

The Supreme Court of Ohio

CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

March 19, 2003

MERIT DECISIONS WITH OPINIONS

2001-2166. Atkins v. Chudowsky, 2003-Ohio-1013.

Lorain App. No. 01CA007834, 2001-Ohio-1654. Sua sponte, cause dismissed as having been improvidently allowed.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Wolff, Lundberg Stratton and O'Connor, JJ., concur.

William H. Wolff Jr., J., of the Second Appellate District, sitting for Cook, J.

2002-1010. State v. Mitts, 2003-Ohio-1007.

Cuyahoga App. No. 68612, 2002-Ohio-7457. Judgment affirmed.

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

2002-1475. Disciplinary Counsel v. Shaffer, 2003-Ohio-1008.

On Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 01-85.

John S. Shaffer is suspended from the practice of law for one year with six months stayed on condition.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Brown, Lundberg Stratton and O'Connor, JJ., concur.

Susan Brown, J., of the Tenth Appellate District, sitting for Cook, J.

2002-1579. State v. Goff, 2003-Ohio-1017.

Clinton App. No. CA95-09-026. Judgment affirmed.

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

2002-1761. State v. Wangul, 2003-Ohio-1009.

Cuyahoga App. No. 80539, 2002-Ohio-4277. Discretionary appeal allowed, judgment reversed, and cause remanded.

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

2002-1780. Columbus Bar Assn. v. Ginther, 2003-Ohio-1010.

On Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 01-20.

Jeffrey David Ginther is suspended from the practice of law for six months, stayed on conditions.

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

2002-1781. Disciplinary Counsel v. Treneff, 2003-Ohio-1011.

On Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 02-02.

Randall C. Treneff is suspended from the practice of law for one year with six months stayed on conditions.

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

2002-2150. Columbus Bar Assn. v. Gaba, 2003-Ohio-1012.

On Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 02-67.

Elizabeth N. Gaba is publicly reprimanded.

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

MERIT DECISIONS WITHOUT OPINIONS

2003-0034. Lawson v. Ohio Adult Parole Auth.

In Prohibition. On motion to dismiss of Butler County Adult Probation Department and motion to dismiss of the Ohio Adult Parole Authority. Motions to dismiss sustained. Cause dismissed.

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

2003-0125. Houser v. Boyer.

In Procedendo. On complaint in procedendo of Harry D. Houser. On S.Ct.Prac.R. X(5) determination, cause dismissed.

Resnick, F.E. Sweeney, Pfeifer, Cook and Lundberg Stratton, JJ., concur.
Moyer, C.J., and O'Connor, J., dissent and would grant an alternative writ.

2003-0130. State ex rel. Todd v. Brown Cty. Court of Common Pleas.

In Mandamus. On motion to dismiss of Ohio Attorney General Jim Petro and motion to dismiss of R. Alan Corbin, Danny Pride, and Thomas F. Grennan. Motions to dismiss sustained. Cause dismissed.

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

2003-0140. State ex rel. Cherokee Run Landfill, Inc. v. Miami Cty. Bd. of Commrs.

In Mandamus. On motion to dismiss, motion for leave to intervene of Randolph Farms, Inc., and motion to dismiss of Randolph Farms, Inc. Motions to dismiss sustained. Motion for leave granted. Cause dismissed.

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

2003-0288. State ex rel. Freed v. Rose.

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

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

2003-0293. Cross v. Erwin.

In Habeas Corpus. On petition for writ of habeas corpus of Joseph A. Cross. Sua sponte, cause dismissed.

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

MOTION AND PROCEDURAL RULINGS

1998-0921. State v. Carter.

Trumbull C.P. No. 97CR558. On application for reopening under S.Ct.Prac.R. XI(5). Application denied.

1998-2061. State v. Franklin.

Montgomery C.P. No. 97CR1139. On application for reopening under S.Ct.Prac.R. XI(5) filed pro se. Application denied.

On motion for appointment of counsel filed pro se. Motion denied as moot.

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

Moyer, C.J., Lundberg Stratton and O'Connor, JJ., would deny.

2002-0052. Maumee v. Pub. Util. Comm.

Public Utilities Commission, No. 00-2394-EL-ORD. On motions to dismiss. Motions denied.

Cook, J., not participating.

On motion of Robert S. Tongren for leave to intervene or, in the alternative, notice of filing of amicus brief. Motion for leave to intervene granted.

Moyer, C.J., would accept the brief as an amicus brief.

Resnick, J., dissents.

Cook, J., not participating.

On motion for leave to intervene of FirstEnergy Corporation. Motion for leave to intervene granted.

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

Cook, J., not participating.

2002-0953. In re Subpoena Duces Tecum Served Upon Attorney Potts.

Lucas App. No. L-01-1033, 2002-Ohio-2050. On motion to strike appellee's merit brief. Motion denied.

Resnick, J., not participating.

2002-1415. Hager v. Waste Technologies Industries.

Columbiana App. No. 2000CO45, 2002-Ohio-3466. On motion for admission pro hac vice of Louis M. Tarasi Jr. by Richard L. Lancione. Motion granted.

2002-1792. State v. Perry.

Franklin App. No. 01AP-996, 2002-Ohio-4545. On motion for stay of execution of court of appeals' judgment pending duration of Supreme Court of Ohio appeal. Motion granted.

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

2002-2205. Brown v. Zurich US.

Franklin App. No. 02AP-9, 150 Ohio App.3d 105, 2002-Ohio-6099. On motion for stay of court of appeals' judgment. Motion denied.

Lundberg Stratton, J., would grant upon proof of the posting of bond.

2003-0020. Maggiore v. Kovach.

Stark App. No. 2002CA109, 2002-Ohio-6301. 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' Judgment Entry filed December 9, 2002:

“Does R.C. 5321.17 apply to commercial leases such that a landlord must give a thirty-day notice to a commercial month-to-month tenant in addition to a three-day notice as provided by R.C. 1923.04.”

F.E. Sweeney and O'Connor, JJ., dissent.

The conflict case is *Sterling Healthcare Group, Inc. v. Laughlin* (May 28, 1993), Wood App. No. 92-WD-051.

2003-0154. State ex rel. Dapper v. Edwards.

In Mandamus. On motion for stay of demolition of home. Motion denied.

Moyer, C.J., dissents.

2003-0180. State v. Harrold.

Summit App. No. 21143, 2002-Ohio-6115. On review of order certifying a conflict. The court determines that a conflict exists; cause consolidated with 2002-2236, *State v. Harrold*, Summit App. No. 21143, 2002-Ohio-6115; causes held for the decision in 2002-0351 and 2002-0422, *State v. Comer*, Lucas App. No. L-99-1296, 2002-Ohio-233; and briefing schedule stayed.

2003-0184. State ex rel. Ahmed v. Costine.

Belmont App. No. 02BE55, 2002-Ohio-7174. On motion to supplement record. Motion denied.

Pfeifer, J., dissents.

2003-0233. Chrysler Fin. Co., L.L.C. v. Zaino.

Board of Tax Appeals, No. 2001-T-36. On motion for admission pro hac vice of Peter Larsen, David Otero, and Cynthia Baines by Edward Bernert. Motion granted.

2003-0243. State v. Thomson.

Lucas App. No. L-02-1290. On motion for leave to file delayed appeal. Motion denied.

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

2003-0292. State v. Brown.

Hamilton App. No. C-010755, 2002-Ohio-5813. On motion for leave to file delayed appeal. Motion denied.

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

2003-0294. State v. Worwell.

Cuyahoga App. No. 80871, 2002-Ohio-6637. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

2003-0308. State v. Bromwell.

Hamilton App. No. C-010630. On motion for leave to file delayed appeal. Motion denied.

2003-0310. State v. Griffin.

Mahoning App. No. 01CA151, 2002-Ohio-6900. On motion for leave to file delayed appeal. Motion denied.

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

2003-0367. Adams v. Am. Bus. Credit.

Summit App. No. 21408. On motion for stay of court of appeals' judgment. Motion denied.

2003-0377. McNulty v. PLS Acquisition Corp.

Cuyahoga App. Nos. 79025, 79125 and 79195, 2002-Ohio-7220. On motion for stay of court of appeals' judgment. Motion denied.

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

APPEALS ACCEPTED FOR REVIEW

2002-1953. State v. Fitch.

Cuyahoga App. No. 79937, 2002-Ohio-4891. Discretionary appeal allowed and cause held for the decisions in 2002-1879, *State v. Johnson*, Cuyahoga App. No. 80459, 2002-Ohio-4581, and 2002-1888, *State v. Jordan*, Cuyahoga App. No. 80675, 2002-Ohio-4587; briefing schedule stayed.

Pfeifer, J., dissents.

2002-1989. Addie v. Linville.

Cuyahoga App. Nos. 80547 and 80916, 2002-Ohio-5333. Discretionary appeal and cross-appeal allowed and cause held for the decision in 2002-0932, *Westfield Ins. Co. v. Galatis*, Summit App. No. 20784, 2002-Ohio-1502; briefing schedule stayed.

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

2002-1993. State v. Quandt.

Cuyahoga App. No. 80222, 2002-Ohio-4903. Discretionary appeal allowed on Proposition of Law No. II.

Moyer, C.J., and Lundberg Stratton, J., concur but would allow all propositions of law.

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

Discretionary cross-appeal denied.

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

2002-1998. State v. Hairston.

Franklin App. No. 01AP-1474.

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

2002-2025. Perrysburg Twp. v. Rossford.

Wood App. Nos. WD-02-010 and WD-02-011, 149 Ohio App.3d 645, 2002-Ohio-5498, and 2002-Ohio-6364. Discretionary appeal allowed on Proposition of Law No. I.

Lundberg Stratton, J., concurs but would also allow Proposition of Law No. II.

Cook, J., concurs but would allow all propositions of law.

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

Resnick, J., not participating.

Discretionary cross-appeal allowed on Proposition of Law No. I.

Moyer, C.J., and Cook, J., concur but would allow all propositions of law.

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

Resnick, J., not participating.

2002-2075. Pahler v. Motorists Mut. Ins. Co.

Stark App. No. 2002CA00022, 2002-Ohio-5762. Discretionary appeal allowed and cause held for the decision in 2002-0579, *Burkhart v. CNA Ins. Co.*, Stark App. No. 2001CA00265, 2002-Ohio-903; briefing schedule stayed.

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

Discretionary cross-appeal allowed and cause held for the decision in 2002-0932, *Westfield Ins. Co. v. Galatis*, Summit App. No. 20784, 2002-Ohio-1502; briefing schedule stayed.

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

2002-2095. Gentry v. Craycraft.

Montgomery App. No. 19262, 2002-Ohio-5822.

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

2002-2236. State v. Harrold.

Summit App. No. 21143, 2002-Ohio-6115. Discretionary appeal allowed; cause consolidated with 2003-0180, *State v. Harrold*, Summit App. No. 21143, 2002-Ohio-6115; causes held for the decision in 2002-0351 and 2002-0422, *State v. Comer*, Lucas App. No. L-99-1296, 2002-Ohio-233; and briefing schedule stayed.

2003-0002. Maggiore v. Kovach.

Stark App. No. 2002CA109, 2002-Ohio-6301. Discretionary appeal allowed and cause consolidated with 2003-0020, *Maggiore v. Kovach*, Stark App. No. 2002CA109, 2002-Ohio-6301.

F.E. Sweeney and O'Connor, JJ., dissent.

APPEALS NOT ACCEPTED FOR REVIEW

2002-1484. State v. Bonanno.

Allen App. No. 1-02-21, 2002-Ohio-4005.

2002-2098. State v. Smith.

Stark App. No. 2002CA00338.

2002-2103. State v. Miller.

Lucas App. No. L-00-1343, 2002-Ohio-5914.

Pfeifer, J., dissents.

2002-2104. State v. Carrion.

Lorain App. No. 02CA008158.

2002-2105. Olympic Title Ins. Co. v. Fifth Third Bank, W. Ohio.

Montgomery App. Nos. 19319 and 19324, 2002-Ohio-5826.

Resnick and O'Connor, JJ., not participating.

2002-2110. State v. Bowman.

Hamilton App. No. C-020639.

2002-2112. Carr v. Cincinnati.

Hamilton App. No. C-010719.

2002-2117. Moore v. Kemper Ins. Cos.

Delaware App. No. 02CAE04018, 2002-Ohio-5930.

Lundberg Stratton and O'Connor, JJ., dissent.

2002-2119. McPherson v. Whitt.

Cuyahoga App. No. 81442, 2002-Ohio-6060.

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

2002-2122. State v. Lankford.

Belmont App. No. 02BE53.

2002-2125. State v. Fair.

Cuyahoga App. No. 80501, 2002-Ohio-5561.

2002-2127. State v. Kelley.

Warren App. No. CA2001-12-104, 2002-Ohio-5886.

O'Connor, J., not participating.

2002-2131. State v. Dandridge.

Cuyahoga App. No. 80638, 2002-Ohio-5842.

2002-2140. Bocook v. Sandy & Beaver Valley Farmers Mut. Ins. Co.

Highland App. No. 02CA4, 2002-Ohio-6307.

Pfeifer, J., dissents.

2002-2143. D'Hue v. D'Hue.

Cuyahoga App. No. 81017, 2002-Ohio-5857.

2002-2145. State v. Lane.

Richland App. No. 02CA192, 2002-Ohio-6021.

2002-2146. State v. Pempton.

Cuyahoga App. No. 80255, 2002-Ohio-5831.

2002-2147. State v. Harris.

Cuyahoga App. No. 80692, 2002-Ohio-5846.

2002-2148. State v. Wright.

Mahoning App. No. 01CA80, 2002-Ohio-6096.

Lundberg Stratton, J., dissents, would allow, and would reverse and remand to the court of appeals to apply *Layne v. Ohio Adult Parole Auth.*, 97 Ohio St.3d 456, 2002-Ohio-6719, 780 N.E.2d 548.

2002-2153. Ross v. Grange Mut. Cas. Co.

Stark App. No. 2002CA00068, 2002-Ohio-6071.

Resnick, J., dissents, would allow, and would hold this cause for the decision in 2002-0610, *Geren v. Westfield Ins. Co.*, Lucas App. No. L-01-1398, 2002-Ohio-1230.

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

2002-2154. Widrich v. Diamond.

Cuyahoga App. No. 80492, 2002-Ohio-5836.

2002-2155. Clarke v. Warren Cty. Bd. of Commrs.

Warren App. No. CA2001-12-110, 2002-Ohio-6006.

2002-2156. State v. Carter.

Clinton App. No. CA2002-02-012, 2002-Ohio-6108.

2002-2157. State v. Mohammad.

Cuyahoga App. No. 80867, 2002-Ohio-5850.

2002-2159. State v. Calvert.

Guernsey App. No. 02CA16, 2002-Ohio-6073.

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

2002-2161. State v. Huber.

Cuyahoga App. No. 80616, 2002-Ohio-5839.

2002-2162. State v. Silguero.

Franklin App. No. 02AP-234, 2002-Ohio-6103.

2002-2163. Simpson v. Simpson.

Ashland App. No. 02COA006, 2002-Ohio-6266.

2002-2165. State v. Kreischer.

Perry App. No. 01CA18, 2002-Ohio-6070.

Pfeifer, J., dissents.

O'Connor, J., not participating.

2002-2167. State v. Washington.

Cuyahoga App. No. 80418, 2002-Ohio-5834.

2002-2170. State v. Calhoun.

Franklin App. No. 02AP-1089.

2002-2172. State v. Richard.

Cuyahoga App. No. 81283, 2002-Ohio-6223.

2002-2173. Wiseman v. Howard Hackman Co., L.P.A.

Hamilton App. Nos. C-020247 and C-020254.

2002-2174. Featherstone v. CM Media, Inc.

Franklin App. No. 02AP-65, 2002-Ohio-6747.

2002-2185. Yeung v. Neumeier.

Van Wert App. No. 15-02-04, 2002-Ohio-6009.

2002-2191. Waldecker v. Pfefferle.

Erie App. No. E-02-002, 2002-Ohio-6187.

2002-2194. Blanton v. Cuyahoga Cty. Bd. of Elections.

Cuyahoga App. No. 80710, 2002-Ohio-6044.

2002-2200. State v. Poole.

Cuyahoga App. No. 80250, 2002-Ohio-5326.

2002-2201. State v. Blackwell.

Lucas App. No. L-01-1031, 2002-Ohio-6352.

2002-2204. Adcock v. Scandura Ohio, Inc.

Ottawa App. No. OT-02-007, 2002-Ohio-6237.

Resnick, J., not participating.

2002-2205. Brown v. Zurich US.

Franklin App. No. 02AP-9, 150 Ohio App.3d 105, 2002-Ohio-6099.

Moyer, C.J., and Lundberg Stratton, J., dissent, would allow, and would reverse on the authority of *Richland Hosp., Inc. v. Ralyon* (1987), 33 Ohio St.3d 87, 516 N.E.2d 1236.

F.E. Sweeney, J., dissents and would allow.

2002-2207. Advanced Med. Sys., Inc. v. Ohio Dept. of Health.

Cuyahoga App. No. 81277, 2002-Ohio-5978.

2002-2208. State v. Brown.

Montgomery App. No. 19113, 2002-Ohio-6370.

2002-2212. State v. Sheets.

Athens App. No. 02CA15, 2002-Ohio-6423.

2002-2215. Griffiths v. Doctors Hosp.

Stark App. No. 2002CA00122, 2002-Ohio-6173.

2002-2226. State v. Pratts.

Summit App. No. 21319.

Moyer, C.J., and Lundberg Stratton, J., dissent, would allow, would reverse, and would remand to the court of appeals to allow a delayed appeal pursuant to *State v. Parker*, 95 Ohio St.3d 524, 2002-Ohio-2833, 769 N.E.2d 846.

Pfeifer, J., dissents and would allow.

2002-2234. State v. Fort.

Cuyahoga App. No. 80604, 2002-Ohio-5068.

Lundberg Stratton, J., dissents.

2002-2245. Ekstrom v. Cuyahoga Cty. Community College.

Cuyahoga App. No. 81501, 2002-Ohio-6228.

2003-0003. Brown v. Ohio Bur. of Workers' Comp.

Wyandot App. No. 16-02-03, 2002-Ohio-6274.

2003-0005. Gibson v. Drainage Products, Inc.

Paulding App. No. 11-99-14, 2002-Ohio-6258.

Lundberg Stratton, J., dissents.

2003-0014. State v. Castrataro.

Cuyahoga App. No. 81268, 2002-Ohio-6333.

F.E. Sweeney, J., dissents.

2003-0021. Rambo v. Rambo.

Montgomery App. Nos. 19334 and 19336, 2002-Ohio-6382. Discretionary appeal and cross-appeal not allowed.

2003-0030. State v. Logan.

Summit App. No. 21070, 2002-Ohio-6290.

2003-0031. State v. Dunn.

Montgomery App. No. 16904.

2003-0062. State v. Charley.

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

2003-0072. State v. Staley.

Madison App. No. CA99-08-019.

2003-0201. State v. Holloway.

Franklin App. Nos. 99AP-1455 and 99AP-1456.

2003-0356. In re Harlston.

Cuyahoga App. No. 80672, 2003-Ohio-282.

RECONSIDERATION OF PRIOR DECISIONS

2001-1709. Kemper v. Michigan Millers Mut. Ins. Co.

Certified State Law Question, No. 3:00CV07799. Reported at 98 Ohio St.3d 162, 2002-Ohio-7101, 781 N.E.2d 196. On motion for reconsideration. The motion fails for want of four votes on the following vote:

Resnick, F.E. Sweeney and Pfeifer, JJ., vote no.

Moyer, C.J., Lundberg Stratton and O'Connor, JJ., vote yes.

Cook, J., not participating.

2002-1818. Bowersock v. Bowersock.

Allen App. No. 1-02-55. Reported at 98 Ohio St.3d 1422, 2003-Ohio-259, 782 N.E.2d 77. On motion for reconsideration. Motion denied.

2002-1845. Straubhaar v. Cigna Prop. & Cas. Co.

Cuyahoga App. No. 81115, 2002-Ohio-4791. Reported at 98 Ohio St.3d 1423, 2003-Ohio-259, 782 N.E.2d 77. On motion for reconsideration. Motion denied.

Cook, J., dissents and would allow on Proposition of Law No. I.

Moyer, C.J., and F.E. Sweeney, J., dissent and would allow.

2002-1862. Thomas v. Thomas.

Jefferson App. No. 01JE31, 2002-Ohio-5229. Reported at 98 Ohio St.3d 1423, 2003-Ohio-259, 782 N.E.2d 78. On motion for reconsideration. Motion denied.

2002-2059. State v. Karasek.

Montgomery App. Nos. 17408 and 17563, 2002-Ohio-2616. Reported at 98 Ohio St.3d 1425, 2003-Ohio-259, 782 N.E.2d 79. On motion for reconsideration. Motion denied.