

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

1:00 P.M.

WEDNESDAY

May 12, 1999

MERIT DOCKET

99-470. State ex rel. Hammitt v. Jensen.

In Mandamus. On answer of respondent and motion for judgment on pleadings. Answer treated as motion to dismiss. Motion to dismiss sustained. Cause dismissed.

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

Lundberg Stratton, J., would deny the writ as moot.

Resnick, J., not participating.

99-611. State ex rel. Childs v. Wingard.

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

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

99-622. Justice v. Konteh.

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

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

99-623. Pilgrim v. Ohio Dept. of Rehab. & Corr.

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

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

99-629. Rand 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.

99-650. Ganger v. Mack.

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

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

99-726. Townsend v. Mack.

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**

99-267. State v. Sanders.

Ashtabula App. No. 97-A-0049.

Moyer, C.J., dissents.

99-274. State v. Treesh.

Lake App. No. 97-L-080.

99-277. State v. Laws.

Franklin App. No. 98AP-306.

99-280. State v. Lundgren.

Lake App. No. 97-L-198.

99-297. DiFranco v. Palmquist.

Medina App. No. 2746-M.

Resnick, J., dissents.

99-309. State v. Pirtle.

Franklin App. No. 97APA10-1405.

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

99-313. State v. Tisdale.

Cuyahoga App. No. 74331.

99-325. State v. Landrum.

Ross App. No. 98CA2401.

Pfeifer, J., dissents.

99-327. State v. Lasher.

Cuyahoga App. No. 73085.

99-331. State v. Harrel.

Delaware App. No. 98CAA06029.

99-333. Whitehall ex rel. Fennessy v. Bambi Motel, Inc.

Franklin App. No. 98AP-384.

Douglas, J., dissents.

99-336. State v. Jordan.

Cuyahoga App. No. 73364.

99-337. Grace v. Koch.

Hamilton App. No. C-980992.

99-343. State v. Lane.

Hamilton App. No. C-970776.

99-346. State v. Raimer.

Geauga App. Nos. 97-G-2119, 97-G-2120 and 97-G-2121.

99-350. State v. Thompson.

Warren App. No. CA98-05-056.

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

Montgomery App. No. 17068.

99-353. State v. Alfieri.

Hamilton App. Nos. C-970490 and C-970526.

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

99-356. State v. Compton.

Lake App. No. 97-L-010.

99-363. State v. Fautenberry.

Hamilton App. No. C-971017.

Pfeifer, J., dissents.

99-364. Alkop, Inc. v. Ottawa Cty. Aud.

Ottawa App. No. OT-98-001.

Resnick, J., not participating.

99-373. State v. Fisher.

Delaware App. No. 98CAA07036.

Cook, J., would allow on Proposition of Law No. I.

Moyer, C.J., would allow.

99-375. State v. Powell.

Lake App. No. 97-L-253.

99-383. Ritchie v. Ritchie.

Warren App. No. CA98-05-063.

99-385. Austin v. Peterson.

Medina App. No. 2735-M.

99-390. In re Thornburg.

Franklin App. No. 98AP-466.

99-398. State v. Haynes.

Hamilton App. Nos. C-970809 and C-970821.

99-402. State v. Bettem.

Belmont App. No. 96BA39.

99-416. Cory v. Ohio Constr. Industry Examining Bd.

Franklin App. No. 98AP-1360.

Pfeifer, J., dissents.

99-449. State v. Dickason.

Stark App. No. 1997CA00370.

99-483. State v. Davis.

Hamilton App. Nos. C-950459 and C-950502.

MOTION DOCKET

96-2832. State ex rel. Crosset Co. v. Conrad.

Franklin App. No. 95APD10-1300. On request for oral argument. Request granted.

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

98-1203. State ex rel. Rothkegel v. Westlake.

Franklin App. No. 97APD04-505. On motion for *sua sponte* remand. Motion denied.

98-1209. State v. Sanders.

Hamilton App. No. C-960253. On second *pro se* motion for removal of counsel and motion for appointment of counsel. Motions denied.

98-2102. Chicago Title Ins. Co. v. Huntington Natl. Bank.

Delaware App. No. 98CAE03018. On motion for admission *pro hac vice*. Motion granted.

98-2456. Ormet Primary Aluminum Corp. v. Emp. Ins. Co. of Wausau.

Monroe App. No. 808. On motion for admission *pro hac vice*. Motion granted.

98-2584. State v. Holt.

Franklin App. No. 97APA10-1361. On motion for leave to file delayed appeal. Motion denied.

Moyer, C.J., dissents.

98-2694. State ex rel. Bray v. Russell.

Warren App. No. CA98-06-068. On motion for admission *pro hac vice*. Motion granted.

99-184. Ameritech Ohio v. Pub. Util. Comm.

Public Utilities Commission, No. 96-922-TP-UNC. On motion for leave to intervene. Motion granted.

Resnick, J., not participating.

99-442. State ex rel. Strothers v. Colon.

Cuyahoga App. No. 74916. On request for oral argument. Request denied.

99-542. White v. Konteh.

Trumbull App. No. 99-T-0020. On motion to remand to court of appeals to appoint counsel or motion to appoint counsel. Motion to appoint counsel granted, and the Public Defender's Office is appointed; *sua sponte*, cause consolidated for oral argument with 98-2694, *State ex rel. Bray v. Russell*, Warren App. No. CA98-06-068, and 99-273, *Haddad v. Russell*.

99-589. State v. Jones.

Stark App. No. 1997CA0438. On motion for leave to file delayed appeal. Motion denied.

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

99-591. State v. Singleton.

Hamilton App. No. C-970757. On motion for leave to file delayed appeal. Motion denied.

99-593. State v. Saffell.

Wayne App. No. 2928. On motion for leave to file delayed appeal. Motion denied.

99-602. State v. Cobb.

Richland App. No. 98CA37. On motion for leave to file delayed appeal. Motion denied.

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

99-610. State v. Haddix.

Stark App. No. 95CA0175. On motion for leave to file delayed appeal. Motion denied.

99-627. Wellston v. Pendleton.

Jackson App. No. 98CA826. On motion to continue stay. Motion granted.

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

99-628. State v. Finley.

Cuyahoga App. No. 75362. On motion for leave to file delayed appeal. Motion denied.

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

99-637. State v. Studer.

Seneca App. No. 13-98-46. On motion for stay. Motion denied.

99-651. State v. Caver.

Stark App. No. 1997CA00252. On motion for leave to file delayed appeal. Motion granted.

F.E. Sweeney, J., dissents.

99-671. Pope v. Univ. Settlement, Inc.

Cuyahoga App. No. 73946. On motion for stay. Motion denied.

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

DISCRETIONARY APPEALS ALLOWED

99-316. State ex rel. McCleary v. Roberts.

Franklin App. No. 98AP-224.

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

99-330. Vinci v. Helmbach.

Cuyahoga App. Nos. 73440 and 73464.

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

99-340. Upper Valley Med Centers v. Reinhart.

Miami App. No. 98CA12. *Sua sponte*, cause held for the decision in 97-2419, *State ex rel. Ohio Academy of Trial Lawyers v. Sheward*; briefing schedule stayed.

99-411. Taylor v. London.

Madison App. No. CA98-06-024.

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

DISCRETIONARY APPEALS NOT ALLOWED

99-275. Cleveland Constr., Inc. v. Carr.

Ashtabula App. No. 98-A-0002.

99-276. Lakota v. Westfield Ins. Co.

Cuyahoga App. No. 72871.

Douglas, Resnick and Pfeifer, JJ., dissent.

99-281. Tandon v. Tandon.

Jefferson App. No. 98JE41.

99-285. RJK Partnership v. Wesley.

Adams App. No. 98CA664.

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

99-292. Strader v. Johnson.

Franklin App. No. 98AP-202.

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

99-295. Sohi v. Ohio State Dental Bd.

Hamilton App. No. C-970739.

99-320. Oakar v. Ohio Dept. of Transp.

Franklin App. No. 98AP-322.

99-322. Hussey v. Daum.

Montgomery App. No. CA17148.

99-326. Lewis v. Peoples Cartage, Inc.

Stark App. No. 1998CA00081.

Douglas, Resnick and Pfeifer, JJ., dissent.

99-335. Hylton v. Summers.

Summit App. No. 18520.

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

99-338. Sharon Ent., Inc. v. Kenworth of Cincinnati, Inc.

Hamilton App. No. C-971109.

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

99-349. Levine v. Levine.

Franklin App. No. 98AP-273.

99-352. Wille v. Hunkar Laboratories, Inc.

Hamilton App. No. C-971107.

Douglas, J., dissents.

99-354. The Bergman Group, Inc. v. Carolina Trace L.P.

Hamilton App. Nos. C-980054 and C-980073.

99-355. Darnell v. Pub. Emp. Retirement Sys. of Ohio.

Franklin App. Nos. 98AP-303 and 98AP-305.

Resnick, J., dissents.

99-358. White v. Bekins Van Lines.

Montgomery App. No. 17159.

Douglas, J., dissents.

99-360. Southwest Ohio Regional Transit Auth. v. Amalgamated Transit Union, Local 627.

Hamilton App. No. C-970967. Discretionary appeal denied and motion for admission *pro hac vice* denied.

Douglas and Resnick, JJ., dissent.

99-368. State v. Jones.

Hamilton App. No. C-980270.

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

99-374. David Raischel, Inc. v. Eastlake.

Lake App. No. 97-L-280.

Moyer, C.J., dissents.

99-377. Smith v. Ohio Edison, Inc.

Clark App. No. 98CA37.

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

Cook, J., not participating.

99-384. Hutchinson v. Wenzke.

Montgomery App. No. 16678.

Douglas, J., would allow on Proposition of Law No. III.

99-389. State v. Skilwies.

Montgomery App. No. 17077.

99-399. Willoughby v. AK Steel Corp.

Butler App. No. CA98-02-040.

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

99-400. Sheppard v. Strongwall Concrete Co.

Franklin App. No. 98AP-455.

Lundberg Stratton, J., dissents.

99-406. Shampton v. Springboro.

Warren App. No. CA98-02-014.

RECONSIDERATION DOCKET

97-737. State v. Coleman.

Clark C.P. No. 96CR0142. Reported at 85 Ohio St.3d 129, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

98-668. Stacy v. Nationwide Mut. Ins. Co.

Erie App. No. E-96-053. Reported at 85 Ohio St.3d 1203, ___ N.E.2d ___. On motion for reconsideration. The motion is denied for want of four votes on the following vote:

Moyer, C.J., Cook and Lundberg Stratton, JJ., vote to deny.

Douglas, F.E. Sweeney and Pfeifer, JJ., vote to grant.

Resnick, J., not participating.

98-1403. D & A Rofael Ent., Inc. v. Tracy.

Board of Tax Appeals, No. 96-J-1000. Reported at 85 Ohio St.3d 118, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

98-1404. Shteivi v. Tracy.

Board of Tax Appeals, No. 96-J-999. Reported at 85 Ohio St.3d 118, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

98-2053. Henry Meyer Assoc., Inc. v. Moreland Hills.

Cuyahoga App. No. 72754. Reported at 84 Ohio St.3d 1468, 704 N.E.2d 577, 84 Ohio St.3d 1505, ___ N.E.2d ___, and 85 Ohio St.3d 1435, ___ N.E.2d ___. On memo opposing motion for reconsideration. The motion for reconsideration is granted, the discretionary appeal is allowed, and this cause is consolidated with 98-2054, *infra*.

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

98-2054. Shemo v. Mayfield Hts.

Cuyahoga App. No. 73241. Reported at 84 Ohio St.3d 1468, 704 N.E.2d 577, 84 Ohio St.3d 1506, ___ N.E.2d ___, and 85 Ohio St.3d 1436, ___ N.E.2d ___. On memo opposing motion for reconsideration. The motion for reconsideration is granted, the discretionary appeal is allowed, and this cause is consolidated with 98-2053, *supra*.

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

99-36. Reed v. Morgan.

Huron App. No. H-98-021. Reported at 85 Ohio St.3d 1442, ___ N.E.2d ___. On motion for reconsideration by Joseph Reed and on motion for reconsideration by Mitchell Adams. Motions denied.

Douglas and Pfeifer, JJ., dissent.

Resnick, J., not participating.