

The Supreme Court of Ohio

CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

September 11, 2002

MERIT DECISIONS WITH OPINIONS

1999-0889. State v. Lomax, 2002-Ohio-4453.

Sandusky C.P. No. 96CR448. Judgment reversed and cause remanded.

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

Cook, J., concurs in judgment.

Nader, J., dissents.

Robert A. Nader, J., of the Eleventh Appellate District, sitting for Resnick, J.

1999-1113. State v. Lomax, 2002-Ohio-4453.

Sandusky App. Nos. S-97-037 and S-99-014. Judgment reversed and cause remanded.

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

Cook, J., concurs in judgment.

Nader, J., dissents.

Robert A. Nader, J., of the Eleventh Appellate District, sitting for Resnick, J.

2001-0152. In re Cross, 2002-Ohio-4183.

Stark App. No. 2000CA00122. Judgment reversed.

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

Resnick, J., concurs in judgment.

Cook, J., concurs in judgment only.

Douglas, J., dissents.

MOTION AND PROCEDURAL RULINGS

2002-1231. State v. Shondrick.

Medina App. No. 3216-M, 2002-Ohio-2439. 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 June 26, 2002, at pages 1-2:

“Whether only physical stimulation, not actual contact or touching, of the penis by the mouth of another person is required to prove ‘fellatio,’ which is not statutorily defined under the Ohio Revised Code.”

Moyer, C.J., F.E. Sweeney and Pfeifer, JJ., dissent.

The conflict case is *State v. Astley* (1987), 36 Ohio App.3d 247, 523 N.E.2d 322.

APPEALS NOT ACCEPTED FOR REVIEW

2001-1078. State v. Yarbrough.

Shelby App. No. 17-2000-10, 2001-Ohio-2351.

2002-0371. State v. Liles.

Huron App. Nos. H-00-014 and H-00-019, 2001-Ohio-2689.

2002-0692. State v. Rotarius.

Cuyahoga App. No. 78766, 2002-Ohio-666.

2002-0785. Irvine v. Akron Beacon Journal.

Summit App. Nos. 20450 and 20524, 2002-Ohio-83 and 2002-Ohio-2204.

Moyer, C.J., dissents.

2002-0794. Thrower v. Korey.

Cuyahoga App. Nos. 78769, 78894 and 79022, 2002-Ohio-1592.

2002-0823. In re Keeran.

Licking App. No. 01CA69, 2002-Ohio-1580.

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

2002-0830. State v. Ivory.

Cuyahoga App. No. 79722, 2002-Ohio-1275.

Cook, J., would allow the cause and hold it for the decision in 2002-0201, *State v. Fisher*, Franklin App. No. 01AP-614, 2001-Ohio-8772.

Lundberg Stratton, J., not participating.

2002-0832. State v. Jordan.

Seneca App. Nos. 13-01-25, 13-01-26 and 13-01-27, 2002-Ohio-1418.

2002-0838. In re Burch.

Hamilton App. Nos. C-010579 and C-010580.

2002-0839. State v. Socha.

Cuyahoga App. No. 80002.

2002-0842. State v. Otero.

Pickaway App. No. 01CA26.

2002-0843. State v. Scott.

Miami App. No. 2001CA8, 2001-Ohio-7002.

Lundberg Stratton, J., dissents.

2002-0844. Short v. Wilkinson.

Cuyahoga App. No. 80849.

2002-0845. Euclid v. Corrigan.

Cuyahoga App. No. 79535, 2002-Ohio-810.

2002-0848. State v. Thomas.

Cuyahoga App. No. 79565, 2002-Ohio-1085.

2002-0849. Bundy v. Harrison.

Montgomery App. No. 19080, 2002-Ohio-1806.

Moyer, C.J., would allow.

Lundberg Stratton, J., would allow on Propositions of Law Nos. III and IV.

2002-0854. State v. Frazier.

Fairfield App. No. 02CA24.

2002-0855. ADR & Assoc. Ltd.

Franklin App. No. 01AP-814, 2002-Ohio-1354.

2002-0856. Cleveland Clinic Found. v. Commerce Group Benefits, Inc.

Cuyahoga App. No. 79907, 2002-Ohio-1414.

2002-0858. State v. Caudill.

Hancock App. No. 5-01-44, 2002-Ohio-2183.

2002-0859. Martinko v. Strongsville High School.

Cuyahoga App. No. 80068, 2002-Ohio-1404.

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

2002-0860. State v. Smith.

Cuyahoga App. No. 79749, 2002-Ohio-1069.

2002-0862. Stacy v. Wausau Business Ins. Co.

Tuscarawas App. Nos. 2001AP080076 and 2001AP080086, 2002-Ohio-1669.

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

2002-0863. Associates Fin. Serv. Corp. v. Miller.

Portage App. No. 2001-P-0046, 2002-Ohio-1610.

2002-0869. Deringer v. Clinton Twp. Bd. of Trustees.

Wayne App. No. 01CA0043, 2002-Ohio-1640.

Pfeifer, J., dissents.

2002-0870. State v. Kinley.

Clark App. No. 2001CA38, 2002-Ohio-1791.

2002-0871. Carr v. Isaacs.

Butler App. No. CA2001-08-191, 2002-Ohio-1734.

Douglas, Resnick and Pfeifer, JJ., dissent.

2002-0873. State v. Johnson.

Cuyahoga App. No. 79831, 2002-Ohio-1661.

Resnick, J., dissents.

2002-0876. State v. Stevens.

Lorain App. No. 01CA007893, 2002-Ohio-1636.

2002-0879. State v. Andrukat.

Stark App. No. 2001CA00324, 2002-Ohio-1862.

2002-0887. State v. Mayle.

Franklin App. No. 01AP-978, 2002-Ohio-2089.

2002-0888. Herschell v. Rudolph.

Lake App. No. 2001-L-069, 2002-Ohio-1688.

Moyer, C.J., dissents.

2002-0889. State v. Clouser.

Lorain App. No. 01CA007851, 2002-Ohio-1635.

2002-0890. Bellinger v. Hewlett-Packard Co.

Summit App. No. 20744, 2002-Ohio-1643.

Douglas and Resnick, JJ., dissent.

2002-0893. In re Harris.

Richland App. Nos. 01CA60 and 01CA61, 2002-Ohio-995 and 2002-Ohio-2474.

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

2002-0895. Brady v. Brady.

Montgomery App. No. 19006, 2002-Ohio-1879.

2002-0896. Waghray v. Westlake.

Cuyahoga App. No. 79311, 2002-Ohio-1563.

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

2002-0897. State v. Hamilton.

Lake App. No. 2000-L-003, 2002-Ohio-1681.

2002-0898. State v. Wright.

Columbiana App. No. 2002CO13, 2002-Ohio-2288.

2002-0904. State v. Swarengin.

Williams App. No. WM-02-003.

Resnick, J., not participating.

2002-0905. Nauman v. Cooper Energy Serv. Internatl., Inc.

Knox App. No. 01CA000015, 2002-Ohio-1840. Appeal and cross-appeal not accepted.

Douglas and Cook, JJ., dissent.

2002-0906. Baker v. Toledo City School Dist. Bd. of Edn.

Lucas App. No. L-01-1303, 2002-Ohio-854.

Douglas and Resnick, JJ., dissent.

2002-0909. Clark v. Ohio Adult Parole Auth.

Franklin App. No. 01AP-1108.

2002-0910. Riolo v. Navin.

Cuyahoga App. No. 79809, 2002-Ohio-1551.

2002-0911. State v. Martin.

Lucas App. No. L-01-1214, 2002-Ohio-1870.

Resnick, J., not participating.

2002-0912. State v. Bell.

Marion App. No. 9-01-60, 2002-Ohio-2182.

2002-0913. Adams v. Northeastern Local School Dist. Bd. of Edn.

Clark App. No. 2001CA82, 2002-Ohio-1778.

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

2002-0916. State ex rel. Rust v. Money.

Marion App. No. 9-02-06, 2002-Ohio-2105.

2002-0917. Brock v. Morton.

Summit App. No. 20738, 2002-Ohio-1743.

2002-0921. Lawyers Title Ins. Corp. v. Midwest Title Agency, Inc.

Delaware App. Nos. 01CAE10046 and 01CAE11059, 2002-Ohio-2511.

Douglas and Cook, JJ., dissent.

2002-0923. State v. Lima.

Franklin App. No. 01AP-774, 2002-Ohio-1919.

2002-0924. State v. Diblasio.

Licking App. No. 01CA00080, 2002-Ohio-2466.

2002-0927. Garcia v. Wayne Homes, LLC.

Clark App. No. 2001CA53, 2002-Ohio-1884.

2002-0929. *Gidley v. Cincinnati Ins. Co.*

Summit App. No. 20813, 2002-Ohio-1740.

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

Cook, J., not participating.

2002-0930. *State v. Kruger.*

Summit App. No. 20830, 2002-Ohio-1750.

2002-0931. *State v. Davis.*

Franklin App. No. 01AP-579, 2002-Ohio-1920.

2002-0933. *State ex rel. Alsenas v. Miller.*

Cuyahoga App. No. 80394, 2002-Ohio-1530.

Lundberg Stratton, J., not participating.

2002-0934. *State v. Coon.*

Cuyahoga App. No. 79641, 2002-Ohio-1813.

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

2002-0935. *Jerome v. A-Best Prod. Co.*

Cuyahoga App. Nos. 79139, 79140, 79141 and 79142, 2002-Ohio-1824.

2002-0936. *State v. Taylor.*

Cuyahoga App. No. 79226, 2002-Ohio-1843.

2002-0940. *McKinley v. Rhee.*

Allen App. No. 1-01-168, 2002-Ohio-1768.

2002-0941. *Dunne v. Hanson.*

Lucas App. No. L-01-1414, 2002-Ohio-2267.

Douglas and Pfeifer, JJ., dissent.

Resnick, J., not participating.

2002-0943. *State v. Vargas.*

Stark App. No. 2001CA00044, 2002-Ohio-2478.

2002-0944. *State v. Charley.*

Lorain App. No. 01CA007813, 2002-Ohio-1962.

2002-0946. State v. Seese.

Lorain App. Nos. 01CA007852 and 01CA007889, 2002-Ohio-1998.

2002-0950. State v. Gales.

Cuyahoga App. No. 79922, 2002-Ohio-1660.

2002-0951. Rocky River v. Horvath.

Cuyahoga App. No. 79997.

2002-0952. In re Arbitration Between Victoria's Secret Stores, Inc.

Franklin App. No. 01AP-896, 2002-Ohio-2009.

Douglas, Resnick and Pfeifer, JJ., dissent.

2002-0956. State v. Farwell.

Clermont App. No. CA2001-03-041, 2002-Ohio-1912.

2002-0957. Howell v. Atlantic-Meeco, Inc.

Clark App. No. 01CA0084, 2002-Ohio-2058.

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

2002-0963. Martinez v. Travelers Ins. Co.

Summit App. No. 20796, 2002-Ohio-1979.

Moyer, C.J., would allow on Proposition of Law No. I and would hold the cause for the decision in 2001-1709, *Kemper v. Michigan Millers Mut. Ins. Co.*, Certified State Law Question No. 3:00CV07799.

Resnick, J., would allow.

Pfeifer, J., would allow and hold the cause for the decision in *Kemper*.

2002-0965. Forrest v. Daimler Chrysler Corp.

Summit App. No. 20806, 2002-Ohio-1974.

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

2002-0966. Harmon v. Adams.

Union App. No. 14-01-27, 2002-Ohio-2103. Appeal and cross-appeal not accepted.

Moyer, C.J., dissents.

2002-0970. Smith v. Lawrence Cty. Sheriff's Dept.

Lorain App. No. 01CA30, 2002-Ohio-2151.

2002-0971. State v. Pishok.
Seneca App. No. 13-02-14.

2002-0973. Pitts v. Children's Hosp. Med. Ctr.
Hamilton App. No. C-010506, 2002-Ohio-2039.

2002-0978. State v. Keaton.
Summit App. No. 20877.

2002-0981. State v. Latham.
Coshocton App. No. 02CA10.

2002-0985. Dimitri's, Inc. v. Ohio Liquor Control Comm.
Franklin App. No. 01AP-949, 2002-Ohio-2088.

2002-0986. State v. Carlisle.
Montgomery App. No. 18960, 2002-Ohio-2274.

2002-0988. State v. Jones.
Ashtabula App. No. 2000-A-0083, 2002-Ohio-2074.

2002-0989. DeStephen v. Allstate Ins. Co.
Franklin App. No. 01AP-1071, 2002-Ohio-2091.

Moyer, C.J., would allow and hold the cause for the decision in 2001-1957,
Robson v. Allstate Ins. Co., Delaware App. No. 01CAE03007.
Resnick, J., would allow.

2002-0993. Ahmed v. Univ. Hosp. Health Care Sys., Inc.
Cuyahoga App. No. 79016, 2002-Ohio-1823.
Lundberg Stratton, J., dissents.

2002-0994. Toth v. Oberlin Clinic, Inc.
Lorain App. No. 01CA007891, 2002-Ohio-2211.
Cook, J., would allow on Proposition of Law No. II.
Resnick and F.E. Sweeney, JJ., would allow.

2002-1000. Sutton v. Ohio State Bd. of Pharmacy.
Trumbull App. Nos. 2001-T-0030, 2001-T-0031 and 2001-T-0032.
Douglas and F.E. Sweeney, JJ., dissent.

2002-1001. Berry v. Licking Cty. Bd. of Commrs.
Licking App. No. 01CA00113, 2002-Ohio-2515.

2002-1004. State v. Gibbs.
Franklin App. No. 00AP-1356, 2002-Ohio-2085.

2002-1043. State v. Mayo.
Cuyahoga App. No. 80216.
Resnick, J., dissents.

2002-1050. State v. Scruggs.
Butler App. No. CA2002-01-016, 2002-Ohio-2412.

2002-1061. State v. Stephens.
Trumbull App. No. 2001-T-0044, 2002-Ohio-2976.

2002-1067. Aziz v. Ditty.
Franklin App. No. 01AP-1057, 2002-Ohio-2234.

2002-1113. State v. Kolm.
Stark App. No. 2001CA00342, 2002-Ohio-2561.

2002-1147. State v. Shondrick.
Medina App. No. 3216-M, 2002-Ohio-2439.
Lundberg Stratton, J., would allow on Proposition of Law No. II.
Resnick and Cook, JJ., would allow.