

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

9:00 A.M.

WEDNESDAY

June 14, 2000

MERIT DOCKET

00-661. State ex rel. Doss v. Anderson.

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.

00-671. State v. Nichols.

Cuyahoga App. Nos. 75605 and 75606. 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, F.E. Sweeney, Pfeifer, Cook and Lundberg
Stratton, JJ., concur.

00-721. State ex rel. Woods v. Hamilton Cty. Common Pleas Court.

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.

00-879. Brooks v. Wilkinson.

In Habeas Corpus. On petition for writ of habeas corpus by Joseph Brooks and a motion for admission *pro hac vice* by Raymond Vasvari for Baya Harrison III. *Sua sponte*, cause dismissed.

On motion for admission. Motion denied.

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

00-934. In re Lehman.

In Habeas Corpus. On petition for writ of habeas corpus by Sandra Lynn Lehman and Ellis Lehman. *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**

00-526. State v. Spratley.

Hamilton App. No. C-990295.

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

00-528. State v. Lauderdale.

Hamilton App. No. C-990294.

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

00-542. Scottsdale Ins. Co. v. Brock.

Butler App. Nos. CA99-01-009 and CA99-02-023. On discretionary appeal. Appeal denied.

F.E. Sweeney, J., dissents.

On discretionary cross-appeal. Appeal denied.

00-545. Garrison Bardes v. Todd.

Hamilton App. No. C-000055.

00-549. Salick v. Caltrider.

Cuyahoga App. No. 76639.

Douglas, J., dissents.

00-552. State v. Kimbrough.

Cuyahoga App. Nos. 75642, 75643 and 75644.

00-556. Merkle v. Estate of Hodary.

Hamilton App. Nos. C-990223, C-990230, C-990244 and C-990249.

00-557. Hopkins v. United Parcel Serv., Inc.

Hamilton App. No. C-990392. On motion for admission *pro hac vice* of Tony C. Coleman and Julie C. Foster by H. Lawson Walker. Motion denied.

00-558. State v. Taylor.

Lucas App. No. L-98-1375.

Resnick, J., not participating.

00-560. State v. Aponte.

Franklin App. Nos. 99AP-695 and 99AP-696.

00-562. Haddad v. State Farm Mut. Auto. Ins. Co.

Stark App. No. 1999CA00262.

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

00-567. State v. Allen.

Hamilton App. No. C-990310.

00-568. State v. Frank.

Hamilton App. Nos. C-990079, C-990080 and C-990081.

00-570. State v. McKoy.

Cuyahoga App. No. 74763.

00-572. State v. Beckett.

Lucas App. Nos. L-97-1073 and L-98-1272.

00-576. In re Moore.

Cuyahoga App. No. 75673.

Resnick, J., not participating.

00-577. State v. Mackey.

Warren App. No. CA99-06-065.

Douglas, J., would allow on Proposition of Law No. I only.

Pfeifer, J., would allow.

00-578. State v. Marshall.

Cuyahoga App. No. 75688.

00-579. State v. Wood.

Logan App. No. 8-99-11.

00-586. State v. Smith.

Cuyahoga App. No. 75793.

00-593. State v. Leone.

Cuyahoga App. Nos. 75871, 75872, 75873 and 75874.

00-594. State v. Wilson.

Adams App. No. 99CA672.

00-596. State v. Rogers.

Cuyahoga App. Nos. 76627 and 76628.

00-599. State v. Linn.

Summit App. No. 19095.

00-602. Forsyth v. Hall.

Montgomery App. No. 18004. On motion to vacate judgment of Montgomery County Court of Common Pleas, Domestic Relations Division, case No. 92DR263. Motion denied.

00-606. Patton v. Capital Builders & Supply, Inc.

Stark App. No. 1999CA00195.

00-608. Kvinta v. Kvinta.

Franklin App. No. 99AP-508.

Moyer, C.J., dissents.

00-609. State v. Brooks.

Licking App. No. 99CA108.

00-611. State v. Rudge.

Portage App. No. 95-P-0055.

Pfeifer, J., dissents.

00-616. State v. Francis.

Guernsey App. No. 99CA24.

00-617. Quelette v. Columbus.

Franklin App. No. 99AP-897.

00-621. Skinner v. Progressive Ins. Co.

Cuyahoga App. No. 76603.

00-623. State v. Wheeler.

Hamilton App. No. C-980496.

00-630. State v. Crane.

Montgomery App. No. 17967.

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

00-653. State v. Hill.

Mahoning App. Nos. 98CA15 and 98CA233.

Moyer, C.J., dissents.

00-656. State v. Nichols.

Cuyahoga App. Nos. 75605 and 75606.

00-663. State v. Minor.

Richland App. No. 99CA63.

00-667. Higgins v. Bennett.

Clinton App. No. CA99-08-022.

00-728. State v. Scruggs.

Franklin App. No. 99AP-664.

00-750. Lyles v. Glover.

Allen App. No. 1-99-104.

Douglas, J., dissents.

MOTION DOCKET

96-2029. State v. White.

Ashland C.P. No. 96CRI07366. On motion for appointment of co-counsel for purpose of filing application for reopening. Motion denied.

96-2509. State v. White.

Ashland App. No. 96COA01182. On motion for appointment of co-counsel for purpose of filing application for reopening. Motion denied.

99-2151. Alder v. Eli Lilly & Co.

Summit App. No. 19400. On motion for admission *pro hac vice* of Henry R. Simon and Linda Trummer-Napolitano by R. Gary Winters; on motion for admission *pro hac vice* of Ronald G. Blum by John E. Martindale; and on motion for admission *pro hac vice* by James R. Vaughn for A. Edward Grashof for Dart Industries, Inc. Motions granted.

Resnick, J., not participating.

00-301. State ex rel. Plain Dealer Publishing Co. v. Cuyahoga Cty. Court of Common Pleas.

In Prohibition. On request for oral argument. Request granted.

00-554. White v. Dayton.

Montgomery App. No. 17714. On review of order certifying a conflict. The court determines that a conflict exists. *Sua sponte*, cause consolidated with 00-553, *White v. Dayton*, Montgomery App. No. 17714, 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.

00-688. Yancy v. Haehn.

Gaega App. No. 99-G-2210. On motion for stay of court of appeals' judgment. Motion denied.

00-740. Gunnell v. Lazaroff.

Pickaway App. No. 00CA14. On motion for stay. Motion denied.

00-807. Simpson v. Niles Police Dept.

Trumbull App. No. 99-T-0036. On review of order certifying a conflict. The court determines that a conflict exists; *sua sponte*, cause consolidated with 00-580, *Simpson v. Niles Police Dept.*, Trumbull App. No. 99-T-0036, 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.

Moyer, C.J., F.E. Sweeney and Cook, JJ., would have 00-807 separately briefed and argued on the same date as 00-472 and 00-481.

00-808. Cain v. Simpson.

Trumbull App. No. 99-T-0037. On review of order certifying a conflict. The court determines that a conflict exists; *sua sponte*, cause consolidated with 00-584, *Cain v. Simpson*, Trumbull App. No. 99-T-0037, 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.

Moyer, C.J., Pfeifer and Cook, JJ., would have 00-808 separately briefed and argued on the same date as 00-472 and 00-481.

00-824. Yoh v. Schlachter.

Williams App. No. WM-99-008. On motion for stay of court of appeals' judgment pending appeal to this court. Motion granted; *sua sponte*, cause held for the decision in 00-428, *Holeton v. Crouse Cartage Co.*, Certified Question of State Law No. 98CV7578; briefing schedule stayed.

00-865. Marshall v. Montgomery Cty. Children Serv. Bd.

Montgomery App. No. 17856. On review of order certifying a conflict. The court determines that a conflict exists. *Sua sponte*, cause held for the decision in 99-1838 and 99-2106, *Campbell v. Burton*, Greene App. No. 99CA12; briefing schedule stayed.

00-901. State v. Rivera.

Cuyahoga App. No. 74157. On motion for leave to file delayed appeal. Motion denied.

Cook, J., dissents.

00-909. State v. Dick.

Seneca App. No. 13-99-51. On motion for stay of court of appeals' judgment. Motion granted.

Pfeifer and Cook, JJ., dissent.

00-953. State v. McKee.

Marion App. No. 9-99-57. 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' Journal Entry filed May 9, 2000, at page 2:

"Is there insufficient evidence as a matter of law to convict a defendant for corrupting another with drugs in violation of R.C. 2925.02, when the alleged drug in question is marihuana, and at trial there is no expert witness or laboratory analysis presented to identify the substance alleged to be marihuana, and the only identification of the substance is the testimony of the juveniles who allegedly smoked the substance."

Douglas and Resnick, JJ., dissent.

Sua sponte, cause consolidated with 00-523, *State v. McKee*, Marion App. No. 9-99-57.

The conflict case is *State v. Coffey* (Oct. 16, 1995), Delaware App. No. 94CAA11036, unreported, 1995 WL 770788.

00-982. Hitchcock v. Haviland.

Allen App. No. 1-99-92. On motion for stay of court of appeals' judgment. Motion denied.

Resnick, J., dissents.

00-987. State v. Lowe.

Seneca App. No. 13-99-66. On motion for stay of court of appeals' judgment. Motion granted.

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

00-988. State v. Frondorf.

Seneca App. No. 13-99-62. On motion for stay of court of appeals' judgment. Motion granted.

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

00-990. State v. Osborne.

Seneca App. No. 13-99-47. On motion for stay of court of appeals' judgment. Motion granted.

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

00-991. State v. Banks.

Seneca App. No. 13-99-60. On motion for stay of court of appeals' judgment. Motion granted.

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

00-994. Ahern v. Ameritech Corp.

Cuyahoga App. Nos. 75807, 75808 and 75809. On motion for stay of court of appeals' judgment. Motion denied.

Cook and Lundberg Stratton, JJ., would grant upon the posting of a supersedeas bond.

DISCRETIONARY APPEALS ALLOWED

00-216. Northwestern Ohio Bldg. & Constr. Trades Council v. Conrad.

Franklin App. No. 98AP-1287.

Lundberg Stratton, J., would also reverse this cause on the authority of *State ex rel. Haylett v. Ohio Bur. of Workers' Comp.* (1999), 87 Ohio St.3d 325, 720 N.E.2d 901.

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

00-470. Depaulitte v. Depaulitte.

Montgomery App. No. 17847.

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

00-523. State v. McKee.

Marion App. No. 9-99-57. Discretionary appeal allowed and cause consolidated with 00-953, *State v. McKee*, Marion App. No. 9-99-57.

Douglas and Resnick, JJ., dissent.

00-553. White v. Dayton.

Montgomery App. No. 17714. Discretionary appeal allowed and cause consolidated with 00-554, *White v. Dayton*, Montgomery App. No. 17714; *sua sponte*, 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.

00-580. Simpson v. Niles Police Dept.

Trumbull App. No. 99-T-0036. Discretionary appeal allowed and cause consolidated with 00-807, *Simpson v. Niles Police Dept.*, Trumbull App. No. 99-T-0036. *Sua sponte*, 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.

Cook, J., would have 00-580 separately briefed and argued on the same date as 00-472 and 00-481.

00-584. Cain v. Simpson.

Trumbull App. No. 99-T-0037. Discretionary appeal allowed; *sua sponte*, cause consolidated with 00-808, *Cain v. Simpson*, Trumbull App. No. 99-T-0037, 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.

Moyer, C.J., Pfeifer and Cook, JJ., would have 00-584 separately briefed and argued on the same date as 00-472 and 00-481.

DISCRETIONARY APPEALS NOT ALLOWED

00-538. Marshall v. Edgewood Skate Arena, Inc.

Allen App. No. 1-99-57.

Resnick, J., dissents.

00-547. United States Fid. & Guar. Co. v. Pietrykowski.

Erie App. No. E-99-38.

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

00-548. In re Knorzer.

Stark App. No. 1999CA0155.

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

00-581. Seminatore v. Med. Mut. of Ohio.

Cuyahoga App. No. 75496.

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

Douglas, J., not participating.

00-589. In re Fountain.

Cuyahoga App. No. 76650.

00-598. Reynolds v. Celina Mut. Ins. Co.

Lorain App. No. 98CA007268.

Resnick, J., dissents.

00-601. Menda v. Springfield Radiologists, Inc.

Clark App. No. 99CA71.

Moyer, C.J., dissents.

00-607. Licking Cty. Citizens for a Safe Environment v. Schregardus.

Franklin App. No. 99AP-24.

Resnick, J., dissents.

00-612. State v. Hornsby.

Clermont App. No. CA99-06-060.

Moyer, C.J., dissents.

00-613. In re Annexation of 9.62 Acres of Land in Jackson Twp.

Stark App. No. 1999CA00250.

00-614. Reynolds v. Stark Cty. Bd. of Mental Retardation & Developmental Disabilities.

Stark App. No. 1999CA00200.

Cook, J., dissents.

00-631. State v. Moses.

Summit App. No. 19490.

00-704. Starks v. Starks.

Hamilton App. No. C-990334.

00-705. Turner v. Citywide Home Improvement, Inc.

Montgomery App. No. 17951.

Douglas, J., dissents.

RECONSIDERATION DOCKET

00-146. Brown v. Grange Mut. Cas. Co.

Franklin App. No. 99AP-315. Reported at 88 Ohio St.3d 1493, ___ N.E.2d ____.
On motion for reconsideration. Motion denied.

Moyer, C.J., Cook and Lundberg Stratton, JJ., dissent, would grant reconsideration, and would hold this cause for the decision in 00-132 and 00-170, *Davidson v. Motorists Mut. Ins. Co.*, Franklin App. No. 99AP-163.

00-275. Wise v. Qualified Emergency Specialists, Inc.

Hamilton App. No. C-980802. Reported at 88 Ohio St.3d 1497, ___ N.E.2d ____.
On motion for reconsideration and on motion to consolidate case with 00-388, *Jennings v. Univ. Ear, Nose & Throat Specialists, Inc.*, Hamilton App. No. C-980994. Motions denied.

F.E. Sweeney, J., dissents.

00-289. Geier v. Natl. GG Industries, Inc.

Lake App. No. 98-L-172. Reported at 88 Ohio St.3d 1503, ___ N.E.2d _____. On motion for reconsideration. Motion denied.

00-291. State v. Bucci.

Ashtabula App. No. 98-A-0050. Reported at 88 Ohio St.3d 1497, ___ N.E.2d _____. On motion for reconsideration. Motion denied.

00-305. Smalley v. Ohio State Teachers Retirement Sys.

Franklin App. No. 98AP-1185. Reported at 88 Ohio St.3d 1503, ___ N.E.2d _____. On motion for reconsideration. Motion denied.

Cook and Lundberg Stratton, JJ., dissent.

00-315. Jennings v. Univ. Ear, Nose & Throat Specialists, Inc.

Hamilton App. No. C-980994. Reported at 88 Ohio St.3d 1497, ___ N.E.2d _____. On motion for reconsideration and on motion to consolidate case with 00-388, *Jennings v. Univ. Ear, Nose & Throat Specialists, Inc.*, Hamilton App. No. C-980994. Motions denied.

Resnick, J., dissents.

00-340. State v. Dickerson.

Lucas App. No. L-98-1100. Reported at 88 Ohio St.3d 1498, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

Resnick, J., not participating.

00-346. State v. Parra.

Lucas App. No. L-99-1123. Reported at 88 Ohio St.3d 1498, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

Resnick, J., not participating.

00-352. G. Herschman Architects v. Ringco, Inc.

Cuyahoga App. Nos. 75174, 75175 and 75321. Reported at 88 Ohio St.3d 1498, ___ N.E.2d ___. On motion for reconsideration by Richard F. Davet and on request for findings of fact and conclusions of law by Richard F. Davet. Motion and request denied.

00-367. State ex rel. Davie v. Burnham Unruh.

In Mandamus. Reported at 88 Ohio St.3d 1495, ___ N.E.2d ___. On motion for reconsideration. Motion denied.