

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

1:00 P.M.

WEDNESDAY
May 23, 2001

MERIT DOCKET

00-2244. State ex rel. Chesney v. Lisbon.

In Mandamus. On motion for leave to amend complaint, copy of federal court order dismissing federal respondents and remanding case, motion to dismiss by city of Salem, motion to dismiss by city of Wellsville City Council, answer of respondents Mahoning County and Boardman Township, motion to dismiss by city of East Liverpool, answer of respondent village of Columbiana, motion to dismiss or alternative motion for definite statement by state of Ohio, Attorney General's Office, Ohio State Senate et al., motion to dismiss and/or motion for summary judgment by Columbiana County Board of Commissioners & Liverpool Board of Trustees, motion to dismiss by village of Salineville Village Council or in the alternative, motion for summary judgment by village of Salineville Village Council, answer of respondent city of East Palestine, and motion for judgment on pleadings by city of East Palestine.

Motions to dismiss sustained. Cause dismissed.

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

01-552. State ex rel. Short v. Eighth Dist. Court of Appeals.

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.

01-576. State ex rel. Sillett v. Court of Common Pleas.

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.

01-595. State ex rel. Brown v. Licking Cty. Court of Common Pleas.

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

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

01-646. Graham v. Beightler.

In Habeas Corpus. On petition for writ of habeas corpus by William E. Graham, Bernard O'Bryant, Harold D. Brown, and William S. Keaton. *Sua sponte*, cause dismissed.

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

01-685. State ex rel. Brown v. Brown.

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

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

01-712. Wooton v. Wilkinson.

In Habeas Corpus. On petition for writ of habeas corpus by Ronald Wooton. *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**

00-2116. State v. Hayden.

Lake App. No. 99-L-037.

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

00-2159. In re Church.

Franklin App. No. 99AP-311.

Pfeifer, J., dissents.

00-2175. State v. Lordi.

Mahoning App. Nos. 99CA247 and 99CA62.

Douglas and Pfeifer, JJ., dissent.

01-112. State v. Szulc.

Erie App. No. E-00-021.

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

01-302. Brown v. Jennings.

Hamilton App. No. C-000297.

01-307. State v. Raifsnyder.

Lorain App. No. 00CA007720.

01-309. Christe v. GMS Mgt. Co.

Summit App. No. 18992.

01-313. State v. King.

Geauga App. No. 99-G-2237.

01-340. State v. Stamper.

Wyandot App. No. 16200018.

01-348. Unger v. Unger.

Brown App. No. CA2000-04-009.

01-350. Bullard v. Warren.

Trumbull App. No. 99-T-0171.

01-352. State v. Morrissey.

Cuyahoga App. No. 77179.

Resnick and Lundberg Stratton, JJ., dissent.

01-358. State v. Hansbro.

Clark App. No. 2000CA27.

01-362. Martin v. Ohio Dept. of Rehab. & Corr.

Pickaway App. No. 00CA37.

01-366. State v. McMeans.

Franklin App. No. 89AP-1037.

Cook, J., dissents.

01-372. State v. Gladden.

Cuyahoga App. No. 76908.

01-374. State v. Greenwalt.

Tuscarawas App. No. 00AP090061.

01-375. JEL Equities Co., L.P. v. Meridia Health Sys.

Lake App. No. 99-L-144.

Douglas, J., dissents.

01-376. In re Estate of Dezso.

Cuyahoga App. No. 77903.

Moyer, C.J., not participating.

01-378. Boothby v. Williamsburg Twp. Bd. of Zoning Appeals.

Clermont App. No. CA2000-08-062.

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

01-379. State v. Flasck.

Trumbull App. No. 99-T-0173.

01-380. State v. Martin.
Ashtabula App. No. 99-A-0018.

01-381. State v. Saylor.
Montgomery App. No. 16759.

Moyer, C.J., would allow and hold the cause for the decision in 00-2201, *State v. Palmer*, Belmont App. No. 89B28.
Cook, J., would allow.

01-385. Cominsky v. Malner.
Lake App. No. 99-L-101.

01-386. Cominsky v. Malner.
Lake App. No. 98-L-242. On motion for sanctions for frivolous action. Motion denied.
Lundberg Stratton, J., would grant the motion for sanctions and order an accounting.

01-392. State v. Robinson.
Clark App. No. 99CA27.

01-397. State v. Hambrick.
Cuyahoga App. No. 77686.

01-402. Pappas v. Petry.
Medina App. No. 3035-M.
Douglas, J., dissents.

01-407. State v. West.
Montgomery App. No. 18279.

01-408. State v. Brack.
Stark App. No. 2000CA00216.

01-415. Garrett v. Garrett.
Franklin App. Nos. 99AP-1050 and 99AP-1306.

01-417. State v. Stinson.
Hamilton App. No. C-000154.

01-419. Gingrich v. Wooster.

Wayne App. No. 00CA0032.

Pfeifer, J., dissents.

01-421. State v. Lawwell.

Franklin App. No. 00AP-394.

01-424. State v. Hyde.

Cuyahoga App. No. 77592.

01-425. Bowman v. Bowman.

Montgomery App. No. 18511.

01-426. State v. Patrick.

Licking App. No. 2000CA34.

Moyer, C.J., dissents.

01-432. State v. Jacks.

Licking App. Nos. 00CA88 and 00CA96.

01-433. State v. Beam.

Lorain App. No. 99CA007365.

01-434. State v. Sherman.

Sandusky App. No. S-00-023.

Resnick, J., not participating.

01-441. State v. Willis.

Montgomery App. No. 18401.

01-442. State v. Young.

Montgomery App. No. 18365.

01-447. State v. Smith.

Lorain App. No. 99CA007451.

Pfeifer, J., dissents.

01-450. Weaver v. Inman.

Knox App. No. 00CA00009.

01-457. Gustin v. USAA Cas. Ins. Co.
Franklin App. No. 00AP-130.
Douglas and Resnick, JJ., dissent.

01-463. Coburn v. Toledo Hosp.
Lucas App. No. L-00-1215.
Resnick, J., not participating.

01-464. Powers v. Pinkerton, Inc.
Cuyahoga App. No. 76333.
Resnick and Pfeifer, JJ., dissent.

01-474. State v. Gibson.
Portage App. No. 99-P-0114.

01-478. State v. Bolton.
Columbiana App. No. 98CO33.
Lundberg Stratton, J., dissents.

01-485. Toth v. Toth.
Summit App. No. 19997.

01-489. State v. Warnement.
Miami App. No. 00CA13.

01-495. State v. Elam.
Lorain App. No. 00CA007677.

01-497. Pillo v. Stricklin.
Stark App. No. 2000CA00201.
Resnick, J., dissents.

01-508. State v. McKinney.
Cuyahoga App. No. 77659.

01-513. Rust v. Harris-Gordon.
Lucas App. No. L-99-1287.
Resnick, J., not participating.

01-514. State v. Clark.

Lorain App. No. 00CA007659.

01-517. State v. Hall.

Summit App. No. 20089.

Resnick, J., dissents.

01-532. State v. Rackham.

Franklin App. No. 00AP-531.

01-547. State v. Breeding.

Clark App. No. 00CA0008.

01-548. Barnett v. Carr.

Butler App. No. CA2000-05-082.

01-557. Garrett v. Garrett.

Franklin App. Nos. 99AP-1050 and 99AP-1306.

01-568. State v. Galloway.

Summit App. No. 19752.

Lundberg Stratton, J., dissents.

01-571. State v. Carnail.

Cuyahoga App. No. 78143.

01-581. State v. Martinsons.

Medina App. No. 3107-M.

01-606. State v. Hamilton.

Guernsey App. No. 96CA15A.

01-607. State v. Buchanan.

Summit App. No. 14779.

01-632. State v. Spurlock.

Montgomery App. No. 17954.

01-633. In re Adoption of Vest.

Franklin App. No. 00AP-1150.

Resnick, J., dissents.

01-658. In re Young.

Franklin App. Nos. 00AP-299 and 00AP-307.

Pfeifer, J., dissents.

01-676. State v. Lordi.

Mahoning App. Nos. 99CA247 and 99CA62.

Pfeifer, J., dissents.

MOTION DOCKET

99-239. State v. Reiner.

Lucas App. No. L-97-1002. On motion for procedural clarification following remand from Supreme Court of the United States and motion to set briefing schedule and oral argument. Motion to set briefing schedule granted and motion for oral argument denied.

Cook, J., would deny both the motion to set briefing schedule and the motion for oral argument.

Resnick, J., not participating.

00-1705. Cincinnati v. Beretta U.S.A. Corp.

Hamilton App. Nos. C-990729, C-990814 and C-990815. On motion for admission *pro hac vice* by Brian G. Selden for James M. Beck of Product Liability Advisory Council, Inc. Motion granted.

00-1997. State v. Hayden.

Montgomery App. No. 18103. On motion to supplement record. Motion granted.

Cook, J., dissents and would order the state to provide proof that the documents it wishes to add were a part of the certified record below.

00-2344. Hoskins v. Smith.

Franklin App. No. 00AP-211. On motion for sanctions for frivolous action. Motion denied.

Douglas, J., dissents.

01-96. Sain v. Roo.

Franklin App. No. 99AP-1459. On motion for sanctions for frivolous action. Motion granted.

Cook, J., would grant the motion for sanctions and sanction in the amount of \$3,031.14 for appellee's attorney fees.

Lundberg Stratton, J., would also award attorney fees.

Douglas and Resnick, JJ., dissent.

01-687. State v. McGrone.

Lucas App. No. L-95-093. On motion for leave to file delayed appeal. Motion denied.

01-693. State v. Liles.

Huron App. Nos. H-00-014 and H-00-019. On motion for leave to file delayed appeal. Motion granted.

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

01-720. State v. Bybee.

Summit App. No. 19758. On motion for leave to file delayed appeal. Motion denied.

01-723. State v. Jackson.

Erie App. No. E-00-023. On motion for stay of court of appeals' judgment. Motion denied.

01-726. State v. Duff.

Franklin App. Nos. 00AP-466 and 00AP-467. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

01-734. State v. Amani.

Stark App. No. 1999CA00325. On motion for leave to file delayed appeal. Motion granted.

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

01-737. State v. Williams.

Lorain App. Nos. 91CA005118 and 91CA005119. On motion for leave to file delayed appeal. Motion denied.

01-739. State v. Stansell.

Cuyahoga App. No. 75889. On motion for leave to file delayed appeal. Motion denied.

01-742. Wallace v. Taylor.

Licking App. No. 00CA71. On motion for stay of court of appeals' judgment. Motion denied.

01-757. State v. Griffin.

Mahoning App. No. 00CA17. On motion for stay of court of appeals' judgment. Motion denied.

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

01-785. State v. Hillman.

Franklin App. Nos. 00AP-729 and 00AP-756. On motion for leave to file delayed appeal. Motion denied.

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

01-818. Barclay Petroleum, Inc. v. Ohio Dept. of Natural Resources.

Franklin App. No. 00AP-592. On motion for stay of court of appeals' judgment. Motion granted.

Pfeifer and Lundberg Stratton, JJ., dissent.

DISCRETIONARY APPEALS ALLOWED

01-178. Local 67, Internatl. Assn. of Firefighters v. Columbus.

Franklin App. No. 00AP-283.

Pfeifer and Cook, JJ., dissent.

01-203. Manigault v. Ford Motor Co.

Cuyahoga App. No. 73147. Discretionary appeal allowed.

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

On motion to consolidate with 00-2299, *Manigault v. Ford Motor Co.*, Cuyahoga App. No. 73147. Motion granted.

01-238. Alihassan v. Alliance Bd. of Zoning Appeals.

Stark App. No. 1999CA00402.

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

01-250. Armco, Inc. v. United Steel Workers of Am., AFL-CIO-CLC.
Richland App. No. 00CA57.

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

01-265. OHA: The Assn. for Hosp. & Health Sys. v. Ohio Dept. of Human Serv.

Franklin App. No. 99AP-614.

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

01-270. Green Local School Dist. Bd. of Edn. v. Ohio Assn. of Pub. School Emp., Local 274.

Summit App. No. 19931.

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

01-285. Crawley-Kinley v. Price.

Hamilton App. No. C-000110.

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

01-333. State v. Thompson.

Ashtabula App. No. 99-A-0070. On discretionary appeal and motion for admission *pro hac vice* of Heather C. Sawyer by Marie Lane. Appeal allowed and motion granted.

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

DISCRETIONARY APPEALS NOT ALLOWED

01-160. State ex rel. Johnny Appleseed Metro. Park Dist. v. Delphos.

Allen App. No. 1200050. Discretionary appeal denied.

Moyer, C.J., and Douglas, J., would allow on Proposition of Law No. I.

Discretionary cross-appeal denied.

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

01-311. Davis v. Davis.

Monroe App. No. 831.

Resnick, J., dissents.

01-332. Kenker Box Co. v. Riemeier Lumber Co.

Hamilton App. No. C-990803. Discretionary appeal and cross-appeal denied.

F.E. Sweeney, J., dissents.

01-342. Coffield v. Allstate Ins. Co.

Portage App. No. 99-P-0060.

01-347. State Farm Mut. Auto. Ins. Co. v. Trumpy.

Ottawa App. No. OT-00-29.

Pfeifer, J., dissents.

Resnick, J., not participating.

01-349. State v. Vassilaros.

Lorain App. No. 00CA007622.

01-354. Sander v. Aetna Real Estate Investors.

Hamilton App. No. C-000041.

Douglas, J., dissents.

01-357. Johnson v. Johnson.

Franklin App. No. 00AP-397.

Lundberg Stratton, J., dissents.

01-359. Richardson v. Grady.

Cuyahoga App. Nos. 77381 and 77403.

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

01-360. Fit 'N' Fun Pools, Inc. v. Shelly.

Wayne App. No. 99CA0048.

01-416. Pilla v. Safely Home, Inc.

Cuyahoga App. No. 78164.

Lundberg Stratton, J., dissents.

01-422. Fairview Hosp. v. Fortune.

Cuyahoga App. No. 77468.

01-427. Jobe v. Conrad.

Montgomery App. No. 18459.

F.E. Sweeney, J., dissents.

01-428. State v. Linscott.

Summit App. Nos. 19947 and 20021.

Lundberg Stratton, J., dissents.

01-444. Chase v. Brooklyn City School Dist.

Cuyahoga App. No. 77263.

01-448. State v. Ford.

Hamilton App. No. C-000241.

01-460. Lawhorn v. Joseph Toyota, Inc.

Montgomery App. Nos. 18282 and 18306.

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

01-462. Lamb v. Summit Mall.

Summit App. No. 20011.

01-465. Mt. Vernon v. Szerlip.

Knox App. No. 00CA000002.

01-492. State v. Miller.

Montgomery App. No. 18102.

01-494. Collette v. Collette.

Summit App. No. 20119.

01-518. Louis v. Excel Contracting.

Montgomery App. No. 18447.

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

01-533. Wells v. Hoppel.

Columbiana App. No. 99CO41.

Lundberg Stratton, J., dissents.

01-537. Kenneth J. Majcen & Assoc. v. Phoenix Assoc., Inc.

Cuyahoga App. No. 76454.

01-559. State v. Iarussi.

Lorain App. No. 00CA007554.

Cook, J., would allow on Propositions of Law Nos. I and II.

01-564. State v. Mullin.

Lorain App. No. 00CA007567.

Cook, J., would allow on Propositions of Law Nos. I and II.

01-566. State v. Butler.

Summit App. No. 20247.

RECONSIDERATION DOCKET

98-1074. State v. Jalowiec.

Lorain App. No. 96CA006445. Reported at 91 Ohio St.3d 220, ___ N.E.2d ___.
On motion for reconsideration. Motion denied.

Lundberg Stratton, J., dissents.

00-104. Boone v. Vanliner Ins. Co.

Franklin App. No. 98AP-1535. Reported at 91 Ohio St.3d 209, ___ N.E.2d ___.
On *amici curiae* motion for leave to file under S.Ct.Prac.R. XI by the American Insurance Association et al., *amicus curiae* motion for leave to file under S.Ct.Prac.R. XI by the Ohio Association of Civil Trial Attorneys, motion for reconsideration, and *amicus curiae* motion for leave to file under S.Ct.Prac.R. XI by the Ohio Insurance Institute. Motions denied.

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

00-206 and 00-374. Clark v. Scarpelli.

Montgomery App. No. 17883. Reported at 91 Ohio St.3d 271, ___ N.E.2d ___.
On motion for reconsideration. Motion denied.

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

Marion App. No. 9-99-57. Reported at 91 Ohio St.3d 292, ___ N.E.2d ___. On
motion for reconsideration. Motion denied.

Cook, J., dissents.

00-1134. Benton v. Cuyahoga Metro. Hous. Auth.

Cuyahoga App. No. 76508. Reported at 91 Ohio St.3d 206, ___ N.E.2d ___. On
motion for reconsideration. Motion denied.

00-2084. Offhaus v. Guthrie.

Ashland App. No. 00COA01353. Reported at 91 Ohio St.3d 1478, ___ N.E.2d ___. On motion for reconsideration. The motion is denied for want of four votes on the following vote:

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

Douglas, Resnick and Pfeifer, JJ., vote yes.

Cook, J., not participating.

01-85. State v. Williams.

Lucas App. Nos. L-00-1027 and L-00-1028. Reported at 91 Ohio St.3d 1489, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

Lundberg Stratton, J., dissents.

Resnick, J., not participating.

01-96. Sain v. Roo.

Franklin App. No. 99AP-1459. Reported at 91 Ohio St.3d 1489, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

01-109. Audia v. Rossi Bros. Funeral Home, Inc.

Mahoning App. No. 98CA181. Reported at 91 Ohio St.3d 1489, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

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