

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

May 7, 2003

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### MERIT DECISIONS WITH OPINIONS

**2001-1970. Vaught v. Cleveland Clinic Found., 2003-Ohio-2181.**

Cuyahoga App. No. 79026. Judgment affirmed.

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

Lundberg Stratton, J., dissents.

James A. Brogan, J., of the Second Appellate District, sitting for Cook, J.

**2002-0497. State ex rel. Holiday v. Indus. Comm., 2003-Ohio-2060.**

Franklin App. No. 01AP-390. Judgment affirmed.

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

F.E. Sweeney, J., dissents.

**2002-0545. State v. Butler, 2003-Ohio-2017.**

Stark App. No. 2001CA00069, 2002-Ohio-774. Sua sponte, cause dismissed as having been improvidently allowed.

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

Anthony Valen, J., of the Twelfth Appellate District, sitting for Cook, J.

**2002-0641. Cincinnati Ins. Co. v. Estate of McClain, 2003-Ohio-2147.**

Greene App. No. 2001-CA-96, 2002-Ohio-1190. Judgment summarily reversed and cause remanded.

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

Lundberg Stratton, J., dissents.

Cook, J., not participating.

**2002-0753. Thorley v. Am. States Preferred, 2003-Ohio-2148.**

Summit App. No. 20827, 2002-Ohio-1253. Judgment summarily reversed and cause remanded.

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

Lundberg Stratton, J., dissents.

Cook, J., not participating.

**2002-1048. R.K.E. Trucking, Inc. v. Zaino, 2003-Ohio-2149.**

Board of Tax Appeals, No. 98-S-1316. Decision affirmed.

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

Joseph J. Vukovich, J., of the Seventh Appellate District, sitting for Cook, J.

**2002-1763. State ex rel. Pontillo v. Pub. Emp. Retirement Sys. Bd., 2003-Ohio-2120.**

Franklin App. No. 01AP-1333, 2002-Ohio-4722. Judgment affirmed.

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

**2002-1771. State ex rel. McClintick v. Lazaroff, 2003-Ohio-2073.**

Madison App. No. CA2002-05-010. Judgment affirmed.

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

**2002-2077. State ex rel. Rankin v. Ohio Adult Parole Auth., 2003-Ohio-2061.**

Cuyahoga App. No. 81709, 2002-Ohio-6062. Judgment affirmed.

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

**2003-0150. State ex rel. Satow v. Gause-Milliken, 2003-Ohio-2074.**

In Mandamus. On motion to advance case on docket and on motion to dismiss of Members of Columbiana County Budget Commission and Columbiana County Auditor and Treasurer. Motion to advance moot; motion to dismiss granted.

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

**2003-0357. Cuyahoga Cty. Bar Assn. v. Maybaum, 2003-Ohio-2062.**

On Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 02-50.

Scott D. Maybaum is suspended from the practice of law for six months, stayed on condition.

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

**2003-0359. Cuyahoga Cty. Bar Assn. v. Lazzaro, 2003-Ohio-2150.**

On Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 02-48.

Charles Lazzaro is suspended from the practice of law for one year, stayed on conditions.

Resnick, F.E. Sweeney, Pfeifer, Cook and O'Connor, JJ., concur.

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

**2003-0360. Dayton Bar Assn. v. Schram, 2003-Ohio-2063.**

On Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 02-11.

Deborah C. Schram is publicly reprimanded.

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

**MERIT DECISIONS WITHOUT OPINIONS**

**2002-2063. State ex rel. Maple Hts. Bd. of Edn. v. Sikora.**

Cuyahoga App. No. 81965. Sua sponte, cause dismissed as moot.

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

Cook, J., not participating.

**2003-0461. State ex rel. Clements v. Olsen.**

In Mandamus. On motion to dismiss of William D. Mason. Motion to dismiss sustained. Cause dismissed.

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

Cook, J., not participating.

**2003-0488. State ex rel. Brown v. Ohio Adult Parole Auth.**

In Mandamus. On complaint in mandamus of Ronald David Brown. On S.Ct.Prac.R. X(5) determination, cause dismissed.

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

Cook, J., not participating.

**2003-0490. State ex rel. Martin v. Parrish.**

In Mandamus. On answer of respondent. On S.Ct.Prac.R. X(5) determination, cause dismissed.

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

Cook, J., not participating.

**2003-0509. State ex rel. Christopher v. Taft.**

In Mandamus. On answer of respondent Governor Bob Taft and motion for judgment on pleadings. On S.Ct.Prac.R. X(5) determination, cause dismissed.

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

Resnick, J., dissents and would grant an alternative writ and expedite proceedings.

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

Cook, J., not participating.

**2003-0634. State v. Class.**

In Habeas Corpus. On petition for writ of habeas corpus of Dwight L. Class and Anthony P. White on behalf of Dwight L. Class. Sua sponte, cause dismissed.

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

Cook, J., not participating.

**MOTION AND PROCEDURAL RULINGS**

**1988-0351. State v. Cooley.**

Summit App. No. CA12943. On motion to set execution date. Motion granted.

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

**2002-1515. Haley v. Wilson.**

Summit App. No. 20967, 2002-Ohio-3987. On bill and documentation of attorney fees. Attorney fees granted in the amount of \$3,537.60.

Pfeifer and Cook, JJ., dissent.

**2002-1672. State ex rel. Smith v. Dickinson.**

In Mandamus and Prohibition. On motion under Civ.R. 60(B). Motion denied.

Resnick, J., would dismiss.

**2002-1831. State v. Kaplowitz.**

Lake App. No. 2001-L-025, 2002-Ohio-4217. On motion to strike appellee's statement of case. Motion denied.

Moyer, C.J., dissents.

Cook, J., not participating.

**2002-2054. Munoz v. Nationwide Fire Mut. Ins. Co.**

Lucas App. No. L-02-1105, 2002-Ohio-6186. On motion to consolidate case with 2002-0702 and motion to stay briefing schedule and hold for decision in 2002-0702. Motion to consolidate denied, stay granted, and cause held for the decision in 2002-0702, *Burkholder v. German Mut. Ins. Co.*, Lucas App. No. L-01-1413, 2002-Ohio-1184; briefing schedule stayed.

Resnick, J., not participating.

**2003-0171. State ex rel. Maloney v. Sherlock.**

In Mandamus. On answers of respondents and motion for leave to intervene of Mahoning County Township Association. Motion for leave to intervene denied; sua sponte, alternative writ granted.

Resnick, J., concurs but would consolidate this cause with 2003-0172, *State ex rel. Dellick v. Sherlock*.

Cook, J., not participating.

**2003-0172. State ex rel. Dellick v. Sherlock.**

In Mandamus. On answers of respondents and motion for leave to intervene of Mahoning County Township Association. Motion for leave to intervene denied; sua sponte, alternative writ granted.

Resnick, J., concurs but would consolidate this cause with 2003-0171, *State ex rel. Maloney v. Sherlock*.

Cook, J., not participating.

**2003-0283. State v. Thompson.**

Cuyahoga App. No. 78919, 2002-Ohio-6478. 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 January 10, 2003:

"Motion by appellee to certify a conflict is granted. This court's decision in *State of Ohio v. Alexander Thompson*, Cuyahoga App. No. 78919 [2002-Ohio-6478], is in conflict with *State v. McFolley* (July 11, 2001), Lorain App. No. 00CA007614 [2001 WL 773231]. The issue is: 'Whether R.C. 2967.021 is ambiguous as to whether it applies to persons on parole for a crime committed prior to July 1, 1996, who fail to report to their parole officer after March 17, 1998, and therefore the statute must be construed against the state in determining whether such parole violators are subject to prosecution for the crime of escape.'"

Sua sponte, cause consolidated with 2003-0252, *State v. Thompson*, Cuyahoga App. No. 78919, 2002-Ohio-6478.

**2003-0313. State v. Barnhouse.**

Athens App. No. 02CA22, 2002-Ohio-7082. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated at page 2 of the court of appeals' Judgment Entry filed February 12, 2003:

"On December 30, 2002, appellant filed a motion pursuant to App.R. 25(A) and asked us to certify a conflict between our decision in the case sub judice and the decision in [*State v.*] *Lehman* [(Feb. 4, 2000), Lucas App. No. L-99-1140, 2000 WL 125795]. Appellant's motion is well taken. We find these two cases are in conflict and that conflict is on the question of whether a trial court may impose consecutive six-month sentences under R.C. 2929.16(A)(1) for multiple offenses."

F.E. Sweeney, J., dissents.

Resnick, J., not participating.

Sua sponte, cause consolidated with 2003-0249, *State v. Barnhouse*, Athens App. No. 02CA22, 2002-Ohio-7082.

**2003-0324. Millonzi v. Perram Elec., Inc.**

Lake App. Nos. 2001-L-109, 2001-L-110, and 2001-L-111, 2002-Ohio-7340. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause consolidated with 2003-0321, *Millonzi v. Perram Elec., Inc.*, Lake App. Nos. 2001-L-109, 2001-L-110, and 2001-L-111, 2002-Ohio-7340; causes held for the decision in 2002-1349, *Hooten v. Safe Auto Ins. Co.*, Hamilton App. No. C-010576; and briefing schedule stayed.

F.E. Sweeney, J., dissents.

**2003-0334. State v. Tabbaa.**

Cuyahoga App. No. 81410, 151 Ohio App.3d 353, 2003-Ohio-299. 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 February 7, 2003:

“Motion by appellant to certify a conflict is granted. This court’s decision in *State v. Tabbaa*, Cuyahoga App. No. 81410, 2003-Ohio-299, is in conflict with *State v. Yuen*, Franklin App. No. 01AP-1410, 2002-Ohio-5083. The following question is certified:

“In considering a case involving delay in filing a motion to withdraw a guilty plea pursuant to R.C. 2943.031, does the court have discretion to deny the motion by reading a timeliness requirement into R.C. 2943.031 (as the Ohio Supreme Court did in *State v. Bush*, 96 Ohio St.3d 235, 2002-Ohio-3993, regarding a Crim.R. 32.1 motion), or, is the trial court without discretion and therefore required to set aside the guilty plea and conviction as the court held in *State v. Yuen*?”

F.E. Sweeney, J., dissents.

**2003-0415. Poulton v. Am. Economy Ins. Co.**

Stark App. Nos. 2002CA00038 and 2002CA00061, 2002-Ohio-7214. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause consolidated with 2003-0258, *Poulton v. Am. Economy Ins. Co.*, Stark App. Nos. 2002CA00038 and 2002CA00061, 2002-Ohio-7214; causes held for the decision in 2002-1126 and 2002-1433, *Allen v. Johnson*, Wayne App. No. 01CA0046 and 01CA0047, 2002-Ohio-3404; and briefing schedule stayed.

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

**2003-0430. Greene v. Westfield Ins. Co.**

Stark App. No. 2002CA00126, 2002-Ohio-7210. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause consolidated with 2003-0195, *Greene v. Westfield Ins. Co.*, Stark App. No. 2002CA00126, 2002-Ohio-7210; causes held for the decision in 2002-0932, *Westfield Ins. Co. v. Galatis*, Summit App. No. 20784, 2002-Ohio-1502; and briefing schedule stayed.

F.E. Sweeney, J., dissents.

**2003-0433. DAK PLL v. Franklin Cty. Bd. of Revision.**

Board of Tax Appeals, No. 2002-A-1940. On motion to consolidate cases 2003-0433 through 2003-0445. Motion granted.

**2003-0434. DAK PLL v. Franklin Cty. Bd. of Revision.**

Board of Tax Appeals, No. 2002-A-1933. On motion to consolidate cases 2003-0433 through 2003-0445. Motion granted.

**2003-0435. DAK PLL v. Franklin Cty. Bd. of Revision.**

Board of Tax Appeals, No. 2002-A-1941. On motion to consolidate cases 2003-0433 through 2003-0445. Motion granted.

**2003-0436. DAK PLL v. Franklin Cty. Bd. of Revision.**

Board of Tax Appeals, No. 2002-A-1934. On motion to consolidate cases 2003-0433 through 2003-0445. Motion granted.

**2003-0437. DAK PLL v. Franklin Cty. Bd. of Revision.**

Board of Tax Appeals, No. 2002-A-1935. On motion to consolidate cases 2003-0433 through 2003-0445. Motion granted.

**2003-0438. DAK PLL v. Franklin Cty. Bd. of Revision.**

Board of Tax Appeals, No. 2002-A-1942. On motion to consolidate cases 2003-0433 through 2003-0445. Motion granted.

**2003-0439. DAK PLL v. Franklin Cty. Bd. of Revision.**

Board of Tax Appeals, No. 2002-A-1943. On motion to consolidate cases 2003-0433 through 2003-0445. Motion granted.

**2003-0440. DAK PLL v. Franklin Cty. Bd. of Revision.**

Board of Tax Appeals, No. 2002-A-1936. On motion to consolidate cases 2003-0433 through 2003-0445. Motion granted.

**2003-0441. DAK PLL v. Franklin Cty. Bd. of Revision.**

Board of Tax Appeals, No. 2002-A-1944. On motion to consolidate cases 2003-0433 through 2003-0445. Motion granted.

**2003-0442. DAK PLL v. Franklin Cty. Bd. of Revision.**

Board of Tax Appeals, No. 2002-A-1937. On motion to consolidate cases 2003-0433 through 2003-0445. Motion granted.

**2003-0443. DAK PLL v. Franklin Cty. Bd. of Revision.**

Board of Tax Appeals, No. 2002-A-1945. On motion to consolidate cases 2003-0433 through 2003-0445. Motion granted.



**2003-0444. DAK PLL v. Franklin Cty. Bd. of Revision.**

Board of Tax Appeals, No. 2002-A-1938. On motion to consolidate cases 2003-0433 through 2003-0445. Motion granted.

**2003-0445. DAK PLL v. Franklin Cty. Bd. of Revision.**

Board of Tax Appeals, No. 2002-A-1939. On motion to consolidate cases 2003-0433 through 2003-0445. Motion granted.

**2003-0469. State v. Cowan.**

Portage App. No. 2001-P-0109, 2002-Ohio-7271. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated at page 2 of the court of appeals' Judgment Entry filed March 3, 2003:

"Whether a municipal court has jurisdiction to review a petition for post-conviction relief, filed pursuant to R.C. 2953.21, where the conviction is based upon violation of a state law."

F.E. Sweeney, J., dissents.

The conflict case is *State v. Dunlap* (Oct. 23, 1997), Licking App. No. 97-CA-53, and this cause is consolidated with 2003-0019, *State v. Cowan*, Portage App. No. 2001-P-0109, 2002-Ohio-7271.

**2003-0555. State v. Wade.**

Cuyahoga App. No. 81080, 2002-Ohio-6827. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

**2003-0562. State v. Kelly.**

Muskingum App. No. CT20020027, 2003-Ohio-337. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated at page 3 of the court of appeals' Journal Entry filed March 5, 2003:

"Does a person convicted and sentenced prior to July 1, 1996, have the right to be considered for shock probation under the law, O.R.C. Sec. 2947.061, as it existed at the time that that person was convicted and sentenced?"

Resnick, J., dissents.

The conflict case is *State v. Murphy* (Apr. 13, 2000), Cuyahoga App. No. 76849, 2000 WL 377495, and this cause is consolidated with 2003-0358, *State v. Kelly*, Muskingum App. No. CT20020027, 2003-Ohio-337.

**2003-0563. State v. Crowder.**

Montgomery App. No. 19064, 2002-Ohio-4963. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

**2003-0566. State v. Swanson.**

Ashland App. No. 02COA048, 2003-Ohio-16. On motion for leave to file delayed appeal. Motion denied.

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

**2003-0606. State v. Wooden.**

Franklin App. No. 02AP-293. On motion for leave to file delayed appeal. Motion denied.

**2003-0615. State v. Boyles.**

Hamilton App. No. C-010734. On motion for leave to file delayed appeal. Motion granted.

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

**APPEALS ACCEPTED FOR REVIEW**

**2003-0019. State v. Cowan.**

Portage App. No. 2001-P-0109, 2002-Ohio-7271. Discretionary appeal allowed on Proposition of Law No. I and cause consolidated with 2003-0469, *State v. Cowan*, Portage App. No. 2001-P-0109, 2002-Ohio-7271.

Resnick and Pfeifer, JJ., concur but would allow all propositions of law.

F.E. Sweeney, J., dissents.

**2003-0147. Skilton v. Perry Local School Dist. Bd. of Edn.**

Lake App. No. 2001-L-140, 2002-Ohio-6702.

Resnick, Pfeifer and Cook, JJ., dissent.

**2003-0153. Niese v. Maag.**

Putnam App. No. 12-02-06, 2002-Ohio-6986. Discretionary appeal allowed and cause held for the decision in 2002-0610, *Geren v. Westfield Ins. Co.*, Lucas App. No. L-01-1398, 2002-Ohio-1230; briefing schedule stayed.

**2003-0174. State v. Tuomala.**

Ashtabula App. No. 2001-A-0088, 2002-Ohio-6936.

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

**2003-0189. In re Kirby.**

Clinton App. No. CA2002-03-015, 2002-Ohio-6881.

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

**2003-0195. Greene v. Westfield Ins. Co.**

Stark App. No. 2002CA00126, 2002-Ohio-7210. Discretionary appeal allowed on Proposition of Law No. I; cause consolidated with 2003-0430, *Greene v. Westfield Ins. Co.*, Stark App. No. 2002CA00126; causes held for the decision in 2002-0932, *Westfield Ins. Co. v. Galatis*, Summit App. No. 20784, 2002-Ohio-1502; and briefing schedule stayed.

F.E. Sweeney, J., dissents.

**2003-0207. Ft. Frye Teachers Assn. v. State Emp. Relations Bd.**

Washington App. Nos. 02CA31 and 02CA32, 2002-Ohio-7219. Discretionary appeal and cross-appeal allowed.

O'Connor, J., dissents.

**2003-0213. Monroe Guar. Ins. Co. v. Kuba.**

Stark App. No. 2002CA00175, 2002-Ohio-7010. Discretionary appeal allowed and cause held for the decision in 2002-0610, *Geren v. Westfield Ins. Co.*, Lucas App. No. L-01-1398, 2002-Ohio-1230; briefing schedule stayed.

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

**2003-0220. Scaglione v. Kraftmaid Cabinetry, Inc.**

Geauga App. No. 2001-G-2364, 2002-Ohio-6917.

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

**2003-0232. Warren v. Hartford Ins. Co.**

Cuyahoga App. No. 81139, 2002-Ohio-7067. Discretionary 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.

**2003-0234. Sifco Industries, Inc. v. Safety Natl. Cas. Corp.**

Cuyahoga App. No. 81202, 2002-Ohio-6511. Discretionary appeal allowed and cause held for the decision in 2001-1891 and 2002-0262, *Penn Traffic Co. v. AIU Ins. Co.*, Pike App. No. 00CA653, 2001-Ohio-2567; briefing schedule stayed.

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

**2003-0239. Mlecik v. Farmers Ins. of Columbus, Inc.**

Cuyahoga App. No. 81110, 2002-Ohio-6222. Discretionary appeal allowed and cause held for the decision in 2002-0803 and 2002-0837, *German v. Therm-O-Disc, Inc.*, Richland App. No. 01CA512, 2002-Ohio-1848; briefing schedule stayed.

Resnick and Pfeifer, JJ., dissent.

Discretionary cross-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 and Pfeifer, JJ., dissent.

**2003-0242. State v. Crowley.**

Franklin App. No. 02AP-235, 2002-Ohio-7027. Discretionary appeal allowed and cause held for the decision in 2002-0201, *State v. Fisher*, Franklin App. No. 01AP-614, 2001-Ohio-8772; briefing schedule stayed.

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

**2003-0249. State v. Barnhouse.**

Athens App. No. 02CA22, 2002-Ohio-7082. Discretionary appeal allowed and cause consolidated with 2003-0313, *State v. Barnhouse*, Athens App. No. 02CA22, 2002-Ohio-7082.

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

Resnick, J., not participating.

**2003-0252. State v. Thompson.**

Cuyahoga App. No. 78919, 2002-Ohio-6478. Discretionary appeal allowed and cause consolidated with 2003-0283, *State v. Thompson*, Cuyahoga App. No. 78919, 2002-Ohio-6478.

Pfeifer, J., dissents.

**2003-0258. Poulton v. Am. Economy Ins. Co.**

Stark App. Nos. 2002CA00038 and 2002CA00061, 2002-Ohio-7214. Discretionary appeal allowed on Proposition of Law No. II; cause consolidated with 2003-0415, *Poulton v. Am. Economy Ins. Co.*, Stark App. Nos. 2002CA00038 and 2002CA00061, 2002-Ohio-7214; causes held for the decision in 2002-1126 and 2002-1433, *Allen v. Johnson*, Wayne App. Nos. 01CA0046 and 01CA0047, 2002-Ohio-3404; and briefing schedule stayed.

Lundberg Stratton, J., concurs but would allow all propositions of law.

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

**2003-0321. Millonzi v. Perram Elec., Inc.**

Lake App. Nos. 2001-L-109, 2001-L-110, and 2001-L-111, 2002-Ohio-7340. Discretionary appeal allowed; cause consolidated with 2003-0324, *Millonzi v. Perram Elec., Inc.*, Lake App. Nos. 2001-L-109, 2001-L-110, and 2001-L-111, 2002-Ohio-7340; causes held for the decision in 2002-1349, *Hooten v. Safe Auto Ins. Co.*, Hamilton App. No. C-010576; and briefing schedule stayed.

F.E. Sweeney, J., dissents.

**2003-0358. State v. Kelly.**

Muskingum App. No. CT20020027, 2003-Ohio-337. Discretionary appeal allowed and cause consolidated with 2003-0562, *State v. Kelly*, Muskingum App. No. CT20020027, 2003-Ohio-337.

Resnick, J., dissents.

**APPEALS NOT ACCEPTED FOR REVIEW**

**2002-1988. State v. Gomez.**

Lorain App. No. 02CA008036, 2002-Ohio-5255.

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

**2003-0026. Orr v. Hays.**

Mahoning App. No. 02CA27, 2002-Ohio-7441.

**2003-0155. Mentor v. Krejsa.**

Lake App. No. 2001-L-188, 2002-Ohio-7145.

**2003-0168. In re Estate of Dotson.**

Mahoning App. No. 01CA97, 2002-Ohio-6889.

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

**2003-0183. State v. Coulibaly.**

Hamilton App. No. C-010788.

Resnick, J., would deny as moot.

Lundberg Stratton, J., would grant.

**2003-0190. State v. Robison.**

Licking App. No. 02CA00015, 2002-Ohio-7216.

**2003-0191. State v. Camire.**

Lake App. No. 2001-L-057, 2002-Ohio-6943.

**2003-0192. State v. Bennett.**

Summit App. No. 21121, 2003-Ohio-238.

O'Connor, J., not participating.

**2003-0199. Valley Electrical Consol., Inc. v. Trumbull Cty. Bd. of Commrs.**

Trumbull App. Nos. 2002-T-0034 and 2002-T-0038, 2002-Ohio-6923.

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

**2003-0200. Spradley v. Milliner.**

Clinton App. No. CA2002-04-019, 2002-Ohio-6882.

**2003-0206. State v. Rye.**

Tuscarawas App. No. 2002AP040028, 2002-Ohio-7046. Discretionary appeal and motion of Thomas T. Mullen to withdraw as counsel for appellant denied.

**2003-0209. State v. Mitchem.**

Hamilton App. No. C-010692.

**2003-0229. State v. Horton.**

Madison App. No. CA2002-05-009.

**2003-0237. State v. Thacker.**

Lawrence App. No. 02CA35, 2002-Ohio-7443.

**2003-0246. Comcorp Technologies, Inc. v. Crum & Forster Ins.**

Fulton App. No. F-02-016, 2002-Ohio-7104.

F.E. Sweeney, J., dissents.

Resnick, J., not participating.

**2003-0256. In re Guardianship of Rickels.**

Paulding App. No. 11-02-09.

**2003-0257. Gahanna v. Cameron.**

Franklin App. No. 02AP-255, 2002-Ohio-6959.

F.E. Sweeney, J., dissents.

**2003-0260. State v. Gibson.**

Champaign App. No. 02CA36.

**2003-0261. Jett v. State Auto. Mut. Ins. Co.**

Stark App. No. 2002CA00183, 2002-Ohio-7211.

Pfeifer, Cook and O'Connor, JJ., dissent, would allow, and would hold this cause for the decision in 2002-0579, *Burkhart v. CNA Ins. Co.*, Stark App. No. 2001CA00265, 2002-Ohio-903.

**2003-0262. E. Grace Communications, Inc. v. BestTransport.com, Inc.**

Jefferson App. No. 02JE4, 2002-Ohio-7175.

**2003-0264. Natsis v. Natsis.**

Cuyahoga App. No. 80793, 2002-Ohio-7058.

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

**2003-0268. State v. Pesci.**

Lake App. No. 2001-L-026.

Moyer, C.J., dissents.

**2003-0271. Neubauer v. Household Fin. Corp.**

Cuyahoga App. No. 81451, 2002-Ohio-6831.

**2003-0272. State v. Hurd.**

Trumbull App. No. 2001-T-0086, 2002-Ohio-7163.

**2003-0274. Taylor v. Covey.**

Stark App. No. 2002CA00201, 2002-Ohio-7221.

O'Connor, J., would allow on Propositions of Law Nos. I and III.

Lundberg Stratton, J., would allow.

**2003-0275. Kalia v. Kalia.**

Trumbull App. No. 2001-T-0041, 2002-Ohio-7160. Discretionary appeal and cross-appeal denied.

**2003-0279. Ohio State Life Ins. Policy v. Garcia.**

Franklin App. No. 02AP-274, 2002-Ohio-7194.

**2003-0280. Alan v. Burns.**

Medina App. No. 3271-M, 2002-Ohio-7313.

Pfeifer, J., dissents.

**2003-0281. Campo v. Daniel.**

Cuyahoga App. No. 81419, 2002-Ohio-7257.

F.E. Sweeney, J., dissents.

**2003-0284. N. Kingsville v. Maddox.**

Ashtabula App. No. 2001-A-0052, 2002-Ohio-7122.

**2003-0286. Selby Gen. Hosp. v. Kindig.**

Washington App. No. 02CA52.

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

**2003-0287. State v. Nash.**

Stark App. No. 2002CA00106, 2003-Ohio-230.

**2003-0296. State v. Herman.**

Erie App. No. E-01-039, 2002-Ohio-7307.

**2003-0297. Dream Makers, Inc. v. Marshek.**

Cuyahoga App. No. 81249, 2002-Ohio-7069.

**2003-0298. State v. Welsh.**

Cuyahoga App. No. 81028, 2002-Ohio-7062.

**2003-0299. State v. Ross.**

Summit App. No. 20980, 2002-Ohio-7317. Discretionary appeal and motion for admission pro hac vice of David Z. Chesnoff by attorneys Lawrence J. Whitney and Mak Kravitz denied.

Lundberg Stratton, J., dissents.

**2003-0304. Selective Ins. Co. v. Wilson.**

Muskingum App. No. CT20020009, 2002-Ohio-7388.

F.E. Sweeney, J., dissents.

**2003-0312. State v. Stewart.**

Portage App. No. 2001-P-0035, 2002-Ohio-7270.

**2003-0317. State v. Brady.**

Tuscarawas App. No. 2002AP040025, 2003-Ohio-138.



**2003-0320. State v. Blevins.**

Hamilton App. No. C-020068, 2002-Ohio-7335.

**2003-0323. State v. Roper.**

Summit App. No. 20836, 2002-Ohio-7321.

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

**2003-0325. Sabulsky v. Trumbull Cty.**

Trumbull App. No. 2001-T-0084, 2002-Ohio-7275.

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

**2003-0326. State v. Hawkins.**

Portage App. No. 2001-P-0060, 2002-Ohio-7347.

**2003-0333. Sudnick v. Klein.**

Geauga App. Nos. 2001-G-2356, 2001-G-2357, 2001-G-2358 and 2001-G-2365, 2002-Ohio-7341.

**2003-0370. State v. Causey.**

Hamilton App. No. C-020435.

**2003-0371. State v. Williams.**

Cuyahoga App. No. 61080, 2003-Ohio-140.

**2003-0375. State v. Severns.**

Knox App. No. 01CA000023, 2002-Ohio-3685.

**2003-0404. State v. Whatley.**

Franklin App. No. 98AP-589.

**2003-0450. State v. Tabbaa.**

Cuyahoga App. No. 81410, 151 Ohio App.3d 353, 2003-Ohio-299.

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

**2003-0550. In re Adoption of Goldberg.**

Warren App. Nos. CA2002-09-091, CA2002-09-099 and CA2002-10-109, 2003-Ohio-1015.

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

**2003-0559. In re Adoption Lichtenberg.**

Warren App. No. CA2002-11-125, 2003-Ohio-1014.

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

**RECONSIDERATION OF PRIOR DECISIONS**

**2002-2014. Murphy v. Ohio Dept. of Rehab. & Corr.**

Franklin App. No. 02AP-132, 2002-Ohio-5170. Reported at 98 Ohio St.3d 1478, 2003-Ohio-974, 784 N.E.2d 711. On motion for reconsideration. Motion denied.

**2002-2018. Edmonson v. Premier Indus. Corp.**

Cuyahoga App. No. 81132, 2002-Ohio-5573. Reported at 98 Ohio St.3d 1478, 2003-Ohio-974, 784 N.E.2d 711. On motion for reconsideration. Motion denied.

Resnick, F.E. Sweeney and Pfeifer, JJ., dissent and would reverse the judgment of the court of appeals and remand to the trial court on the authority of *Kemper v. Michigan Millers Mut. Ins. Co.*, 98 Ohio St.3d 162, 2002-Ohio-7101, 781 N.E.2d 196.

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

Stark App. No. 2002CA00068, 2002-Ohio-6071. Reported at 98 Ohio St.3d 1490, 2003-Ohio-1189, 785 N.E.2d 473. On motion for reconsideration. Motion denied.

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

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

Franklin App. No. 02AP-65, 2002-Ohio-6747. Reported at 98 Ohio St.3d 1491, 2003-Ohio-1189, 785 N.E.2d 473. On motion for reconsideration. Motion denied.

**2002-2205. Brown v. Zurich US.**

Franklin App. No. 02AP-9, 150 Ohio App.3d 105, 2002-Ohio-6099. Reported at 98 Ohio St.3d 1491, 2003-Ohio-1189, 785 N.E.2d 473. On motion for reconsideration. Motion denied.

Moyer, C.J., and Resnick, J., would grant.

Lundberg Stratton, J., would grant and require the posting of a bond.

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

In Mandamus. Reported at 98 Ohio St.3d 1486, 2003-Ohio-1189, 785 N.E.2d 470. On motion for reconsideration. Motion denied.