

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

9:00 A.M.

WEDNESDAY
September 22, 1999

MERIT DOCKET

99-724. State ex rel. Graffi v. Horizon Freight Sys., Inc.

Franklin App. No. 98AP-71. 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.

99-1145. Valance v. Walker.

In Habeas Corpus. On petition for writ of habeas corpus by Randy S. Valance. *Sua sponte*, cause dismissed.

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

99-1354. State ex rel. Sevayega v. Pace.

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.

99-1367. State ex rel. Thrower v. Rothgery.

In Mandamus. On motion for summary judgment. *Sua sponte*, cause dismissed.

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

99-1375. State ex rel. Kreuzer v. Clerk of Courts.

In Mandamus. On motion to dismiss of the Greene County Clerk of Courts.
Motion to dismiss sustained. Cause dismissed.

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

99-1394. State ex rel. Bristow v. Bryant.

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.

99-1463. Holloway v. Clermont Cty. Dept. of Human Serv.

In Habeas Corpus. On petition for writ of habeas corpus by Sammye Holloway
and on motion to dismiss petition for writ of habeas corpus. Motion to dismiss
sustained. Cause dismissed.

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

On motion for sanctions for frivolous action. Motion denied.

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

99-1480. English v. Seidner.

In Habeas Corpus. On petition for writ of habeas corpus by Derrick English. *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**

99-1107. State v Homan.

Erie App. No. E-97-100.

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

Resnick, J., not participating.

99-1123. Frate v. Al-Sol, Inc.
Cuyahoga App. No. 73459.

99-1127. Buzulencia v. Abdalla.
Portage App. No. 97-P-0093.

99-1128. State v. Schang.
Fulton App. No. F-98-023.
Lundberg Stratton, J., dissents.
Resnick, J., not participating.

99-1148. Broadview Hts. v. Claren.
Cuyahoga App. No. 74227.

99-1154. Tillimon v. Jennings.
Lucas App. Nos. L-98-1241 and L-98-1284.

99-1155. State ex rel. Perotti v. Huffman.
Scioto App. No. 99CA2636.

99-1160. State v. Thomas.
Cuyahoga App. Nos. 72536 and 72537.
Moyer, C.J., and Cook, J., dissent, would allow on Propositions of Law Nos. I and IV, and would hold this cause for the decision in 99-765, *State v. Suffecool*, Stark App. No. 1998CA00101.

99-1161. Stallings v. Madison Twp.
Richland App. No. 99CA31.

99-1172. State v. Stacy.
Warren App. No. CA98-08-093.

99-1174. State v. Keenan.
Clermont App. No. CA98-12-117.

99-1175. Mayfield Hts. v. Kincaid.
Cuyahoga App. No. 74182.

99-1176. State v. Owens.

Madison App. No. CA98-05-022.

Douglas, J., dissents.

99-1178. State v. Young.

Cuyahoga App. Nos. 72885 and 72886.

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

99-1179. State v. Linen.

Cuyahoga App. Nos. 74070 and 74071.

99-1181. Moore v. Eastgate Seafood, Inc.

Clermont App. No. CA98-11-102.

99-1184. Martin v. Dadisman.

Cuyahoga App. No. 76312.

99-1187. Lange v. Kent State Univ.

Trumbull App. No. 98-T-0076.

99-1190. Twinsburg v. Palladino.

Summit App. Nos. 19168 and 19169.

99-1192. State v. Jones.

Sandusky App. No. S-98-033.

Pfeifer, J., dissents.

Resnick, J., not participating.

99-1193. State v. Brintzenhofe.

Summit App. No. 18924.

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

99-1200. State v. Hess.

Franklin App. No. 98APA9-83.

Cook, J., dissents.

99-1204. State v. Brocco.

Lake App. No. 98-L-056.

99-1205. State v. Jordan.
Cuyahoga App. No. 73453.

99-1206. State v. Occhipinti.
Lake App. No. 98-L-061.

99-1210. Mann v. Taft, Stettinius & Hollister.
Hamilton App. No. C-980206.

99-1216. State v. Volgaes.
Lawrence App. No. 98CA6.
Moyer, C.J., dissents.

99-1217. State v. Wooton.
Franklin App. No. 98AP-1090.

99-1221. State v. Scott.
Cuyahoga App. No. 76375.

99-1222. State v. Eskridge.
Cuyahoga App. No. 73673.

99-1224. State v. Volgaes.
Lawrence App. No. 98CA1.
Moyer, C.J., dissents.

99-1227. State v. Adelman.
Summit App. No. 18824.

99-1229. State v. Burgan.
Tuscarawas App. No. 97AP090055.

99-1239. State v. Smith.
Franklin App. No. 98AP-871.

99-1243. State v. Larue.
Hamilton App. No. C-980706.

99-1246. State v. Schlosser.

Montgomery App. Nos. 17192 and 17193.

Moyer, C.J., dissents.

99-1250. State v. Carter.

Lucas App. Nos. L-97-1162, L-97-1163 and L-97-1169.

99-1254. State v. Agee.

Montgomery App. No. 17234.

Moyer, C.J., and Cook, J., dissent, would allow, and would hold this cause for the decision in 99-437, *State v. Hanning*, Franklin App. No. 98AP-380.

99-1259. State v. Freeman.

Hamilton App. No. C-970945.

99-1260. State v. Larkin.

Hamilton App. No. C-980797.

99-1263. Thompson v. Cuyahoga Community College.

Cuyahoga App. Nos. 72626 and 72627.

99-1266. State v. Griffin.

Coshocton App. No. 90CA2.

Lundberg Stratton, J., dissents.

99-1281. State v. Grover.

Cuyahoga App. No. 74208.

99-1314. State v. McMinn.

Medina App. No. 2927-M.

99-1318. State v. Lambert.

Richland App. No. 98CA110.

99-1320. State v. Zander.

Hamilton App. No. C-980763.

99-1378. Yontz v. Griffin.

Hardin App. No. 6-99-01.

99-1390. State v. Martin.

Lucas App. No. L-87-380.

Resnick, J., not participating.

MOTION DOCKET

99-958. State v. Yarbrough.

Shelby App. No. 17-97-03. On motion for leave to supplement record. Motion denied.

99-1141. Kagy v. Toledo-Lucas Cty. Port Auth.

Fulton App. No. 99-FU-10. On motion to dissolve/lift stay granted on June 28, 1999. The motion fails for want of four votes on the following vote:

Douglas, Cook and Lundberg Stratton, JJ., vote no.

Moyer, C.J., F.E. Sweeney and Pfeifer, JJ., vote yes.

Resnick, J., not participating.

99-1405. Alrjub v. Wheeler.

Franklin App. No. 98AP-1171. On motion for stay of judgment of the Tenth District Court of Appeals. Motion denied.

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

99-1478. State v. Lehman.

Hamilton App. No. C-980309. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

99-1482. State v. Calloway.

Cuyahoga App. No. 76237. On motion for leave to file delayed appeal. Motion denied.

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

99-1485. State v. Rowser.

Stark App. No. 1998CA00013. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Cook, JJ., dissent.

99-1545. Dennis v. Morgan.

Fulton App. No. F-98-025. On review of order certifying a conflict. The court determines that a conflict exists; the parties are to brief the issue stated in the court of appeals' Decision and Judgment Entry filed July 28, 1999:

"Appellants, Tim and Suzanne Dennis, have filed a motion to certify our decision, *Dennis v. Morgan* (June 30, 1999), Fulton App. No. F-98-025, unreported, which followed our previous decision of *Cubbon v. [Locker]* (1982), 5 Ohio App.3d 200 [5 OBR 462, 450 N.E.2d 697], to the Supreme Court of Ohio as being in conflict with a decision of another Ohio court of appeals, *i.e.*, *Briggs v. MacSwain* [1986], 31 Ohio App.3d 85 [31 OBR 126, 508 N.E.2d 1028].

"We have carefully reviewed *Briggs* and find that it is in conflict with our own as to the issue of whether, absent specific lease provisions imposing liability for continued rent payments, a landlord's election to terminate a lease agreement, releases the tenant from liability for rent not yet due at the time of the eviction."

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

Resnick, J., not participating.

99-1549. State v. Prunty.

Cuyahoga App. No. 50367. On motion for leave to file delayed appeal. Motion denied.

DISCRETIONARY APPEALS ALLOWED

99-991. Klosterman Baking Co., Inc. v. Ohio Bur. of Emp. Serv.

Hamilton App. No. C-980255.

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

99-1025. Triway Local School Dist. Bd. of Edn. v. Geib.

Wayne App. No. 97CA0077.

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

99-1122. Lake Metroparks Bd. of Commrs. v. Norfolk & W. Ry. Co.

Lake App. Nos. 98-L-081 and 98-L-119.

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

99-1140. State v. Hurd.

Franklin App. No. 96APA03-326.

Pfeifer and Cook, JJ., dissent.

99-1146. State v. Collins.

Lucas App. No. L-98-1095.

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

Resnick, J., not participating.

DISCRETIONARY APPEALS NOT ALLOWED

99-1092. PNC Bank, Ohio, Natl. Assn. v. Schram.

Hamilton App. No. C-980683.

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

99-1143. State v. Eyerman.

Franklin App. No. 96APA03-328.

Resnick and Lundberg Stratton, JJ., dissent, would allow, and would consolidate this cause with 99-1140, *State v. Hurd*, Franklin App. No. 96APA03-326.

99-1147. In re Estate of Shepherd.

Summit App. No. 19239.

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

99-1153. Estate of Fox v. Continental Ins. Co.

Darke App. No. 1476.

99-1169. State v. Risner.

Putnam App. No. 12-98-12.

99-1177. Vahila v. Hall.

Stark App. No. 1998CA00174.

99-1189. Bowman v. K-Mart.

Wayne App. No. 98CA0031.

F.E. Sweeney, J., dissents.

99-1191. Leonard v. Brower Ins. Agency.

Hamilton App. No. C-980504.

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

99-1196. State v. Kehoe.

Clinton App. No. CA98-02-006.

Cook, J., dissents.

99-1197. Anderson v. Alger.

Hardin App. No. 6-98-10.

Moyer, C.J., dissents.

99-1201. Martin v. Cincinnati Ins. Co.

Logan App. No. 8-98-31.

Cook, J., not participating.

99-1202. Laibson v. CNA Ins. Cos.

Hamilton App. No. C-980736.

99-1213. Stevens v. Stevens.

Pike App. No. 98CA629.

99-1223. Liddic v. Trimble.

Montgomery App. No. 17552.

99-1234. State v. Solis.

Franklin App. No. 98AP-1201.

Moyer, C.J., dissents, would allow, and would decide this cause on authority of *State v. Brewer* (1999), 86 Ohio St.3d 160, ___ N.E.2d ___.

RECONSIDERATION DOCKET

98-1446. Victoria Plaza Ltd. Liab. Co. v. Cuyahoga Cty. Bd. of Revision.

Board of Tax Appeals, No. 96-B-641. Reported at 86 Ohio St.3d 181, ___ N.E.2d _____. On motion for reconsideration. Motion denied.

Douglas, Resnick and Pfeifer, JJ., dissent.

99-637. State v. Studer.

Seneca App. No. 13-98-46. Reported at 86 Ohio St.3d 1442, ___ N.E.2d _____. On motion for reconsideration. Motion denied.

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

Hamilton App. No. C-970977. Reported at 86 Ohio St.3d 1436, ___ N.E.2d ____.
On motion for reconsideration. Motion denied.

Douglas, J., dissents.

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

Lucas App. No. L-98-1248. Reported at 86 Ohio St.3d 1436, ___ N.E.2d _____. On
motion for reconsideration. Motion denied.

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

Hamilton App. No. C-980626. Reported at 86 Ohio St.3d 1437, ___ N.E.2d _____.
On motion for reconsideration. Motion denied.

99-970. State ex rel. Davis v. Ghee.

Franklin App. No. 98AP-617. Reported at 86 Ohio St.3d 1438, ___ N.E.2d _____.
On motion for reconsideration and on motion under App.R. 15 for procedural
emergency relief. Motions denied.

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

In Prohibition. Reported at 86 Ohio St.3d 1434, ___ N.E.2d _____. On motion for
reconsideration and/or for clarification. Motion denied.

99-1231. Howard v. Spore.

In Prohibition. Reported at 86 Ohio St.3d 1435, ___ N.E.2d _____. On motion for
reconsideration and/or new trial. Motion denied.