

The Supreme Court of Ohio

CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

July 29, 2002

MOTION AND PROCEDURAL RULINGS

2000-2119. State v. Yarbrough.

Jefferson C.P. No. 99CR116. Upon consideration of appellant's motion to vacate death sentence pursuant to *Atkins v. Virginia* (2002), 536 U.S. ___, 122 S.Ct. 2242, 153 L.Ed.2d 335,

IT IS ORDERED by the court that the motion to vacate be, and hereby is, denied.

2001-1048. State v. Martello.

Ashtabula App. No. 2000-A-0026. This cause is pending before the court as an appeal from the Court of Appeals for Ashtabula County. Upon consideration of appellee's motion to dismiss appeal as having been improvidently allowed; appellee's second motion for appointment of counsel; and appellee's motion to strike notice of appeal, memorandum in support of jurisdiction, and brief for failure of service,

IT IS ORDERED by the court that the motion to dismiss and motion to strike be, and hereby are, denied.

IT IS FURTHER ORDERED by the court that the second motion for appointment of counsel be, and hereby is, granted.

IT IS FURTHER ORDERED by the court, sua sponte, that the Ohio Public Defender is appointed as counsel for appellee and is granted 20 days from the date of this entry to file a merit brief on behalf of appellee. Appellant's brief in response, if any, shall be due within 15 days of the filing of appellee's brief; appellee's reply brief, if any, shall be due within 5 days of the filing of appellant's brief.

2001-1634. State ex rel. Capitol Mfg., Div. of Harsco Corp. v. Johnson.

Franklin App. No. 00AP-1100. This cause is pending before the court as an appeal from the Court of Appeals for Franklin County. Upon consideration of the joint motion for extension of time to file appellant's merit brief pending settlement pursuant to S.Ct.Prac.R. XIV(6)(C),

IT IS ORDERED by the court that the motion for extension of time be, and hereby is, granted, and appellant's merit brief is due on or before August 23, 2002.

2001-1957. Robson v. Allstate Ins. Co.

Delaware App. No. 01CAE03007. This cause is pending before the court as an appeal from the Court of Appeals for Delaware County. Upon consideration of appellant's motion to participate in oral argument scheduled for October 16, 2002,

IT IS ORDERED by the court that the motion to participate in oral argument be, and hereby is, granted.

2002-0998. State ex rel. Moore v. Malone.

In Mandamus. This cause originated in this court on the filing of a complaint for a writ of mandamus. Upon consideration of the motion for admission pro hac vice of Brian Fahling by David R. Langdon; the motion for admission pro hac vice of Michael J. DePrimo by David R. Langdon; motion to dismiss of Thomas K. Malone; motion to dismiss of Cuyahoga County Board of Elections; and relator's motion to strike affidavits attached to respondents' motions to dismiss,

IT IS ORDERED by the court that the motions for admission pro hac vice be, and hereby are, granted.

IT IS FURTHER ORDERED by the court that the motions to dismiss be, and hereby are, denied.

IT IS FURTHER ORDERED by the court that the motion to strike be, and hereby is, granted, and the affidavits attached to respondents' motions to dismiss are stricken.

Upon consideration of relator's motion for alternative writ and upon determination pursuant to S.Ct.Prac.R. X(5),

IT IS FURTHER ORDERED by the court that an alternative writ be granted and the following briefing schedule is set for presentation of evidence and filing of briefs pursuant to S.Ct.Prac.R. X:

Relator shall file any evidence she intends to present and her merit brief within seven days of the date of this entry; respondents shall file evidence and a merit brief within seven days after the filing of relator's merit brief; and relator

may file a reply brief within three days after the filing of respondents' merit brief. No extension of this schedule shall be allowed unless ordered by the court upon motion pursuant to S.Ct.Prac.R. XIV(3)(B)(2)(b).

Pfeifer, J., concurs but would deny the pro hac vice motions.

MISCELLANEOUS DISMISSALS

2002-0636. State ex rel. Union Fork & Hoe v. Indus. Comm.

Franklin App. No. 01AP-638. This cause is pending before the court on appeals from the Court of Appeals for Franklin County. Upon consideration of appellants' application for dismissal,

IT IS ORDERED by the court that the application for dismissal be, and hereby is, granted.

ACCORDINGLY, IT IS FURTHER ORDERED by the court that this cause be, and hereby is, dismissed.

2002-0926. Brandy's, Inc. v. Zaino.

Hancock App. No. 5-01-43, 2002-Ohio-1923. This cause is pending before the court as a discretionary appeal. Upon consideration of appellant's application for dismissal,

IT IS ORDERED by the court that the application for dismissal be, and hereby is, granted.

ACCORDINGLY, IT IS FURTHER ORDERED by the court that this cause be, and hereby is, dismissed.

2002-0938. Johnny Appleseed Ctr., Ltd. v. Richland Cty. Bd. of Revision.

Board of Tax Appeals, Nos. 01-N-1253 and 01-N-1254. This cause is pending before the court as an appeal from the Board of Tax Appeals. It appears from the records of this court that appellant has not filed a merit brief, due July 17, 2002, in compliance with the Rules of Practice of the Supreme Court and therefore has failed to prosecute this case with the requisite diligence. Upon consideration thereof,

IT IS ORDERED by the court that this cause be, and hereby is, dismissed, sua sponte.

2002-0939. Mansfield Square, Ltd. v. Richland Cty. Bd. of Revision.

Board of Tax Appeals, Nos. 01-A-1258 and 01-A-1259. This cause is pending before the court as an appeal from the Board of Tax Appeals. It appears from the records of this court that appellant has not filed a merit brief, due July 17, 2002, in

compliance with the Rules of Practice of the Supreme Court and therefore has failed to prosecute this case with the requisite diligence. Upon consideration thereof,

IT IS ORDERED by the court that this cause be, and hereby is, dismissed, sua sponte.

2002-1182. State ex rel. Crossan v. Cleveland Letter Serv., Inc.

Franklin App. No. 01AP-1423. The appellant has filed this appeal as an appeal of right from a magistrate's decision filed in the Tenth District Court of Appeals on May 29, 2002. Whereas the appellant has not perfected an appeal from a judgment entered by the court of appeals as prescribed by S.Ct.Prac.R. II(2)(A)(1)(a),

IT IS ORDERED by the court, sua sponte, that this case be, and hereby is, dismissed.

MEDIATION REFERRALS

The following cases have been referred to mediation pursuant to S.Ct.Prac.R. XIV(6):

2002-0959. State ex rel. Underwood v. Indus. Comm.

Franklin App. No. 01AP-930, 2002-Ohio-2227.

2002-1028. State ex rel. Handy v. Conrad.

Franklin App. No. 01AP-603, 2002-Ohio-2391.