

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

1:00 P.M.

WEDNESDAY

August 4, 1999

MERIT DOCKET

98-2470. State ex rel. Spangler v. WW Schaub Elec. Co.

Franklin App. No. 97APD08-1072. 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.

99-811. Hanlon v. Carpenter.

In Habeas Corpus. On return of writ. *Sua sponte*, cause dismissed.

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

99-918. State ex rel. Rowser v. Fifth Dist. Court of Appeals.

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.

99-936. State ex rel. Jackson v. McManamon.

In Mandamus. On motion for appointment of counsel, motion for evidentiary hearing on writ of habeas corpus, motion for leave to seek discovery evidence to support mandamus and habeas corpus, motion for leave to hold evidentiary hearing in habeas corpus proceeding, motion to dismiss by Judge McManamon, answer of respondent Warden Christine Money, and motion for an order finding respondents in contempt.

Sua sponte, cause dismissed.

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

99-985. Motil v. Med. Planning Serv., Inc.

In Prohibition. On answer of respondents Medical Planning Services, Inc., Office of Dr. Manohar Lal, M.D., and Manohar Lal, M.D., and on motion to dismiss by Summit County Court of Common Pleas and Richard Warren.

Sua sponte, cause dismissed.

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

99-988. Davis v. State.

In Habeas Corpus. On petition for writ of habeas corpus by Terrance J. Davis, motion to amend petition for writ of habeas corpus, request for production of documents and things for inspection, and motion for summary judgment.

Sua sponte, cause dismissed.

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

99-1067. Ohio Leitina Co. v. Vandra Bros. Constr., Inc.

Cuyahoga App. No. 72616. 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.

Moyer, C.J., Douglas, Resnick and Pfeifer, JJ., concur.

F.E. Sweeney, J., dissents.

Cook and Lundberg Stratton, JJ., dissent and would hold this cause for the decision in 98-1935, *Denham v. New Carlisle*, Clark App. No. 98CA19.

99-1072. State ex rel. Freeman-McCown v. Fuerst.

In Mandamus. On motion to dismiss or, in the alternative, motion for summary judgment.

Sua sponte, cause dismissed.

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

99-1081. State ex rel. Dominguez v. McEvilley.

In Mandamus. On complaint in mandamus by Jose Dominguez.

Sua sponte, cause dismissed.

Moyer, C.J., Douglas, Resnick, F.E. Sweeney, Pfeifer and Cook, JJ., concur.
Lundberg Stratton, J., dissents and would grant the writ.

99-1115. State ex rel. Martin v. Ohio Adult Parole Auth.

In Mandamus. On answer of respondent Ohio Adult Parole Authority.

Sua sponte, cause dismissed.

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

99-1116. State ex rel. Jackson v. Pokorny.

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.

99-1126. Pankey v. Ohio Adult Parole Auth.

In Habeas Corpus. On petition for writ of habeas corpus by Benjamin Pankey and request for production of documents.

Sua sponte, cause dismissed.

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

99-1131. State ex rel. Karlen v. Christley.

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.

99-1139. State ex rel. Murin v. Nash.

In Habeas Corpus. On petition for writ of habeas corpus by David Murin.

Sua sponte, cause dismissed.

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

99-1170. State ex rel. Richie v. DeWeese.

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.

99-1186. Engle v. State.

In Habeas Corpus. On petition for writ of habeas corpus by Raymond Engle.

Sua sponte, cause dismissed.

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

99-1231. Howard v. Spore.

In Prohibition. On complaint in prohibition by Gregory T. Howard, motion for judgment on the pleadings, motion for separate findings of fact and conclusions of law, motion to dismiss of Russell W. Porritt II, and motion to dismiss of Judson P. Spore.

Sua sponte, cause dismissed.

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

99-1245. Anderson v. Indian Valley School Dist. Bd. of Edn.

Tuscarawas App. Nos. 1998AP120123 and 1998AP120124. 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.

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

Douglas and Pfeifer, JJ., dissent.

99-1267. State ex rel. Kilby v. Summit Cty. Bd. of Elections.

In Mandamus. On motion to expedite.

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**

99-544. State v. Shoffner.

Shelby App. Nos. 17-98-11 and 17-98-12.

99-546. State v. Shoffner.

Shelby App. No. 17-98-09 and 17-98-10.

Lundberg Stratton, J., dissents.

99-775. Meeker v. Bituminous Cas. Corp.

Hamilton App. No. C-970977.

Douglas, J., dissents.

99-781. Kremnec v. Unemp. Comp. Bd. of Review.

Lucas App. No. L-98-1248.

Douglas, J., dissents.

99-802. State v. Gregrich.

Wayne App. No. 98CA0029.

F.E. Sweeney, J., dissents.

99-810. State v. Reeves.

Montgomery App. No. 16987.

99-819. State v. Brown.

Hamilton App. No. C-970938.

99-828. State v. Rodgers.

Franklin App. No. 98AP-790.

99-847. Money v. Holmes.

Marion App. No. 9-99-15.

99-849. State v. Arnott.

Summit App. No. 19015.

99-851. Berlekamp Plastics, Inc. v. Buckeye Union Ins. Co.

Sandusky App. No. S-98-036.

Moyer, C.J., dissents.

Resnick, J., not participating.

99-857. State v. Barnett.

Defiance App. No. 4-98-14.

99-860. State v. Wood.

Richland App. No. 97CA60.

99-863. Banning v. Banning.

Greene App. Nos. 98CA67 and 98CA99.

99-865. State v. Hoskins.

Lucas App. No. L-98-1039.

99-867. Reid v. Premier Health Care Serv., Inc.

Montgomery App. No. 17437.

99-874. State v. Johnson.

Darke App. No. 98CA1468.

99-882. State v. Robinson.

Hamilton App. No. C-970881.

Pfeifer, J., dissents.

99-884. Dollar Sav. & Trust Co. v. Trocheck.

Columbiana App. No. 97CO40.

Pfeifer, J., dissents.

99-887. St. Elizabeth's Emp. Fed. Credit Union v. Jarman.

Hamilton App. No. C-971039.

Douglas and Pfeifer, JJ., dissent.

99-893. State v. Sheppard.

Hamilton App. No. C-980569.

99-899. State v. Chafin.

Franklin App. No. 98AP-865.

99-903. State v. Garrison.

Washington App. No. 98CA11.

99-904. Villas Condominium Unit Owners' Assn. v. Gammarino.

Hamilton App. No. C-980626.

99-913. State v. Jackson.

Hamilton App. No. C-980549.

99-917. Norris v. Konteh.

Trumbull App. No. 98-T-0030.

99-922. State v. Johnson.

Delaware App. No. 96CAA12066.

99-923. In re Zeiser.

Lake App. Nos. 97-L-201 and 97-L-202.

Moyer, C.J., dissents.

99-929. State v. Olivarez.

Lake App. No. 97-L-288.

99-930. State v. Maynard.

Lorain App. No. 97CA006908.

Moyer, C.J., dissents.

99-931. Kocis v. Chorba.

Ottawa App. No. OT-98-033.

99-935. State v. Vinson.

Franklin App. Nos. 98AP-805 and 98AP-841.

99-938. State v. Bradley.

Scioto App. No. 98CA2592.

99-942. State v. Burns.

Madison App. No. CA98-12-037.

99-943. State v. Motter.

Summit App. No. 19204.

Moyer, C.J., dissents.

99-944. Nuckols v. Kapp.

Columbiana App. No. 97CO6.

99-948. State v. Singleton.

Montgomery App. Nos. 17003 and 17004.

99-952. State v. Ritter.

Hamilton App. No. C-930251.

99-953. State v. McIntosh.

Lucas App. No. L-98-1324.

Resnick, J., not participating.

99-957. State v. Luster.

Lucas App. No. L-98-1086.

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

Resnick, J., not participating.

99-961. Tillimon v. Jennings.

Lucas App. Nos. L-98-1241 and L-98-1284.

99-962. State v. Bair.

Cuyahoga App. No. 72881.

99-964. Sheidler v. Norfolk & W. Ry. Co.

Lucas App. No. L-97-1381.

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

Resnick, J., not participating.

99-967. State v. Gonyer.

Wood App. Nos. WD-90-39 and WD-92-100.

99-970. State ex rel. Davis v. Ghee.
Franklin App. No. 98AP-617.

99-974. State v. Hunter.
Ashland App. No. 98COA01242.

99-976. State v. Pasqualone.
Ashtabula App. No. 97-A-0034.

99-978. State v. Warner.
Hamilton App. No. C-980975.

99-989. State v. Ali.
Summit App. No. 19119.

Moyer, C.J., and Cook, J., dissent, would allow on Proposition of Law No. II, and would hold this cause for the decision in 99-765, *State v. Suffecool*, Stark App. No. 1998CA00101.

99-993. State v. Bishop.
Madison App. No. CA97-07-032.

99-1001. State v. Cool.
Summit App. No. 18148.

99-1060. State v. Drake.
Cuyahoga App. No. 70275.

MOTION DOCKET

96-2029. State v. White.
Ashland C.P. No. 96CRI07366. On motion to recall mandate and permit supplemental briefing. Motion stricken.

96-2509. State v. White.
Ashland App. No. 96COA01182. On motion to recall mandate and permit supplemental briefing. Motion stricken.

97-2432. State ex rel. Griffith v. Indus. Comm.
Franklin App. No. 96APD11-1543. On request for oral argument. Request denied.

98-2016. Maumee v. Weisner.

Lucas App. No. L-97-1409. On motion for admission *pro hac vice* of Edward B. Foley by Stephen P. Carney. Motion granted.

Resnick, J., not participating.

98-2439. Ricker v. John Deere Ins. Co.

Franklin App. No. 97APE11-1505. On motion to strike brief of *amicus curiae* Ohio Civil Rights Commission. Motion denied.

Cook, J., dissents.

98-2549. State ex rel. Lucas Cty. Bd. of Commrs. v. Ohio Environmental Protection Agency.

In Mandamus. On answer of intervening respondent Envirosafe Services of Ohio, Inc. and on motion to dismiss. This cause originated in the court upon the filing of a complaint in mandamus. Upon the court's determination pursuant to S.Ct.Prac.R. X(5),

IT IS ORDERED by the court that an alternative writ is hereby GRANTED and that the following schedule be set for the presentation of evidence and the filing of briefs:

The parties shall file any evidence they intend to present within twenty days of this entry. Respondent Ohio Environmental Protection Agency shall file an unredacted copy of the ESOI 1997 Grab and Hold Tracker under seal with its evidence. Relator shall file its merit brief within twenty days of the filing of the evidence; respondents shall file their merit briefs within twenty days of the filing of relator's merit brief; and relator shall file any reply brief within five days after the last of respondents' merit briefs is filed.

IT IS FURTHER ORDERED that relator's claims are DISMISSED as to those portions of the ESOI 1997 Grab and Hold Tracker that it has now received.

Lundberg Stratton, J., dissents and would dismiss the cause.

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

Lucas App. No. L-98-1344. On motion for relief from judgment. Motion denied.

99-93. State v. Hanna.

Warren C.P. No. 98CR17677. On motion for complete copy of the prosecutor's file to be sealed and filed for appellate review. Motion denied.

99-206. Humphrey v. Lane.

Hocking App. No. 98CA4. On motion for admission *pro hac vice* of Roman P. Storzer on behalf of The Becket Fund by Kathleen M. Trafford. Motion granted.

99-394. State ex rel. Besser v. Ohio State Univ.

In Mandamus. On answer of respondent, amended motion for judgment on pleadings, and amended motion for judgment on pleadings.

This cause originated in this court upon the filing of a complaint for a writ of mandamus. Upon the court's determination pursuant to S.Ct.Prac.R. X(5),

IT IS ORDERED by the court that the parties' motions for judgment on the pleadings are DENIED and that an alternative writ is hereby GRANTED and that the following schedule be set for the presentation of evidence and the filing of briefs:

The parties shall file any evidence they intend to present within twenty days of this entry. Relators shall file their merit brief within twenty days of the filing of the evidence; respondents shall file their merit brief within twenty days of the filing of relators' merit brief; and relator shall file any reply brief within five days thereafter.

IT IS FURTHER ORDERED that relators' claims relating to the OSU Hospitals Board and OSU Strategic Planning Committee minutes are DISMISSED as moot.

99-729. State v. Beatty.

Fairfield App. No. 98CA19. On motion for leave to file delayed appeal. Motion denied.

99-751. State v. McDade.

Lake App. No. 96-L-197. On motion for leave to file delayed appeal. Motion denied.

99-831. State v. Griffin.

Hamilton App. No. C-980143. On motion for leave to file delayed appeal. Motion denied.

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

99-966. State v. Nagel.

Lucas App. No. L-95-382. On motion for leave to file delayed appeal. Motion denied.

Resnick, J., not participating.

99-983. State v. McDowell.

Cuyahoga App. No. 70799. On motion for leave to file delayed appeal. Motion denied.

99-1012. State v. Harris.

Cuyahoga App. No. 73896. On motions for leave to file delayed appeal. Motions denied.

Pfeifer, J., dissents.

99-1045. State v. Singfield.

Summit App. No. 17160. On motion for leave to file delayed appeal. Motion denied.

99-1097. State v. Davis.

Vinton App. No. 98CA523. On motion for leave to file delayed appeal. Motion denied.

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

99-1117. State v. Dunn.

Pickaway App. No. 97CA26. On motion for leave to file delayed appeal. Motion denied.

99-1129. Kemmeter v. McDaniel Backhoe Serv.

Brown App. No. CA98-10-027. On review of order certifying a conflict. The court determines that a conflict exists; the parties are to brief the issue stated at pages 1-2 of the court of appeals' Entry filed May 21, 1999:

"The above cause is before the court pursuant to a motion to certify conflict filed by counsel for appellee, Gil Ruehl Plumbing Company, on April 22, 1999. Appellee contends that this court's opinion released on April 12, 1999 conflicts with a Sixth District Court of Appeals decision, *Toledo Edison v. P & W Printing [sic, Painting] & Sandblasting Co., Inc.* (Sept. 11, 1992), Lucas App. No. L-91-412, unreported [1992 WL 217522].

"Upon due consideration of the foregoing, the court finds that its decision is in conflict with the *Toledo Edison* decision. Appellee's motion for certification is therefore GRANTED. The issue for certification is whether a hold harmless clause which violates R.C. 2305.31 on its face is enforceable pursuant to *Kendall v. U.S. Dismantling Co.* (1985), 20 Ohio St.3d 61 [20 OBR 360, 485 N.E.2d 1047], if the clause as applied will not result in indemnification of a party's own negligence."

Resnick, J., not participating.

99-1134. State v. Adams.

Lucas App. No. L-93-248. On motion for leave to file delayed appeal. Motion denied.

Resnick, J., not participating.

99-1168. State v. Duff.

Stark App. No. 1997CA00143. On motion for leave to file delayed appeal. Motion denied.

99-1188. State v. Phillips.

Cuyahoga App. No. 74010. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

99-1211. State v. Gonzalez.

Athens App. No. 97CA52. On motion for leave to file delayed appeal. Motion denied.

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

99-1212. State v. Gibson.

Butler App. No. CA98-02-028. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

99-1220. State v. Dancy.

Montgomery App. No. 16340. On motion for leave to file delayed appeal. Motion denied.

Lundberg Stratton, J., dissents.

99-1233. Buckeye State Mut. Ins. Co. v. Rowland.

Jackson App. No. 98CA842. On motion for stay of trial and appellate court order for psychological examination. Motion denied.

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

99-1238. State v. Roberts.

Wood App. No. WD-98-025. On motion for leave to file delayed appeal. Motion granted.

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

Resnick, J., not participating.

99-1247. Jury v. Ridenour.

Richland App. No. 98CA100. On motion for stay of court of appeals' judgment. Motion denied.

Cook, J., dissents.

99-1264. King v. Grange Mut. Cas. Co.

Monroe App. No. 807. On review of order certifying a conflict. The court determines that a conflict exists. *Sua sponte*, cause consolidated with 99-727, *King v. Grange Mut. Cas. Co.*, Monroe App. No. 807; briefing schedule stayed; and 99-727 and 99-1264 are held for the decision in 99-342, 99-348, and 99-618, *Holcomb v. State Farm Ins. Cos.*, Franklin App. No. 98AP-353.

Lundberg Stratton, J., dissents.

99-1298. Hill v. Anderson.

In Habeas Corpus. On request for immediate hearing. Request denied.

99-1303. State v. Tobias.

Cuyahoga App. No. 76402. On motion for stay of court of appeals' judgment. Motion denied.

99-1328. State v. Markel.

Ashland App. No. CA1279. On motion for stay of court of appeals' judgment. Motion denied.

99-1344. State ex rel. State Fire Marshal v. Curl.

In Mandamus and Prohibition. On motion for leave to intervene of Frank V. Darst and Green River Display Company, Inc. Motion granted; *sua sponte*, the above intervenors are joined as respondents pursuant to Civ.R. 21.

Cook, J., dissents.

DISCRETIONARY APPEALS ALLOWED

98-2577. Hubbard v. Canton City School Bd. of Edn.

Stark App. No. 1998CA00089. The discretionary appeal is allowed on Proposition of Law No. I, and the cause is consolidated with 98-2667, *Hubbard v. Canton City School Bd. of Edn.*, Stark App. No. 1998CA00089, with no additional briefing.

Lundberg Stratton, J., would also allow on Proposition of Law No. II.

Pfeifer, J., dissents.

99-683. Hester v. Dwivedi.

Hamilton App. No. C-970723.

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

99-765. State v. Suffecool.

Stark App. No. 1998CA00101. The discretionary appeal is allowed on Propositions of Law Nos. III, IV, and V.

Sua sponte, this cause is to be argued on the same date as 99-286, *State v. Williams*, Lake App. No. 97-L-191.

Sua sponte, 99-764, *State v. Worthy*, Portage App. No. 97-P-0059, is to be briefed on Propositions of Law Nos. I through V and is to be argued on the same date as 99-286 and 99-765.

Lundberg Stratton, J., dissents.

99-796. Black v. Allstate Ins. Co.

Scioto App. No. 98CA2597. Discretionary appeal allowed and cause held for the decision in 98-772, *Csulik v. Nationwide Mut. Ins. Co.*, Stark App. No. 1997CA00283; briefing schedule stayed.

DISCRETIONARY APPEALS NOT ALLOWED

99-533. Thomas v. Gen. Elec. Co.

Hamilton App. No. C-970981.

Cook and Lundberg Stratton, JJ., dissent.

Moyer, C.J., not participating.

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

99-637. State v. Studer.

Seneca App. No. 13-98-46.

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

Cuyahoga App. No. 73946.

99-814. Diocese of Toledo v. Toledo City-Lucas Cty. Plan Comm.

Lucas App. No. L-98-1150.

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

Resnick, J., not participating.

99-840. Nelson v. Szykulski.

Trumbull App. No. 97-T-0219.

99-842. Olinik v. Nationwide Mut. Ins. Co.

Mahoning App. No. 97CA107.

F.E. Sweeney, J., dissents.

99-845. Wells v. Ormet Corp.

Monroe App. No. 798.

Cook and Lundberg Stratton, JJ., dissent.

99-846. In re Estate of York.

Warren App. Nos. CA98-07-076 and CA98-07-082.

Moyer, C.J., dissents.

99-856. Barrette v. Lopez.

Mahoning App. No. 95CA214.

Lundberg Stratton, J., dissents.

99-858. State v. Jones.

Franklin App. No. 98AP-544.

99-861. State v. Cantin.

Cuyahoga App. No. 73513.

Resnick and Lundberg Stratton, JJ., dissent.

99-862. Findlay v. Gardner.

Hancock App. No. 5-98-28.

99-879. Anderson v. Indian Valley School Dist. Bd. of Edn.

Tuscarawas App. Nos. 1998AP12123 and 1998AP12124.

Douglas and Pfeifer, JJ., dissent.

99-883. Gen. Elec. Co. v. Hamilton Cty. Bd. of Revision.

Hamilton App. No. C-971012.

Moyer, C.J., and Resnick, J., not participating.

99-886. Barnoff v. Progressive Ins. Co.

Stark App. No. 98CA0281.

99-891. Dublin Transp., Inc. v. Goebel.

Franklin App. No. 98AP-611.

Moyer, C.J., dissents.

Lundberg Stratton, J., not participating.

99-894. State v. Sexton.

Lawrence App. No. 98CA26.

Douglas, J., dissents.

99-895. Carter-Jones Lumber Co. v. Denune.

Franklin App. No. 98AP-720.

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

99-897. State v. Helms.

Summit App. No. 18940.

Pfeifer, J., dissents.

99-898. In re Trust U/W of A.J. Woltering.

Hamilton App. No. C-970913.

99-901. Storrie v. Storrie.

Tuscarawas App. No. 1998AP040082.

99-911. Pinkerton v. Coca-Cola Ent., Inc.

Hamilton App. No. C-980267.

99-939. State v. Venditti.

Medina App. No. 2840-M.

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

99-940. Albaugh v. Columbus Div. of Police.

Franklin App. Nos. 98AP-901 and 98AP-989.

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

99-945. Williams v. Cook.

Paulding App. No. 11-98-8.

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

99-949. Bush v. Dictaphone Corp.

Franklin App. No. 98AP-585.

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

99-960. State v. Smith.

Cuyahoga App. No. 75178.

Moyer, C.J., and Cook, J., dissent and would hold this cause for the decision in 98-1627, *State v. Calhoun*, Lake App. No. 97-L-063.

99-1002. State v. Howard.

Cuyahoga App. No. 76169.

RECONSIDERATION DOCKET

96-2258. State ex rel. Druggan v. Indus. Comm.

In Mandamus. Reported at 85 Ohio St.3d 683, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

97-2020. State v. Chinn.

Montgomery App. No. 16206. Reported at 85 Ohio St.3d 548, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

97-2443. Anheuser-Busch, Inc. v. Tracy.

Board of Tax Appeals, Nos. 95-T-922 and 95-T-923. Reported at 85 Ohio St.3d 514, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

Pfeifer, J., dissents.

98-442. Scott-Pontzer v. Liberty Mut. Fire Ins. Co.

Stark App. No. 1997CA00152. Reported at 85 Ohio St.3d 660, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

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

98-616. State v. Climaco, Climaco, Seminatore, Lefkowitz & Garofoli Co., L.P.A.

Franklin App. No. 97APA03-429. Reported at 85 Ohio St.3d 582, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

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

98-1462. Waite v. Progressive Ins. Co.

Huron App. No. H-97-036. Reported at 85 Ohio St.3d 1226, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

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

98-2570. State ex rel. Baker v. State Personnel Bd. of Review.

Franklin App. No. 98AP-886. Reported at 85 Ohio St.3d 640, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

99-315. Roulet v. AAA Pipe Cleaning Corp.

Cuyahoga App. No. 75425. Reported at 85 Ohio St.3d 1498, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

Moyer, C.J., Douglas and Cook, JJ., dissent and would grant the motion and hold the cause for the decision in 97-1870, *Burger v. Cleveland Hts.*, Cuyahoga App. No. 72675.

99-421. Hillyer v. State Farm Mut. Auto. Ins. Co.

Cuyahoga App. No. 75073. Reported at 85 Ohio St.3d 1498, ___ N.E.2d ___. On motion for reconsideration. Motion granted and discretionary appeal allowed; *sua sponte*, cause held for the decision in 98-1607, *Hillyer v. State Farm Ins. Co.*, Lake App. No. 97-L-031; briefing schedule stayed.

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

99-437. State v. Hanning.

Franklin App. No. 98AP-380. Reported at 85 Ohio St.3d 1498, ___ N.E.2d ___. On motion for reconsideration. Motion granted and discretionary appeal allowed.

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

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

Hamilton App. Nos. C-980199 and C-980241. Reported at 85 Ohio St.3d 1487, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

99-464. Kolick & Kondzer v. Madonia.

Cuyahoga App. No. 75202. Reported at 85 Ohio St.3d 1489, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

99-493. State v. Rains.

Fulton App. No. F-98-016. Reported at 85 Ohio St.3d 1496, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

Lundberg Stratton, J., dissents.

Resnick, J., not participating.

99-502. Soc. Natl. Bank v. Byrd.

Franklin App. No. 98AP-1335. Reported at 85 Ohio St.3d 1496, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

Resnick, J., not participating.

99-508. State v. Trammell.

Stark App. No. 1998CA00026. Reported at 85 Ohio St.3d 1499, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

99-511. Lyttle v. Progressive Cas. Ins. Co.

Cuyahoga App. No. 73620. Reported at 85 Ohio St.3d 1499, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

Douglas and Pfeifer, JJ., dissent.

99-552. Este Oils Co. v. Federated Ins. Co.

Hamilton App. No. C-980048. Reported at 86 Ohio St.3d 1406, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

Pfeifer, J., dissents.

99-566. Rivera v. Lake Terminal RR. Co.

Lorain App. No. 97CA006722. Reported at 86 Ohio St.3d 1402, ___ N.E.2d ___. On motion for reconsideration. Motion granted and discretionary appeal allowed.

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

99-605. State v. Reynolds.

Clermont App. No. CA98-01-006. Reported at 86 Ohio St.3d 1407, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

Moyer, C.J., dissents.

99-777. State v. Sleppy.

Darke App. No. 96CA1412. Reported at 86 Ohio St.3d 1403, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

Moyer, C.J., dissents.