

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

9 A.M.

WEDNESDAY
May 31, 2000

MERIT DOCKET

00-563. State ex rel. Norris v. Ghee.

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.

00-600. Woods v. First Appellate Dist. Court of Appeals.

In Procedendo. On motion to dismiss complaint in procedendo. Motion to dismiss sustained. Cause dismissed.

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

00-676. State ex rel. Munici v. Fuerst.

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.

00-681. State ex rel. Goodwin v. Ghee.

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

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

00-685. State ex rel. Roberts v. Brooks.

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

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

00-780. Carrera v. Randle.

In Habeas Corpus. On petition for writ of habeas corpus by Paul Carrera. *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**

00-444. State v. Terrell.

Cuyahoga App. No. 76637.

00-446. State v. Clendenin.

Stark App. No. 1999CA00228.

00-449. State v. Plant.

Cuyahoga App. No. 77508.

Resnick, J., not participating.

00-450. State v. Brown.

Franklin App. No. 99AP-1421.

00-454. Judge v. Best.

Summit App. No. 19840.

Pfeifer, J., dissents.

00-455. Dooley v. Bodnar.

Summit App. No. 19841.

00-463. State v. Chu.

Cuyahoga App. Nos. 75583 and 75689.

Resnick, J., not participating.

00-464. State v. Kates.

Mahoning App. No. 97CA252.

00-468. State v. Walton.

Hamilton App. No. C-990374.

00-474. State v. Villarroel.

Hamilton App. No. C-990231.

00-478. State v. Norman.

Auglaize App. No. 2-99-37.

Moyer, C.J., dissents.

00-480. State v. Sims.

Summit App. No. 19641.

00-483. State v. Chamberlain.

Madison App. No. CA99-01-003.

00-485. McCarley v. O.O. McIntyre Park Dist.

Gallia App. No. 99CA07.

Douglas and Resnick, JJ., dissent.

00-487. Holderness v. Holderness.

Summit App. No. 19568.

00-488. State v. Kaine.

Cuyahoga App. No. 76550.

Resnick, J., not participating.

00-489. In re Weatherholt.

Seneca App. No. 13-99-31.

00-493. State v. Baker.

Stark App. No. 1999CA00274.

00-494. Gray v. Gray.

Cuyahoga App. No. 77474.

Resnick, J., not participating.

00-496. Forsyth v. Feinstein.

Clark App. No. 99CA66.

00-499. State v. Lehman.

Lucas App. No. L-99-1140.

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

Resnick, J., not participating.

00-501. State v. Ogletree.

Cuyahoga App. No. 77497.

00-502. Fontaine v. Hairston.

Franklin App. No. 99AP-625.

Douglas and Pfeifer, JJ., dissent.

00-503. Voyath v. Beckert.

Montgomery App. No. 17745.

00-506. Higgins v. Columbia Gas of Ohio, Inc.

Belmont App. No. 98BA54.

Douglas, J., dissents.

00-508. State v. Buoscio.

Summit App. No. 19480.

00-509. In re Hauserman.

Cuyahoga App. No. 75831.

Resnick, J., not participating.

00-510. State v. Thomas.

Cuyahoga App. No. 75361.

Resnick, J., dissents.

00-522. State v. Rogers.

Cuyahoga App. No. 77349.

F.E. Sweeney, J., dissents.

Resnick, J., not participating.

00-524. Saplak v. Cleveland.

Cuyahoga App. No. 75597.

Douglas, J., dissents.

00-525. Gary v. Gaulin.

Putnam App. No. 12-99-12.

00-527. State v. Bachman.

Stark App. No. 1995CA00266.

00-529. Walker v. Walker.

Cuyahoga App. No. 76959.

00-534. Doe v. Beach House Dev. Co.

Cuyahoga App. No. 75615.

Moyer, C.J., and Resnick, J., dissent.

00-536. State v. Dattilo.

Mahoning App. No. 95CA3.

00-537. State v. Chavis.

Cuyahoga App. No. 77565.

Resnick, J., not participating.

00-539. State v. Jenkins.

Cuyahoga App. No. 75343.

Resnick, J., not participating.

00-541. Ehmann v. Ehmann.

Lucas App. No. L-99-1249.

Resnick, J., not participating.

00-544. Ruda v. Lear.

Wyandot App. No. 16-99-06.

Moyer, C.J., dissents.

00-546. State v. Mayer.

Mahoning App. No. 96CA119.

00-571. State v. Corbin.

Cuyahoga App. No. 77537.

00-585. State v. Buoscio.

Mahoning App. No. 2000CA20.

00-588. In re Harper.

Hamilton App. Nos. C-990154 and C-990263.

00-595. State v. Miles.

Hamilton App. No. C-980898.

MOTION DOCKET

99-1511. State v. Thomas.

Lucas App. No. L-96-020. On motion to participate in oral argument. Motion denied.

Douglas and Lundberg Stratton, JJ., dissent.

99-1890. In re Baby Boy Blackshear.

Stark App. No. 1999CA00018. On motion to strike portions of second supplement to the briefs of Stark County Department of Human Services. Motion granted.

Resnick, J., would deny if the portions are not part of the record.

Pfeifer, J., would deny the motion.

99-1987. Centerior Fuel Corp. v. Tracy.

Board of Tax Appeals, No. 96-M-1468. *Sua sponte*, cause consolidated with 99-1988, *OES Fuel, Inc. v. Tracy*, Board of Tax Appeals, No. 96-M-1469; oral argument limited to fifteen minutes per side.

Cook, J., not participating.

99-1988. OES Fuel, Inc. v. Tracy.

Board of Tax Appeals, No. 96-M-1469. *Sua sponte*, cause consolidated with 99-1987, *Centerior Fuel Corp. v. Tracy*, Board of Tax Appeals, No. 96-M-1468; oral argument limited to fifteen minutes per side.

Cook, J., not participating.

00-347. State ex rel. Holsinger v. McAuliffe.

In Prohibition. On request for findings of fact and conclusions of law. Request denied.

00-481. Johnson v. Greene Cty. Drug Task Force.

Greene App. No. 99CA61. 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 February 29, 2000, at page 3:

“Whether the provision in R.C. 2744.02(C) providing for the immediate appeal of an order denying a claim of immunity to a political subdivision or its employee is constitutional.”

Pfeifer, J., dissents.

Sua sponte, cause consolidated with 00-472, *Johnson v. Greene Cty. Drug Task Force*, Greene App. No. 99CA61.

The conflict case is *Day v. Middletown-Monroe City School Dist.* (Dec. 17, 1999), Butler App. No. CA99-11-186, unreported.

00-551. Kilgore v. Chrysler Corp.

Montgomery App. Nos. 17906 and 17915. 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 March 14, 2000, at page 2:

“Whether an attorney's travel expenses incurred in taking the deposition of an expert witness are reimbursable ‘costs of any legal proceeding’ under R.C. 4123.512(F).”

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

Sua sponte, cause consolidated with 00-512, *Kilgore v. Chrysler Corp.*, Montgomery App. Nos. 17906 and 17915.

The conflict cases are *Breidenbach v. Ohio Bur. of Workers' Comp.* (1997), 122 Ohio App.3d 640, 702 N.E.2d 509; and *Andrews v. Sajar Plastics, Inc.* (1994), 98 Ohio App.3d 61, 647 N.E.2d 854.

00-711. State v. Parker.

Lorain App. No. 99CA007432. On motion for leave to file delayed appeal. Motion granted.

F.E. Sweeney, J., dissents.

00-718. State v. Jackson.

Cuyahoga App. No. 74447. On motion for leave to file delayed appeal. Motion denied.

00-736. State v. Horton.

Franklin App. No. 97APA05-598. On motion for leave to file delayed appeal. Motion denied.

00-738. State v. Smith.

Cuyahoga App. No. 72089. On motion for leave to file delayed appeal. Motion granted.

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

Resnick, J., not participating.

00-757. State v. Hasan.

Cuyahoga App. No. 74701. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

On motion for stay of court of appeals' judgment and on motion for appeal bond. Motions denied.

00-795. State v. Bussey.

Cuyahoga App. No. 75301. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

Resnick, J., not participating.

00-800. State v. Jones.

Hamilton App. No. C-980294. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

00-809. State v. Armstrong.

Cuyahoga App. No. 76832. On motion for stay of execution of sentence and to reinstate bond pending appeal. Motion denied.

Moyer, C.J., dissents and would impose the same conditions as set by the court of appeals.

00-907. Christe v. GMS Mgt. Co.

Summit App. No. 18267. On motion for stay. Motion denied.

Lundberg Stratton, J., dissents and would require a cash bond.

On motion to cancel/revoke bond. Motion denied.

Lundberg Stratton, J., dissents.

On motion to consolidate with 99-450 and 99-926, *Christe v. GMS Mgt. Co.*, Summit App. No. 18992. Motion denied.
Lundberg Stratton, J., dissents.

DISCRETIONARY APPEALS ALLOWED

00-380. Tetlak v. Bratenahl.

Cuyahoga App. No. 74807.

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

00-408. State v. Orr.

Montgomery App. Nos. 17476 and 17477.

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

00-420. A & M Builders, Inc. v. Highland Hts.

Cuyahoga App. No. 75676. Discretionary appeal allowed and cause held for the decision in 98-2572, *Home Builders Assn. of Dayton & the Miami Valley v. Beavercreek*, Greene App. Nos. 97CA113 and 97CA115; briefing schedule stayed.

00-448. Lonas v. Kail.

Harrison App. No. 491.

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

00-460. Tomei v. Mayfield City Schools.

Cuyahoga App. No. 77471. Discretionary appeal allowed and cause held for the decision in 00-472 and 00-481, *Johnson v. Greene Cty. Drug Task Force*, Greene App. No. 99CA61; briefing schedule stayed.

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

00-472. Johnson v. Greene Cty. Drug Task Force.

Greene App. No. 99CA61. Discretionary appeal allowed and cause consolidated with 00-481, *Johnson v. Greene Cty. Drug Task Force*, Greene App. No. 99CA61.

Pfeifer, J., dissents.

00-512. Kilgore v. Chrysler Corp.

Montgomery App. Nos. 17906 and 17915. Discretionary appeal allowed and cause consolidated with 00-551, *Kilgore v. Chrysler Corp.*, Montgomery App. Nos. 17906 and 17915.

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

DISCRETIONARY APPEALS NOT ALLOWED

00-443. Bailey v. Walker-Brown.

Stark App. No. 1999CA00172.

00-466. Lawrence v. Bailey.

Marion App. No. 9-99-37.

Pfeifer and Lundberg Stratton, JJ., dissent.

00-469. Wurts v. Gregg.

Montgomery App. No. 17682.

00-479. State v. McDonald.

Stark App. No. 1999CA00019.

00-484. Freeman v. Wayne Mut. Ins. Co.

Madison App. No. CA99-07-018.

Cook and Lundberg Stratton, JJ., dissent.

00-492. Zerner v. New Par.

Stark App. No. 1999CA00201.

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

00-516. Dawson v. Williamsburg of Cincinnati Mgt. Co.

Hamilton App. No. C-981022.

Lundberg Stratton, J., dissents.

00-518. Sherwin-Williams Co. v. State Line Painting.

Mahoning App. No. 97CA9.

Pfeifer, J., dissents.

00-592. Manning v. Ohio Dept. of Adm. Serv.

Franklin App. No. 99AP-452.

Pfeifer, J., dissents.

00-620. Jackson v. Astro Shapes, Inc.

Mahoning App. No. 98CA179.

RECONSIDERATION DOCKET

99-450 and 99-926. *Christe v. GMS Mgt. Co.*

Summit App. No. 18992. Reported at 88 Ohio St.3d 376, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

Lundberg Stratton, J., dissents.

On motion for attorney fees. Motion denied.

Cook and Lundberg Stratton, JJ., dissent and would award \$3,412.50 in attorney fees.

On motion to consolidate with 00-907, *Christe v. GMS Mgt. Co.*, Summit App. No. 18267. Motion denied.

Lundberg Stratton, J., dissents.

99-1585. *State ex rel. Chesney v. Lisbon.*

In Mandamus. Reported at 88 Ohio St.3d 1477, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

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

00-135. *In re Jessica H.*

Lucas App. No. L-99-1076. Reported at 88 Ohio St.3d 1479, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

Resnick, J., not participating.

00-143. *Rocky River v. Attewell.*

Cuyahoga App. No. 76269. Reported at 88 Ohio St.3d 1480, ___ N.E.2d ___. On motion for reconsideration. The motion fails for want of four votes on the following vote:

Moyer, C.J., F.E. Sweeney and Cook, JJ., vote no.

Douglas, Pfeifer and Lundberg Stratton, JJ., vote yes.

Resnick, J., not participating.

00-154. *Georgeadis v. Dials.*

Franklin App. No. 99AP-232. Reported at 88 Ohio St.3d 1480, ___ N.E.2d ___. On motion for reconsideration and motion for appointment of counsel. Motions denied.

00-184. *Wise v. Qualified Emergency Specialists, Inc.*

Hamilton App. No. C-980802. Reported at 88 Ohio St.3d 1481, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

00-193. Moots, Cope & Stanton v. Triplett.

Franklin App. No. 99AP-333. Reported at 88 Ohio St.3d 1481, ____ N.E.2d ____.
On motion for reconsideration. Motion denied.

00-441. Howard v. Ohio Bur. of Workers' Comp.

Action Pursuant to R.C. 4121.25. Reported at 88 Ohio St.3d 1478, ____ N.E.2d ____.
On amended motion for reconsideration. Motion denied.
Moyer, C.J., not participating.