

The Supreme Court of Ohio

CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

November 5, 2003

MERIT DECISIONS WITH OPINIONS

2000-0816 and 2000-1540. State v. Hutton, 2003-Ohio-5607.

Cuyahoga App. No. 51704. Judgments affirmed.

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

2002-0551. Keller v. Columbus, 2003-Ohio-5599.

Franklin App. No. 01AP-1045, 2002-Ohio-622. Judgment affirmed in part and reversed in part.

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

Grendell, J., concurs in part and dissents in part.

Diane V. Grendell, J., of the Eleventh Appellate District, sitting for Cook, J.

2002-0777 and 2002-0825. In re Price, 2003-Ohio-5600.

Butler App. Nos. CA2001-02-035 and CA2001-04-085, 2002-Ohio-1345. Judgment reversed and cause remanded.

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

Lundberg Stratton, J., dissents.

2002-0932. Westfield Ins. Co. v. Galatis, 2003-Ohio-5849.

Summit App. No. 20784, 2002-Ohio-1502. Judgment affirmed.

Moyer, C.J., DeGenaro, Lundberg Stratton and O'Connor, JJ., concur.

Moyer, C.J., and Lundberg Stratton, J., concur separately.

Resnick, J., dissents.

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

Pfeifer, J., dissents.

Mary DeGenaro, J., of the Seventh Appellate District, sitting for Cook, J.

2002-1442. State v. Urbin, 2003-Ohio-5549.

Lorain App. No. 01CA007846, 148 Ohio App.3d 293, 2002-Ohio-3410, 772 N.E.2d 1239. Sua sponte, cause dismissed as having improvidently allowed.

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

Pfeifer and O'Donnell, JJ., dissent.

2002-1831. State v. Kaplowitz, 2003-Ohio-5602.

Lake App. No. 2001-L-025, 2002-Ohio-4217. Judgment affirmed and cause remanded.

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

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

2003-0421. Cuyahoga Cty. Bar Assn. v. Hardiman, 2003-Ohio-5596.

On Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 02-58.

James L. Hardiman is publicly reprimanded.

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

2003-0809. Fuqua v. Williams, 2003-Ohio-5533.

Allen App. No. 1-03-13. Judgment affirmed.

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

MERIT DECISIONS WITHOUT OPINIONS

2003-1569. State ex rel. Hutchings v. Ohio Adult Parole Auth.

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.

2003-1606. State ex rel. Bunn v. Martell.

In Prohibition. On answer of respondent and 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.

2003-1617. State ex rel. Ridenour v. State.

In Mandamus. On answer of respondent and 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.

2003-1677. Christman v. Erwin.

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

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

2003-1728. Faison v. Erwin.

In Habeas Corpus. On petition for writ of habeas corpus of Maurice Faison. 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

2003-0929. State v. Martin.

Cuyahoga App. No. 80198, 2003-Ohio-1499. On motion for stay of court of appeals' judgment pending outcome of case. Motion granted.

Pfeifer, J., dissents.

2003-1622. State v. Humphrey.

Clark App. No. 2002CA02. On motion for leave to file delayed appeal. Motion granted.

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

2003-1628. State v. Gibson.

Washington App. No. 01CA19, 2002-Ohio-5232. On motion for leave to file delayed appeal. Motion denied.

2003-1674. State v. Beckham.

Montgomery App. No. 19544, 2003-Ohio-3837. On motion for leave to file delayed appeal. Motion denied.

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

2003-1703. State v. Todd.

Clermont App. No. CA2003-02-012. On motion for stay of court of appeals' judgment. Motion denied.

2003-1704. State v. Todd.

Clermont App. No. CA2003-02-013. On motion for stay court of appeals' judgment. Motion denied.

2003-1717. State v. Class.

Tuscarawas App. No. 03AP020015. On motion for stay of court of appeals' judgment. Motion denied.

APPEALS ACCEPTED FOR REVIEW

2003-1254. Hartfield v. Travelers Indemn. Co. of Illinois.

Lucas App. Nos. L-02-1218 and L-02-1228, 2003-Ohio-2905. 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.

2003-1284. Maitland v. Ford Motor Co.

Franklin App. No. 02AP-935, 2003-Ohio-3009. On discretionary appeal, motion for admission pro hac vice of J.S. Russell and P.V. Stearns by S.K. Richards for DaimlerChrysler Corp., and motion for admission pro hac vice of Brian Brooks and Morgan Sullivan by Elizabeth A. McNellie for Ford Motor Co. Discretionary appeal and motions for admission pro hac vice granted.
Resnick, F.E. Sweeney and Pfeifer, JJ., dissent.

2003-1307. Young v. Plageman.

Hancock App. No. 5-02-66, 2003-Ohio-2996. 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.
Pfeifer and O'Donnell, JJ., concur but would also hold for the decision in 2002-0579, *Burkhart v. CNA Ins. Co.*, Stark App. No. 2001CA00265, 2002-Ohio-903.

Moyer, C.J., would allow Proposition of Law No. I and hold for *Geren* and would allow Proposition of Law No. II and hold for *Burkhart*.

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

2003-1327. Rucker v. Davis.

Ross App. No. 02CA2673, 2003-Ohio-3191. Discretionary appeal allowed and cause held for the decision in 2002-1956, *Tucker v. Wilson*, Clermont App. No. CA2002-01-002, 2002-Ohio-5142; briefing schedule stayed.

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

2003-1328. Rucker v. Davis.

Ross App. No. 02CA2677, 2003-Ohio-3189. Discretionary appeal and cross-appeal allowed and cause held for the decision in 2002-1956, *Tucker v. Wilson*, Clermont App. No. CA2002-01-002, 2002-Ohio-5142; briefing schedule stayed.

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

2003-1330. Amore v. Grange Ins. Co.

Richland App. No. 02CA76, 2003-Ohio-3202. Discretionary appeal allowed; cause held for the decision in 2002-0932, *Westfield Ins. Co. v. Galatis*, Summit App. No. 20784, 2002-Ohio-1502; and briefing schedule stayed.

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

2003-1331. Amore v. Grange Ins. Co.

Richland App. No. 02CA70, 2003-Ohio-3207. Discretionary appeal allowed; cause held for the decision in 2002-0932, *Westfield Ins. Co. v. Galatis*, Summit App. No. 20784, 2002-Ohio-1502; and briefing schedule stayed.

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

2003-1343. Ryan v. Dolin.

Cuyahoga App. No. 81689, 2003-Ohio-2738. Discretionary appeal allowed; cause held for the decision in 2002-0932, *Westfield Ins. Co. v. Galatis*, Summit App. No. 20784, 2002-Ohio-1502; and briefing schedule stayed.

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

2003-1344. State v. Talty.

Medina App. No. 02CA0087M, 2003-Ohio-3161.

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

2003-1346. State v. McCauley.

Cuyahoga App. No. 80630, 2003-Ohio-3211. Discretionary appeal allowed on Proposition of Law No. II; cause held for the decision in 2002-1888, *State v. Jordan*, Cuyahoga App. No. 80675, 2002-Ohio-4587; and briefing schedule stayed.

Lundberg Stratton and O'Donnell, JJ., concur but would also allow all propositions of law.

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

Delayed discretionary cross-appeal allowed; cause held for the decision in 2002-1888, *State v. Jordan*, Cuyahoga App. No. 80675, 2002-Ohio-4587; and briefing schedule stayed.

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

2003-1351. Heritage Ins. Co. v. Ohio Dept. of Transp.

Franklin App. No. 02AP-838, 2003-Ohio-3111.

Resnick and Pfeifer, JJ., dissent.

2003-1360. Smith v. Liberty Mut. Ins. Co.

Summit App. No. 21311, 2003-Ohio-3160. Discretionary appeal allowed; cause held for the decision in 2003-0938, *Wheeler v. W. Res. Mut. Cas. Co.*, Wayne App. No. 02CA0043, 2003-Ohio-1806; and briefing schedule stayed.

Resnick, Lundberg Stratton and O'Donnell, JJ., dissent.

2003-1396. Haney v. Motorists Mut. Ins. Co.

Tuscarawas App. No. 2002AP110093, 2003-Ohio-3412. Discretionary appeal allowed; cause held for the decision in 2002-0803 and 2002-0837, *German v. Therm-O-Disc, Inc.*, Richland App. No. 01CA512, 2002-Ohio-1848; and briefing schedule stayed.

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

2003-1580. In re B.E.

Cuyahoga App. No. 81781, 2003-Ohio-3949.

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

APPEALS NOT ACCEPTED FOR REVIEW

2000-1420. Boggs v. Moovies, Inc.

Mahoning App. No. 98CA155.

O'Donnell, J., dissents.

2003-0994. State v. Rupert.

Lake App. No. 2001-L-151, 2002-Ohio-6911.

2003-1129. State v. Perdue.

Mahoning App. No. 00CA244, 2003-Ohio-3481.

Lundberg Stratton, J., dissents.

2003-1214. State v. Culgan.

Medina App. No. 02CA0073M, 2003-Ohio-2713.

2003-1372. Kalista v. Pacific Employer's Ins. Co.

Cuyahoga App. No. 82286, 2003-Ohio-3031.

Lundberg Stratton, J., dissents.

2003-1377. Escott v. Timken Co.

Stark App. No. 2003CA00004, 2003-Ohio-3370.

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

2003-1379. Clones v. Kohli.

Mahoning App. No. 02CA121, 2003-Ohio-3472. Appeal and cross-appeal not accepted.

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

2003-1382. State v. Perry.

Richland App. No. 2002CA0055.

2003-1386. Maltz v. Maltz.

Lucas App. No. L-02-1095, 2003-Ohio-3438. Discretionary cross-appeal not accepted.

O'Donnell, J., dissents.

2003-1387. Griffith v. Chrysler Corp.

Columbiana App. No. 2000CO67, 2003-Ohio-3464.

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

2003-1388. Cresco L.P. v. Sorrels.

Cuyahoga App. No. 82797.

2003-1389. State v. Eichorn.

Morrow App. No. 02CA953, 2003-Ohio-3415.

2003-1390. State v. Skipper.

Cuyahoga App. No. 81963, 2003-Ohio-3531.

O'Donnell, J., dissents.

2003-1393. Nunez v. J.L. Sims Co.

Hamilton App. No. C-020599, 2003-Ohio-3386.

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

2003-1397. State v. Ross.

Franklin App. No. 02AP-898, 2003-Ohio-3338.

Moyer, C.J., dissents in part and would allow on Proposition of Law No. II.

2003-1399. Cook v. Ohio Dept. of Job & Family Serv.

Jackson App. No. 02CA22, 2003-Ohio-3479.

2003-1401. Estate of Harrold v. Collier.

Wayne App. No. 03CA0038.

2003-1402. Jorg v. Cincinnati Black United Front.

Hamilton App. No. C-030032, 2003-Ohio-3668.

2003-1403. State v. Dietz.

Cuyahoga App. No. 81823, 2003-Ohio-3249.

2003-1408. Dover Lake Park, Inc. v. Scottsdale Ins. Co.

Summit App. No. 21324, 2003-Ohio-3312.

Moyer, C.J., dissents in part and would allow on Proposition of Law No. I.

Resnick and Pfeifer, JJ., dissent and would allow.

2003-1409. State v. Moss.

Cuyahoga App. No. 81582, 2003-Ohio-3327.

2003-1410. Morse v. Resier.

Wood App. No. WD-02-048, 2003-Ohio-3451.

Pfeifer, J., dissents.

2003-1412. Dorsey v. Campbell Hauling.

Franklin App. No. 02AP-961, 2003-Ohio-3341.

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

2003-1413. DeHoff v. Veterinary Hosp. Operations of Cent. Ohio, Inc.

Franklin App. No. 02AP-454, 2003-Ohio-3334. Discretionary appeal not accepted.

Pfeifer, J., dissents.

Discretionary cross-appeal not accepted.
Resnick and Pfeifer, JJ., dissent.

2003-1414. State v. Searles.

Morgan App. No. 02CA4, 2003-Ohio-3498.

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

2003-1417. Duty v. Ricart Properties, Inc.

Franklin App. Nos. 02AP-1142 and 02AP-1206, 2003-Ohio-3330.

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

2003-1418. Bank One, N.A. v. Bettinger.

Summit App. No. 21371, 2003-Ohio-3311.

2003-1419. Kohls v. New Lexington City Council.

Perry App. No. 03CA01, 2003-Ohio-3461.

2003-1422. Yun v. Yun.

Stark App. No. 2002CA00353, 2003-Ohio-2644.

2003-1428. Sikora v. Plain Dealer Publishing Co.

Cuyahoga App. No. 81465, 2003-Ohio-3218.

F.E. Sweeney, J., not participating.

2003-1431. State v. O'Connor.

Butler App. No. CA2002-10-253, 2003-Ohio-3442.

Pfeifer, J., dissents.

2003-1432. State v. Gossard.

Montgomery App. No. 19494, 2003-Ohio-3770.

O'Connor, J., dissents in part and would allow Propositions of Law Nos. I and III.

Lundberg Stratton, J., dissents and would allow.

2003-1434. State v. Overholt.

Medina App. No. 02CA0108M, 2003-Ohio-3500.

2003-1435. State v. Lopez.

Greene App. No. 99CA120, 2003-Ohio-3974.

Lundberg Stratton, J., dissents in part and would allow Propositions of Law Nos. V and VI.

2003-1436. State v. Rozanski.

Sandusky App. No. S-02-007, 2003-Ohio-3454.

2003-1437. Steinmetz v. Latva.

Erie App. No. E-02-025, 2003-Ohio-3455.

Resnick, J., dissents.

2003-1438. State v. Hanley.

Lucas App. No. L-02-1301, 2003-Ohio-3426.

2003-1443. Fray v. Toledo Edison Co.

Lucas App. No. L-02-1260, 2003-Ohio-3422.

O'Donnell, J., dissents in part and would allow on Proposition of Law No. I.
Moyer, C.J., and Lundberg Stratton, J., dissent and would allow.

2003-1444. Ahleman v. Patel.

Lucas App. No. L-02-1300.

Moyer, C.J., dissents, would allow, and would hold this cause for the decision in 2002-0932, *Westfield Ins. Co. v. Galatis*, Summit App. No. 20784, 2002-Ohio-1502.

Pfeifer, J., dissents and would allow.

2003-1445. Avery v. Manitowoc Nevada Group Toledo Ship & Repair.

Seneca App. No. 13-03-21, 2003-Ohio-3519.

Resnick and Pfeifer, JJ., dissent.

2003-1450. Kearney v. Valsi Cleaners.

Medina App. No. 02CA0111M, 2003-Ohio-3506.

Moyer, C.J., and O'Donnell, J., dissent, would allow, and would hold this cause for the decision in 2003-0938, *Wheeler v. W. Res. Mut. Cas. Co.*, Wayne App. No. 02CA0043, 2003-Ohio-1806.

Pfeifer, J., dissents and would allow.

2003-1451. State v. Hughes.

Warren App. No. CA2002-11-124, 2003-Ohio-3449.

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

2003-1454. Smith v. Najjar.

Richland App. No. 02CA0069, 2003-Ohio-3745.

2003-1456. State v. Britton.

Lorain App. No. 03CA008221, 2003-Ohio-3502.

Lundberg Stratton, J., dissents.

2003-1459. State v. Krupa.

Belmont App. No. 02BA25, 2003-Ohio-3554.

2003-1460. State v. Brewer.

Erie App. No. E-01-053, 2003-Ohio-3423.

2003-1463. State v. Seals.

Cuyahoga App. No. 81598, 2003-Ohio-3220.

2003-1469. Pratt v. Payne.

Montgomery App. No. 19577, 2003-Ohio-3777.

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

2003-1473. State v. Young.

Adams App. No. 02CA755, 2003-Ohio-3395.

2003-1481. Hamer v. Clark.

Medina App. No. 03CA0044M.

2003-1483. State v. Clayton.

Cuyahoga App. No. 81976, 2003-Ohio-3375.

2003-1495. State v. Kimes.

Meigs App. No. 02CA11, 2003-Ohio-3752.

2003-1509. Linworth Lumber Co. v. Z.L.H. Ltd.

Delaware App. No. 03CAE02008, 2003-Ohio-4190.

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

2003-1565. In re Crutcher.

Hamilton App. No. C-020616.

2003-1604. State v. Widder.

Summit App. No. 21383, 2003-Ohio-3925.

2003-1638. State v. Cherry.

Summit App. No. 20771, 2002-Ohio-3738.

RECONSIDERATION OF PRIOR DECISIONS

2003-0886. Franklin v. Am. Mfrs. Mut. Ins. Co.

Cuyahoga App. No. 81197, 2003-Ohio-1340. Reported at 99 Ohio St.3d 1541, 2003-Ohio-4671, 795 N.E.2d 681. On motion for reconsideration of Proposition of Law No. II. Motion denied.

Lundberg Stratton and O'Donnell, JJ., dissent, would allow, and would hold this cause for the decision in 2002-2123, *Kecic v. Royal & SunAlliance Ins. Co.*, Cuyahoga App. No. 80693, 2002-Ohio-5563.

2003-0915. Rickett v. Univ. Hosp. of Cleveland.

Cuyahoga App. No. 81325, 2003-Ohio-1725. Reported at 99 Ohio St.3d 1542, 2003-Ohio-4671, 795 N.E.2d 681. On motion for reconsideration. Motion denied.

2003-0937. Cutlip v. Norfolk S. Corp.

Lucas App. No. L-02-1051, 2003-Ohio-1862. Reported at 99 Ohio St.3d 1542, 2003-Ohio-4671, 795 N.E.2d 682. On motion for reconsideration. Motion denied.

2003-1059. Byrd v. Supreme Court of Ohio.

Franklin App. No. 03AP-379. Reported at 99 Ohio St.3d 1545, 2003-Ohio-4671, 795 N.E.2d 683. On motion for reconsideration. Motion denied.

2003-1082. White v. Mack.

Allen App. No. 1-03-07, 2003-Ohio-2283. Reported at 99 Ohio St.3d 1546, 2003-Ohio-4671, 795 N.E.2d 684. On motion for reconsideration. Motion denied.

2003-1153. State v. Beech.

Summit App. No. 21141, 2002-Ohio-7327. Reported at 99 Ohio St.3d 1539, 2003-Ohio-4671, 795 N.E.2d 679. On motion for reconsideration. Motion denied.

2003-1304. State v. McCoy.

Hamilton App. No. C-030354. Reported at 99 Ohio St.3d 1540, 2003-Ohio-4671, 795 N.E.2d 680. On motion for reconsideration. Motion denied.

Moyer, C.J., dissents.