

**SUPREME COURT OF OHIO**

**COLUMBUS**

**ANNOUNCEMENT**

1:00 P.M.

WEDNESDAY  
December 8, 1999

**MERIT DOCKET**

**99-1822. State ex rel. Rashad v. Wilkinson.**

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.

**99-1836. State ex rel. Hamilton v. Tenth Dist. Court of Appeals.**

In Procedendo. 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.

**99-1846. State ex rel. Turk v. Handwork.**

In Mandamus. On motion to dismiss. Motion to dismiss sustained. Cause dismissed.

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

Resnick, J., not participating.

**99-1848. State ex rel. Bernard v. Kessler.**

In Mandamus. On motion to dismiss or, in the alternative, motion for summary judgment. Motion to dismiss sustained. Cause dismissed.

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

**99-2005. Abner v. Morgan.**

In Habeas Corpus. On petition for writ of habeas corpus by Antonio Abner. *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**

**99-1674. State v. Erwin.**

Perry App. No. 97CA66.

**99-1711. Slawson v. Erie Islands Resort & Marina.**

Ottawa App. No. OT-98-042.

Resnick, J., not participating.

**99-1713. Thorn v. Schneiderman-Welch.**

Stark App. No. 98CA00261.

**99-1723. State v. Oates.**

Hamilton App. No. C-980650.

**99-1731. State v. Watson.**

Lucas App. No. L-99-1005.

**99-1732. Stansbury v. Stansbury.**

Licking App. No. 99CA9.

**99-1734. State v. Mack.**

Franklin App. No. 94APA07-992.

**99-1735. State v. Kreuzer.**

Greene App. No. 98CA100.

**99-1738. Smith v. Troyer Potato Products, Inc.**

Cuyahoga App. No. 74522.

**99-1739. White v. Cuyahoga Metro. Hous. Auth.**

Cuyahoga App. No. 74336.

F.E. Sweeney, J., dissents.

**99-1742. State v. Coleman.**

Hamilton App. No. C-980617.

**99-1745. Blanks v. White Consolidated Industries, Inc.**

Cuyahoga App. No. 74440.

**99-1748. Carr v. Carr.**

Medina App. No. 2880-M.

**99-1750. Marysville v. Mushrush.**

Union App. No. 14-99-32.

**99-1751. State v. Patterson.**

Franklin App. No. 98AP-1415.

**99-1754. State v. Murawski.**

Cuyahoga App. No. 74581. On discretionary appeal and motion to transfer and incorporate records. Appeal and motion denied.

**99-1756. State v. Overholt.**

Medina App. No. 2905-M.

**99-1764. State v. Anderson.**

Auglaize App. No. 2-99-19.

**99-1774. State v. Becker.**

Ashtabula App. No. 97-A-0079.

**99-1776. State v. Cody.**

Hamilton App. No. C-990507.

**99-1782. State v. Henderson.**

Montgomery App. No. 17584.

**99-1783. State v. Hawkins.**

Cuyahoga App. No. 74678.

**99-1787. Salem Twp. Zoning Comm. v. Lynch.**

Warren App. No. CA98-10-133.

**99-1788. In re Marriage of Davidovics.**

Cuyahoga App. No. 75589.

Lundberg Stratton, J., dissents.

**99-1789. State v. Jackson.**

Hamilton App. No. C-980512.

**99-1790. State v. Pigg.**

Champaign App. No. 98CA24.

**99-1795. Clayman v. State Med. Bd. of Ohio.**

Franklin App. No. 98AP-1110.

Douglas, J., dissents.

**99-1808. State v. Burgess.**

Greene App. No. 99CA30.

**99-1817. Parsons v. Kelley.**

Delaware App. No. 98CAE10052.

**99-1821. Partridge v. Partridge.**

Greene App. No. 98CA38.

**99-1840. State v. Jones.**

Ashtabula App. No. 96-A-0009.

**99-1849. State v. Thomas.**

Butler App. No. CA99-01-017.

## **MOTION DOCKET**

### **98-1097. First Bank of Marietta v. Roslovic & Partners, Inc.**

Franklin App. Nos. 97APE09-1199 and 97APE09-1201. On amended motion for enforcement of judgment entry and for instructions. Motion denied.

Douglas, J., would grant.

Pfeifer, J., would dismiss and award attorney fees against the movant.

### **98-1117. State ex rel. Quality Tower Serv., Inc. v. Indus. Comm.**

Franklin App. No. 97APD04-523. On request for oral argument. Request denied.

### **99-889. State v. Lomax.**

Sandusky C.P. No. 96CR448. On motion to supplement record with copies of supplement attached. Motion denied.

Pfeifer, J., dissents.

On joint motion to supplement record. Motion granted.

### **99-963. State ex rel. Ohio Assn. of Pub. School Emp./AFSCME, Local 4, AFL-CIO v. Batavia Local School Dist. Bd. of Edn.**

Clermont App. No. CA98-08-068. On appellants' request for oral argument. Request granted and cause to be set for oral argument.

F.E. Sweeney, J., dissents, would grant the writ, and would remand the cause to the court of appeals for calculation of back pay and benefits.

### **99-1113. State v. Lomax.**

Sandusky App. Nos. S-97-037 and S-99-014. On motion to supplement record with copies of supplement attached. Motion denied.

Pfeifer, J., dissents.

On joint motion to supplement record. Motion granted.

### **99-1198. State ex rel. Grendell v. Davidson.**

In Mandamus. This cause came on for consideration upon respondents' itemization of attorney fees and expenses. Upon consideration thereof,

IT IS ORDERED by the court that respondents submit additional evidence within ten days of this entry of the expenses and approximate amount of compensation and fringe benefits, if any, of their counsel that have been paid by the state in connection with the legal services rendered in defending against the frivolous claims raised by relators in their complaint and the first two claims raised by relators in their amended complaint, with the exception of the alleged three-consideration rule violations.

**99-1677. State v. Joshua.**

Ross App. No. 98CA2466. On motion for leave to file delayed appeal. Motion denied.

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

**99-1799. State v. Phillips.**

Cuyahoga App. Nos. 74397, 74398 and 74399. On motion for leave to file delayed appeal. Motion denied.

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

**99-1818. State v. Underwood.**

Meigs App. No. 98CA11. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

**99-1918. State v. Lower.**

Franklin App. No. 98AP-1275. On motion for leave to file delayed appeal. Motion granted.

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

**99-2006. State v. Hike.**

Franklin App. No. 97APA04-554. On motion for leave to file delayed appeal. Motion denied.

**99-2084. State v. Saddler.**

Cuyahoga App. No. 74218. On motion for stay of court of appeals' judgment. Motion granted.

**DISCRETIONARY APPEALS ALLOWED**

**99-1658. In re Original Grand Jury Investigation of Helmick.**

Lucas App. No. L-98-1146.

Resnick, J., not participating.

**99-1668. State v. Jordan.**

Montgomery App. No. 17686.

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

## **DISCRETIONARY APPEALS NOT ALLOWED**

**99-1705. State v. Williams.**

Cuyahoga App. No. 74501.

**99-1709. State v. Oliger.**

Licking App. No. 98CA137.

**99-1727. Brocious v. Progressive Ins. Co.**

Cuyahoga App. Nos. 74349 and 75914.

Resnick and Pfeifer, JJ., dissent.

**99-1744. Summers v. Highland Hills.**

Cuyahoga App. No. 74437.

Moyer, C.J., dissents.

**99-1746. O'Connell v. O'Connell.**

Clermont App. No. CA98-12-121. On discretionary appeal, motion to dismiss, and motion for sanctions for frivolous action. Appeal and motions denied.

Pfeifer, J., dissents.

**99-1747. Natl. City Bank v. Rainer.**

Franklin App. No. 98AP-1170.

**99-1761. El-Ka'Kim v. Am. Gen. Life & Acc. Co.**

Mahoning App. No. 97CA6.

**99-1770. Kolakowski v. Demoss.**

Belmont App. No. 98BA55. On discretionary appeal. Appeal denied.

Lundberg Stratton, J., dissents.

On motion for admission *pro hac vice* of Richard L. Rosenzweig by Daniel P. Fry. Motion denied.

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

**99-1775. State v. Vargo.**

Lorain App. No. 99CA007413.

**99-1777. Varian v. Levy.**

Stark App. No. 1998CA00278.

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

**99-1786. Schneider v. Gunnerman.**

Fayette App. Nos. CA98-11-019 and CA99-03-009.

**99-1794. Michael v. Am. Arbitration Assn.**

Franklin App. No. 98AP-1317.

**99-1797. Hammer v. Lumbermens Mut. Cas. Co.**

Lucas App. No. L-98-1283.

Douglas, J., would allow and hold this cause for the decision in 98-2630, *Wolfe v. Wolfe*, Montgomery App. No. 17111.

Pfeifer, J., would allow.

Resnick, J., not participating.

**99-1804. Armco, Inc. v. Ohio Bur. of Emp. Serv.**

Richland App. No. 99CA30.

**99-1834. Strickling v. Joe Behr Plumbing & Heating, Inc.**

Richland App. No. 98CA104.

**RECONSIDERATION DOCKET**

**97-780. State ex rel. Blabac v. Indus. Comm.**

Franklin App. No. 95APD11-1415. Reported at 87 Ohio St.3d 113, \_\_\_ N.E.2d \_\_\_\_\_. On motion for reconsideration. Motion denied.

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

**97-1312. State v. Cowans.**

Clermont C.P. No. 96CR005394. Reported at 87 Ohio St.3d 68, \_\_\_ N.E.2d \_\_\_\_\_. On motion for reconsideration. Motion denied.

Moyer, C.J., dissents.

**99-881. Wellman v. Pub. Util. Comm.**

Public Utilities Commission, No. 98-516-TP-CSS. Reported at 87 Ohio St.3d 1428, \_\_\_ N.E.2d \_\_\_\_\_. On motion for reconsideration. Motion denied.



**99-1342. In re Lawson.**

Montgomery App. No. 17777. Reported at 87 Ohio St.3d 1417, \_\_\_ N.E.2d \_\_\_\_.  
On motion for reconsideration. Motion denied.

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

**99-1393. Cain v. Cain.**

Hamilton App. No. C-980358. Reported at 87 Ohio St.3d 1418, \_\_\_ N.E.2d \_\_\_\_.  
On motion for reconsideration. Motion denied.

**99-1434. Woodard v. Spellman.**

Cuyahoga App. No. 74347. Reported at 87 Ohio St.3d 1429, \_\_\_ N.E.2d \_\_\_\_\_. On  
motion for reconsideration. Motion denied.

**99-1459. State v. Lawwell.**

Franklin App. No. 99AP-367. Reported at 87 Ohio St.3d 1430, \_\_\_ N.E.2d \_\_\_\_\_.  
On motion for reconsideration. Motion denied.

**99-1496. Pollock v. Rashid.**

Hamilton App. No. C-980373. Reported at 87 Ohio St.3d 1430, \_\_\_ N.E.2d \_\_\_\_\_.  
On motion for reconsideration. Motion denied.

**99-1553. State ex rel. Untied v. Taft.**

In Mandamus. Reported at 87 Ohio St.3d 1416, \_\_\_ N.E.2d \_\_\_\_\_. On motion for  
reconsideration. Motion denied.

**99-1766. State v. Dickens.**

Clermont App. No. CA98-09-075. Reported at 87 Ohio St.3d 1429, \_\_\_ N.E.2d \_\_\_\_\_.  
On motion for reconsideration. Motion granted and certified conflict  
accepted.

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

*Sua sponte*, cause held for the decision in 99-286, *State v. Williams*, Lake  
App. No. 97-L-191; briefing schedule stayed.