

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

9:00 A.M.

WEDNESDAY
September 20, 2000

MERIT DOCKET

00-627. Westside Cellular, Inc. v. Pub. Util. Comm.

Public Utilities Commission, No. 97-1700-TP-COI. On motion for leave to intervene by the Ameritech Entities, motion to dismiss, and motion for leave to intervene by Verizon Wireless. Motion to dismiss sustained. Cause dismissed.

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

Pfeifer, J., dissents, would deny the motion to dismiss, and would grant the motions for leave to intervene.

Resnick, J., not participating.

00-1226. State ex rel. Hamilton v. Franklin Cty. Court of Common Pleas.

In Procedendo. On complaint in procedendo by Sidney S. Hamilton. On S.Ct.Prac.R. X(5) determination, cause dismissed.

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

Lundberg Stratton, J., dissents and would grant the writ.

00-1319. State ex rel. Bussey v. Cuyahoga Cty. Common Pleas Court.

In Mandamus. On motion to dismiss or, in the alternative, motion for summary judgment and on answer of respondent. Motion to dismiss sustained. Cause dismissed.

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

00-1392. Bair v. Brooks.

In Habeas Corpus. On petition for writ of habeas corpus by Jonathan D. Bair. *Sua sponte*, cause dismissed.

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

00-1398. Daniels v. Montgomery.

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

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

00-1427. Gilmore v. Mitchell.

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

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

00-1468. State ex rel. Green v. Kinkela.

In Prohibition. 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.

00-1514. Nash v. McFaul.

In Habeas Corpus. On petition for writ of habeas corpus by Timothy M. Nash. *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**

00-738. State v. Smith.

Cuyahoga App. No. 72089.

Resnick, J., not participating.

00-994. Ahern v. Ameritech Corp.

Cuyahoga App. Nos. 75807, 75808 and 75809.

Cook, J., would allow on Proposition of Law No. III.

Lundberg Stratton, J., would allow.

Resnick, J., not participating.

00-1043. State v. Musgrave.

Knox App. No. 98CA10.

00-1071. State v. Gillespie.

Clermont App. Nos. CA99-09-090 and CA99-09-091.

Cook, J., dissents.

00-1075. State v. Spruce.

Cuyahoga App. No. 77809.

00-1079. State v. Flowers.

Franklin App. No. 99AP-530.

00-1082. State v. Slaughter.

Hamilton App. No. C-980702.

00-1086. State v. Chuey.

Medina App. No. 2937-M.

00-1090. Culp v. Miller, Stillman & Bartel.

Cuyahoga App. No. 77221.

00-1091. Thompson v. Sydonor.

Scioto App. No. 99CA2660.

00-1093. State v. Sanders.

Clermont App. No. CA99-07-069.

00-1095. Fischer Dev. Co. v. Union Twp.

Clermont App. No. CA99-10-100.

00-1099. In re Mack.

Crawford App. Nos. 3-99-32, 3-99-33, 3-99-34 and 3-99-35.

00-1101. State v. Hudach.

Trumbull App. No. 2000T0045.

00-1102. Capital L. Corp. v. Cleveland Bd. of Zoning Appeals.

Cuyahoga App. No. 76795.

00-1103. State v. Leedy.

Hamilton App. No. C-990530.

00-1105. State v. Moore.

Montgomery App. No. 18244.

00-1106. Todd v. Todd.

Franklin App. No. 99AP-659.

Resnick, J., would allow on Proposition of Law No. II.

00-1110. Johnson v. Hilltop Basic Resources, Inc.

Greene App. No. 99CA99.

00-1111. Riley v. Riley.

Butler App. No. CA99-06-107.

00-1114. State v. Jackson.

Cuyahoga App. No. 76141.

00-1116. Wysowaty v. J.C. Penney Co.

Lucas App. No. L-99-1288.

Douglas, J., dissents.

Resnick, J., not participating.

00-1119. Streb v. AMF Bowling Centers, Inc.
Franklin App. No. 99AP-633.

00-1123. State v. Echols.
Greene App. Nos. 99CA60 and 99CA82.

00-1125. State v. Sanchez.
Cuyahoga App. No. 76027.

00-1127. State v. Grogan.
Hardin App. No. 620003.

00-1135. State v. Cook.
Warren App. No. CA99-10-126.

00-1144. State v. Schauer.
Pickaway App. No. 99CA17.
Pfeifer, J., dissents.

00-1150. Eady v. E. Ohio Gas Co.
Summit App. No. 19598.
Cook, J., not participating.

00-1153. State v. Wellman.
Cuyahoga App. No. 76219.

00-1158. State v. Wilhelmy.
Hamilton App. No. C-990730.
Lundberg Stratton, J., dissents.

00-1159. Staten v. Staten.
Lucas App. No. L-99-1011.
Resnick, J., not participating.

00-1162. State v. Reeves.
Wood App. Nos. WD-99-047 and WD-99-048.

00-1165. Posadny v. Erie Island Resort & Marina.
Ottawa App. No. OT-99-066.
Resnick, J., not participating.

00-1166. Hinkston v. The Finance Co.
Hamilton App. No. C-980972.

00-1167. State v. Wallace.
Montgomery App. No. 18018.

00-1169. State v. Throckmorton.
Clermont App. No. CA99-08-081.

00-1172. State v. Yacyshun.
Putnam App. No. 12200002.

00-1173. State v. Ballard.
Warren App. No. CA99-09-105.

00-1174. In re Goodwin.
Ashland App. No. 99COA01318.
Moyer, C.J., dissents.

00-1179. State v. Julious.
Hamilton App. No. C-990740.

00-1184. State v. Shaffer.
Marion App. No. 9200038.

00-1198. Citfed Mtge. Co. of Am., Inc. v. Kenney.
Hamilton App. No. C-990592.

00-1202. State v. Sanders.
Cuyahoga App. No. 75398.
Resnick, J., not participating.

00-1207. State v. Gibbs.
Hamilton App. No. C-990726.

00-1231. State v. McDaniels.
Cuyahoga App. No. 75794.

00-1242. State v. McIntyre.

Lucas App. No. L-99-1369.

Resnick, J., not participating.

00-1258. State v. Miller.

Ross App. No. 98CA2647.

00-1262. State v. Robinson.

Lucas App. No. L-99-1295.

Douglas and Pfeifer, JJ., dissent.

MOTION DOCKET

99-2240. State ex rel. Calvary v. Upper Arlington.

In Mandamus. On relator's petition for attorney fees and costs.

IT IS ORDERED that within ten days of this entry, relator's counsel submit evidence, preferably including affidavits and a copy of any written contingent-fee agreement entered into with relator, specifying the attorney fees that relator actually paid or is obligated to pay her attorney for this mandamus action. See *State ex rel. Russell v. Thomas* (1999), 85 Ohio St.3d 1488, 709 N.E.2d 1215; *State ex rel. Dist. 1199, Health Care & Social Serv. Union, SEIU, AFL-CIO v. Lawrence Cty. Gen. Hosp.* (1999), 84 Ohio St.3d 1472, 704 N.E.2d 580; *State ex rel. Gannett Satellite Info. Network, Inc. v. Petro* (1998), 81 Ohio St.3d 1234, 690 N.E.2d 11.

00-358. Kemppel v. Tracy.

Board of Tax Appeals, No. 98-K-698. On request for argument before full court. Request granted.

00-857. State ex rel. Long v. Cardington Council.

In Mandamus. On answer of respondents Belva Bowers, William Christian, Robert Doolin, and Cecil Maxwell. *Sua sponte*, alternative writ granted.

On motion for judgment on pleadings by Belva Bowers, William Christian, Robert Doolin, and Cecil Maxwell. Motion denied.

On motion for default judgment. Motion denied.

00-1215. In re Estate of Bloom.

Huron App. No. H-00-020. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the following issue:

“Whether probate estate proceedings are ‘special proceedings’ as that term is defined in R.C. 2505.02(A)(2).”

F.E. Sweeney, J., dissents.

The conflict case is *In re Estate of Knauff* (May 27, 1997), Adams App. No. 96CA623, unreported, 1997 WL 305232.

00-1329. Rolf v. Tri State Motor Transit Co.

Certified State Law Question, No. 3:99CV7687. On review of preliminary memoranda pursuant to S.Ct.Prac.R. XVIII(6). The court will answer the certified question:

“Can emancipated adult children maintain a claim under Ohio law for the loss of consortium caused by injuries to a parent?”

Lundberg Stratton, J., dissents.

00-1391. State v. Steward.

Crawford App. No. 3-98-16. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

00-1393. State v. Irizarry.

Lorain App. No. 99CA007503. On motion for leave to file delayed appeal. Motion denied.

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

00-1397. State v. Steele.

Hamilton App. No. C-990102. On motion for leave to file delayed appeal. Motion denied.

00-1425. State v. Chu.

Cuyahoga App. No. 75689. On motion for leave to file delayed appeal. Motion denied.

Resnick, J., not participating.

00-1436. State v. Carlton.

Fairfield App. No. 95CA0016. On motion for leave to file delayed appeal. Motion denied.

00-1438. State v. Edmonson.

Montgomery App. No. 18061. On review of order certifying a conflict. The court determines that a conflict exists; the parties are to brief the following issue found at page 1 of the Order Certifying Record filed July 25, 2000:

“The rule of law upon which the conflict exists is whether in a prosecution of theft by deception of welfare benefits, is the value of property for R.C. 2913.02(B) purposes the *total* amount of the benefits received or only the amount of benefits as a result of the deception that would not have been received had truthful information been provided?”

F.E. Sweeney, J., dissents.

The conflict case is *State v. Luna* (1994), 94 Ohio App.3d 653, 641 N.E.2d 747.

00-1443. State v. Tart.

Cuyahoga App. No. 76223. On motion for leave to file delayed appeal. Motion denied.

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

00-1453. State v. Higgins.

Clermont App. No. CA99-07-068. On motion for leave to file delayed appeal. Motion denied.

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

00-1464. State v. Colvin.

Auglaize App. No. 2-98-17. On motion for leave to file delayed appeal. Motion denied.

00-1495. State v. Luipold.

Erie App. No. E-99-037. On motion for stay of court of appeals’ judgment. Motion granted.

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

00-1539. Miller v. Ohio Bur. of Emp. Serv.

Butler App. No. CA99-11-189. On motion for stay of court of appeals’ judgment. Motion denied.

Resnick, J., dissents.

DISCRETIONARY APPEALS ALLOWED

00-903. Mannion v. Sandel.

Summit App. No. 19433.

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

00-906. In re Anderson.

Clark App. Nos. 99CA90 and 99CA91.

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

00-917. Witten v. Richmond Hts.

Cuyahoga App. No. 77728. *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.

00-941. In re Howard.

Greene App. No. 98CA132.

Cook, J., concurs and would also have this cause argued on the same date as 00-906, *In re Anderson*, Clark App. Nos. 99CA90 and 99CA91.

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

00-942. State v. Muncie.

Clermont App. No. CA99-07-076. The discretionary appeal is allowed on Proposition of Law No. I.

Moyer, C.J., Pfeifer and Lundberg Stratton, JJ., would also allow all propositions of law.

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

00-961. Hoelscher v. Hoelscher.

Fairfield App. No. 99CA50.

Moyer, C.J., F.E. Sweeney and Pfeifer, JJ., dissent.

00-1030. Ohio Hosp. Assn. v. Armstrong World Industries, Inc.

Cuyahoga App. No. 76067. Discretionary appeal allowed and motion for admission *pro hac vice* by Mark Wintering for Kenneth B. McClain and Steven E. Crick allowed.

Douglas, J., dissents.

Resnick, J., not participating.

00-1047. Erb v. Erb.

Cuyahoga App. No. 75072.

F.E. Sweeney, J., dissents.

DISCRETIONARY APPEALS NOT ALLOWED

00-711. State v. Parker.

Lorain App. No. 99CA007432.

00-1039. Liggins v. Liggins.

Summit App. No. 19926.

00-1060. Smith v. Dillard Dept. Stores, Inc.

Cuyahoga App. No. 74782.

Moyer, C.J., dissents.

Resnick, J., not participating.

00-1070. E. Ohio Gas Co. v. Crow.

Cuyahoga App. No. 75925.

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

00-1074. Dutton v. Sylvania Twp. Bd. of Zoning Appeals.

Lucas App. No. L-99-1052.

Resnick, J., not participating.

00-1080. Nurre v. Weaver-Kuhl.

Hamilton App. Nos. C-990611 and C-990626.

Douglas, J., dissents.

00-1083. State v. Miller.

Gallia App. No. 99CA15.

00-1087. Martin v. Cleveland.

Cuyahoga App. No. 75405.

Douglas and Pfeifer, JJ., dissent.

Resnick, J., not participating.

00-1092. Young Israel of Beachwood v. Beachwood.

Cuyahoga App. Nos. 76217 and 76232.

Lundberg Stratton, J., dissents.

00-1104. Limle v. Laboratory Corp. of Am.

Franklin App. No. 99AP-1007. On discretionary appeal and on motion to strike appellant's memorandum in support of jurisdiction filed by Roy E. Manning. Appeal and motion denied.

00-1122. Barnett v. Wenco.

Montgomery App. No. 18032.

Cook and Lundberg Stratton, JJ., dissent.

00-1124. State v. McDonald.

Licking App. No. 99CA0123.

00-1130. Jacobs v. Gupta.

Allen App. No. 1-99-85.

00-1133. Jenkins v. Kollar.

Cuyahoga App. No. 76049.

Resnick, J., not participating.

00-1157. Harris v. Shy.

Lucas App. Nos. L-99-1278 and L-99-1314.

Douglas and Pfeifer, JJ., dissent.

Resnick, J., not participating.

00-1180. Kubicki v. N. Royalton.

Cuyahoga App. No. 76158.

Lundberg Stratton, J., dissents.

00-1182. Blumenthal v. Medina Supply Co.

Cuyahoga App. No. 75768.

00-1186. Miami Twp. Bd. of Trustees v. Fraternal Order of Police, Ohio Labor Council.

Clermont App. Nos. CA99-03-028 and CA99-04-031.

00-1188. State v. Laracuate.
Cuyahoga App. No. 76025.

00-1218. State v. Putnick.
Hamilton App. No. C-990449.

00-1223. Ballinger v. Conrad.
Cuyahoga App. No. 76969.
Resnick, J., dissents.

00-1229. State v. Bernard.
Montgomery App. No. 18058.

RECONSIDERATION DOCKET

98-552. State v. Smith.
Lucas App. No. L-94-093. Reported at 89 Ohio St.3d 323, ___ N.E.2d ___. On motion for reconsideration. Motion denied.
Lundberg Stratton, J., dissents.
Resnick, J., not participating.

98-1124. Clement v. Grange Mut. Cas. Co.
Medina App. No. 2698-M. Reported at 89 Ohio St.3d 1474, ___ N.E.2d ___. On motion for reconsideration or, in the alternative, motion to amend the order of remand. Motions denied.
Pfeifer, J., dissents.

98-1185. Simcox v. Westfield Cos.
Medina App. No. 2697-M. Reported at 89 Ohio St.3d 1474, ___ N.E.2d ___. On motion for reconsideration or, in the alternative, motion to amend the order of remand. Motions denied.
Pfeifer, J., dissents.

99-239 and 99-427. State v. Reiner.
Lucas App. No. L-97-1002. Reported at 89 Ohio St.3d 342, ___ N.E.2d ___. On motion for reconsideration. Motion denied.
Moyer, C.J., and Cook, J., dissent.
Resnick, J., not participating.

99-419. State ex rel. McClain v. Indus. Comm.

Franklin App. No. 98AP-52. Reported at 89 Ohio St.3d 407, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

99-1419. Woods v. Telb.

Lucas App. No. L-99-1083. Reported at 89 Ohio St.3d 504, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

Douglas, J., dissents.

Resnick, J., not participating.

99-1444. Gliner v. Saint-Gobain/Norton Indus. Ceramics Corp.

Cuyahoga App. No. 74055. Reported at 89 Ohio St.3d 414, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

Cook and Lundberg Stratton, JJ., dissent.

99-1881. State v. Jones.

Cuyahoga App. No. 74247. Reported at 89 Ohio St.3d 519, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

Douglas, J., dissents.

Resnick, J., not participating.

00-788. State v. Borger.

Hamilton App. No. C-990736. Reported at 89 Ohio St.3d 1464, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

Lundberg Stratton, J., dissents.

00-882. Smith v. State.

Franklin App. No. 99AP-568. Reported at 89 Ohio St.3d 1465, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

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

00-905. Jackson v. Bellomy.

Franklin App. No. 99AP-691. Reported at 89 Ohio St.3d 1470, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

00-937. Metzenbaum v. Marc Glassman, Inc.

Cuyahoga App. No. 76684. Reported at 89 Ohio St.3d 1466, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

00-1069. State ex rel. Chambers v. Ohio Adult Parole Auth.

In Mandamus. Reported at 89 Ohio St.3d 1463, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

00-1176. In re Campbell.

Franklin App. No. 99AP-986. Reported at 89 Ohio St.3d 1470, ___ N.E.2d ___. On motion for reconsideration. Motion granted and discretionary appeal allowed. Pfeifer, Cook and Lundberg Stratton, JJ., dissent.