

**SUPREME COURT OF OHIO**

**COLUMBUS**

**ANNOUNCEMENT**

1:00 P.M.

WEDNESDAY  
January 16, 2002

**MERIT DOCKET**

**01-1975. State ex rel. Cunningham v. State.**

In Mandamus. On answer of respondent. 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.

**01-1989. State ex rel. Dougherty v. Stark-Tuscarawas-Wayne Joint Solid Waste Mgt. Dist.**

In Mandamus. On answer of respondents Board of Commissioners of Wayne County, Cheryl Noah, Mark Sheppard, et al., motion to dismiss of the Board of Commissioners of Tuscarawas County, and motion to dismiss of Stark-Tuscarawas-Wayne Joint Solid Waste Management District. Motions to dismiss sustained. Cause dismissed.

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

Douglas, J., dissents and would grant an alternative writ.

**01-2020. State ex rel. Cochran v. Blackwell.**

In Mandamus and Prohibition. On answer of respondent and motion for judgment on pleadings. 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.

**01-2023. State ex rel. Baker v. Bertram.**

In Mandamas. 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.

**01-2030. In re Franz.**

Certified State Law Question, No. 0115622. On review of preliminary memoranda pursuant to S.Ct.Prac.R. XVIII(6). The United States Bankruptcy Court, Northern District of Ohio, Eastern Division, certified the following questions to this court:

“1. Did the inclusion of Ohio Revised Code § 5301.234 in House Bill No. 163 of the 123d General Assembly violate the single subject provision of Article II, § 15(D) of the Ohio Constitution?

“2. Did the adoption of Ohio Revised Code § 5301.234 violate Article IV, § 5(B) of the Ohio Constitution?”

The court declines to answer the above questions. This cause is therefore dismissed.

Douglas, F.E. Sweeney, Pfeifer, Cook and Lundberg Stratton, JJ., concur.

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

**01-2038. State ex rel. Ledger v. Nelson.**

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.

**01-2045. State ex rel. Johns v. Nurre.**

In Mandamus and Prohibition. On motion to dismiss and memorandum in support of motion to dismiss. Motion to dismiss sustained. Cause dismissed.

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

F.E. Sweeney and Pfeifer, JJ., dissent and would grant an alternative writ.

**01-2054. State ex rel. Commt. for the Referendum of Ordinance No. 3621-00 v. White.**

In Mandamus. On motion for issuance of peremptory writ, answer of respondent, motion for leave to intervene of Sunrise Development Co., and motion to dismiss. On S.Ct.Prac.R. X(5) determination, cause dismissed, and all other motions denied as moot.

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

Pfeifer, J., concurs except that he would grant the motion for leave to intervene.

**01-2066. Golem v. Put-In-Bay.**

Certified State Law Question, No. 300CV7740. On review of preliminary memoranda pursuant to S.Ct.Prac.R. XVIII(6). The United States District Court for the Northern District of Ohio, Western Division, certified the following questions to this court:

“1. Does a Manual giving probationary police officers greater procedural rights than those already afforded under R.C. § 737.15, et seq., impair the authority of the Mayor under R.C. 737.15 et seq.?”

“2. If so, does O.R.C. § 737.15 et seq., thereby contravene the Home Rule authority conferred on the Village under § 3, Art. XVIII of the Ohio Constitution?”

“3. Does ‘forced republication,’ if proven, satisfy the publication element of a claim for defamation?”

The court declines to answer the above questions. This cause is therefore dismissed.

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

Cook, J., dissents.

**01-2132. In re Beck.**

Original Action Involving Parental Rights or Adoption. On answer of respondent J. Mark Costine. *Sua sponte*, cause dismissed.

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

## **MOTION DOCKET**

### **87-192. State v. Coleman.**

Hamilton App. No. C-850340. On motion to set execution date. Motion denied.

Douglas, Resnick and Lundberg Stratton, JJ., dissent.

On motion to strike memo opposing motion to set execution date. Motion denied.

### **98-726. State v. Jackson.**

Franklin App. No. 97CR041902. On application for reopening under S.Ct.Prac.R. XI(5). Application denied.

### **01-643. State ex rel. Jerdo v. Pride Cast Metals, Inc.**

Franklin App. No. 00AP-646. On request for oral argument. Request denied.

### **01-1002. Kucherak v. Tri City Family Medicine.**

Lorain App. No. 00CA007687. On motion to supplement record. Motion denied.

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

### **01-1253. Layne v. Ohio Adult Parole Auth.**

Marion App. No. 9-01-06. On motion to supplement record with supplement attached. Motion granted.

Resnick and Cook, JJ., dissent.

### **01-1266. Layne v. Ohio Adult Parole Auth.**

Marion App. No. 9-01-06. On motion to supplement record with supplement attached. Motion granted.

Resnick and Cook, JJ., dissent.

### **01-1407. D.A.B.E., Inc. v. Toledo-Lucas Cty. Bd. of Health.**

Certified State Law Question, No. 301CV7334. On motion for admission *pro hac vice* of William B. Schultz and Carlos T. Angulo by Andrew K. Ranazzi et al. Motion granted.

### **01-1613. SCIT, Inc. v. Cuyahoga Cty. Bd. of Revision.**

Board of Tax Appeals, No. 97-E-675. *Sua sponte*, cause consolidated with 01-2207, *SCIT, Inc. v. Cuyahoga Cty. Bd. of Revision*, Board of Tax Appeals No. 98-E-345.

**01-2031. In re Stewart.**

Certified State Law Questions, Nos. 008090 and 018032. On review of preliminary memoranda pursuant to S.Ct.Prac.R. XVIII(6). The Bankruptcy Appellate Panel of the Sixth Circuit certified the following question to this court:

“Can Ohio Revised Code § 5301.234 be applied to presume the validity of a mortgage in a bankruptcy case filed after the effective date of the statute, when the mortgage at issue in the bankruptcy case was recorded before the statute’s effective date?”

The court will answer the above question.

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

**01-2064. State ex rel. Opre v. Milton Twp. Bd. of Trustees.**

In Quo Warranto. On answer of respondents Board of Milton Township Trustees and Kurt Durkin.

*Sua sponte*, alternative writ granted.

Resnick and Pfeifer, JJ., dissent.

**01-2093. State ex rel. J.H. Routh Packing Co. v. Erie Cty. Court of Common Pleas.**

Erie App. No. E-01-034. On motion to dismiss notice of appeal. Motion denied.

**01-2104. State v. Pritchard.**

Cuyahoga App. No. 78497. On motion for leave to file delayed appeal. Motion denied.

Lundberg Stratton, J., dissents.

**01-2123. State v. Wood.**

Summit App. No. 20764. On motion for leave to file delayed appeal. Motion denied.

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

**01-2130. State v. Moore.**

Montgomery App. No. 18740. On motion for leave to file delayed appeal. Motion denied.

**01-2133. State v. Harris.**

Cuyahoga App. No. 78241. On motion for leave to file delayed appeal. Motion denied.

Moyer, C.J., dissents.

**01-2174. Guerry v. Guerry.**

Cuyahoga App. No. 77819. On motion for stay of court of appeals' judgment. Motion denied.

**01-2181. State v. Latham.**

Coshocton App. No. 01CA1. On motion for leave to file delayed appeal. Motion granted.

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

**01-2183. State v. Allen.**

Summit App. No. 17017. On motion for leave to file delayed appeal. Motion denied.

Douglas, J., dissents.

**01-2207. SCIT, Inc. v. Cuyahoga Cty. Bd. of Revision.**

Board of Tax Appeals, No. 98-E-345. *Sua sponte*, cause consolidated with 01-1613, *SCIT, Inc. v. Cuyahoga Cty. Bd. of Revision*, Board of Tax Appeals No. 97-E-675.

**01-2219. Klostermeyer v. Ohio Dept. of Rehab. & Corr.**

Cuyahoga App. No. 79248. On motion for stay of court of appeals' judgment. Motion denied.

Pfeifer, J., dissents.

**01-2230. Barker v. Netcare Corp.**

Franklin App. No. 01AP-230. On motion for stay of court of appeals' judgment. Motion denied.

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

**APPEALS ALLOWED**

**01-1772. State v. Dixon.**

Franklin App. No. 01AP-22.

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

**01-1815. Toledo v. Ross.**

Lucas App. Nos. L-00-1337, L-00-1338, L-00-1339, L-00-1340, L-00-1341 and L-00-1342.

Pfeifer and Cook, JJ., dissent.

Resnick, J., not participating.

## **APPEALS NOT ALLOWED**

**01-1174. State v. Cobb.**

Cuyahoga App. No. 76950.

**01-1194. State v. Black.**

Clermont App. No. CA2001-03-034.

**01-1503. State v. Smith.**

Mahoning App. No. 99CA256.

**01-1512. In re Lemon.**

Medina App. No. 3177-M.

**01-1672. State v. Riley.**

Washington App. No. 99CA51.

**01-1681. State v. O'Hara.**

Hamilton App. Nos. C-000314 and C-000318.

**01-1707. Fuller v. Fuller.**

Scioto App. No. 99CA2687.

**01-1756. Smith v. United States Aviation Underwriters, Inc.**

Delaware App. No. 01CAE08035. On discretionary appeal, amended notice of removal to federal court of underlying action and request to stay appeal, and motion for admission *pro hac vice* of Scott R. Torpey and Christopher A. Checkan by Christopher W. Carrigg for USAU. Appeal, request, and motion denied.

Lundberg Stratton, J., would take no action because this court lost jurisdiction when the cause was removed.

Cook, J., not participating.

**01-1759. Smith v. Republic-Franklin Ins. Co.**

Delaware App. No. 01CAE08036. On discretionary appeal and motion for admission *pro hac vice* of Walter J. Andrews and Edward J. Grass by Christopher W. Carrigg. Appeal and motion denied.

Lundberg Stratton, J., would take no action because this court lost jurisdiction when the cause was removed.

Cook, J., not participating.

**01-1819. State v. Redd.**

Lucas App. No. L-00-1148.

Resnick, J., not participating.

**01-1821. State v. Helmers.**

Montgomery App. No. 18666.

**01-1823. McGowan v. Cuyahoga Metro. Hous. Auth.**

Cuyahoga App. No. 79137.

Moyer, C.J., dissents.

**01-1824. State v. Richards.**

Cuyahoga App. No. 78457.

Resnick and Lundberg Stratton, JJ., dissent.

**01-1826. Padney v. MetroHealth Med. Ctr.**

Cuyahoga App. No. 78264.

**01-1831. Haddad v. English.**

Medina App. No. 3134-M.

**01-1832. State v. Perkins.**

Montgomery App. No. 18627.

Douglas, J., dissents.

**01-1837. Allen v. Allen.**

Lucas App. No. L-01-1236.

Resnick, J., not participating.

**01-1841. Starks v. Mike Castrucci Chevrolet-Oldsmobile Sales, Inc.**

Hamilton App. No. C-000532.

**01-1844. Nelson v. Money.**

Marion App. Nos. 9-01-12 and 9-2000-41.

**01-1845. State v. Dearing.**

Cuyahoga App. No. 78710.



**01-1846. State v. Maxwell.**

Lake App. No. 99-L-042.

**01-1848. Conese v. Hamilton Journal-News, Inc.**

Butler App. No. CA00-09-0189.

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

**01-1849. Cleveland v. Bradberry.**

Cuyahoga App. No. 78838.

**01-1851. Nelson v. Sound Health Alternatives Internatl., Inc.**

Athens App. No. 01CA24.

**01-1852. State v. Malinowski.**

Cuyahoga App. No. 78626.

**01-1862. Pauly v. Keko Corp.**

Hamilton App. No. C-010003.

Lundberg Stratton, J., dissents.

**01-1865. State v. Ruhnke.**

Auglaize App. No. 2-01-12.

Moyer, C.J., dissents, would allow, and would hold this cause for the decision in 01-1403, *State v. LaSalle*, Summit App. No. 20488.

**01-1866. State v. Boddie.**

Allen App. No. 1-2000-72.

**01-1868. Maio v. Maio.**

Lake App. No. 2000-L-073.

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

**01-1869. Ohio Farmers Ins. Co. v. Modine Mfg. Co.**

Medina App. Nos. 3114-M and 3116-M.

**01-1873. In re Estate of Dixon.**

Cuyahoga App. No. 78607.

**01-1875. Gallion v. Carte.**

Tuscarawas App. No. 2001AP020014.

**01-1884. State v. Creasey.**

Cuyahoga App. Nos. 65717 and 65718.

**01-1887. State v. Garcia.**

Hancock App. No. 5-01-12.

**01-1888. State v. Villareal.**

Huron App. Nos. H-01-001 and H-01-002.

Resnick, J., not participating.

**01-1893. Worshil v. Smythe Cramer Co.**

Stark App. Nos. 2001CA00086 and 2001CA00114.

**01-1896. State v. Tichavakunda.**

Cuyahoga App. No. 78775.

**01-1897. State v. Echols.**

Hamilton App. No. C-000337.

**01-1898. Jonick Dock & Terminal Co. v. Ziegler Tire & Supply Co.**

Lorain App. No. 00CA007735.

**01-1899. State v. Hilbert.**

Cuyahoga App. No. 79344.

**01-1900. State v. Tamburin.**

Medina App. No. 3162-M.

**01-1901. State v. Jennings.**

Franklin App. No. 00AP-1283.

**01-1904. Downing v. Lella.**

Butler App. No. CA2000-11-237.

**01-1906. State v. Tyson.**

Hamilton App. Nos. C-010224, C-010225, C-010226 and C-010227.

**01-1907. Heyne v. Celina.**

Mercer App. No. 10-01-05.

Pfeifer, J., dissents.

**01-1908. Galiatsatos v. Univ. of Akron.**

Franklin App. No. 00AP-1307.

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

**01-1909. Beck v. Adam Wholesalers of Toledo, Inc.**

Sandusky App. No. S-00-038.

Douglas and Pfeifer, JJ., dissent.

Resnick, J., not participating.

**01-1911. Clark v. Marc Glassman, Inc.**

Cuyahoga App. No. 78640.

**01-1913. State v. Vandergriff.**

Ashtabula App. No. 99-A-0075.

Resnick, J., dissents.

**01-1914. State v. Maldonado.**

Lorain App. No. 01CA007759.

**01-1916. Reaume v. Mendoza.**

Fulton App. No. F-01-005.

Douglas, J., dissents.

Resnick, J., not participating.

**01-1917. Grange Life Ins. Co. v. Bics.**

Lorain App. No. 01CA007807.

Resnick, J., dissents.

**01-1921. Kenwood Plaza L.P. v. State Teachers' Retirement Sys. Bd. of Ohio.**

Hamilton App. No. C-000730.

**01-1922. Van Der Meer v. Ohio Golf Course License Corp.**

Allen App. Nos. 1-01-50 and 1-01-70. On discretionary appeal and motion for admission *pro hac vice* of David J. Gass and Gary A. Chamberlin by Lawrence S. Huffman. Appeal and motion denied.

**01-1923. State v. Scott.**

Mahoning App. No. 98CA124.

**01-1924. Jelinek v. Abbott Laboratories.**

Franklin App. No. 01AP-217.

Resnick, J., not participating.

**01-1925. State v. Perry.**

Morrow App. No. CA916.

Lundberg Stratton, J., dissents.

**01-1926. State v. Hensley.**

Lorain App. No. 01CA007796.

**01-1927. Erie Metroparks Bd. of Commrs. v. Key Trust Co. of Ohio, N.A.**

Erie App. No. E-00-068.

Resnick, J., not participating.

**01-1928. Barnett v. Carr.**

Butler App. No. CA2000-11-219.

**01-1929. Koslen v. Chattman, Gaines & Stern.**

Cuyahoga App. No. 78781.

Pfeifer, J., dissents.

**01-1933. State v. McGrath.**

Cuyahoga App. No. 77896.

**01-1935. State v. Mason.**

Ashland App. No. 01COA01423.

**01-1936. State v. Gray.**

Cuyahoga App. No. 80094.

**01-1937. State v. Williams.**

Cuyahoga App. No. 78430.

**01-1938. State v. Bryant.**

Montgomery App. No. 16330.

**01-1939. State v. Reaves.**

Hamilton App. No. C-970631.

**01-1941. Akron v. Lorenzo.**

Summit App. No. 20475.

Cook, J., not participating.

**01-1943. Grange Mut. Cas. Co. v. Smock.**

Geauga App. No. 2000-G-2293.

Pfeifer, J., dissents.

**01-1944. Joslyn v. Reynolds.**

Medina App. No. 3169-M.

Lundberg Stratton, J., dissents.

**01-1945. State v. Bailey.**

Richland App. No. 00CA44.

**01-1948. In re Name Change of Paquette.**

Lake App. No. 2000-L-142.

Douglas, J., dissents.

**01-1950. Euclid v. Davis.**

Cuyahoga App. No. 79283.

Pfeifer, J., dissents.

**01-1953. State v. Maxwell.**

Hamilton App. Nos. C-010035, C-010041 and C-010054.

**01-1959. Uhrin v. Campbell.**

Mahoning App. No. 00CA53.

Douglas and Pfeifer, JJ., dissent.

**01-1960. Gargas v. Streetsboro.**

Portage App. No. 2000-P-0095.

**01-1962. State v. Goodwin.**

Mahoning App. No. 99CA220.

**01-1963. Am. Motorists Ins. Co. v. Olin Hunt Specialty Products, Inc.**

Franklin App. No. 00AP-1313.

Lundberg Stratton, J., dissents.

**01-1964. Cincinnati v. Jenkins.**

Hamilton App. Nos. C-000732, C-000733 and C-000734.

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

**01-1965. Snyder v. Snyder.**

Geauga App. No. 2000-G-2307.

**01-1966. State v. Miller.**

Huron App. No. H-01-005.

**01-1968. Gochenour v. Sowards.**

Erie App. No. E-00-063.

**01-1972. Lovejoy v. Hopkins.**

Summit App. No. 20490.

Resnick, J., dissents.

**01-1973. State v. Hairston.**

Franklin App. No. 01AP-252.

**01-1976. State v. Warner.**

Lorain App. No. 96CA006534.

**01-1978. State v. Alvarado.**

Cuyahoga App. No. 78629.

**01-1979. Steiskal v. Dundee.**

Mahoning App. No. 99CA317.

**01-1980. Polak v. J.H. Routh Packing Co.**

Erie App. No. E-01-036.

**01-1982. State v. Steele.**

Hamilton App. No. C-000280.

**01-1983. State v. Scruggs.**

Butler App. No. CA2000-05-094.

**01-1986. State v. Ferko.**

Summit App. No. 20608.

Cook, J., dissents and would hold this cause for the decision in 01-1161 and 01-1247, *State v. Bush*, Union App. No. 14-2000-44.

**01-1987. State v. Burrier.**

Geauga App. No. 98-G-2126.

**01-1991. Snow v. Brown.**

Franklin App. No. 01AP-243.

**01-1992. State v. Julius.**

Cuyahoga App. No. 78620.

**01-1993. Aliff v. Ohio Dept. of Job & Family Serv.**

Franklin App. No. 01AP-18.

Resnick, J., dissents.

**01-1995. State v. Brooks.**

Franklin App. No. 00AP-1440.

**01-1996. State v. Wright.**

Columbiana App. No. 97CO35.

**01-1998. State v. Rogers.**

Hamilton App. No. C-970190.

**01-1999. State v. Smith.**

Cuyahoga App. No. 79028.

**01-2000. Gruenstein v. Tallarigo.**

Hamilton App. No. C-010132.

**01-2001. Flynn v. St. Vincent Mercy Med. Ctr.**

Lucas App. No. L-01-1241.

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

Resnick, J., not participating.

**01-2002. State v. Hartman.**

Summit App. No. 20718.

**01-2003. State ex rel. Stern v. Butler.**

Jefferson App. No. 98JE54.

**01-2004. Oleske v. Hilliard City School Dist. Bd. of Edn.**

Franklin App. No. 01AP-294.

Pfeifer, J., dissents.

**01-2005. State v. Phillips.**

Montgomery App. No. 17406.

**01-2006. Savage v. Godfrey.**

Franklin App. No. 01AP-388.

**01-2021. State v. Warren.**

Stark App. No. 2001CA00109.

**01-2027. State v. Smith.**

Union App. No. 14-01-12.

**01-2046. State v. Martin.**

Hamilton App. No. C-930253.

**01-2047. State v. Laster.**

Montgomery App. No. 18134.

**01-2048. State v. Scott.**

Richland App. No. 96CA35.

Pfeifer, J., dissents.

**01-2075. State v. McMeans.**

Franklin App. No. 89AP-1037.

**01-2081. State v. Bogle.**

Montgomery App. No. 18722.

**01-2206. In re Ross.**

Franklin App. No. 01AP-570.



## **RECONSIDERATION DOCKET**

**99-239 and 99-427. State v. Reiner.**

Lucas App. No. L-97-1002. Reported at 93 Ohio St.3d 601, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.

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

Resnick, J., not participating.

**00-2304. State ex rel. Boggs v. Springfield Local School Dist. Bd. of Edn.**

Summit App. No. 16451. Reported at 93 Ohio St.3d 558, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration and motion for sanctions for frivolous action. Motions denied.

Cook, J., not participating.

**01-1605. Nelson v. Ford Motor Co.**

Lake App. No. 99-L-203. Reported at 93 Ohio St.3d 1486, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.

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

**01-1652. State v. Shingleton.**

Montgomery App. No. CA7375. Reported at 93 Ohio St.3d 1485, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.

**01-1659. Lower v. Ghee.**

Franklin App. No. 00AP-1349. Reported at 93 Ohio St.3d 1496, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion granted, appeal allowed, and cause held for the decision in 01-1253 and 01-1266, *Layne v. Ohio Adult Parole Auth.*, Marion App. Nos. 9-01-06 and 9-2001-06; briefing schedule stayed.

Douglas and Resnick, JJ., dissent.

**01-1709. Kemper v. Michigan Millers Mut. Ins. Co.**

Certified State Law Question, No. 300CV07799. Reported at 93 Ohio St.3d 1483, 758 N.E.2d 184. On motion for reconsideration. Motion granted; the court will answer the certified questions found at 93 Ohio St.3d 1483, 758 N.E.2d 184.

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

On motion to strike motion for reconsideration. Motion denied.

Cook and Lundberg Stratton, JJ., dissent.

**01-1799. State ex rel. Stevens v. Summit Cty. Court of Appeals.**

In Prohibition. Reported at 93 Ohio St.3d 1483, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.

Pfeifer, J., dissents.

Cook, J., not participating.