

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

1:00 P.M.

WEDNESDAY

May 26, 1999

MERIT DOCKET

99-537. State ex rel. Stovall v. Eighth Judicial 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, Cook and Lundberg
Stratton, JJ., concur.

99-541. State ex rel. Ohio Dept. of Commerce v. State Personnel Bd. of Review.

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.

99-612. State ex rel. Strothers v. Fuerst.

In Mandamus. On answer of respondent, motion for judgment on pleadings, and answer of respondents by Gerald E. Fuerst et al. Answers 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.

99-617. State ex rel. Becker v. Ghee.

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.

99-625. State ex rel. Sova v. Blackmon.

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.

99-685. State ex rel. Wyrick v. Russell.

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.

99-768. Austin v. State.

In Habeas Corpus. On petition for writ of habeas corpus, motion for production of documents, motion to withdraw guilty plea, motion for General Assembly redress, and motion to file out of abeyance. *Sua sponte*, cause dismissed.

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

Cook, J., not participating.

99-784. State ex rel. Mercer v. Allen.

In Habeas Corpus. On petition for writ of habeas corpus by Craig J. Mercer. *Sua sponte*, cause dismissed.

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

99-793. Buckmaster v. Ghee.

In Habeas Corpus. On petition for writ of habeas corpus by John Buckmaster. *Sua sponte*, cause dismissed.

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

99-822. State ex rel. Klopp v. Haskins.

In Habeas Corpus. On petition for writ of habeas corpus by Gary P. Klopp. *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**

99-268. State v. Little.

Lorain App. No. 98CA007034.

99-271. State v. Plott.

Licking App. No. 98CA70.

99-278. State v. Strickland.

Montgomery App. No. 17331.

99-284. State v. Sams.

Athens App. No. 98CA13.

Moyer, C.J., and Lundberg Stratton, J., would allow the discretionary appeal and hold the cause for the decision in 98-2603, *State v. Edmonson*, Portage App. No. 97-P-0067.

99-288. State v. Robinson.

Franklin App. No. 92AP-1739.

99-299. Ellsworth v. Ellsworth.

Hamilton App. No. C-970916.

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

99-319. State v. Midwest Pride IV, Inc.

Fayette App. No. CA97-09-025.

99-328. State v. Wright.

Scioto App. No. 98CA2594. On discretionary appeal and on motion to exceed page limitation. Appeal and motion denied.

99-345. Burnes v. Webb.

Athens App. No. 98CA24.

99-362. Earley v. Keenan.

Cuyahoga App. No. 75412.

99-391. State v. Burke.

Montgomery App. No. 17202.

99-397. State v. Conrad.

Hamilton App. Nos. C-980262, C-980272 and C-980273.

Lundberg Stratton, J., dissents.

99-408. Matevia v. Hoechst Marion Roussel, Inc.

Hamilton App. No. C-980202.

99-415. State v. Gordon.

Franklin App. No. 98AP-491.

99-417. State v. King.

Medina App. No. 2833-M.

99-425. State v. Kachovee.

Scioto App. No. 98CA2562.

99-431. State v. Hughes.

Cuyahoga App. No. 73279.

Moyer, C.J., dissents.

99-432. Warren v. Cromley.

Trumbull App. No. 97-T-0213.

99-435. State v. Kersey.

Miami App. No. 98CA13.

Pfeifer, J., dissents.

99-436. State v. Sharpe.

Clark App. No. 98CA45.

99-443. State v. Carter.

Cuyahoga App. No. 75864.

99-445. State v. Anaruma.

Hamilton App. No. C-980354.

99-446. Meyers v. Hot Bagels Factory, Inc.

Hamilton App. Nos. C-980199 and C-980241.

Lundberg Stratton, J., dissents.

99-447. Beach v. Howard Paper Mills, Inc.

Montgomery App. No. 17348.

99-453. State v. Pannell.

Wayne App. No. 98CA0034.

99-460. State v. Hoskins.

Hamilton App. Nos. C-980328 and C-980361.

99-472. Fahey v. Abouhossein.

Montgomery App. No. 17215.

Douglas, J., dissents.

99-476. Columbus v. Applegate.

Franklin App. No. 98AP-485.

99-487. Indian Hill v. Peter.

Hamilton App. No. C-980089.

99-488. State v. Hunt.

Butler App. No. CA98-07-156.

99-498. State v. Hill.

Stark App. No. 1998CA00221.

99-505. State v. Gibson.

Stark App. No. 98CA0124.

Lundberg Stratton, J., dissents.

99-519. Cherrydale Farms, Inc. v. Myers.

Lucas App. No. L-97-1268.

99-531. State v. Powell.

Summit App. No. 19236.

99-538. State v. Wooden.

Summit App. No. 15548.

99-585. Roberts v. State.

Guernsey App. No. 97CA29.

99-734. State v. Hansel.

Stark App. No. 1998CA00149.

Moyer, C.J., and Cook, J., dissent and would hold Propositions of Law Nos. III and V for the decision in 98-2301, *State v. Gowdy*, Hamilton App. No. C-970359.

MOTION DOCKET

98-43. State ex rel. Russell v. Thomas.

In Mandamus. On bill and documentation in support of request for attorney fees.

IT IS ORDERED by the court that relators' counsel submit evidence, preferably including an employment contract, specifying the attorney fees and hourly rates relators actually paid or are obligated to pay their attorneys for this mandamus action, within ten days of the date of this entry. See *State ex rel. Gannett Satellite Info. Network, Inc. v. Petro* (1998), 81 Ohio St.3d 1234, 690 N.E.2d 11; *State ex rel. Dist. 1199, Health Care & Social Serv. Union, SEIU, AFL/CIO v. Lawrence Cty. Gen. Hosp.* (1999), 84 Ohio St.3d 1472, 704 N.E.2d 580.

99-570. DeRolph v. State.

Perry C.P. No. 22043. On motion for stay pending appeal of a remedial order issued by trial court. Stay granted.

Douglas, F.E. Sweeney and Pfeifer, JJ., would also direct the parties to brief whether the trial court's judgment is a final appealable order, given its orders to the State Board of Education and the Superintendent of Public Instruction, and whether the trial court had authority to enter those orders.

Resnick, J., dissents.

99-576. State v. Noland.

Hamilton App. No. C-980390. On motion for stay. Motion denied.

Moyer, C.J., would grant the motion and continue the bond.

Resnick, J., would grant the motion.

99-584. State ex rel. Budreaux v. Ryznar.

In Mandamus. *Sua sponte*, alternative writ granted.

Resnick, Pfeifer and Cook, JJ., dissent and would dismiss the cause.

99-608. McKibben v. Samuels.

Hamilton App. No. C-980156. On motion for stay. Motion denied.

Moyer, C.J., and Cook, J., would grant the motion and continue the bond.

99-776. State v. Harris.

Cuyahoga App. No. 72687. On motion for leave to file delayed appeal. Motion denied.

99-795. Martin v. Todt.

Stark App. No. 1998CA00259. On motion for stay. Motion denied.

99-803. State v. Parsons.

Hamilton App. No. C-980209. On motion for leave to file delayed appeal. Motion granted.

Moyer, C.J., and Douglas, J., would also appoint new counsel.

F.E. Sweeney, J., dissents.

99-811. Hanlon v. Carpenter.

In Habeas Corpus. On petition for writ of habeas corpus by Kevin Patrick Hanlon. *Sua sponte*, writ allowed for petitioner's improper bond revocation claim. Allowing the writ means only that a return is ordered. *Reed v. Kinkela* (1998), 84 Ohio St.3d 1427, 702 N.E.2d 903. Respondents are ordered to file a return of writ within twenty days of service of the petition, and petitioner may file a response within ten days. Petitioner's physical presence is not required. *Gaskins v. Shiplevy* (1996), 76 Ohio St.3d 380, 382, 667 N.E.2d 1194, 1196. IT IS FURTHER ORDERED that the remainder of petitioner's cause be dismissed.

Resnick, J., dissents.

99-817. State v. Sura.

Stark App. No. 95CA0410. On motion for leave to file delayed appeal. Motion denied.

99-821. State v. White.

Marion App. No. 9-98-52. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

99-824. State v. Alston.

Cuyahoga App. No. 75456. On motion for leave to file delayed appeal. Motion denied.

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

DISCRETIONARY APPEALS NOT ALLOWED

99-312. State v. Rawlins.

Scioto App. No. 97CA2539.

99-365. State v. Harley.

Fairfield App. No. 98CAF44.

99-430. Benson v. Akron.

Summit App. No. 19076.

Moyer, C.J., and Cook, J., would allow the discretionary appeal and hold this cause for the decision in 97-1870, *Burger v. Cleveland Hts.*, Cuyahoga App. No. 72675.

99-438. McKinney v. Schlatter.

Butler App. No. CA98-05-101.

Douglas, J., dissents.

99-457. State v. Trissel.

Stark App. No. 1998CA00062.

99-463. State v. Prather.

Hamilton App. No. C-980216.

Moyer, C.J., would allow the discretionary appeal and hold the cause for the decision in 98-2301, *State v. Gowdy*, Hamilton App. No. C-970359.

99-464. Kolick & Kondzer v. Madonia.
Cuyahoga App. No. 75202.

99-471. Russo v. Russo.
Stark App. No. 1998CA00191.
Cook, J., dissents.

99-474. Hayman v. W. Am. Ins. Co.
Wood App. No. WD-97-113.
Lundberg Stratton, J., dissents.
Resnick, J., not participating.

99-475. Hemenway v. Columbus.
Franklin App. No. 98AP-513.

99-477. State v. Schachner.
Lucas App. No. L-97-1388.
Douglas, J., not participating.

99-479. Stone v. Sunset Inn.
Summit App. No. 19074.
Resnick and F.E. Sweeney, JJ., dissent.

99-486. Bank One Trust Co., N.A. v. LaCour.
Franklin App. No. 98AP-525.

99-520. Faulkner v. Conrad.
Montgomery App. No. 17277. (Appeal of city of Dayton and appeal of
Administrator, Bureau of Workers' Compensation, et al.)
Moyer, C.J., and Lundberg Stratton, J., dissent.

RECONSIDERATION DOCKET

97-1998. Fred Siegel Co., L.P.A. v. Arter & Hadden.
Cuyahoga App. No. 71440. Reported at 85 Ohio St.3d 171, ___ N.E.2d ___. On
motion for reconsideration. Motion denied.
Douglas, Pfeifer and Cook, JJ., dissent.

98-2646. Kirksey Muhammad v. Marc Glassman, Inc.

Cuyahoga App. No. 72520. Reported at 85 Ohio St.3d 1440, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

99-1. Mainwold Bros., Inc. v. Ziarno.

Lucas App. No. L-97-1429. Reported at 85 Ohio St.3d 1441, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

99-55. Hampel v. Food Ingredients Specialties.

Cuyahoga App. No. 73143. Reported at 85 Ohio St.3d 1446, ___ N.E.2d ___. On motion for reconsideration of April 7, 1999 judgment declining jurisdiction of cross-appeal. Motion denied.

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

99-83. Wickford Metal Products v. Tri-Village Church of Christ, Inc.

Licking App. No. 98CA47. Reported at 85 Ohio St.3d 1447, ___ N.E.2d ___. On Motion for reconsideration. Motion denied.

Douglas, J., dissents.

99-232. State ex rel. McGilvery v. Caltrider.

In Mandamus. Reported at 85 Ohio St.3d 1439, ___ N.E.2d ___. On motion for reconsideration. Motion denied.