

The Supreme Court of Ohio

CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

November 19, 2003

MERIT DECISIONS WITH OPINIONS

2003-0841. State ex rel. Seaton v. Holmes, 2003-Ohio-5897.

In Prohibition. Writ granted.

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

2003-1075. Greene Cty. Bar Assn. v. Fodal, 2003-Ohio-5852.

On Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court, Nos. 01-19, 01-67, and 01-78.

Joe R. Fodal is permanently disbarred.

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

2003-1127. Davis v. Wilson, 2003-Ohio-5898.

Trumbull App. No. 2003-T-0049, 2003-Ohio-2840. Judgment affirmed.

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

MERIT DECISIONS WITHOUT OPINIONS

2003-1614. State ex rel. Thomas v. Court of Appeals, Eighth Judicial Dist.

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.

2003-1641. State ex rel. Jacksich v. Croft.

In Mandamus. 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.

2003-1669. State ex rel. Novak v. Mead.

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.

2003-1720. State ex rel. Walker v. Croft.

In Prohibition. On answer of respondent. 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.

MOTION AND PROCEDURAL RULINGS

2003-0316. Stephens v. Pub. Util. Comm.

Public Utilities Commission, Nos. 01-1356-EL-ATA, 01-1357-EL-AAM, 01-1358-EL-ATA, 01-1359-EL-AAM, 01-2708-EL-COI, and 01-3019-EL-UNC. On motion for leave to intervene of Columbus Southern Power Company and Ohio Power Company, motion of FirstEnergy Corp. on behalf of Ohio Edison Company et al. for leave to intervene, and motion for leave to intervene of Monongahela Power Company. Motions granted.

2003-0332. Maumee v. Pub. Util. Comm.

Public Utilities Commission, No. 01-2708-EL-COI. On motion for leave to intervene of Columbus Southern Power Company and Ohio Power Company, motion for leave to intervene of FirstEnergy Corp., Ohio Edison Co., Cleveland Electric Illuminating Co. et al., and motion for leave to intervene of Monongahela Power Company. Motions granted.

2003-0960. State ex rel. Sanor Sawmill, Inc. v. Indus. Comm.

Franklin App. No. 02AP-880, 2003-Ohio-2413. On request for oral argument. Request denied.

2003-1671. State ex rel. Slagle v. Rogers.

Marion App. No. 9-02-52, 2003-Ohio-4162. On motion for admission pro hac vice of Jeffrey P. Altman and Traci M. Vanek by Lisa Pierce Reisz. Motion granted.

2003-1705. State v. Hall.

Cuyahoga App. No. 82747. On motion for leave to file delayed appeal. Motion denied.

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

2003-1706. State v. Bunting.

Stark App. No. 2003CA00017. On motion for leave to file delayed appeal. Motion denied.

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

2003-1719. State v. Watkins.

Franklin App. No. 01AP-1376, 2002-Ohio-5080. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2003-1755. State v. Holmes.

Guernsey App. No. 02-CA-07, 2003-Ohio-2934. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2003-1769. State v. Hickman.

Summit App. No. 20883, 2002-Ohio-3406. On motion for leave to file delayed appeal. Motion denied.

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

2003-1771. State v. Brown.

Miami App. No. 2002-CA-23, 2003-Ohio-2959. On motion for leave to file delayed appeal. Motion denied.

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

APPEALS ACCEPTED FOR REVIEW

2003-1447. Layne v. Progressive Preferred Ins. Co.

Stark App. Nos. 2002CA00327 and 2002CA00335, 2003-Ohio-3575.

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

APPEALS NOT ACCEPTED FOR REVIEW

2001-0014. State v. Dixon.

Lucas App. No. L-96-004.

Lundberg Stratton, J., dissents.

2002-1858. State v. Williams.

Lucas App. No. L-01-1253.

Resnick, J., not participating.

2003-0411. State v. Hughbanks.

Hamilton App. No. C-010372, 2003-Ohio-187.

2003-1415. State ex rel. Ohio Roundtable v. Taft.

Franklin App. No. 02AP-911, 2003-Ohio-3340.

Moyer, C.J., dissents, would allow, and would require the parties to brief the question of standing.

Pfeifer, J., dissents and would allow.

2003-1430. Forest Hills Local School Dist. Bd. of Edn. v. Huegel.

Clermont App. No. CA2002-07-050, 2003-Ohio-3444.

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

2003-1442. Garcia v. Green.

Lucas App. No. L-02-1351, 2003-Ohio-3841.

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

2003-1446. Strayer v. Lincoln Gen. Ins. Co.

Allen App. No. 1-02-100, 2003-Ohio-3429.

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

2003-1453. State v. Tarleton.

Harrison App. No. 02-HA-541, 2003-Ohio-3492.

2003-1458. State v. Dalton.

Franklin App. No. 01AP-1313, 153 Ohio App.3d 286, 2003-Ohio-3813.

O'Connor, J., would allow on Propositions of Law Nos. IV and V.

Lundberg Stratton, J., would allow.

2003-1461. State v. Suchy.

Lucas App. No. L-02-1243, 2003-Ohio-3457.

O'Donnell, J., dissents.

2003-1462. State v. Bostick.

Cuyahoga App. No. 81900, 2003-Ohio-3252.

2003-1465. State v. Keplinger.

Madison App. No. CA2002-07-013, 2003-Ohio-3447.

2003-1468. State v. Howard.

Butler App. No. CA2002-02-040, 2003-Ohio-2006.

2003-1472. Kennedy v. Merck & Co., Inc.

Montgomery App. No. 19591, 2003-Ohio-3774. On discretionary appeal, motion for admission pro hac vice of Norman C. Kleinberg by Robert A. Bunda for Merck & Co., Inc., amended motion for admission pro hac vice of Charles Avrith by Robert A. Bunda for Merck & Co., Inc., and amended motion for admission pro hac vice of Theodore V. Mayer by Robert A. Bunda for Merck & Co., Inc. Discretionary appeal not accepted and motions denied.

Pfeifer, J., dissents.

Resnick, J., not participating.

2003-1474. State v. Buehner.

Cuyahoga App. No. 81722, 2003-Ohio-3348.

Resnick and O'Connor, JJ., dissent.

2003-1475. State v. Blalock.

Cuyahoga App. Nos. 82080 and 82081, 2003-Ohio-3026.

2003-1479. State v. Burton.

Union App. No. 14-03-11.

Moyer, C.J., dissents.

2003-1480. Arales v. Furs by Weiss, Inc.

Cuyahoga App. No. 81603, 2003-Ohio-3344.

2003-1485. Mullett v. Wheeling & Lake Erie Ry. Co.

Cuyahoga App. No. 81688, 2003-Ohio-3347.

Moyer, C.J., and O'Donnell, J., would allow on Proposition of Law No. I.

2003-1488. State v. Broadus.

Cuyahoga App. No. 81489, 2003-Ohio-3325.

2003-1489. Beach Cliff Bd. of Trustees v. Ferchill.

Cuyahoga App. No. 81327, 2003-Ohio-2300. Discretionary appeal and cross-appeal not accepted.

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

2003-1491. State v. Smith.

Logan App. No. 8-03-02, 2003-Ohio-3584.

2003-1492. State v. Marruffo.

Butler App. No. CA2002-07-164.

2003-1493. Miller v. Cleveland Hts.

Cuyahoga App. No. 81871, 2003-Ohio-3664.

2003-1498. State v. Greeno.

Seneca App. No. 13-02-46, 2003-Ohio-3687.

2003-1499. State v. Burnett.

Franklin App. No. 02AP-863, 2003-Ohio-1787.

2003-1501. PDU, Inc. v. Cleveland.

Cuyahoga App. No. 81944, 2003-Ohio-3671.

Pfeifer, J., dissents.

2003-1504. State v. Nelson.

Cuyahoga App. No. 81558, 2003-Ohio-3219.

2003-1505. Home Ins. Co. of Illinois v. OM Group, Inc.

Hamilton App. No. C-020643, 2003-Ohio-3666.

Resnick, J., not participating.

2003-1524. In re Estate of Ramminger.

Butler App. No. CA2002-08-189, 2003-Ohio-3697.

2003-1539. Cleveland v. Gray.

Cuyahoga App. No. 82358, 153 Ohio App.3d 322, 2003-Ohio-3539.
Pfeifer and O'Donnell, JJ., dissent.

2003-1546. Thomas v. Moothart.

Hancock App. No. 5-02-56, 2003-Ohio-3724.
Resnick and Lundberg Stratton, JJ., dissent.

2003-1548. State v. Smith.

Cuyahoga App. No. 81539, 2003-Ohio-3943.

2003-1558. Harrison v. Ohio Veterinary Med. Licensing Bd.

Franklin App. No. 02AP-955, 2003-Ohio-3816.

2003-1559. State v. Adaranijo.

Hamilton App. No. C-020499, 153 Ohio App.3d 266, 2003-Ohio-3822.

2003-1561. Gullett v. Willard Reservoir.

Huron App. No. H-02-056, 2003-Ohio-3842.

2003-1562. Bult v. BWXT of Ohio, Inc.

Montgomery App. No. 19807, 2003-Ohio-3829.

2003-1563. State v. Shingleton.

Montgomery App. No. 7375.

2003-1567. State v. Loper.

Cuyahoga App. Nos. 81400 and 81878, 2003-Ohio-3213.

2003-1570. Weaver v. Ohio Dept. of Job & Family Serv.

Hamilton App. No. C-020471, 153 Ohio App.3d 331, 2003-Ohio-3827.

2003-1573. State v. Gruber.

Stark App. No. 2002CA00325, 2003-Ohio-3928.

2003-1576. State v. Gann.

Butler App. No. CA2002-05-110, 154 Ohio App.3d 170, 2003-Ohio-4000.
Moyer, C.J., would allow on Proposition of Law No. III.

2003-1578. Ritt v. Billy Blanks Ent.

Cuyahoga App. No. 80983, 2003-Ohio-3645. On discretionary appeal. Appeal not accepted.

Lundberg Stratton and O'Connor, JJ., would accept.

O'Donnell, J., would allow Memberworks, Inc.'s Propositions of Law Nos. I and II and West Corp.'s Proposition of Law No. I.

On motion for admission pro hac vice of William J. F. Roll III by Robert N. Rapp for Memberworks, Inc., motion for admission pro hac vice of William Hauptman by Robert N. Rapp for Memberworks, Inc., and motion for admission pro hac vice of M.J. Elmore, J.F. Thorpe, and C.F. Hirokawa by T.M. Raskin for West Corp. Motions denied as moot.

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

2003-1581. State v. Smith.

Cuyahoga App. No. 82062, 2003-Ohio-3675.

2003-1582. State v. Rivers.

Cuyahoga App. No. 81929, 2003-Ohio-3670.

O'Connor, J., would allow on Proposition of Law No. III and hold for the decision in 2002-1888, *State v. Jordan*, Cuyahoga App. No. 80675, 2002-Ohio-4587.

Moyer, C.J., and O'Donnell, J., would allow and hold for *State v. Jordan*.

2003-1583. Specialty Sys. of Ohio Constr., Inc. v. Mainland Indus. Coating, Inc.

Montgomery App. No. 19680, 2003-Ohio-3977.

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

2003-1585. State v. Lamb.

Butler App. No. CA2002-08-192, 2003-Ohio-3870.

2003-1588. State v. Thompson.

Cuyahoga App. No. 81322, 2003-Ohio-3939.

F.E. Sweeney, J., dissents.

2003-1591. Laws v. Neal.

Franklin App. No. 03AP-209.

2003-1592. Holloway v. Gen. Hydraulic & Machine, Inc.

Cuyahoga App. No. 82294, 2003-Ohio-3965.

2003-1593. Thielen v. Simmons.

Hamilton App. No. C-030059.

2003-1597. State v. Leasure.

Lucas App. No. L-02-1207, 2003-Ohio-3987.

2003-1605. Blain v. Cigna Corp.

Franklin App. No. 02AP-1442, 2003-Ohio-4022.

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

2003-1610. State v. Dixon.

Montgomery App. No. 18582, 2002-Ohio-541.

2003-1626. Omlin v. Kaufman & Cumberland Co., L.P.A.

Cuyahoga App. No. 82248, 2003-Ohio-4069.

2003-1634. State v. Grider.

Cuyahoga App. No. 82072, 2003-Ohio-3378.

2003-1640. State v. Langford.

Cuyahoga App. No. 80753, 2003-Ohio-4173.

2003-1642. State v. Lee.

Franklin App. No. 02AP-1340, 2003-Ohio-4059.

O'Donnell, J., dissents, would allow, and would reverse the judgment of the court of appeals on the authority of *State v. Comer*, 99 Ohio St.3d 463, 2003-Ohio-4165, 793 N.E.2d 473.

2003-1643. State v. Buckner.

Hamilton App. No. C-020672.

2003-1651. Brady v. Benzing.

Cuyahoga App. No. 81894, 2003-Ohio-3354.

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

2003-1665. New Family Physicians Assoc., Inc. v. Telesis Med. Mgt.

Cuyahoga App. No. 82901.

RECONSIDERATION OF PRIOR DECISIONS

1993-1418. In re Bustamante.

Reported at 100 Ohio St.3d 39, 2003-Ohio-4828, 796 N.E.2d 494. On motion for reconsideration of September 24, 2003 order with opinion. Motion denied.

O'Donnell, J., not participating.

1996-1977. Disciplinary Counsel v. Bustamante.

Reported at 100 Ohio St.3d 39, 2003-Ohio-4828, 796 N.E.2d 494. On motion for reconsideration of denial of petition for reinstatement. Motion denied.

O'Donnell, J., not participating.

2003-1091. Marshall v. Colonial Ins. Co. of California.

Trumbull App. No. 2001-T-0145, 2003-Ohio-2367. Reported at 100 Ohio St.3d 1409, 2003-Ohio-4948, 796 N.E.2d 537. On motion for reconsideration. Motion denied.

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

2003-1201. Switter v. Searle.

Medina App. No. 02CA0069M, 2003-Ohio-2715. Reported at 100 Ohio St.3d 1412, 2003-Ohio-4948, 796 N.E.2d 539. On motion for reconsideration. Motion denied.

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

On motion to strike motion for reconsideration. Motion denied as moot.

2003-1373. State v. Bailey.

Cuyahoga App. No. 82599. Reported at 100 Ohio St.3d 1407, 2003-Ohio-4948, 796 N.E.2d 535. On motion for reconsideration. Motion denied.

Moyer, C.J., dissents.

2003-1457. State v. Kirby.

Butler App. No. CA2002-06-136, 2003-Ohio-2922. Reported at 100 Ohio St.3d 1407, 2003-Ohio-4948, 796 N.E.2d 536. On motion for reconsideration. Motion granted.

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