

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

1:00 P.M.

WEDNESDAY
September 29, 1999

MERIT DOCKET

99-1384. State ex rel. Vinci v. Mengel.

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

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

F.E. Sweeney, J., dissents and would grant the writ.

99-1407. State ex rel. Morgan v. Newlin.

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

99-1433. Johnson v. Ohio Adult Parole Auth.

In Habeas Corpus. On petition for writ of habeas corpus by Anthony L. Johnson. *Sua sponte*, cause dismissed.

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

99-1465. Thompson v. Fifth 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.

99-1595. Groce v. Lazaroff.

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

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

99-1606. In re Petition for a Writ of Habeas Corpus of Emery.

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

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

99-1610. Arnold v. Greene Cty. Court of Common Pleas.

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

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

99-1614. Bush v. Money.

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

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

99-1625. Jackson v. Money.

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

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

99-1699. State ex rel. Singh v. Capital Univ.

In Mandamus. On complaint in mandamus by James Singh. *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**

99-1111. State v. Brooks.

Hamilton App. No. C-980478.

99-1199. State v. Church.

Licking App. No. 98CA105.

99-1203. Boldt v. Kramer.

Hamilton App. C-980235.

99-1207. State v. Parra.

Lucas App. No. L-99-1111.

Resnick, J., not participating.

99-1232. State v. Baker.

Ashland App. No. 98COA01271.

99-1253. State v. Jiminez.

Cuyahoga App. No. 75382.

99-1257. State v. Lambert.

Franklin App. No. 98AP-941.

99-1258. State v. Harman.

Mahoning App. No. 96CA184.

99-1261. Stacko v. Bedford.

Cuyahoga App. No. 74043.

Pfeifer, J., dissents.

99-1265. State v. Sizemore.

Hamilton App. No. C-980392.

99-1273. State v. Goodwin.

Cuyahoga App. No. 72043.

99-1275. State ex rel. Banks v. Martin.

Franklin App. No. 99AP-322.

99-1279. In re Griffin.

Hamilton App. No. C-980639.

99-1282. State v. Perkins.

Hamilton App. No. C-971032.

99-1283. State v. Rose.

Hamilton App. Nos. C-980719, C-980720 and C-980721.

Moyer, C.J., dissents.

99-1285. State v. Hoffer.

Montgomery App. No. 17241.

99-1286. Timbercreek Village Apts. v. Myles.

Montgomery App. No. 17422.

99-1292. State v. Christman.

Monroe App. No. 786.

99-1294. Mitulski v. USS/Kobe Steel Co.

Lorain App. Nos. 98CA007085 and 98CA007105.

99-1295. Snell v. Mt. Vernon Bd. of Zoning Appeals.
Knox App. No. 98CA24.

99-1296. State v. Price.
Mahoning App. No. 92CA72.

99-1299. State v. Ransby.
Montgomery App. No. 16138.

99-1300. State v. Terry.
Greene App. Nos. 98CA13 and 98CA58.

99-1306. State v. Pearson.
Seneca App. No. 13-97-49.

99-1308. State v. Reese.
Cuyahoga App. No. 76400.

99-1310. Liberty Mut. Ins. Co. v. Paris.
Cuyahoga App. Nos. 74064 and 74065.

99-1319. State v. Deitz.
Lorain App. No. 98CA007228.

99-1322. State v. Biro.
Trumbull App. No. 98-T-0051.

99-1328. State v. Markel.
Ashland App. No. CA1279.

99-1331. State v. Akins.
Cuyahoga App. No. 74261.

99-1332. Young v. Spring Valley Sales Div. of Stites Ent., Inc.
Highland App. No. 98CA25.

99-1376. State v. Hernandez.
Mahoning App. No. 97CA201.

99-1379. State v. Kibble.

Franklin App. No. 96APA04-555.

99-1388. State v. Mushrush.

Hamilton App. No. C-980658.

Cook, J., dissents.

99-1403. State v. Stewart.

Cuyahoga App. No. 73255.

99-1411. State v. Henderhan.

Stark App. No. 1998CA00323.

MOTION DOCKET

98-1428. State ex rel. Youngstown City School Dist. Bd. of Edn. v. Youngstown.

In Mandamus. On response to show cause order. Respondents are found not to be in contempt. Nevertheless, IT IS HEREBY ORDERED that respondents must continue to comply with our December 1998 writ.

99-556. Baughman v. State Farm Mut. Auto. Ins. Co.

Summit App. No. 19087. On motion to substitute administrator of estate for Delmas Baughman, deceased. Motion granted.

99-1301. Sikora v. Wenzel.

Greene App. No. 98CA130. 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 Entry filed June 30, 1999:

“In the absence of actual or constructive notice of a defect, may a landlord be held strictly liable under R.C. 5321.04(A)(1) for the violation of a specific statutory duty imposed for the physical safety of others?”

F.E. Sweeney, J., dissents.

Sua sponte, cause consolidated with 99-1323, *Sikora v. Wenzel*, Greene App. No. 98CA130.

F.E. Sweeney, J., dissents.

The conflict cases are *Winton Properties v. Sanders* (1989), 57 Ohio App.3d 28, 565 N.E.2d 1280; *Brady v. Koehnke* (Sept. 7, 1994), Hamilton App. No. C-930240, unreported, 1994 WL 481758; *Lockhart v. Mayfield* (Sept. 18, 1991), Summit App. No. 14990, unreported, 1991 WL 184833; *Primes v. Milbry* (Nov. 19, 1997), Summit App. No. 18236, unreported, 1997 WL 760698; and *Rice v. Reid* (Apr. 23, 1992), Crawford App. No. 3-91-34, unreported, 1992 WL 81424.

99-1420. State ex rel. Myers v. Brown.

In Quo Warranto. On motion to dismiss. *Sua sponte*, alternative writ granted.

99-1546. Lumbatis v. Grange Mut. Cas. Co.

Monroe App. No. 803. On review of order certifying a conflict. The court determines that a conflict exists. *Sua sponte*, cause consolidated with 99-1348, *Lumbatis v. Grange Mut. Cas. Co.*, Monroe App. No. 803; cause held for the decision in 99-342, 99-348 and 99-618, *Holcomb v. State Farm Ins. Cos.*, Franklin App. No. 98AP-353; and briefing schedule stayed.

Lundberg Stratton, J., dissents.

99-1547. Spence v. Natl. Ins. Co.

Monroe App. No. 812. On review of order certifying a conflict. The court determines that a conflict exists. *Sua sponte*, cause consolidated with 99-1347, *Spence v. Natl. Ins. Co.*, Monroe App. No. 812; cause held for the decision in 99-342, 99-348 and 99-618, *Holcomb v. State Farm Ins. Cos.*, Franklin App. No. 98AP-353; and briefing schedule stayed.

Lundberg Stratton, J., dissents.

99-1548. Cox v. Grange Mut. Cas. Co.

Monroe App. No. 804. On review of order certifying a conflict. The court determines that a conflict exists. *Sua sponte*, cause consolidated with 99-1349, *Cox v. Grange Mut. Cas. Co.*, Monroe App. No. 804; cause held for the decision in 99-342, 99-348 and 99-618, *Holcomb v. State Farm Ins. Cos.*, Franklin App. No. 98AP-353; and briefing schedule stayed.

Lundberg Stratton, J., dissents.

Resnick, J., not participating.

99-1565. State v. Baer.

Fulton App. No. F-98-018. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

99-1599. State v. Morris.

Richland App. No. 96CA92. On motion for leave to file delayed appeal. Motion denied.

Moyer, C.J., dissents.

99-1608. State v. Minnich.

Huron App. No. H-96-060. On motion for leave to file delayed appeal. Motion denied.

99-1713. Thorn v. Schneiderman-Welch.

Stark App. No. 98CA00261. On motion for stay of court of appeals' judgment and request for expedited ruling. Motion denied.

Lundberg Stratton, J., dissents.

DISCRETIONARY APPEALS ALLOWED

99-1323. Sikora v. Wenzel.

Greene App. No. 98CA130. Discretionary appeal allowed and cause consolidated with 99-1301, *Sikora v. Wenzel*, Greene App. No. 98CA130.

F.E. Sweeney, J., dissents.

99-1347. Spence v. Natl. Mut. Ins. Co.

Monroe App. No. 812. Discretionary appeal allowed; cause consolidated with 99-1547, *Spence v. Natl. Ins. Co.*, Monroe App. No. 812; cause held for the decision in 99-342, 99-348 and 99-618, *Holcomb v. State Farm Ins. Cos.*, Franklin App. No. 98AP-353; and briefing schedule stayed.

Lundberg Stratton, J., dissents.

99-1348. Lumbatis v. Grange Mut. Cas. Co.

Monroe App. No. 803. Discretionary appeal allowed; cause consolidated with 99-1546, *Lumbatis v. Grange Mut. Cas. Co.*, Monroe App. No. 803; cause held for decision in 99-342, 99-348 and 99-618, *Holcomb v. State Farm Ins. Cos.*, Franklin App. No. 98AP-353; and briefing schedule stayed.

Lundberg Stratton, J., dissents.

99-1349. Cox v. Grange Mut. Cas. Co.

Monroe App. No. 804. Discretionary appeal allowed; cause consolidated with 99-1548, *Cox v. Grange Mut. Cas. Co.*, Monroe App. No. 804; cause held for the decision in 99-342, 99-348 and 99-618, *Holcomb v. State Farm Ins. Cos.*, Franklin App. No. 98AP-353; and briefing schedule stayed.

Lundberg Stratton, J., dissents.

Resnick, J., not participating.

DISCRETIONARY APPEALS NOT ALLOWED

99-1104. Padney v. Metrohealth Med. Ctr.

Cuyahoga App. No. 76276. On motion to remand to trial court. Motion denied.

99-1194. Weightman v. Weightman.

Franklin App. No. 98AP-1021.

Cook, J., not participating.

99-1195. Abraham v. Werner Enterprises.

Erie App. No. E-98-077.

F.E. Sweeney, J., dissents.

Resnick, J., not participating.

99-1228. State v. Sheppard.

Ashland App. No. 98COA01278.

99-1251. Ward v. Henkle.

Summit App. Nos. 19199 and 19430.

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

99-1271. Walters v. The Enrichment Ctr. of Wishing Well, Inc.

Cuyahoga App. No. 74069.

Douglas, J., dissents.

99-1274. Justice v. Nationwide Ins. Co.

Franklin App. No. 98AP-1083.

Lundberg Stratton, J., not participating.

99-1284. Stewart v. Seedorff.
Franklin App. No. 98AP-1049.

99-1289. Rutter v. Walmart Stores, Inc.
Logan App. No. 8-98-36.

99-1290. Smith v. Lima Mem. Hosp.
Allen App. No. 1-98-73.
Pfeifer, J., dissents.

99-1291. Harris v. Ali.
Cuyahoga App. No. 73432.

99-1325. In re Appeal of Averill.
Geauga App. No. 98-G-2140.

99-1329. Willow Park Convalescent Home, Inc. v. Crestmont Cleveland Partnership.
Cuyahoga App. No. 74960.
Pfeifer, J., dissents.

99-1341. Brant v. Vireo-Retinal Consultants, Inc.
Stark App. No. 1999CA00114.

99-1343. Catalfamo v. Lehman Awning Co.
Stark App. No. 98CA00233.

RECONSIDERATION DOCKET

97-2419. State ex rel. Ohio Academy of Trial Lawyers v. Sheward.
In Mandamus and Prohibition. Reported at 86 Ohio St.3d 451, ____ N.E.2d ____.
On motion for reconsideration by Ohio Attorney General Betty D. Montgomery.
Motion denied.

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

99-825. Abbott v. Jarrett Reclamation Serv., Inc.
Belmont App. No. 96BA36. Reported at 86 Ohio St.3d 1455, ____ N.E.2d ____.
On motion for reconsideration. Motion denied.
Douglas, F.E. Sweeney and Lundberg Stratton, JJ., dissent.