

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

1:00 P.M.

WEDNESDAY
October 24, 2001

MERIT DOCKET

01-1539. State ex rel. Untied v. Hoffman.

In Mandamus. On motion to consolidate case with 01-1501, *State ex rel. Untied v. Hoffman*, and on motion to dismiss. Motion to consolidate denied and motion to dismiss sustained. Cause dismissed.

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

01-1570. State ex rel. Sillett v. Carpenter.

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.

01-1591. State ex rel. Buckner v. Court of Appeals First Appellate Dist.

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.

01-1608. State ex rel. Bartos v. Indus. Comm.

Franklin App. No. 00AP-1409. On motion to dismiss and motion to dismiss of TRW, Inc. Motions to dismiss sustained. Cause dismissed.

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

01-1655. Pegg v. Carter.

In Habeas Corpus. On petition for writ of habeas corpus of Maurice Pegg. *Sua sponte*, cause dismissed.

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

01-1687. Draper v. State.

In Habeas Corpus. On petition for writ of habeas corpus of Scott A. Draper. *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**

01-1357. State v. Touvell.

Guernsey App. No. 00CA33.

01-1360. State v. Turner.

Wayne App. No. 00CA0071.

01-1376. State v. Kurtz.

Wayne App. No. 00CA0092.

01-1383. Lawrence v. Lawrence.

Clark App. No. 00CA0034.

01-1392. Mayer v. Bristow.

Crawford App. No. 3-01-04.

Douglas, J., dissents.

Cook and Lundberg Stratton, JJ., not participating.

01-1396. State v. Ligon.

Defiance App. No. 4-2000-25.

01-1398. State v. Cutlip.

Lake App. No. 99-L-149.

01-1399. Ali v. Zaino.

Cuyahoga App. No. 78331.

01-1402. Jackson v. McDonald.

Stark App. No. 2000CA00363.

01-1404. State v. Helton.

Hamilton App. No. C-000771.

01-1416. Brunk v. Mackner.

Allen App. No. 1-01-05.

01-1419. State v. Stanley.

Greene App. No. 2001CA14.

01-1423. Morris v. Ohio Dept. of Rehab. & Corr.

Allen App. No. 1-01-64.

01-1428. Kniskern v. Amstutz.

Cuyahoga App. No. 78407.

01-1431. Wade v. Riser.

Franklin App. No. 01AP-625.

01-1432. McBroom v. Columbia Gas of Ohio, Inc.

Franklin App. No. 00AP-1110.

01-1433. Whisman v. Riser.

Franklin App. No. 01AP-624.

01-1435. State v. Walker.

Hamilton App. No. C-010344.

01-1438. State v. Brown.

Stark App. No. 2001CA00016.

01-1439. Leifheit v. Palmyra Twp. Bd. of Zoning Appeals.

Portage App. No. 99-P-0112.

Lundberg Stratton, J., would allow on Proposition of Law No. I.

01-1440. Halleen Chevrolet, Inc. v. Gen. Motors Corp.

Franklin App. No. 00AP-1454.

Douglas, J., dissents.

01-1441. State v. Bailey.

Stark App. No. 2000CA00307.

Pfeifer, J., dissents.

01-1442. State v. Gates.

Cuyahoga App. No. 78120.

01-1447. State v. Bretz.

Portage App. No. 2000-P-0069.

01-1450. State v. Douthard.

Hamilton App. Nos. C-000354 and C-000355.

Resnick, J., dissents.

01-1451. State v. McCray.

Hamilton App. No. C-000065.

01-1452. Haynal v. Nordonia Hills City School Dist.

Summit App. No. 20276.

01-1453. Runyon v. Runyon.

Guernsey App. No. 01CA01.

Resnick, J., dissents.

01-1457. Edgbarton Invest. Co., L.L.C. v. Target Expediting, Inc.

Lucas App. No. L-00-1358.

Resnick, J., not participating.

**01-1458. Alpha Technologies U.S., L.P. v. Scarabaeus Prozessautomatisierung
Auf Basis Kunstlicher Intelligenz GmbH.**

Summit App. No. 20590.

01-1460. State v. Causey.

Hamilton App. No. C-980935.

01-1462. State v. Maddox.

Montgomery App. No. 18389.

01-1463. State v. Kendall.

Franklin App. Nos. 00AP-1098 and 00AP-1099.

01-1465. State v. Steele.

Franklin App. No. 00AP-499.

01-1467. State v. Harris.

Cuyahoga App. No. 79618.

01-1469. State v. Santini.

Mahoning App. No. 95CA130.

01-1472. In re Mitchell.

Franklin App. No. 01AP-74.

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

01-1475. Ciocco v. Cashel Mgt. Co.

Cuyahoga App. No. 79390.

F.E. Sweeney, J., dissents.

01-1476. State v. Ushery.

Hamilton App. No. C-990329.

01-1478. State v. Hendricks.

Cuyahoga App. No. 79050.

Resnick, J., dissents.

01-1492. State v. Kirk.

Miami App. No. 98CA15.

01-1507. State v. Rideau.

Montgomery App. No. 18624. On discretionary appeal. Appeal denied. On motion for admission *pro hac vice* of Roger J. Rosen, Esq. by Gerald S. Gold, Esq. Motion granted.

01-1509. State v. Smith.

Hamilton App. No. C-990689.

01-1521. State v. Swanson.

Ashland App. No. 99COA01327.

01-1527. State v. Jefferson.

Summit App. No. 20156.

Moyer, C.J., dissents.

01-1530. State v. Knapp.

Wayne App. No. 00CA0073.

01-1538. In re Wooldridge.

Hamilton App. No. C-000075.

Lundberg Stratton, J., dissents.

01-1548. In re Epperly-Wilson Children.

Stark App. No. 2001CA00098.

01-1551. State v. Sanderfer.

Cuyahoga App. No. 62618.

01-1585. State v. Anderson.

Summit App. No. 17253.

01-1588. State v. Klein.

Hamilton App. No. C-990066.

01-1609. State v. Workman.

Butler App. No. CA2001-03-055.

01-1628. State v. Day.

Hamilton App. No. C-000458.

01-1670. In re Peterson.
Franklin App. No. 01AP-381.

MOTION DOCKET

01-573. First Energy Corp. v. Pub. Util. Comm.
Public Utilities Commission, Nos. 99-1212-EL-ETP, 99-1213-EL-ATA and 99-1214-EL-AAM. On motion to dismiss. Motion denied.
Cook, J., not participating.

01-625. In re Ray.
Hamilton App. Nos. C-000436 and C-000437. On motion for admission *pro hac vice* of Patricia M. Logue for Lamda Legal Defense and Education Fund by Susan J. Becker. Motion granted.

01-923. First Energy Corp. v. Pub. Util. Comm.
Public Utilities Commission, No. 99-1212-EL-ETP. On motion to dismiss. Motion denied.
Cook, J., not participating.

01-1009. Cleveland Elec. Illum. Co. v. Lake Cty. Bd. of Revision.
Board of Tax Appeals, Nos. 00-K-1751, 00-K-1752, 00-K-1753, 00-K-1754, 00-K-1755, 00-K-1756, 00-K-1757 and 00-K-1758. On request for argument before full court. Request granted.
Cook, J., not participating.

01-1414. State v. Anthony.
Auglaize App. No. 2-01-01. 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 August 1, 2001, at page 4:

“Is the statute, R.C. 4507.16(A), authorizing suspension of a driver's license for felony in commission of which a motor vehicle is used, reserved to those situations in which the motor vehicle is used either as a weapon or to transport contraband, or is the subject of the crime charged?”

The conflict case is *State v. Krug* (1993), 89 Ohio App.3d 595, 626 N.E.2d 984.

Douglas, J., dissents.

Sua sponte, cause consolidated with 01-1393, *State v. Anthony*, Auglaize App. No. 2-2001-01.

Douglas, J., dissents.

01-1480. State v. Northern.

Allen App. No. 1-01-01. 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 August 14, 2001, at page 2:

“Is a motion made pursuant to Crim.R. 32.1 subject to the time restraints of R.C. 2953.21 and R.C. 2953.23?”

The conflict cases are *State v. Talley* (Jan. 30, 1998), Montgomery App. No. 16479, unreported, 1998 WL 31516, and *State v. Cale* (Mar. 23, 2001), Lake App. No. 2000-L-034, unreported, 2001 WL 285794.

Sua sponte, cause consolidated with 01-1375, *State v. Northern*, Allen App. No. 1-01-01.

01-1542. Vasquez v. Kutscher.

Certified State Law Question, No. 301CV7059. On preliminary memoranda pursuant to S.Ct.Prac.R. XVIII(6). The court will answer the following questions certified by the United States District Court for the Northern District of Ohio, Western Division:

“1. Does Ohio Revised Code §3101.05(A), as a matter of statutory interpretation, require Social Security numbers from marriage license applicants who do not have a Social Security number?

“2. If question of law number one is answered affirmatively, is the State of Ohio's requirement, under Ohio Revised Code §3101.05(A), that both applicants for marriage licenses provide Social Security numbers as one of the grounds of eligibility to marry, unconstitutional as written or applied under the Due Process Clause of the Ohio Constitution, Article I, §16?

“3. If question of law number one is answered affirmatively and question of law number two negatively, is the State of Ohio's requirement, under Ohio Revised Code §3101.05(A), that both applicants for marriage licenses provide Social Security numbers as one of the grounds of eligibility to marry, unconstitutional as written or applied under the Equal Protection Clause of the Ohio Constitution, Article 1, §2?”

01-1555. State v. Bass.

Hardin App. No. 6-2000-12. On review of order certifying a conflict. The court determines that a conflict exists; *sua sponte*, cause consolidated with 01-1370, *State v. Bass*, Hardin App. No. 6-2000-12, and cause held for the decision in 01-1161 and 01-1247, *State v. Bush*, Union App. No. 14-2000-44.

01-1646. State v. Oldham.

Cuyahoga App. No. 73644. On motion for leave to file delayed appeal. Motion denied.

01-1672. State v. Riley.

Washington App. No. 99CA51. On motion for leave to file delayed appeal. Motion granted.

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

01-1681. State v. O'Hara.

Hamilton App. Nos. C-000314 and C-000318. On motion for leave to file delayed appeal. Motion granted.

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

01-1702. State ex rel. Beacon Journal Publishing Co. v. Bond.

Summit App. No. 20329. On motion for stay of execution without bond of court of appeals' judgment. Motion granted.

01-1707. Fuller v. Fuller.

Scioto App. No. 99CA2687. On motion for stay of court of appeals' judgment. Motion denied.

Moyer, C.J., dissents.

01-1723. State v. Frazier.

Cuyahoga App. No. 54771. On motion for appointment of counsel. Motion granted and cause remanded to the court of appeals for appointment of counsel.

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

01-1729. State v. Philpott.

Cuyahoga App. No. 74392. On motion for leave to file delayed appeal. Motion denied.

01-1732. State v. Latorres.

Ashtabula App. Nos. 2000-A-0060 and 2000-A-0062. On motion for stay of court of appeals' judgment. Motion granted.

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

01-1760. Gruger v. Koehler.

Mahoning App. No. 01CA16. On motion for stay of sheriff's deed and order confirming sale. Motion denied.

DISCRETIONARY APPEALS ALLOWED

01-1303. Wiles v. Medina Auto Parts.

Medina App. No. 3131-M.

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

01-1304. Ohio River Pipe Line LLC v. Gutheil.

Pickaway App. No. 2000CA36. On discretionary appeal and cross-appeal and on motion to consolidate case for briefing and oral argument with 01-443, *Ohio River Pipe Line LLC v. Henley*, Fairfield App. No. 00CA16. Appeal and cross-appeal allowed and motion granted.

01-1309. Cincinnati Ins. Co. v. Colelli & Assoc., Inc.

Wayne App. No. 00CA0053.

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

Cook, J., not participating.

01-1370. State v. Bass.

Hardin App. No. 6-2000-12. Discretionary appeal allowed; *sua sponte*, cause consolidated with 01-1555, *State v. Bass*, Hardin App. No. 6-2000-12, and cause held for the decision in 01-1161 and 01-1247, *State v. Bush*, Union App. No. 14-2000-44.

Douglas, Resnick and Pfeifer, JJ., dissent.

01-1375. State v. Northern.

Allen App. No. 1-01-01. Discretionary appeal allowed on Proposition of Law No. I and cause consolidated with 01-1480, *State v. Northern*, Allen App. No. 1-01-01.

Cook, J., concurs.

Moyer, C.J., F.E. Sweeney and Lundberg Stratton, JJ., would allow all propositions of law and consolidate with 01-1480.

Moyer, C.J., Cook and Lundberg Stratton, JJ., would also hold this cause for the decision in 01-1161 and 01-1247, *State v. Bush*, Union App. No. 14-2000-44.

Douglas, Resnick and Pfeifer, JJ., dissent from the allowance of the discretionary appeal.

01-1393. State v. Anthony.

Auglaize App. No. 2-2001-01. Discretionary appeal allowed and cause consolidated with 01-1414, *State v. Anthony*, Auglaize App. No. 2-01-01.

Douglas and Pfeifer, JJ., dissent.

DISCRETIONARY APPEALS NOT ALLOWED

01-1224. Stand Energy Corp. v. Cinergy Serv., Inc.

Hamilton App. Nos. C-000278 and C-000331.

Cook, J., not participating.

01-1378. State v. Monks.

Fairfield App. No. 00CA60.

Lundberg Stratton, J., dissents.

01-1401. McClure v. Ohio Dept. of Job & Family Serv.

Hamilton App. No. C-000768.

Resnick, J., not participating.

01-1405. In re Estate of York.

Warren App. No. CA2000-04-040.

Resnick, J., dissents.

01-1411. In re Guardianship of Juroshek.

Summit App. No. 20426.

01-1436. State ex rel. Bryco Co. v. Milford.

Clermont App. No. CA2000-09-069.

Pfeifer, J., dissents.

01-1446. BECDIR Constr. Co. v. Proctor.

Franklin App. No. 00AP-1429.

Pfeifer, J., dissents.

01-1456. Millstone Dev. Ltd. v. Duron, Inc.

Franklin App. No. 00AP-999.

01-1461. Whittington v. Kudlapur.

Hocking App. No. 01CA1.

01-1466. Mattice v. Mattice.
Montgomery App. No. 18629.
Lundberg Stratton, J., dissents.

01-1470. Rengan v. Rengan.
Montgomery App. No. 18522.

01-1471. Roadway Express, Inc. v. Ohio Dept. of Transp.
Franklin App. No. 00AP-1119.

01-1586. State v. Cox.
Hamilton App. No. C-000259.

RECONSIDERATION DOCKET

00-2238. State ex rel. Goldberg v. Mahoning Cty. Probate Court.
Mahoning App. No. 00CA129. Reported at 93 Ohio St.3d 160, ___ N.E.2d ____.
On motion for reconsideration. Motion denied.
Douglas, Pfeifer and Lundberg Stratton, JJ., dissent.

01-693. State v. Liles.
Huron App. Nos. H-00-014 and H-00-019. Reported at 93 Ohio St.3d 1409, ___
N.E.2d _____. On motion for reconsideration. Motion denied.

01-989. Thrower v. Akron Dept. of Hous. Appeals Bd.
Summit App. No. 20316. Reported at 93 Ohio St.3d 1410, ___ N.E.2d _____. On
motion for reconsideration. Motion denied.

01-1012. Ross v. Belden Park Co.
Stark App. No. 2000CA00086. Reported at 93 Ohio St.3d 1416, ___ N.E.2d _____.
On motion for reconsideration. Motion denied.

01-1054. Schnittker v. Ohio Dept. of Natural Resources.
Franklin App. No. 00AP-976. Reported at 93 Ohio St.3d 1411, ___ N.E.2d _____.
On motion for reconsideration. Motion denied.

01-1058. Colombo Ent., Inc. v. Fegan.
Cuyahoga App. No. 78041. Reported at 93 Ohio St.3d 1411, ___ N.E.2d _____. On
motion for reconsideration. Motion denied.

01-1069. Hall v. Forsyth.

Montgomery App. No. 18626. Reported at 93 Ohio St.3d 1412, ___ N.E.2d ___.
On motion for reconsideration. Motion denied.

01-1072. Khoury v. Charter One Bank.

Lucas App. No. L-00-1192. Reported at 93 Ohio St.3d 1412, ___ N.E.2d ___. On
motion for reconsideration. Motion denied.

Resnick, J., not participating.

01-1128. Davis v. Shelby Ins. Co.

Cuyahoga App. No. 78610. Reported at 93 Ohio St.3d 1417, ___ N.E.2d ___. On
motion for reconsideration. Motion denied.

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

01-1146. State v. Showalter.

Portage App. No. 99-P-0042. Reported at 93 Ohio St.3d 1418, ___ N.E.2d ___.
On motion for reconsideration. Motion denied.