

The Supreme Court of Ohio

CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

October 29, 2002

RECONSIDERATION OF PRIOR DECISIONS

2001-1009. Cleveland Elec. Illum. Co. v. Lake Cty. Bd. of Revision.

Board of Tax Appeals, Nos. 00-K-1751, 00-K-1752, 00-K-1753, 00-K-1754, 00-K-1755, 00-K-1756, 00-K-1757 and 00-K-1758. Reported at 96 Ohio St.3d 165, 2002-Ohio-4033, 772 N.E.2d 1160.

On motion for reconsideration of Thomas M. Zaino, Tax Commissioner of Ohio. Motion denied.

Cook, J., not participating.

2001-1303. Wiles v. Medina Auto Parts.

Medina App. No. 3131-M. Reported at 96 Ohio St.3d 240, 2002-Ohio-3994, 773 N.E.2d 526. This cause came on for further consideration upon appellant's motion for reconsideration and the motion for reconsideration of amici curiae Ohio Employment Lawyers Association, Ohio Academy of Trial Lawyers, et al. Upon consideration thereof,

IT IS ORDERED by the court that appellant's motion for reconsideration be, and hereby is, denied.

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

IT IS FURTHER ORDERED by the court that the motion for reconsideration of amici curiae be, and hereby is, granted.

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

2001-1872. S. Broad Co., Ltd. v. Montgomery Cty. Bd. of Revision.

Board of Tax Appeals, No. 00-M-2065. Reported at 96 Ohio St.3d 165, 2002-Ohio-4033, 772 N.E.2d 1160.

On motion for reconsideration of Thomas M. Zaino, Tax Commissioner of Ohio. Motion denied.

Cook, J., not participating.

MISCELLANEOUS ORDERS.

2002-1745. In re Judicial Campaign Complaint Against Per Due.

**BEFORE THE COMMISSION OF FIVE JUDGES
APPOINTED BY
THE SUPREME COURT OF OHIO**

OPINION

This matter came to be reviewed by a commission of five judges appointed by the Supreme Court of Ohio pursuant to Rule II, Section 5(E)(1) of the Rules for the Government of the Judiciary of Ohio and R.C. 2701.11. The commission members are: Judge Judith A. Nicely, chairman; Judge Robert S. Kraft, Judge Deborah A. Alspach, Judge Joseph M. Houser, and Judge Kathleen A. Sutula.

Complainant, Alfred Mackey, is a candidate in the November 2002 election for the Ashtabula County Court of Common Pleas. Respondent, David Per Due, is complainant's opponent in the November 2002 election.

The facts of this matter are not in dispute. Complainant alleges that respondent failed to timely satisfy the judicial campaign course requirement imposed under Canon 7(B)(5) of the Code of Judicial Conduct, and respondent admits that he did not timely satisfy the requirement. After the grievance was filed and on the same day probable cause was found, respondent attended the course and subsequently provided proof of attendance. The matter was uncontested before the hearing panel appointed by the Board of Commissioners on Grievances and Discipline, and neither complainant nor respondent indicated a desire to object to or contest the findings and recommendation filed by the hearing panel on October 10, 2002. The hearing panel's report is attached as an appendix to this opinion.

On October 22, 2002, this commission convened to review the record in this matter and the report of the hearing panel. Upon review, the commission adopts the findings of fact set forth in the hearing panel's report and finds clear and convincing evidence that respondent violated Canon 7(B)(5) by failing to complete a two-hour course on judicial campaign practices, finance, and ethics at least one year prior to or thirty days after respondent's candidacy was certified by the Ashtabula County Board of Elections. The commission further adopts the recommendation of the hearing panel and imposes a fine of \$100.00, with the fine suspended, and costs.

The Secretary shall issue a statement of costs before this commission and instructions regarding the payment of those costs and costs certified by the Board of Commissioners on Grievances and Discipline. This order shall be published by the Supreme Court Reporter in the

manner prescribed by Rule V, Section 8(D)(2) of the Rules for the Government of the Bar of Ohio.

So Ordered.

Judge Judith A. Nicely, Chair

Judge Robert S. Kraft

Judge Deborah A. Alspach

Judge Joseph M. Houser

Judge Kathleen A. Sutula

Dated: October 28, 2002

2002-1745. In re Judicial Campaign Complaint Against Per Due.

**BEFORE THE COMMISSION OF FIVE JUDGES
APPOINTED BY
THE SUPREME COURT OF OHIO**

**STATEMENT OF COSTS
AND INSTRUCTIONS REGARDING PAYMENT**

The following is a statement of the costs incurred by the Commission of five judges appointed pursuant to Rule II, Section 5 of the Supreme Court Rules for the Government of the Judiciary of Ohio to review the report of the Hearing Panel of the Board of Commissioners on Grievances and Discipline in the above-captioned case. These costs are in addition to the

\$133.84 in expenses certified by the Secretary of the Board of Commissioners on Grievances and Discipline on October 10, 2002. This statement of costs is entered pursuant to order of the Commission of five judges entered on October 28, 2002.

Total Costs (Express Mail)

\$38.45

The October 28, 2002 Commission order also directed the Secretary of the Commission to provide instructions to the respondent regarding the payment of costs. The respondent is hereby instructed to pay costs totaling \$172.29 to the Supreme Court by certified check or money order on or before November 22, 2002. If the costs are not paid in full on or before the required dates, interest at the rate of ten percent per annum shall accrue on the balance of unpaid sanctions, the respondent will be found in contempt, and the matter will be referred to the office of the Attorney General for collection.

BY ORDER OF THE COMMISSION.

Richard A. Dove
Secretary to the Commission

Dated: October 28, 2002