

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

May 15, 2002

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### MERIT DECISIONS WITH OPINIONS

**1998-1983. State v. Lamar, 2002-Ohio-2128.**

Lawrence App. No. 95CA31. Judgment affirmed.

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

Pfeifer, J., concurs in judgment.

**1999-0958. State v. Yarbrough, 2002-Ohio-2126.**

Shelby App. No. 17-97-03. Judgment affirmed.

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

Pfeifer, J., concurs in judgment.

**2000-1812. State v. Maxwell, 2002-Ohio-2121.**

Franklin App. No. 99AP-1177. Judgment reversed.

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

Cook, J., concurs in judgment.

Pfeifer and Lundberg Stratton, JJ., dissent.

**2001-0333. State v. Thompson, 2002-Ohio-2124.**

Ashtabula App. No. 99-A-0070. Judgment reversed.

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

Moyer, C.J., Resnick and Lundberg Stratton, JJ., concur in syllabus and judgment.

Douglas, J., concurs in judgment and in the concurrence of Justice Pfeifer.

Pfeifer, J., concurs separately.

**2001-1847 and 2001-0981. Washington Twp. Trustees v. Davis, 2002-Ohio-2123.**

Pickaway App. No. 00CA28, 2001-Ohio-4058. Judgment affirmed.

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

**2001-1542. Vasquez v. Kutscher, 2002-Ohio-2125.**

Certified State Law Question, No. 3:01CV7059. The court answers no to certified question No. 1.

The court declines to answer certified questions Nos. 2 and 3.

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

**2001-2106. Howard v. Randle, 2002-Ohio-2122.**

Ross App. No. 01CA2601. Judgment affirmed.

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

**MERIT DECISIONS WITHOUT OPINIONS**

**2002-0514. State ex rel. Belcastro v. Court of Appeals, Eighth Appellate Dist.**

In Procedendo. On motion to dismiss. Motion to dismiss sustained. Cause dismissed.

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

Moyer, C.J., and Lundberg Stratton, J., dissent and would grant an  
alternative writ.

**2002-0568. Paxton v. Bagley.**

In Habeas Corpus. On petition for writ of habeas corpus by Ronald Paxton. Sua  
sponte, cause dismissed.

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

**2002-0573. Turner v. Hurley.**

In Habeas Corpus. On petition for writ of habeas corpus of Brian E. Turner. Sua  
sponte, cause dismissed.

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

**2002-0609. Kincaid v. Bagley.**

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

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

**2002-0624. State ex rel. Aaron v. McFaul.**

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

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

**MOTION AND PROCEDURAL RULINGS**

**2001-2036. Oho State Bldg. & Constr. Trades Council v. Cuyahoga Cty. Bd. of Commrs.**

Cuyahoga App. Nos. 77242 and 77262, 2001-Ohio-4228. On motion by M. Tucker for admission pro hac vice of L. Cohen on behalf of Building & Construction Trades Dept., AFL-CIO. Motion granted.

**2001-2073. LSDHC Corp. v. Zaino.**

Board of Tax Appeals, No. 98-J-896. On motion for admission pro hac vice of Kerne H. O. Matsubara by Edward J. Bernert and on motion for admission pro hac vice of Jeffrey M. Vesely by Edward J. Bernert. Motions granted.

**2001-2074. Lear, Siegler, Seymour Corp. v. Zaino.**

Board of Tax Appeals, No. 98-J-897. On motion of Edward Bernert for admission pro hac vice of Kerne Matsubara on behalf of Lear, Seigler, Seymour Corp. and on motion of Edward Bernert for admission pro hac vice of Jeffrey Vesely on behalf of Lear, Siegler, Seymour Corp. Motions granted.

**2002-0016. State ex rel. Ragozine v. Shaker.**

Trumbull App. No. 2001-T-0122, 2001-Ohio-7062. On motion of George Tzagournis for admission pro hac vice of Sabastian Rucci on behalf of amicus curiae petitioners. Motion granted.

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

On motion to strike amicus curiae brief of the 1,612 petitioners who signed complaint for removal and forfeiture, etc. Motion denied.

Resnick, J., dissents.

**2002-0297. State ex rel. Ditmars v. McSweeney, 2002-Ohio-997.**

Original Action Involving Expedited Election Matter. On motion for attorney fees. Motion denied.

**2002-0504. Ward v. Wal-Mart Stores, Inc.**

Lake App. No. 2001-L-171, 2001-Ohio-4041. On review of order certifying a conflict. The court determines that a conflict exists; cause consolidated with 2002-0295, *Ward v. Wal-Mart Stores, Inc.*, Lake App. No. 2000-L-171, 2001-Ohio-4041, and causes held for the decision in 2002-0367, *Armstrong v. Best Buy Co.*, Lorain App. No. 01CA007848, 2001-Ohio-1934; briefing schedule stayed.

**2002-0534. State v. Chafin.**

Marion App. No. 9-01-63. On motion for leave to file delayed appeal. Motion denied.

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

**2002-0535. State v. Lovely.**

Scioto App. No. 00CA2721, 2001-Ohio-2440. On motion for leave to file delayed appeal. Motion denied.

**2002-0554. State v. Longworth.**

Allen App. Nos. 1-01-08 and 1-01-51, 2001-Ohio-2295. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

**2002-0559. State v. Black.**

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

**2002-0569. State v. McKinney.**

Clinton App. No. CA2001-04-013, 2001-Ohio-8692. On motion for leave to file delayed appeal. Motion denied.

**2002-0612. Assn. of Fire Fighters, Local 93 v. Cleveland.**

Cuyahoga App. No. 78970, 2000-Ohio-498. On motion for stay of court of appeals' judgment. Motion granted.

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

**2002-0617. State v. Witschi.**

Morrow App. No. CA868. On motion for leave to file delayed appeal. Motion denied.

**2002-0652. GE Capital Mtge. Serv., Inc. v. Guyer.**

Hamilton App. No. C-010502, 2002-Ohio-1991. On motion for immediate stay of court of appeals' judgment. Motion denied.

Moyer, C.J., dissents.

Resnick, J., not participating.

**APPEALS ACCEPTED FOR REVIEW**

**2001-1774. Gearheart v. Ohio Adult Parole Auth.**

Fairfield App. No. 01CA28. Appeal allowed and cause held for the decision in 2001-1253 and 2001-1266, *Layne v. Ohio Adult Parole Auth.*, Marion App. No. 9-2001-06, 2001-Ohio-2222; briefing schedule stayed.

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

**2002-0230. State v. Peeler.**

Montgomery App. No. 18831, 2002-Ohio-109.

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

**2002-0295. Ward v. Wal-Mart Stores, Inc.**

Lake App. No. 2000-L-171, 2001-Ohio-4041. Appeal allowed, cause consolidated with 2002-0504, *Ward v. Wal-Mart Stores, Inc.*, Lake App. No. 2000-L-171, 2001-Ohio-4041, and causes held for the decision in 2002-0367, *Armstrong v. Best Buy Co.*, Lorain App. No. 01CA007848, 2001-Ohio-1934; briefing schedule stayed.

Resnick and Lundberg Stratton, JJ., dissent.

**APPEALS NOT ACCEPTED FOR REVIEW**

**2002-0189. Davis v. State Farm Fire & Cas. Co.**

Franklin App. No. 00AP-1458, 2001-Ohio-8884.

Pfeifer and Lundberg Stratton, JJ., dissent and would hold this cause for the decision in 2001-1786, *Lemm v. The Hartford*, Franklin App. No. 01AP-251.

**2002-0225. Asad v. Asad.**

Cuyahoga App. No. 79258.

**2002-0235. State v. Marshall.**

Lorain App. No. 01CA007773, 2001-Ohio-7015.

**2002-0261. Bayes, Inc. v. Westfield Cos.**

Lucas App. No. L-01-1270, 2001-Ohio-3908.

Resnick, J., not participating.

**2002-0270. Butcher v. Indus. Comm.**

Franklin App. No. 01AP-557, 2001-Ohio-8867.

**2002-0276. State v. Martin.**

Montgomery App. No. 18652, 2001-Ohio-7084.

**2002-0283. State v. Johnson.**

Cuyahoga App. No. 76999, 2001-Ohio-4134.

**2002-0290. In re Terry J.**

Lucas App. No. L-01-1249, 2001-Ohio-3005.

Resnick, J., not participating.

**2002-0292. State v. Jaryga.**

Lake App. No. 99-L-179, 2001-Ohio-7065. Appeal and cross-appeal not allowed.

**2002-0303. N. Ridgeville v. Kingsboro.**

Lorain App. Nos. 01CA007809 and 01CA007810, 2002-Ohio-30.

**2002-0304. State v. Myers.**

Perry App. No. 01CA5, 2002-Ohio-253.

**2002-0306. State v. Turner.**

Cuyahoga App. No. 78520.

**2002-0308. Kenwood Lincoln-Mercury, Inc. v. DaimlerChrysler Corp.**

Hamilton App. No. C-000784, 2002-Ohio-111. Appeal denied and motion for admission pro hac vice of Mark T. Clouatre by Keith P. Spiller for DaimlerChrysler Corporation denied.

**2002-0314. State v. Reynolds.**

Cuyahoga App. No. 79708, 2002-Ohio-36.

**2002-0316. State v. Keenan.**

Summit App. No. 20633, 2002-Ohio-218.

**2002-0319. State v. Stojetz.**

Madison App. No. CA2000-10-048.

Pfeifer, J., dissents.

**2002-0320. Hunt v. Crossroads Psychiatric & Psychological Ctr.**

Cuyahoga App. No. 79120. Appeal not allowed.

Lundberg Stratton, J., dissents.

Cross-appeal not allowed.

F.E. Sweeney, J., dissents.

**2002-0321. Kline v. Parma.**

Cuyahoga App. No. 79222.

**2002-0328. State v. Staley.**

Auglaize App. No. 2-02-01.

**2002-0332. State v. Noser.**

Lucas App. No. L-01-1276, 2002-Ohio-123.

**2002-0334. Irvine v. Akron Beacon Journal.**

Summit App. Nos. 20450 and 20524, 2002-Ohio-83. Appeal denied.

Moyer, C.J., dissents.

On motion for stay of consideration of jurisdictional memorandum pending court of appeals' reconsideration. Motion denied.

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

**2002-0335. Montrose Ford, Inc. v. Starn.**

Summit App. No. 20605, 2002-Ohio-87.

**2002-0337. Cicchillo v. A Best Products Co.**

Cuyahoga App. No. 79288, 2002-Ohio-4. Appeal denied and motion for admission pro hac vice of Kathy Condo by Gary D. Hermann denied.

**2002-0338. Goddard v. Children's Hosp. Med. Ctr.**

Hamilton App. No. C-010150, 2002-Ohio-27.

F.E. Sweeney, J., dissents.

**2002-0339. State v. Shiffler.**

Lucas App. No. L-01-1272, 2002-Ohio-122.

Resnick, J., not participating.

**2002-0342. Leman v. Fryman.**

Hamilton App. No. C-010056, 2002-Ohio-191.

**2002-0343. State v. Taylor.**

Cuyahoga App. No. 80670.

**2002-0344. Kelly v. Lambda Research, Inc.**

Hamilton App. No. C-010253, 2002-Ohio-24.

**2002-0350. State v. Nichols.**

Scioto App. No. 01CA2775, 2002-Ohio-415.

**2002-0356. Mickel v. Lucas Cty. Children Serv.**

Lucas App. No. L-01-1458, 2002-Ohio-130.

Resnick, J., not participating.

**2002-0357. Faulkner v. Bay Village.**

Cuyahoga App. No. 79349, 2002-Ohio-16.

Resnick, J., dissents.

**2002-0358. State v. Isom.**

Cuyahoga App. No. 78959.

Resnick and Lundberg Stratton, JJ., dissent.

**2002-0359. State v. Woods.**

Hamilton App. No. C-000261, 2002-Ohio-187.

**2002-0363. Long v. Commodore Bank.**

Perry App. No. 01CA14, 2002-Ohio-252.

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

Lundberg Stratton, J., would allow.

**2002-0375. Cohen v. [UBS] PaineWebber, Inc.**

Hamilton App. No. C-010312, 2002-Ohio-196.

Cook, J., dissents.



**2002-0378. State v. Johnson.**

Delaware App. No. 01CAA04014.

**2002-0379. Pool v. Insignia Residential Group.**

Hamilton App. No. C-010074, 2002-Ohio-192.

Douglas and Resnick, JJ., dissent.

**2002-0380. State v. Georgeoff.**

Medina App. No. 3195-M, 2002-Ohio-216.

**2002-0381. Buren v. Karrington Health, Inc.**

Franklin App. No. 00AP-1414, 2002-Ohio-206. Appeal denied and motion for admission pro hac vice of Thomas P. Murphy and Elizabeth A. Lalik by D.W. Srsic for Karrington etc. et al. denied.

F.E. Sweeney, J., dissents.

**2002-0382. State v. Hill.**

Fairfield App. No. 98CA67, 2002-Ohio-227. Appeal and cross-appeal denied.

**2002-0385. State v. Shackelford.**

Montgomery App. No. 18297.

**2002-0391. State v. Patrick.**

Licking App. No. 95CA149.

**2002-0394. State Easley.**

Franklin App. No. 01AP-31, 2001-Ohio-3976.

**2002-0403. Rodata, Inc. v. Christian & Timbers.**

Cuyahoga App. No. 79439, 2002-Ohio-3.

F.E. Sweeney, J., dissents.

**2002-0405. Andreano v. Westlake City Council.**

Cuyahoga App. No. 79286, 2002-Ohio-19.

Douglas, J., dissents.

**2002-0406. State v. Kreischer.**

Perry App. No. 01CA04, 2002-Ohio-357.

**2002-0408. Amshoff v. Bailey.**

Butler App. No. CA2001-08-182, 2002-Ohio-174.

**2002-0409. State v. Richard.**

Cuyahoga App. No. 78813, 2002-Ohio-9.

**2002-0414. State v. Mixner.**

Warren App. No. CA2001-07-074, 2002-Ohio-180.

**2002-0417. State v. Long.**

Clark App. No. 2001CA60, 2002-Ohio-385.

**2002-0425. State v. Wheatt.**

Cuyahoga App. No. 70197.

**2002-0435. State v. Westerfield.**

Cuyahoga App. No. 78973.

**2002-0437. State v. Pennington.**

Franklin App. No. 01AP-657, 2002-Ohio-296.

**2002-0499. State v. Williams.**

Stark App. No. 1998CA00060.

**RECONSIDERATION OF PRIOR DECISIONS**

**2001-0512. Tallal v. Bank One, N.A.**

Summit App. No. 19592, 2001-Ohio-4348. Reported at 94 Ohio St.3d 1251, 2002-Ohio-1489, 764 N.E.2d 103. On motion for reconsideration. Motion denied.

Cook, J., not participating.

**2001-2057. State v. Dzubak.**

Geauga App. No. 2000-G-2285. Reported at 94 Ohio St.3d 508, 2002-Ohio-1496, 764 N.E.2d 1003. On motion for reconsideration. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

**2002-0291. Pillo v. Stricklin.**

Stark App. No. 2001CA00204, 2001-Ohio-7049. Reported at 95 Ohio St.3d 1412, 765 N.E.2d 878. On motion for reconsideration. Motion granted and appeal allowed; sua sponte, cause held for the decision in 2001-1709, *Kemper v. Michigan Millers Mut. Ins. Co.*, Certified State Law Question, No. 300CV07799, and briefing schedule stayed.

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