

**SUPREME COURT OF OHIO**

**COLUMBUS**

**ANNOUNCEMENT**

FRIDAY  
July 9, 1999

**MOTION DOCKET**

**98-2061. State v. Franklin.**

Montgomery C.P. No. 97CR1139. This cause is an appeal from a judgment of conviction and sentence of death entered by the Court of Common Pleas of Montgomery County on November 24, 1998. The record was filed on February 8, 1999, making appellant's brief due May 10, 1999.

On May 10, 1999, appellant's counsel Richard A. Nystrom filed a request for extension of time to file appellant's brief. On May 13, 1999, appellant's counsel Risa C. McCray filed the instant motion to withdraw as counsel. On May 17, 1999, this court extended the time for filing appellant's brief to May 20, 1999. No brief has been filed on behalf of appellant. Upon consideration of the motion of Risa C. McCray to withdraw as counsel,

IT IS ORDERED by the court that the motion of Risa C. McCray to withdraw as counsel be, and hereby is, granted.

IT IS FURTHER ORDERED by the court, *sua sponte*, that Richard A. Nystrom be, and hereby is, removed as counsel for appellant.

IT IS FURTHER ORDERED by the court, *sua sponte*, that the Ohio Public Defender be, and hereby is, appointed to represent appellant.

IT IS FURTHER ORDERED by the court, *sua sponte*, that appellant's brief shall be due within ninety days of the date of this entry, that appellant's newly appointed counsel is permitted to seek an extension for the filing of appellant's brief in accordance with S.Ct.Prac.R. XIV(3)(B)(2), and that the parties shall otherwise proceed in accordance with S.Ct.Prac.R. XIX(5).

IT IS FURTHER ORDERED by the court, *sua sponte*, that the Clerk shall make a report to the Committee on the Appointment of Counsel for Indigent Defendants in Capital Cases, in accordance with the provisions of Sup.R. 20(V)(A), regarding the performance of Richard A. Nystrom and Risa C. McCray as appellant's counsel in this cause.

Lundberg Stratton, J., dissents.

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

Monroe App. No. 808. This cause is pending before the court as an appeal from the Court of Appeals for Monroe County. Upon consideration of appellant's motion to exceed page limit on reply brief,

IT IS ORDERED by the court that the motion to exceed page limit on reply brief be, and hereby is, denied.

**99-428. DeRolph v. Ohio.**

Perry C.P. No. 22043. This cause is pending before the court as an appeal of right from the Court of Common Pleas of Perry County.

IT IS ORDERED by the court, *sua sponte*, that the record filed in case No. 99-570, *DeRolph et al. v. State of Ohio et al.*, shall be filed and docketed in this case.

IT IS FURTHER ORDERED by the court, *sua sponte*, that the parties shall brief this case in accordance with S.Ct.Prac.R. VI and comply with S.Ct.Prac.R. VII and all other applicable rules of practice.

IT IS FURTHER ORDERED by the court, *sua sponte*, that appellants' brief shall be due within forty days of the date of this entry and the parties shall otherwise proceed in accordance with S.Ct.Prac.R. VI.

**99-570. DeRolph v. State.**

Perry C.P. No. 22043. This cause is pending before the court as an appeal of right from the Court of Common of Perry County. The record in this cause was filed on June 21, 1999.

IT IS ORDERED by the court, *sua sponte*, that the parties shall brief this case in accordance with S.Ct.Prac.R. VI and comply with S.Ct.Prac.R. VII and all other applicable rules of practice.

## **MISCELLANEOUS DISMISSALS**

### **99-871. State v. Owen.**

Miami App. No. 98CA17. This cause is pending before the court as a discretionary appeal. It appears from the records of this court that appellant has not filed a memorandum in support of jurisdiction, due July 2, 1999, in compliance with the Rules of Practice of the Supreme Court and therefore has failed to prosecute this cause with the requisite diligence. Upon consideration thereof,

IT IS ORDERED by the court that this cause be, and hereby is, dismissed *sua sponte*.