-1348. On motion for leave to file delayed appeal. Motion denied.

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

99-467. State v. Varner.

Franklin App. No. 98AP-1218. On motion for leave to file delayed appeal. Motion denied.

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

99-480. State v. Pena.

Lorain App. No. 98CA007229. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

99-490. State v. Deen.

Montgomery App. No. 13224. On motion for leave to file delayed appeal. Motion denied.

99-492. State v. Bates.

Cuyahoga App. No. 71920. On motion for leave to file delayed appeal. Motion denied.

DISCRETIONARY APPEALS ALLOWED

98-2475. State v. Bugert.

Lucas App. No. L-98-1040. *Sua sponte*, cause held for the decision in 98-1779, *State v. Conyers*, Lucas App. No. L-97-1327; briefing schedule stayed.

98-2477. State v. Esmond.

Lucas App. No. L-98-1132. *Sua sponte*, cause held for the decision in 98-1779, *State v. Conyers*, Lucas App. No. L-97-1327; briefing schedule stayed.

99-146. Estate of Dillard v. Liberty Mut. Ins. Co.

Stark App. No. 1998CA00161. *Sua sponte*, cause held for the decision in 98-442, *Scott-Pontzer v. Liberty Mut. Fire Ins. Co.*, Stark App. No. 1997CA00152; briefing schedule stayed.

99-159. Mossing v. State Farm Ins. Co.

Lucas App. No. L-98-1052.

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

99-181. Gucciardo v. Stow City School Dist.

Summit App. No. 18945.

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

99-206. Humphrey v. Lane.

Hocking App. No. 98CA4.

F.E. Sweeney, J., dissents.

99-243. State v. Livingston.

Hamilton App. No. C-980301. Discretionary appeal allowed; *sua sponte*, cause held for the decision in 98-1612, *State v. Hughes*, Stark App. No. 97CA0356; briefing schedule stayed.

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

99-269. State v. Simon.

Cuyahoga App. No. 74248.

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

99-291. Ohio Atty. Gen. v. John Doe 26.

Franklin App. Nos. 98AP-534 and 98AP-623. On discretionary appeal and on motion for admission *pro hac vice* of Edward B. Foley. Appeal allowed and motion granted.

On motion to dismiss case against John Doe #54. Motion denied.

DISCRETIONARY APPEALS NOT ALLOWED

98-207. Tanzi v. Nahigian.

Cuyahoga App. No. 71872.

99-107. State v. Walcy.

Portage App. No. 97-P-0075.

99-115. Barnes v. North Shore Car Wash.

Cuyahoga App. No. 73142.

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

99-143. Neal v. McGill Septic Tank Co.

Trumbull App. No. 98-T-0022.

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

99-151. Cuervo v. Snell.

Franklin App. No. 98AP-110.

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

99-152. Deters v. Briggs.

Hamilton App. No. C-971033.

99-153. Nationwide Mut. Fire Ins. Co. v. Pendrey.

Lucas App. No. L-98-1101.

99-172. State v. Buttrom.

Hamilton App. No. C-970406.

99-174. Macko v. W. Res. Water Dist.

Medina App. No. 2774-M.

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

99-176. Hinte v. Echo, Inc.

Franklin App. No. 98AP-105.

Lundberg Stratton, J., not participating.

99-185. Sash & Storm, Inc. v. Thompson.

Allen App. No. 19-8-47.

Resnick, J., dissents.

99-197. In re Waste Technologies Industries.

Franklin App. No. 98AP-220.

99-203. State v. Deem.

Summit App. No. 19111.

99-204. Rozzi v. CSX Transp.

Mahoning App. No. 96CA8.

Lundberg Stratton, J., dissents.

99-220. Vorum v. Joy Outdoor Education Ctr.

Warren App. No. CA98-06-072.

99-233. Allstate Ins. Co. v. Ray.

Mahoning App. No. 96CA20.

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

99-236. Franklin Twp. v. Meadows.

Summit App. Nos. 18683 and 18751.

99-237. Firsdon v. Mid-American Natl. Bank & Trust Co.

Wood App. No. WD-98-035.

Douglas and Pfeifer, JJ., dissent.

99-240. Moritz v. S. Ohio Correctional Facility.

Franklin App. No. 98AP-574.

Douglas, J., dissents.

99-314. State v. Rohr.

Summit App. No. 18908.

RECONSIDERATION DOCKET

98-1814. State ex rel. Bona v. Orange.

Cuyahoga App. No. 74790. Reported at 85 Ohio St.3d 18, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

Pfeifer, J., dissents.

98-2497. State v. Owen.

Butler App. No. CA97-12-229. Reported at 85 Ohio St.3d 1423, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

98-2604. State v. Sherrills.

Cuyahoga App. No. 56777. Reported at 85 Ohio St.3d 1424, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

98-2617. State v. Evans.

Cuyahoga App. No. 72330. Reported at 85 Ohio St.3d 1424, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

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

Franklin App. No. 97APE08-981. Reported at 85 Ohio St.3d 1425, ___ N.E.2d ___. On motion for reconsideration and on motion for stay of court of common pleas' judgment. Motions denied.

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

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

In Mandamus. Reported at 85 Ohio St.3d 1423, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

99-341. Donnell v. Weaver.

In Prohibition. Reported at 85 Ohio St.3d 1423, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

Douglas and Resnick, JJ., not participating.

ADMINISTRATIVE DOCKET

1. Amendments to Gov.Bar R. I (Admission to the Practice of Law; Multistate Performance Test; Subjects on Essay Portion of Bar Examination) and to the Rules of the Ohio Board of Bar Examiners (Multistate Performance Test) were adopted, effective June 1, 2000.