

The Supreme Court of Ohio

CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

January 29, 2003

MERIT DECISIONS WITHOUT OPINIONS

2002-2019. State ex rel. Buoscio v. Seventh Judicial Dist. Court of Appeals.

In Mandamus. On motion to dismiss. Motion to dismiss sustained. Cause dismissed.

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

2002-2037. State ex rel. Willis v. Marcum.

In Mandamus. On motion to dismiss of Judge H.J. Bressler and Karl Harris, and answer of respondents Judge Rosmarin, Samuel Borst, Gary Thompson, and Sherry Marcum. Motion to dismiss sustained. Cause dismissed.

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

2002-2088. State ex rel. Brown v. Corrigan.

In Mandamus. On motion to dismiss. Motion to dismiss sustained. Cause dismissed.

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

2002-2089. State ex rel. Brown v. McAllister.

In Mandamus. On motion to dismiss. Motion to dismiss sustained. Cause dismissed.

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

2002-2111. State ex rel. Stupelli v. Wilkinson.

In Mandamus. On motion to dismiss. Motion to dismiss sustained. Cause dismissed.

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

2002-2120. McClure v. W. Am. Ins. Co.

Lucas App. No. L-02-1186, 2002-Ohio-6180. On review of order certifying a conflict. The court determines that no conflict exists within the meaning of S.Ct.Prac.R. IV(2)(B). This cause is therefore dismissed.

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

Resnick, J., not participating.

2002-2152. Curns v. Tibbals.

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

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

2002-2160. Baumgartner v. Emahiser.

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

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

Resnick, J., not participating.

MOTION AND PROCEDURAL RULINGS

1984-1660. State v. Martin.

Cuyahoga App. No. 47301. On motion to set execution date. Motion granted.

2002-0945. Pinchot v. Charter One Bank, F.S.B.

Cuyahoga App. No. 79359, 2002-Ohio-1654. On motion to dismiss appeal. Motion denied.

O'Connor, J., not participating.

2002-1785. State ex rel. Preschool Dev., Ltd. v. Springboro.

In Mandamus. On answer of respondent, city of Springboro. Sua sponte, alternative writ granted.

2002-2008. Theobald v. Univ. of Cincinnati.

Franklin App. Nos. 02AP-560, 02AP-593, 02AP-597 and 02AP-598. 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' Memorandum Decision rendered on October 29, 2002:

“Does the employee of a state institution who participates in an immunity determination in the Ohio Court of Claims have standing to appeal the judgment of the Ohio Court of Claims to the Tenth District Court of Appeals?”

Sua sponte, cause consolidated with 2002-1815, *Theobald v. Univ. of Cincinnati*, Franklin App. Nos. 02AP-593, 02AP-597 and 02AP-598.

The conflict case is *Johns v. Horton*, Hamilton App. No. C-010672, 149 Ohio App.3d 252, 2002-Ohio-3802, 776 N.E.2d 1146, appeal accepted in 97 Ohio St.3d 1495, 2002-Ohio-7200, 780 N.E.2d 600.

2002-2086. State v. Wilson.

Lucas App. No. L-01-1196, 2002-Ohio-5920. On motion for bond and motion for stay of execution of sentence. Motions denied.

2002-2121. Skala v. Grange Ins. Co.

Summit App. No. 20941, 2002-Ohio-5040. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause consolidated with 2002-1925, *Skala v. Grange Ins. Co.*, Summit App. No. 20941, 2002-Ohio-5040; causes held for the decision in *Westfield Ins. Co. v. Galatis*, Summit App. No. 20784, 2002-Ohio-1502; and briefing schedule stayed.

2002-2126. State v. Jackson.

Cuyahoga App. No. 80879. On motion for leave to file delayed appeal. Motion denied.

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

2002-2142. State v. Quinn.

Darke App. No. 1577, 2002-Ohio-5540. On motion for leave to file delayed appeal. Motion denied.

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

2002-2193. State v. Golson.

Montgomery App. No. 17707. On motion for leave to file delayed appeal. Motion denied.

2002-2203. State v. Coulibaly.

Hamilton App. No. C-010212. On motion for leave to file delayed appeal. Motion denied.

2002-2210. State v. Fuqua.

Hardin App. No. 6-02-01, 2002-Ohio-4697. On motion to strike motion for delayed appeal. Motion denied.

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

On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

APPEALS ACCEPTED FOR REVIEW

2002-1663. Harden v. Ohio Atty. Gen.

Franklin App. No. 01AP-1156, 2002-Ohio-4291.

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

2002-1666. State v. Doe.

Montgomery App. No. 19408, 2002-Ohio-4966.

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

2002-1678. Akron v. Holland Oil Co.

Summit App. No. 20954, 2002-Ohio-4150.

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

O'Connor, J., not participating.

2002-1716. State v. Harwell.

Lucas App. No. L-00-1356, 2002-Ohio-4349.

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

Resnick, J., not participating.

2002-1792. State v. Perry.

Franklin App. No. 01AP-996, 2002-Ohio-4545.

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

2002-1807. State v. Schmitt.

Mercer App. No. 10-01-16, 2002-Ohio-4615. Discretionary appeal allowed and cause to be argued on the same date as 2002-2015, *State v. Weirtz*, Delaware App. No. 02CAC06032, 2002-Ohio-5294.

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

O'Connor, J., not participating.

2002-1815. Theobald v. Univ. of Cincinnati.

Franklin App. Nos. 02AP-593, 02AP-597 and 02AP-598. Discretionary appeal allowed and cause consolidated with 2002-2008, *Theobald v. Univ. of Cincinnati*, Franklin App. Nos. 02AP-560, 02AP-593, 02AP-597 and 02AP-598.

2002-1925. Skala v. Grange Ins. Co.

Summit App. No. 20941, 2002-Ohio-5040. Discretionary appeal allowed; cause consolidated with 2002-2121, *Skala v. Grange Ins. Co.*, Summit App. No. 20941, 2002-Ohio-5040; causes held for the decision in 2002-0932, *Westfield Ins. Co. v. Galatis*, Summit App. No. 20784, 2002-Ohio-1502; and briefing schedule stayed.

Resnick and Lundberg Stratton, JJ., dissent.

2002-1974. State v. Dade.

Franklin App. No. 02AP-73, 2002-Ohio-5251. Discretionary appeal accepted; motion to expedite briefing schedule and oral argument denied; sua sponte, cause held for the decision in 2002-0242, *State v. Brown*, Montgomery App. No. 18972, 2001-Ohio-7073; and briefing schedule stayed.

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

APPEALS NOT ACCEPTED FOR REVIEW

2001-1572. State v. Smith.

Richland App. No. 00CA100.

2001-1743. State v. Myers.

Greene App. No. 2000CA35, 2001-Ohio-1487.

2002-1104. State v. Franklin.

Montgomery App. No. 19041, 2002-Ohio-2370.

2002-1351. State v. Moore.

Cuyahoga App. No. 78751, 2002-Ohio-1831.

2002-1764. State v. Cahill.

Shelby App. No. 17-01-19, 2002-Ohio-4459.

O'Connor, J., not participating.

2002-1772. State v. Austin.

Hamilton App. No. C-020513.

Moyer, C.J., dissents.

2002-1787. State v. Larios.

Cuyahoga App. No. 80326, 2002-Ohio-4282.

2002-1788. Strouble v. Louisville.

Stark App. No. 2002CA00019.

2002-1790. State v. Hall.

Trumbull App. No. 2001-T-0124, 2002-Ohio-4704.

2002-1798. State v. Wilson.

Clermont App. No. CA2001-09-072, 2002-Ohio-4709.

2002-1800. State v. Griffin.

Cuyahoga App. No. 80499, 2002-Ohio-4288.

2002-1810. Costello v. Cyngier.

Cuyahoga App. No. 80558.

2002-1811. State v. Prater.

Warren App. No. CA2001-12-114, 2002-Ohio-4487.

2002-1813. Gilcreast-Hill v. Ohio Farmers Ins. Co.

Summit App. No. 20983, 2002-Ohio-4524.

F.E. Sweeney, J., dissents.

2002-1816. Geraldo v. First Dominion Mut. Life Ins. Co.

Lucas App. No. L-01-1210, 2002-Ohio-4654.

Moyer, C.J., dissents.

2002-1818. Bowersock v. Bowersock.

Allen App. No. 1-02-55.

2002-1819. Hyslop v. Hyslop.

Wood App. No. WD-01-059, 2002-Ohio-4656.

2002-1820. Kraft v. Wuestefeld.

Hamilton App. No. C-010676.

2002-1821. State v. Coleman.

Cuyahoga App. No. 80595, 2002-Ohio-4421.

Resnick, J., dissents.

2002-1823. State v. Carrion.

Lorain App. No. 01CA007797, 2002-Ohio-308.

2002-1826. State v. Cottrell.

Auglaize App. No. 2-02-05, 2002-Ohio-4603.

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

2002-1828. Clendenen v. Fannin Realty, Inc.

Franklin App. No. 01AP-1295, 2002-Ohio-4548.

2002-1835. Garrison v. Heisler.

Lucas App. No. L-02-1060, 2002-Ohio-4825.

2002-1838. Harrold v. Homsher.

Hancock App. No. 5-02-13, 2002-Ohio-4688.

2002-1839. State v. Harris.

Stark App. No. 2002CA00085, 2002-Ohio-4872.

2002-1842. State v. Krzywkowski.

Cuyahoga App. No. 80392, 2002-Ohio-4438.

2002-1843. State v. Wesley.

Cuyahoga App. No. 80684, 2002-Ohio-4429.

Pfeifer, J., dissents.

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

Cuyahoga App. No. 81115, 2002-Ohio-4791.

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

2002-1846. State v. Sanders.

Hamilton App. No. C-020077, 2002-Ohio-5093.

2002-1850. Ayers v. Brusnahan.

Lorain App. No. 02CA008105.

2002-1853. Williams v. Permanent Gen. Assur. Corp. of Ohio.

Cuyahoga App. No. 80536, 2002-Ohio-4445.

2002-1855. Covington v. P.I.E. Mut. Ins. Co.

Franklin App. No. 01AP-1348, 2002-Ohio-4732.

2002-1856. Broida v. McGlumphy.

Summit App. No. 20975, 2002-Ohio-4738.

O'Connor, J., not participating.

2002-1859. Prairie Twp. Bd. of Trustees v. Hay.

Franklin App. No. 01AP-1198, 2002-Ohio-4765.

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

2002-1860. State v. Jones.

Cuyahoga App. No. 80685, 2002-Ohio-4785.

Resnick, J., not participating.

2002-1862. Thomas v. Thomas.

Jefferson App. No. 01JE31, 2002-Ohio-5229.

2002-1863. Dailey v. R & J Commercial Contracting, Inc.

Franklin App. No. 01AP-1464, 2002-Ohio-4724.

2002-1866. State v. Gonzales.

Hamilton App. No. C-010757, 2002-Ohio-4937.

2002-1867. Warren Cty. Deputy Sheriff's Benevolent Assn. v. Ariss.

Warren App. No. CA2002-02-013, 2002-Ohio-4987.

Resnick, J., dissents.

2002-1868. State v. Martin.

Franklin App. Nos. 02AP-33 and 02AP-34, 2002-Ohio-4769.

2002-1871. State v. Dejanette.

Hamilton App. No. C-010693, 2002-Ohio-4802.

2002-1872. State v. DeLeon.

Montgomery App. No. 18114, 2002-Ohio-3286.

2002-1873. Lenzing Fibers Corp. v. Thompson.

Hamilton App. No. C-020032.

Resnick, J., not participating.

2002-1874. Blansett v. BP Exploration & Oil, Inc.

Allen App. No. 12-00-040, 2002-Ohio-4757. On discretionary appeal and motion of Hans Scherner for admission pro hac vice of Gary L. Shockey and Robert A. Krause. Discretionary appeal and motion denied.

F.E. Sweeney, J., dissents.

Resnick, J., not participating.

2002-1882. Brown v. Buckeye State Mut. Ins. Co.

Ross App. No. 02CA2646, 2002-Ohio-6160.

2002-1883. Devine v. Phi Gamma Delta Fraternity, Wittenberg Univ. Chapter.

Clark App. No. 2002CA12, 2002-Ohio-4965.

2002-1886. Police & Firemen's Disability & Pension Fund v. Akron.

Summit App. No. 20996, 2002-Ohio-4863.

Pfeifer, J., dissents.

O'Connor, J., not participating.

2002-1887. Appel v. Berger.

Franklin App. No. 02AP-124, 2002-Ohio-4853.

2002-1889. State v. Lordi.

Mahoning App. No. 01CA164, 2002-Ohio-5517.

2002-1891. State v. Theis.

Seneca App. No. 13-2000-39.

2002-1892. Reffitt v. State Auto. Mut. Ins. Co.

Allen App. No. 1-02-38, 2002-Ohio-4885.

2002-1896. Dunn v. N. Star Resources, Inc.
Cuyahoga App. No. 79455, 2002-Ohio-4570.
Resnick and Pfeifer, JJ., dissent.

2002-1899. Smith v. Trull.
Ashland App. No. 02COA002, 2002-Ohio-4998.

2002-1900. State v. Ayers.
Cuyahoga App. No. 79134, 2002-Ohio-4773.
Pfeifer, J., dissents.

2002-1902. Moffitt v. Litteral.
Montgomery App. No. 19154, 2002-Ohio-4973.

2002-1903. In re Long.
Franklin App. No. 02AP-111, 2002-Ohio-4901.

2002-1907. Kulas v. Bank One Trust Co., N.A.
Franklin App. No. 01AP-1290, 2002-Ohio-5002.

2002-1912. State v. Becker.
Clermont App. No. CA2001-11-089, 2002-Ohio-5509.

2002-1913. State v. Barber.
Hamilton App. No. C-010747.

2002-1915. State v. Parker.
Franklin App. No. 02AP-930.

2002-1919. State v. Mingie.
Hamilton App. No. C-020139.

2002-1928. State v. White.
Jefferson App. No. 01JE3, 2002-Ohio-5226.
Moyer, C.J., dissents.

2002-1940. State v. McFadden.
Franklin App. No. 01AP-1476, 2002-Ohio-5073.

2002-1950. State v. Peoples.

Mahoning App. No. 02CA168.

2002-1957. State v. Jackson.

Butler App. No. CA2002-01-013, 2002-Ohio-5138.

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

2002-1970. State v. King.

Jefferson App. No. 00 JE 15, 2000-Ohio-2611.

2002-1987. State v. Burton.

Licking App. No. 01CA88, 2002-Ohio-1126.

2002-2059. State v. Karasek.

Montgomery App. Nos. 17408 and 17563, 2002-Ohio-2616.

2002-2106. State v. Smith.

Franklin App. No. 93AP-413.

2002-2197. In re Williams.

Geauga App. No. 2002-G-2454, 2002-Ohio-6588.

2002-2199. In re Williams.

Geauga App. No. 2002-G-2459, 2002-Ohio-6588.

RECONSIDERATION OF PRIOR DECISIONS

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

In Mandamus and Prohibition. Reported at 97 Ohio St.3d 1479, 2002-Ohio-6866, 780 N.E.2d 284. On amended motion for reconsideration. Amended motion denied.