

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

1:00 P.M.

WEDNESDAY
November 22, 2000

MERIT DOCKET

00-643. Eaton v. Morgan.

In Habeas Corpus. 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.

00-1389. State ex rel. Kubicek v. Corrigan.

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.

00-1662. State ex rel. Willis v. State.

In Mandamus. On answer of respondent Karl R. Harris and on answer of
respondent Judge H. J. Bressler.

On S.Ct.Prac.R. X(5) determination, cause dismissed.

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

00-1675. State ex rel. Willis v. State.

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.

00-1701. Platte v. Ford Motor Co.

Certified State Law Question, No. 300CV7171. On review of order certifying questions of state law filed without benefit of preliminary memorandums from the parties.

The court declines to answer the certified questions. This cause is dismissed.

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

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

00-1792. Mackey v. Gubbard.

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

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

00-1816. Schrock v. Gansheimer.

In Habeas Corpus. On petition for writ of habeas corpus by Matthew M. Schrock. *Sua sponte*, cause dismissed.

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

00-1822. Harrell v. Frosini Branham.

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.

00-1855. Vella v. Kinkella.

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

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

00-1860. In re Payne.

In Habeas Corpus. On petition for writ of habeas corpus by Lowell N. Payne, Jr. *Sua sponte*, cause dismissed.

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

00-1910. Cook v. Gansheimer.

In Habeas Corpus. On petition for writ of habeas corpus by Kenneth J. Cook. *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**

00-1445. State v. Howell.

Adams App. No. 99CA677.

00-1459. Segal v. Zehman-Wolf Mgt., Inc.

Cuyahoga App. No. 77306.

00-1465. Kraner v. Legg.

Mercer App. No. 10200004.

00-1466. State v. Burnside.

Cuyahoga App. No. 76035.

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

00-1467. State v. Bryant.

Hamilton App. Nos. C-990635 and C-990636.

Moyer, C.J., dissents.

00-1470. State v. Mercado.

Lorain App. No. 00CA007626.

00-1480. Toledo v. Emery.

Lucas App. No. L-99-1155.

Douglas and Resnick, JJ., not participating.

00-1481. State v. McClaney.

Franklin App. No. 99AP-1035.

Resnick, J., dissents.

00-1483. Rust v. Harris-Gordon.

Lucas App. No. L-99-1287. On motion for sanctions for frivolous action. Motion denied.

Resnick, J., not participating.

00-1487. Hemminger v. Tilton.

Ottawa App. No. OT-99-074.

Resnick, J., not participating.

00-1493. State v. Schmitz.

Fulton App. No. F-00-016.

Resnick, J., not participating.

00-1499. State v. Partin.

Summit App. No. 19819.

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

00-1501. State v. Nicodemus.

Franklin App. No. 99AP-705.

00-1510. Steiner v. Akron.

Summit App. No. 19778.

00-1511. State v. Hall.

Cuyahoga App. No. 76374.

00-1512. Overholt v. Overholt.

Van Wert App. No. 15200011.

00-1521. State v. Balderson.

Stark App. No. 2000CA00036.

00-1526. State v. Chambers.

Franklin App. No. 99AP-1308.

00-1527. Brecksville v. Marchetti.
Cuyahoga App. No. 76911.

00-1528. Goetze v. Goetze.
Montgomery App. No. CA17971.
Resnick, J., dissents.

00-1529. State v. Hill.
Hamilton App. No. C-000100.

00-1531. State v. Bortree.
Shelby App. No. 17200009.

00-1535. Bitter v. Jones.
Ottawa App. No. OT-99-075.
Lundberg Stratton, J., dissents.

00-1537. Warrach v. Warrach.
Medina App. No. 3044-M.

00-1541. State v. Marriott.
Warren App. No. CA99-03-027.

00-1542. State v. Ford.
Stark App. No. 1999CA00177.

00-1545. Columbus v. Figge.
Franklin App. No. 99AP-940.

00-1546. State v. Fuller.
Cuyahoga App. No. 76448.

00-1560. Schuster v. Cincinnati.
Hamilton App. No. C-990827.

00-1565. Thomas v. Vesper.
Ashland App. No. 99COA01332.
Pfeifer and Lundberg Stratton, JJ., dissent.

00-1566. Middleburg Hts. v. D’Ettorre.
Cuyahoga App. No. 76512.

00-1567. State v. Graff.
Cuyahoga App. No. 74860.

00-1571. In re Name Change of Savers.
Summit App. No. 19797.

00-1578. In re Martin.
Hamilton App. No. C-990517.

00-1579. State v. Neace.
Mercer App. No. 10200007.

00-1583. McCallen v. Keller.
Scioto App. No. 00CA2695.

00-1584. State v. Metz.
Cuyahoga App. No. 76298.

00-1585. State v. Conner.
Brown App. No. CA99-08-024.

00-1586. State v. Crossman.
Delaware App. No. 99CA12068.

00-1588. State v. Cooper.
Clermont App. No. CA99-05-051.

00-1590. State v. Mollick.
Lorain App. No. 99CA007315.

00-1592. Henry v. Ohio Adult Parole Auth.
Montgomery App. No. 18326.
Lundberg Stratton, J., dissents.

00-1594. State v. Maser.
Franklin App. No. 99AP-1197.

00-1606. Holzbach v. Jackson Twp.

Stark App. No. 1999CA00373.

Pfeifer, J., dissents.

00-1610. State v. Jaffal.

Cuyahoga App. No. 76473.

00-1611. State v. Boyd.

Stark App. No. 1999CA00352.

00-1614. Hall v. Paragon Steakhouse.

Lorain App. No. 99CA007443.

00-1618. Gupta v. The Lima News.

Allen App. No. 1-99-90. On discretionary appeal and on motion for admission *pro hac vice* by Donald J. Witter for John A. Bussian. Appeal and motion denied.

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

00-1620. Greyson v. Hamilton Cty. Coroner's Office.

Hamilton App. No. C-000144.

Lundberg Stratton, J., dissents.

00-1622. Coey v. Gerig.

Franklin App. No. 99AP-1021.

Lundberg Stratton, J., dissents.

00-1627. State v. Mays.

Hamilton App. No. C-000003.

00-1629. Brady v. Cincinnati Gas & Elec. Co.

Hamilton App. No. C-990912.

00-1630. State v. Gray.

Cuyahoga App. No. 76170.

00-1632. State v. Altomare.

Lucas App. No. L-99-1347.

Lundberg Stratton, J., dissents.

Resnick, J., not participating.

00-1633. State v. Curry.
Summit App. No. 19813.

00-1635. State v. Matheny.
Athens App. No. 00CA009.

00-1653. Tolloti v. Tarzan.
Stark App. No. 2000CA00078.

00-1654. State v. Allen.
Hamilton App. No. C-990046.

00-1663. State v. Watson.
Ashtabula App. No. 98-A-0071.

00-1664. Cincinnati v. Steinbeck.
Hamilton App. No. C-990782.

00-1685. Simpson v. Sexton.
Licking App. No. 98CA77.

00-1698. State v. Johnson.
Cuyahoga App. No. 55811.

00-1703. State v. Sanchez.
Ashtabula App. No. 98-A-0006.

00-1735. State v. Francis.
Guernsey App. No. 98CA13.

MOTION DOCKET

96-2346. State v. Getsy.
Trumbull C.P. No. 95CR399. On application for reopening under S.Ct.Prac.R. XI(5). Application denied.

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

In Quo Warranto. Upon consideration of relator's motion for an order to cite respondent in contempt for failure to comply with our January 19, 2000 order,

IT IS ORDERED that respondent show cause why she should not be held in contempt of our January 19, 2000 order. Any evidence the parties intend to present on the contempt issue is due within thirty days of this entry; respondent's brief is due within twenty days after the submission of evidence; relator's brief is due within twenty days after the filing of respondent's brief; and respondent's reply brief is due within five days after the filing of relator's brief. See *State ex rel. Youngstown City School Dist. Bd. of Edn. v. Youngstown* (1999), 86 Ohio St.3d 1404, 711 N.E.2d 232.

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

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

In Mandamus. On relator's request for attorney fees and costs, relator's submission of evidence in support of attorney fees, and respondents' request for leave to depose relator. Relator is granted \$10,000 in attorney fees and a refund of \$140 in costs (security deposit and docket fee). Relator's request for additional fees and expenses and respondents' request for leave to depose relator are denied.

Lundberg Stratton, J., dissents to the award of attorney fees for the reasons stated in her opinion concurring in part and dissenting in part in *State ex rel. Calvary v. Upper Arlington* (2000), 89 Ohio St.3d 229, 234, 729 N.E.2d 1182, 1188.

00-523 and 00-953. State v. McKee.

Marion App. No. 9-99-57. On motion to strike brief of appellee for failure to provide service. Motion denied and leave of ten days to file granted.

Pfeifer, J., would deny the motion.

Lundberg Stratton, J., would grant the motion but grant leave of ten days to file.

00-1238. State ex rel. Sharif v. McDonnell.

Cuyahoga App. No. 77120. On motion to strike notice of appeal. Motion denied.

00-1732. State v. Caldwell.

Cuyahoga App. No. 44360. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

00-1758. State v. Pugh.

Cuyahoga App. No. 77746. On motion for leave to file delayed appeal. Motion denied.

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

00-1760. State v. Brooks.

Cuyahoga App. Nos. 75711 and 75712. On motion for leave to file delayed appeal. Motion denied.

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

00-1761. State v. Gray.

Franklin App. No. 99AP-666 and 99AP-667. On motion for leave to file delayed appeal. Motion denied.

00-1762. Sharp v. Brennan.

Erie App. No. E-00-008. On motion for stay of court of appeals' judgment. Motion denied.

Moyer, C.J., dissents.

00-1766. State v. Stephens.

Montgomery App. No. 17581. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

00-1776. State ex rel. Howard v. Indus. Comm.

Franklin App. No. 97AP-860. On motion for stay of execution of court of appeals' judgment. Motion denied.

On motion for contempt citation. Motion denied.

On motion to dismiss October 4, 2000 notice of appeal. Motion granted.

Pfeifer and Cook, JJ., dissent.

00-1797. State v. Figueroa.

Lorain App. No. 99CA007333. On motion for leave to file delayed appeal. Motion denied.

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

00-1799. State v. Price.

Champaign App. No. 97CA6. On motion for leave to file delayed appeal. Motion denied.

00-1801. State v. Thorpe.

Franklin App. Nos. 99AP-1181, 99AP-1182, 99AP-1183, 99AP-1184, 99AP-1185, 99AP-1186 and 99AP-1187. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

00-1842. State v. Jones.

Hamilton App. No. C-981008. On motion for leave to file delayed appeal. Motion denied.

00-1843. State v. Nemchik.

Lorain App. No. 00CA007651. On motion for leave to file delayed appeal. Motion denied.

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

00-1846. State v. Damberger.

Medina App. No. 3024-M. On motion for stay of judgment pending appeal. Motion denied.

00-1895. State v. Black.

Stark App. No. 1999CA00185. On motion for leave to file delayed appeal. Motion denied.

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

00-1896. State v. Tillman.

Lorain App. No. 96CA006427. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

00-1897. Tic Toc Around The Clock Child Care Ctr. v. Ohio Dept. of Human Serv.

Muskingum App. CT990022. On motion for immediate stay of court of appeals' judgment. Motion denied.

Moyer, C.J., dissents.

00-1898. State v. Poole.

Allen App. No. 1200016. On motion for stay pending appeal to the United States Supreme Court. Motion denied.

Moyer, C.J., dissents.

00-1907. State v. Scott.

Washington App. No. 97CA15. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

00-1908. State v. Skidmore.

Warren App. No. CA99-12-137. On motion for leave to file delayed appeal. Motion granted.

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

00-1915. State v. Collier.

Cuyahoga App. No. 76433. On motion for leave to file delayed appeal. Motion granted.

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

00-1954. In re Adoption of Ashley F.

Lucas App. No. L-00-1146. On motion for stay of court of appeals' judgment. Motion denied.

00-1976. State v. Jones.

Scioto App. Nos. 98CA2624 and 98CA2626. On motion for stay of court of appeals' judgment. Motion denied.

Moyer, C.J., and Douglas, J., dissent.

DISCRETIONARY APPEALS ALLOWED

00-1219. State v. Johnson.

Mahoning App. No. 96CA190.

Pfeifer and Cook, JJ., dissent.

00-1233. In re Estate of Stewart.

Lorain App. No. 99CA007422. Discretionary appeal allowed; *sua sponte*, cause held for the decision in 00-428, *Holeton v. Crouse Cartage Co.*, Certified Question of State Law, No. 98CV7578.

00-1422. Lesnau v. Andate Ent., Inc.

Montgomery App. No. 18135.

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

00-1478. Saturn of Kings Automall, Inc. v. Mike Albert Leasing, Inc.

Hamilton App. No. C-990703.

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

DISCRETIONARY APPEALS NOT ALLOWED

00-1418. Schafer v. RMS Realty.

Montgomery App. No. 17673.

Lundberg Stratton, J., dissents.

00-1440. State v. Garrison.

Lawrence App. No. 99CA16.

00-1455. Bennett v. Butler.

Lucas App. No. L-99-1151.

Douglas, J., dissents.

00-1458. Franks v. Venturella.

Allen App. No. 1200006. Discretionary appeal and cross-appeal denied.

Douglas, J., dissents.

00-1482. Rife v. Thomas.

Franklin App. No. 99AP-894.

Resnick, J., dissents.

00-1484. Hawley v. CertainTeed Corp.

Lorain App. No. 99CA007350.

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

00-1486. State v. Elijah.

Montgomery App. No. 18034.

00-1490. Chitty v. Bank One, N.A.

Summit App. No. 19829.

00-1491. Huberty v. Esber Beverage Co.

Stark App. No. 1999CA00346.

Lundberg Stratton, J., dissents.

00-1498. Firstmerit Corp. v. Lynch-Haller.

Lorain App. No. 00CA007646.

00-1515. In re Trust of Levin.

Cuyahoga App. No. 77924.

00-1530. Huntsman v. Lowery.

Stark App. No. 1999CA00259.

00-1557. Essig v. Sara Lane Corp.

Franklin App. No. 99AP-1432.

00-1573. Vitale v. Modern Tool & Die Co.

Cuyahoga App. No. 76247.

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

00-1574. Hauser v. Cleveland Cuyahoga Cty. Port Auth.

Cuyahoga App. No. 77331.

Pfeifer, J., dissents.

00-1577. Mayo v. Habitat for Humanity, Inc.

Stark App. No. 1999CA0334.

Lundberg Stratton, J., dissents.

00-1587. Chirchiglia v. Ohio Bur. of Workers' Comp.

Mahoning App. No. 99CA226.

Cook, J., dissents.

00-1591. State v. Austin.

Marion App. No. 9200011.

00-1597. Shump v. First Continental-Robinwood Assoc.

Montgomery App. No. 18122.

Lundberg Stratton, J., dissents.

00-1599. Shifflet v. Glouster Pub. Library.

Athens App. No. 00CA01.

00-1602. Reed v. Frank.

Summit App. No. 19450.

00-1604. Brenner v. Grande Pointe Health Care Community.

Cuyahoga App. No. 74835.

Resnick and Pfeifer, JJ., dissent.

00-1613. Rizvi v. State Med. Bd. of Ohio.

Franklin App. No. 99AP-1136.

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

00-1615. Christian v. McDonald.

Lorain App. No. 98CA007240.

00-1617. Modie v. Andrews.

Summit App. No. 19543.

00-1657. Marion v. Brandes.

Franklin App. Nos. 99AP-1153, 99AP-810 and 99AP-840.

Lundberg Stratton, J., dissents.

RECONSIDERATION DOCKET

96-2819. State v. Hessler.

Franklin C.P. No. 95CR116906. Reported at 90 Ohio St.3d 108, ___ N.E.2d ___.

On motion for reconsideration. Motion denied.

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

97-52. State v. Hessler.

Franklin App. No. 96AP12-1664. Reported at 90 Ohio St.3d 108, ___ N.E.2d ___.

On motion for reconsideration. Motion denied.

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

99-779. State ex rel. Carlile v. Ohio Bur. of Workers' Comp.

Franklin App. No. 98AP-316. Reported at 90 Ohio St.3d 20, ___ N.E.2d ___.

On motion for reconsideration. Motion denied.

99-1337. Galmish v. Cicchini.

Stark App. Nos. 97CA00326 and 97CA00403. Reported at 90 Ohio St.3d 22, ___ N.E.2d ___. On amended motion for reconsideration. Motion denied.

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

99-1879. Emerson Elec. Co. v. Tracy.

Board of Tax Appeals, No. 97-S-1288. Reported at 90 Ohio St.3d 157, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

Douglas, Resnick and Cook, JJ., dissent.

00-660. USX Corp. v. Penn Cent. Corp.

Cuyahoga App. No. 74755. Reported at 90 Ohio St.3d 1426, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

Pfeifer and Cook, JJ., dissent.

00-740. Gunnell v. Lazaroff.

Pickaway App. No. 00CA14. Reported at 90 Ohio St.3d 76, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

00-977. Columbus Bar Assn. v. Bailey.

Reported at 90 Ohio St.3d 1437, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

00-1207. State v. Gibbs.

Hamilton App. No. C-990726. Reported at 90 Ohio St.3d 1415, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

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

Reported at 90 Ohio St.3d 1412, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

00-1240. Wysowaty v. J.C. Penney Co.

Lucas App. No. L-99-1288. Reported at 90 Ohio St.3d 1427, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

Resnick, J., not participating.

00-1269. State v. King.

Medina App. No. 2963-M. Reported at 90 Ohio St.3d 1428, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

00-1392. Bair v. Brooks.

In Habeas Corpus. Reported at 90 Ohio St.3d 1412, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

00-1399. Bivens v. State Personnel Bd. of Review.

In Mandamus. Reported at 90 Ohio St.3d 1426, ___ N.E.2d ___. On motion for reconsideration and on motion for settlement conference. Motions denied.

00-1810. Federated Mgt. Co. v. Latham & Watkins.

Franklin App. No. 99AP-1322. Reported at 90 Ohio St.3d 1438, ___ N.E.2d ___. On amended motion for reconsideration. Motion denied.

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

On motion for admission *pro hac vice* by Mark K. Merkle, Jr. for Alan R. Glickman. Motion granted.

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