

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

May 1, 2002

MERIT DECISIONS WITH OPINIONS

2000-2292. State ex rel. Timken Co. v. Hammer. 2002-Ohio-1754.

Franklin App. No. 99AP-905. Judgment affirmed.

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

2001-1540. State v. Smith. 2002-Ohio-1753.

Lorain App. No. 96CA006331. Judgment affirmed.

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

2001-1650. Disciplinary Counsel v. Henderson. 2002-Ohio-1756.

On Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 00-31.

Ronald R. Henderson is suspended from the practice of law for six months, stayed.

Douglas, Lazarus, F.E. Sweeney and Pfeifer, JJ., concur.

Lundberg Stratton, J., concurs in judgment.

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

Cynthia A. Lazarus, J., of the Tenth Appellate District, sitting for Resnick, J.

2001-2175. Disciplinary Counsel v. Lantz. 2002-Ohio-1757.

On Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 00-17.

Charles J. Lantz is indefinitely suspended from the practice of law.

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

2001-2177. Toledo Bar Assn. v. Lockhart. 2002-Ohio-1758.

On Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 01-35.

Carole Ann Lockhart is indefinitely suspended from the practice of law with no credit for time served under her previous suspension.

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

Cook, J., dissents.

2001-2196. Disciplinary Counsel v. Shrode. 2002-Ohio-1759.

On Final Report of the Board of Commissioners on the Unauthorized Practice of Law, No. UPL0011.

John C. Shrode is enjoined from further activities that constitute the unauthorized practice of law.

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

2001-2197. Disciplinary Counsel v. Dyllyn. 2002-Ohio-1755.

On Final Report of the Board of Commissioners on the Unauthorized Practice of Law, No. UPL0010.

David P. Dyllyn is enjoined from further activities that constitute the unauthorized practice of law.

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

MERIT DECISIONS WITHOUT OPINIONS

2001-1693. Spalding v. Coulson.

Cuyahoga App. No. 76666. On response to show cause order and on response to show cause order of Robert Coulson. Sua sponte, cause dismissed.

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

Douglas, J., dissents.

F.E. Sweeney, J., dissents and would refer this cause to mediation.

2002-0097. Sisson v. Lawrence.

Board of Tax Appeals, No. 99-L-1352. 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.

2002-0254. State ex rel. AK Steel Corp. v. Jones.

In Mandamus and Prohibition. On answer of respondent Christopher Jones, Director of Environmental Protection, motion for judgment on pleadings of Christopher Jones, Director of Environmental Protection, answer of respondent Ohio Environmental Review Commission, and motion for judgment on pleadings of Ohio Environmental Review Appeals Commission.

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.

2002-0360. State ex rel. Brown v. McMonagle.

In Mandamus. On motion for summary judgment. 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.

2002-0384. State ex rel. Hall 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.

2002-0475. Patterson v. Ohio Dept. of Rehab. & Corr.

In Habeas Corpus. On petition for writ of habeas corpus of Ronald Kelly Patterson, Jr. Sua sponte, cause dismissed.

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

2002-0487. King v. Ohio Dept. of Rehab. & Corr.

In Habeas Corpus. On petition for writ of habeas corpus of David K. King. Sua sponte, cause dismissed.

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

2002-0512. Grove v. Erwin.

In Habeas Corpus. On petition for writ of habeas corpus of Mark Earl Grove. Sua sponte, cause dismissed.

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

2002-0525. DeMastry v. Tambi.

In Habeas Corpus. On petition for writ of habeas corpus of Gary DeMastry. Sua sponte, cause dismissed.

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

MOTION AND PROCEDURAL RULINGS

2001-1726. In re Maloney.

Butler App. No. CA2000-08-168. On motion for admission pro hac vice of Heather C. Sawyer by Elliot T. Fishman for the Ohio Psychological Association et al. Motion granted.

2002-0298. State ex rel. Illum. Co. v. Cuyahoga Cty. Court of Common Pleas.

In Prohibition. On motion to dismiss, motion for leave to intervene of All Erection & Crane Rental Corporation, and motion to dismiss of All Erection & Crane Rental Corporation. Sua sponte, motion for leave to intervene granted and alternative writ granted.

F.E. Sweeney and Pfeifer, JJ., dissent and would grant the motions to dismiss.

Cook, J., not participating.

2002-0410. State v. Eakin.

Licking App. No. 01CA00087. On motion for stay of case pending the Fifth District Court of Appeals' decision on a motion for appointment of counsel. Motion denied.

2002-0464. Carpenter v. Carpenter.

Wood App. No. WD-01-028, 2002-Ohio-526. On motion for stay of execution of court of appeals' judgment. Motion denied.

2002-0471. State v. Manderbach.

Hamilton App. No. C-970934. On motion for leave to file delayed appeal. Motion denied.

2002-0476. State v. Sheridan.

Franklin App. No. 01AP-506, 2001-Ohio-3980. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2002-0488. State v. Owens.

Franklin App. No. 00AP-859. On motion for leave to file delayed appeal. Motion denied.

2002-0501. State v. Richardson.

Hamilton App. No. C-000361. On motion for leave to file delayed appeal. Motion denied.

2002-0508. State v. Chapman.

Franklin App. No. 01AP-650, 2001-Ohio-8858. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2002-0513. State v. Harper.

Franklin App. Nos. 01AP-201, 01AP-202, 01AP-203, 01AP-204 and 01AP-205, 2001-Ohio-8875. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2002-0516. State v. Perkins.

Cuyahoga App. No. 76321. On motion for leave to file delayed appeal. Motion denied.

2002-0521. State v. Nooks.

Franklin App. No. 99AP-760. On motion for leave to file delayed appeal. Motion denied.

2002-0541. Charter One Bank F.S.B. v. Hamburger.

Lucas App. No. L-01-1332, 2002-Ohio-745. On motion for stay of court of appeals' judgment. Motion denied.

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

Douglas, J., not participating.

2002-0555. Nwabara v. Willacy.

Cuyahoga App. Nos. 79416 and 79717, 2002-Ohio-1279. On motion for immediate stay of municipal court judgment. Motion denied.

APPEALS ACCEPTED FOR REVIEW

2002-0150. Ohio Civ. Rights Comm. v. Countrywide Home Loans, Inc.

Lucas App. No. L-01-1285. On discretionary appeal and motion for admission pro hac vice of J. Englander, F. Snyder, J. Brown, D. Schumacher, and D. Moss by G.J. Conklin. Appeal allowed and motion granted.

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

2002-0164. Roberts v. Allstate Ins. Co.

Butler App. No. CA2001-06-133, 2001-Ohio-8637.

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

2002-0285. Roman v. Estate of Gobbo.

Cuyahoga App. No. 79119.

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

APPEALS NOT ACCEPTED FOR REVIEW

2001-0788. State v. Twyford.

Jefferson App. No. 98JE56, 2001-Ohio-3241.

Lundberg Stratton, J., dissents and would allow on Proposition of Law No. III.

2001-1813. Workman v. Franklin Cty.

Franklin App. No. 00AP-1449.

Resnick and Lundberg Stratton, JJ., dissent.

2001-2246. State v. Beliveau.

Franklin App. No. 01AP-211, 2001-Ohio-4112.

2002-0175. State v. Turnage.

Mahoning App. No. 99CA178.

2002-0177. State v. Becker.

Holmes App. No. 01CA006, 2001-Ohio-7033.

2002-0191. State v. Newton.

Montgomery App. No. 18934, 2001-Ohio-7026.

2002-0194. Silverman v. Am. Income Life Ins. Co. of Indianapolis, Inc.
Franklin App. Nos. 01AP-388 and 01AP-339, 2001-Ohio-8890.

2002-0198. Hannah v. Sibcy Cline Realtors.
Hamilton App. No. C-010084, 2001-Ohio-3912.
Douglas and Pfeifer, JJ., dissent.

2002-0200. State v. Brelo.
Cuyahoga App. No. 79580, 2001-Ohio-4245.

2002-0205. Ingram v. Conrad.
Athens App. No. 01CA36, 2001-Ohio-2641.
Douglas, J., dissents.

2002-0206. Wheeling Corp. v. Columbus & Ohio River RR. Co.
Franklin App. No. 00AP-1224, 2001-Ohio-8751.

2002-0215. State v. Lee.
Franklin App. No. 01AP-16, 2001-Ohio-8887.

2002-0216. State v. Coleman.
Lucas App. No. L-00-1153, 2001-Ohio-2993.
Pfeifer, J., dissents.
Resnick, J., not participating.

2002-0217. UZ Engineered Products Co. v. Midwest Motor Supply Co.
Franklin App. No. 01AP-551, 2001-Ohio-8779.

2002-0221. Wootton v. Voge.
Hamilton App. No. C-010140, 2001-Ohio-7096.
Cook, J., dissents.

2002-0222. State v. Bozsik.
Medina App. No. 3091-M, 2001-Ohio-7011.

2002-0229. State v. Green.
Stark App. No. 2001CA00178, 2001-Ohio-7046.

2002-0231. Bank One, N.A. v. Eagle's Wings Aviation Corp. of Ohio.
Cuyahoga App. No. 80311.

2002-0233. Bank One, N.A. v. Eagle's Wings Aviation Corp. of Ohio.
Cuyahoga App. No. 80329.

2002-0237. In re Callahan.
Marion App. No. 9-01-39, 2001-Ohio-2270.

2002-0238. State v. McDaniel.
Greene App. No. 2001CA51, 2001-Ohio-7086.
Pfeifer, J., dissents.

2002-0239. DiClaudio v. Progressive Ins. Co.
Trumbull App. No. 2001-T-0004, 2001-Ohio-8827.

2002-0245. State v. Hayes.
Cuyahoga App. No. 80574.
Lundberg Stratton, J., dissents.

2002-0255. Bankers Trust Co. v. Wagner.
Allen App. Nos. 1-01-100, 1-01-102, 1-02-103, 1-01-104, 1-01-105, 1-01-106, 1-01-107, 1-01-108, 1-01-109, 1-01-110, 1-01-111, 1-01-112, 1-01-113, 1-01-94, 1-01-95, 1-01-96, 1-01-97, 1-01-98 and 1-01-99, 2002-Ohio-339.

2002-0256. Bankers Trust Co. v. Wagner.
Allen App. Nos. 1-01-17, 1-01-18, 1-01-19, 1-01-20, 1-01-21, 1-01-22, 1-01-23, 1-01-24, 1-01-25, 1-01-26, 1-01-28, 1-01-29, 1-01-30, 1-01-31, 1-01-32, 1-01-33, 1-01-34, 1-01-35, 1-01-36, 1-01-37, 1-01-38, 1-01-39 and 1-01-40, 2002-Ohio-700.

2002-0257. State v. Koch.
Lake App. No. 97-L-142, 2001-Ohio-8830.

2002-0259. State v. Wotring.
Lake App. No. 99-L-114, 2001-Ohio-8836.
Lundberg Stratton, J., dissents.

2002-0260. Wertz v. Tomasik.

Summit App. No. 20802.

2002-0263. State v. Rowe.

Hamilton App. No. C-000727, 2001-Ohio-8625.

2002-0265. State v. Lavender.

Lake App. No. 2000-L-049, 2001-Ohio-8790.

2002-0268. Evans v. Wills.

Franklin App. No. 01AP-422, 2001-Ohio-8750.

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

2002-0272. Citizens to Save Northland v. Ohio Elections Comm.

Franklin App. No. 01AP-115, 2001-Ohio-8862.

2002-0275. Auto Owners Ins. Co. v. Allen.

Franklin App. No. 01AP-476, 2001-Ohio-8865.

2002-0277. 161 Dublin, Inc. v. Ohio Liquor Control Comm.

Franklin App. No. 01AP-134, 2001-Ohio-8863.

Lundberg Stratton, J., dissents.

2002-0284. Austermiller v. Dosick.

Lucas App. No. L-01-1223, 2001-Ohio-2910.

F.E. Sweeney, J., dissents.

Resnick, J., not participating.

2002-0287. Huberty v. Esber Beverage Co.

Stark App. No. 2001CA00202, 2001-Ohio-7048.

2002-0307. State v. Holland.

Montgomery App. No. 18556, 2001-Ohio-1697.

2002-0309. State v. Boddie.

Allen App. No. 1-2000-72, 2001-Ohio-2261.

2002-0311. State v. Jergens.

Montgomery App. No. 13294.

2002-0340. State v. Coldiron.

Auglaize App. No. 2-2000-31, 2001-Ohio-2250.

2002-0341. State v. Marcum.

Butler App. No. CA96-03-049, 2002-Ohio-21.

2002-0345. State v. Pardon.

Warren App. No. CA2000-10-090.

2002-0353. Potts v. DeWeese.

Richland App. No. 01CA66, 2002-Ohio-245.

2002-0377. Mizen v. Utica Natl. Ins. Group.

Cuyahoga App. No. 79554, 2002-Ohio-37.

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

2002-0397. State v. Grigsby.

Montgomery App. No. 18354.

RECONSIDERATION OF PRIOR DECISIONS

2001-1624. State ex rel. Howard v. Seaway Foodtown, Inc.

Franklin App. No. 00AP-1097. Reported at 94 Ohio St.3d 440, 2002-Ohio-1242, 763 N.E.2d 1176. On motion for reconsideration. Motion denied.

2002-0009. Leisure v. State Farm Mut. Auto. Ins. Co.

Stark App. No. 2001CA00095, 2001-Ohio-1818. Reported at 94 Ohio St.3d 1506, 764 N.E.2d 1036. On motion for reconsideration. Motion denied.

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

2002-0040. Ross v. Kinkela.

Cuyahoga App. No. 79411, 2001-Ohio-4256. Reported at 94 Ohio St.3d 1507, 764 N.E.2d 1037. On motion for reconsideration. Motion denied.

Pfeifer, J., dissents.

2002-0077. State v. Wright.

Washington App. No. 00CA39, 2001-Ohio-2473. Reported at 94 Ohio St.3d 1508, 764 N.E.2d 1037. On motion for reconsideration. Motion denied.

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

2002-0096. State v. Noser.

Lucas App. No. L-00-1154. Reported at 94 Ohio St.3d 1508, 764 N.E.2d 1037. On motion for reconsideration. Motion granted and appeal allowed on Proposition of Law No. I; sua sponte, cause held for the decision in 2002-0201, *State v. Fisher*, Franklin App. No. 01AP-614, 2001-Ohio-8772; cause consolidated with 2002-0020, *State v. Noser*, Lucas App. No. L-00-1154; briefing schedule stayed.

Moyer, C.J., F.E. Sweeney and Lundberg Stratton, JJ., concur but would allow all propositions of law.

Resnick, Pfeifer and Cook, JJ., dissent.

2002-0126. Canterbury v. Skulina.

Portage App. No. 2000-P-0060, 2001-Ohio-8768. Reported at 94 Ohio St.3d 1508, 764 N.E.2d 1037. On motion for reconsideration. Motion denied.

Lundberg Stratton, J., dissents.