

The Supreme Court of Ohio

CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

July 2, 2003

MERIT DECISIONS WITH OPINIONS

2000-0644. State v. Vrabel, 2003-Ohio-3193.

Mahoning App. No. 95CA221, 2000-Ohio-2650. Judgment affirmed.

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

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

Colleen Conway Cooney, J., of the Eighth Appellate District, sitting for Cook, J.

2002-0176. In re Jones, 2003-Ohio-3182.

Franklin App. No. 01AP-376, 2001-Ohio-3937. Judgment 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.

2002-0295 and 2002-0504. Ward v. Wal-Mart Stores, Inc., 2003-Ohio-3138.

Lake App. No. 2000-L-171, 2001-Ohio-4041. Judgment affirmed.

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

Pfeifer, J., dissents.

O'Donnell, J., not participating.

2002-1216. Steiner v. Ganley Toyota-Mercedes Benz, 2003-Ohio-3139.

Summit App. No. 20767, 2002-Ohio-2326. Judgment affirmed.

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

Pfeifer, J., dissents.

O'Donnell, J., not participating.

2002-2175. Sherred v. Estate of Koon, 2003-Ohio-3140.

Franklin App. No. 02AP-325, 2002-Ohio-6562. Judgment affirmed.

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

Pfeifer, J., dissents.

O'Donnell, J., not participating.

2003-0184. State ex rel. Ahmed v. Costine, 2003-Ohio-3080.

Belmont App. No. 02-BE-55, 2002-Ohio-7174. Judgment reversed.

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

O'Donnell, J., not participating.

MERIT DECISIONS WITHOUT OPINIONS

2003-0718. State ex rel. Novak v. Ohio Atty. Gen.

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

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

2003-0784. State ex rel. Bishop v. Whitmore.

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

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

2003-0811. State ex rel. Walker v. Judges, Lawrence Cty. Court of Appeals.

In Mandamus and Procedendo. On answer of respondent and motion for summary judgment. On S.Ct.Prac.R. X(5) determination, cause dismissed.

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

2003-0863. State ex rel. Robison v. Anderson.

In Habeas Corpus. On petition for writ of habeas corpus of Thomas W. Robison III. Sua sponte, cause dismissed.

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

2003-0900. Harris v. Brigano.

In Habeas Corpus. On petition for writ of habeas corpus of Herman Harris Jr. Sua sponte, cause dismissed.

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

2003-0903. Atakpu v. Brigano.

In Habeas Corpus. On petition for writ of habeas corpus of Peter J. Atakpu. Sua sponte, cause dismissed.

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

2003-0977. State ex rel. Snead v. Clark Cty. Bd. of Elections.

In Mandamus and Prohibition. On motion to dismiss for failure to state a claim upon which relief can be granted, pursuant to Civ.R. 12(B)(6). Motion to dismiss sustained. Cause dismissed.

On motion for leave to intervene of Denise Moody. Motion granted.

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

2003-0982. State ex rel. Wells v. Costine.

In Habeas Corpus. On petition for writ of habeas corpus of John E. Wells Sr. Sua sponte, cause dismissed.

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

MOTION AND PROCEDURAL RULINGS

1987-1879. State v. Roe.

Franklin App. No. 86AP59. On motion to set execution date. Motion denied.

O'Connor, J., dissents.

2002-1799. Bethesda Healthcare, Inc. v. Zaino.

Board of Tax Appeals, No. 00-J-1591. On request for oral argument. Request denied.

2002-1981. In re Estate of Worstell.

Montgomery App. No. 19133. On motion of the American Cancer Society to supplement the record. Motion granted.

Resnick, O'Connor and O'Donnell, JJ., dissent.

On amended motion for sanctions for frivolous action. Amended motion denied.

2003-0525. Brozovic v. St. Paul Fire & Marine Ins. Co.

Cuyahoga App. No. 80868, 2003-Ohio-554. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause held for the decision in 2002-0932, *Westfield Ins. Co. v. Galatis*, Summit App. No. 20784, 2002-Ohio-1502, briefing schedule stayed.

APPEALS ACCEPTED FOR REVIEW

2003-0474. Kyle v. Buckeye Union Ins. Co.

Lucas App. No. L-02-1166, 2003-Ohio-488.

Moyer, C.J., Resnick, Pfeifer and O'Donnell, JJ., concur.

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

2003-0500. Jones v. Gue.

Summit App. No. 21118, 2003-Ohio-358. Discretionary appeal allowed and cause held for decision in 2002-0579, *Burkhart v. CNA Ins. Co.*, Stark App. No. 2001CA00265, 2002-Ohio-903; briefing schedule stayed.

F.E. Sweeney, J., would allow and not hold for *Burkhart*.

Resnick, J., dissents.

2003-0522. Congrove v. Wausau Ins. Co.

Pickaway App. No. 02CA8, 2003-Ohio-1083. Discretionary appeal allowed and cause held for the decision in 2002-1126 and 2002-1433, *Allen v. Johnson*, Wayne App. Nos. 01CA0046 and 01CA0047, 2002-Ohio-3404; briefing schedule stayed.

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

2003-0523. Carle v. Stumbo.

Pickaway App. No. 02CA2, 2003-Ohio-1084. Discretionary appeal allowed and cause held for the decision in 2002-1126 and 2002-1433, *Allen v. Johnson*, Wayne App. Nos. 01CA0046 and 01CA0047, 2002-Ohio-3404; briefing schedule stayed.

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

2003-0533. State v. Koger.

Lucas App. No. L-00-1033, 2003-Ohio-576. Discretionary appeal allowed.

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

Moyer, C.J., Lundberg Stratton and O'Connor, JJ., would allow and set the cause to be argued on the same date as the argument in 2002-1716, *State v. Harwell*, Lucas App. No. L-00-1356, 2002-Ohio-4349.

2003-0561. Dimalanta v. Travelers Ins. Co.

Cuyahoga App. No. 81445, 2003-Ohio-562. Discretionary appeal allowed. Cause to be set for argument on the same date as the argument in 2003-0302 and 2003-0362, *Taylor v. Kemper Ins. Co.*, Cuyahoga App. No. 81360, 2003-Ohio-177.

Pfeifer and Lundberg Stratton, JJ., dissent.

2003-0573. State v. Tuttle.

Cuyahoga App. No. 80775, 2003-Ohio-419. Discretionary appeal allowed and cause held for the decision in 2003-0252 and 2003-0283, *State v. Thompson*, Cuyahoga App. No. 78919, 2002-Ohio-6478; briefing schedule stayed.

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

2003-0603. Brozovic v. St. Paul Fire & Marine Ins. Co.

Cuyahoga App. No. 80868, 2003-Ohio-554. Discretionary appeal allowed and cause held for the decision in 2002-0932, *Westfield Ins. Co. v. Galatis*, Summit App. No. 20784, 2002-Ohio-1502; cause consolidated with 2003-0525, *Brozovic v. St. Paul Fire & Marine Ins. Co.*, Cuyahoga App. No. 80868, 2003-Ohio-554; briefing schedule stayed.

APPEALS NOT ACCEPTED FOR REVIEW

2003-0455. Bonacorsi v. Wheeling & Lake Erie Ry. Co.

Stark App. No. 2003CA00038.

O'Connor, J., would allow on Proposition of Law II only.

2003-0479. State v. Wotring.

Lake App. No. 99-L-114, 2003-Ohio-326.

2003-0587. Davis v. Axelrod Chrysler Plymouth, Inc.

Cuyahoga App. No. 81765, 2003-Ohio-438.

Lundberg Stratton, J., dissents.

2003-0591. State v. Bisel.
Huron App. No. H-03-003.

2003-0593. Dale v. Dale.
Franklin App. No. 02AP-644, 2003-Ohio-1113.
O'Donnell, J., dissents.

2003-0599. State v. Martin.
Putnam App. No. 12-02-01, 2003-Ohio-735.

2003-0600. State v. Artiaga.
Ottawa App. No. OT 02 043.

2003-0602. State v. Jones.
Summit App. No. 21158, 2003-Ohio-730.
Lundberg Stratton, J., dissents.

2003-0604. Celeste v. Wiseco Piston.
Lake App. No. 2002-L-052, 2003-Ohio-703.
Moyer, C.J., Lundberg Stratton and O'Connor, JJ., dissent.

2003-0611. Hildreth v. Semco, Inc.
Marion App. No. 9-01-57, 2003-Ohio-741.

2003-0616. Cummings v. Ohio Dept. of Rehab. & Corr.
Richland App. No. 2002CA0065, 2003-Ohio-1250.

2003-0617. State v. Stewart.
Cuyahoga App. No. 82405.

2003-0619. Long v. Rhein.
Clermont App. Nos. CA2002-02-007 and CA2002-02-008, 2003-Ohio-711.
O'Donnell, J., dissents.

2003-0620. State v. Hruby.
Cuyahoga App. No. 81303, 2003-Ohio-746.

2003-0630. State v. Carusone.
Hamilton App. No. C-010681, 2003-Ohio-1018.

2003-0632. HLC Trucking v. Harris.

Belmont App. No. 01-BA-37, 2003-Ohio-694.

O'Donnell, J., dissents.

2003-0633. Sylvester v. DaimlerChrysler Corp.

Cuyahoga App. No. 82102.

O'Donnell, J., dissents.

2003-0635. State v. Lindsey.

Brown App. No. CA2002-02-002, 2003-Ohio-811.

Pfeifer, J., dissents.

2003-0637. Hofmeister v. Van Meter.

Columbiana App. No. 02 CO 49.

Lundberg Stratton, J., dissents.

2003-0639. State v. Cunningham.

Miami App. No. 2002-CA-19, 2003-Ohio-1044.

2003-0640. State v. Winston.

Cuyahoga App. No. 81436, 2003-Ohio-653.

2003-0642. Thomas v. Hartford Fire Ins. Co.

Muskingum App. No. CT02-0049.

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

2003-0643. State v. Lentz.

Miami App. No. 01CA31, 2003-Ohio-911.

2003-0649. Stone v. N. Star Steel Co.

Mahoning App. No. 02-CA-109, 2003-Ohio-1223.

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

2003-0650. Shelby Aerie 0763 Fraternal Eagles v. Ohio Liquor Control Comm.

Franklin App. No. 02AP-833, 2003-Ohio-823.

2003-0654. State v. Clifford.

Clark App. No. 2002-CA-58, 2003-Ohio-901.

2003-0655. In re Guardianship of Goins.

Mahoning App. No. 02 CA 163, 2003-Ohio-931.

Lundberg Stratton, J., dissents.

2003-0659. Judd v. Lowe's Cos., Inc.

Butler App. No. CA2002-08-196.

2003-0660. Shuttleworth v. Knapke.

Darke App. No. 02CA1582, 2003-Ohio-918.

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

2003-0665. State v. Oglesby.

Seneca App. No. 13-02-30, 2003-Ohio-867.

2003-0666. Bush v. Dictaphone Corp.

Franklin App. No. 00AP-1117, 2003-Ohio-883.

2003-0667. Loom Lodge 1044 Troy v. Ohio Liquor Control Comm.

Franklin App. No. 02AP-767, 2003-Ohio-961.

2003-0672. Evans v. Ohio Supreme Court.

Franklin App. No. 02AP-736, 2003-Ohio-959.

Resnick, J., not participating.

2003-0673. State v. Boyd.

Adams App. No. 02CA744, 2003-Ohio-983.

2003-0674. State v. Copeland-Jackson.

Ashland App. No. 02-COA-018, 2003-Ohio-1043.

2003-0675. State v. Kimbro.

Lorain App. No. 03CA008231.

2003-0676. Hvamb v. Mishne.

Geauga App. No. 2002-G-2418, 2003-Ohio-921.

Lundberg Stratton, J., dissents.

2003-0678. Blakeman’s Valley Office Equip., Inc. v. Bierdeman.

Mahoning App. No. 02CA52, 2003-Ohio-1074.

Resnick, J., would allow on Proposition of Law No. I.

2003-0681. Panta v. Cincinnati Ins. Co.

Cuyahoga App. No. 81563, 2003-Ohio-762.

Lundberg Stratton, J., dissents.

2003-0682. Security Dollar Bank v. D.L.S. & G. Realty, Inc.

Trumbull App. Nos. 2002-T-0129, 2002-T-0130, 2002-T-0131 and 2002-T-0132.

2003-0683. Rodgers v. Ford Motor Co.

Stark App. No. 2002CA00340, 2003-Ohio-977.

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

2003-0684. State v. Lewis.

Hamilton App. No. C-020357, 2003-Ohio-1368.

2003-0687. State v. Salvatore.

Franklin App. No. 02AP-573, 2003-Ohio-957.

2003-0689. In re Miller.

Cuyahoga App. No. 81407.

2003-0690. State v. Zehner.

Crawford App. No. 3-02-30, 2003-Ohio-936.

2003-0691. State v. Moody.

Franklin App. No. 02AP-353, 2003-Ohio-950.

2003-0693. Makar v. Makar.

Mahoning App. No. 02CA37, 2003-Ohio-1071.

2003-0694. Toles v. Reg. Emergency Dispatch Ctr.

Stark App. No. 2002CA00332, 2003-Ohio-1190.

Moyer, C.J., Lundberg Stratton and O’Connor, JJ., dissent.

2003-0696. Wright v. Small.

Seneca App. No. 130234, 2003-Ohio-971.

F.E. Sweeney, J., dissents.

2003-0697. Warren v. McQuaid.

Trumbull App. No. 2002-T-0005, 2003-Ohio-1390.

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

2003-0701. State v. Walker.

Franklin App. No. 02AP-679, 2003-Ohio-986.

2003-0702. State v. Jones.

Franklin App. No. 02AP-577, 2003-Ohio-952.

2003-0706. Phelps v. Phelps.

Hamilton App. No. C-020154.

Resnick, J., dissents.

2003-0707. State v. Cuthbertson.

Mahoning App. No. 01CA212, 2003-Ohio-1217.

2003-0708. Velazquez v. Bratenahl.

Cuyahoga App. No. 81592, 2003-Ohio-878.

2003-0710. State v. Stringham.

Miami App. No. 2002CA9, 2003-Ohio-1100.

Lundberg Stratton, J., dissents.

2003-0713. State v. Diamond.

Cuyahoga App. No. 82472.

2003-0715. Equity Diamond Brokers, Inc. v. Transnational Ins. Co.

Hamilton App. No. C-010554, 2003-Ohio-1024.

2003-0717. State v. Occhipinti.

Lake App. No. 2001-L-144, 2003-Ohio-1093.

2003-0730. State v. Bellatto.

Mahoning App. No. 00CA141, 2003-Ohio-1214.

2003-0738. State v. Ratleff.

Logan App. No. 8-02-31, 2003-Ohio-1028.

Moyer, C.J., and O'Connor, J., dissent.

2003-0745. In re Estate of Williams.

Mahoning App. No. 00CA109, 2003-Ohio-1436.

2003-0749. State v. Goff.

Summit App. No. 21114, 2003-Ohio-1134.

2003-0754. State v. Jackson.

Hamilton App. No. C-020210.

2003-0757. Nofzinger v. Blood.

Huron App. No. H-02-014, 2003-Ohio-1406.

Lundberg Stratton, J., dissents.

2003-0767. State v. Smith.

Summit App. No. 21069, 2003-Ohio-1306.

2003-0954. In re Johnson.

Franklin App. Nos. 02AP-845 and 02AP-857, 2003-Ohio-2186.

Resnick, J., dissents.