

The Supreme Court of Ohio

CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

September 29, 2004

MERIT DECISIONS WITH OPINIONS

2003-0474. Kyle v. Buckeye Union Ins. Co., 2004-Ohio-4885.

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

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

O'Donnell, J., concurs in judgment only.

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

2003-1344. State v. Talty, 2004-Ohio-4888.

Medina App. No. 02CA0087-M, 2003-Ohio-3161. Judgment reversed.

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

Pfeifer and Lundberg Stratton, JJ., dissent.

2003-1880. N. Buckeye Edn. Council Group Health Benefits Plan v. Lawson, 2004-Ohio-4886.

Lucas App. No. L-02-1298, 154 Ohio App.3d 659, 2003-Ohio-5196. Judgment affirmed.

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

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

2004-0490. State ex rel. Cranford v. Cleveland, 2004-Ohio-4884.

Cuyahoga App. No. 83534, 2004-Ohio-633. Judgment affirmed.

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

2004-0557. Kelley v. Wilson, 2004-Ohio-4883.

Richland App. No. 04CA12. Judgment affirmed.

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

MERIT DECISIONS WITHOUT OPINIONS

2004-0955. Soler v. Court of Appeals, Tenth Appellate Dist.

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.

2004-1144. State ex rel. Lanham 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.

2004-1148. State ex rel. Willis v. Niehaus.

In Mandamus. On motion to dismiss and motion to amend complaint. Motion to dismiss sustained. Motion to amend complaint denied as moot. Cause dismissed.

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

2004-1182. State ex rel. Ferrell 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.

2004-1203. Lee v. Court of Appeals, Eighth Appellate Dist.

In Mandamus. On motion to dismiss and motion for summary judgment. Motion to dismiss sustained. Cause dismissed.

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

2004-1271. State ex rel. Akers v. Gretick.

In Prohibition. 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.

2004-1313. Shackelford v. Moore.

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

2004-0448. State ex rel. Plain Dealer Publishing Co. v. Cleveland.

In Mandamus. On request for oral argument. Request granted.

2004-1063. McCrone v. Bank One Corp.

Stark App. No. 2003 CA 00092, 2004-Ohio-2538. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause consolidated with 2004-1065, *McCrone v. Bank One Corp.*, Stark App. No. 2003 CA 00092, 2004-Ohio-2538.

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

2004-1073. State v. Haven.

Wayne App. No. 02CA0069, 2004-Ohio-2512. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause consolidated with 2004-1074, *State v. Haven*, Wayne App. No. 02CA0069, 2004-Ohio-2512; causes held for the decision in 2003-1194, *State v. Smith*, Morrow App. No. CA957, 2003-Ohio-3416; and briefing schedule stayed.

F.E. Sweeney, J., dissents.

2004-1122. State ex rel. Cincinnati Bell Tel. Co. v. Pub. Util. Comm.

In Mandamus. On S.Ct.Prac.R. X(5) determination and consideration of respondent's motions to dismiss and to strike. Upon consideration,

IT IS HEREBY ORDERED that respondent's motion to strike is granted and the August 13, 2004 affidavit of Douglas E. Hart and all references to it in relator's August 16, 2004 memorandum in opposition to respondent's motion to dismiss are stricken.

IT IS FURTHER ORDERED that respondent's motion to dismiss is denied and an alternative writ is granted.

2004-0180. State ex rel. Wooten v. Indus. Comm.

Franklin App. No. 03AP-5, 2003-Ohio-7155. On request for oral argument. Request denied.

2004-0817. Cleveland Bar Assn. v. CompManagement, Inc.

On motion to strike brief of amicus curiae Federal Trade Commission. Motion denied.

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

2004-1216. Fichtel & Sachs Industries, Inc. v. Wilkins.

Board of Tax Appeals, No. 2003-M-408. Upon consideration of appellee/cross-appellant's motion for admission pro hac vice of Richard E. Nielsen by Edward J. Bernet,

IT IS ORDERED by the court that the motion for admission pro hac vice be, and hereby is, granted.

2004-1224. State v. Peoples.

Franklin App. No. 02AP-945, 2003-Ohio-4680. On motion for leave to file delayed appeal. Motion denied.

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

2004-1242. State v. Patt.

Lake App. No. 2002-L-073, 2004-Ohio-2601. On motion for leave to file delayed appeal. Motion denied.

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

2004-1243. State v. Schaar.

Stark App. No. 2002 CA 00254, 2003-Ohio-4774. On motion for leave to file delayed appeal. Motion denied.

2004-1246. State v. Black.

Hamilton App. Nos. C-980197 and C-980207. On motion for leave to file delayed appeal. Motion denied.

2004-1261. State v. Corbin.

Cuyahoga App. No. 82266, 2004-Ohio-2847. On motion for leave to file delayed appeal. Motion denied.

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

2004-1278. State v. Sheets.

Ottawa App. No. OT-03-011, 2004-Ohio-2584. On motion for leave to file delayed appeal. Motion denied.

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

2004-1284. Van Leur v. Ohio Dept. of Commerce.

Montgomery App. No. 20180, 2004-Ohio-3777. On motion for stay of court of appeals' judgment. Motion denied.

F.E. Sweeney, J., dissents.

2004-1310. State v. Sanders.

Cuyahoga App. No. 76620. On motion for leave to file delayed appeal. Motion denied.

2004-1312. State v. Borer.

Seneca App. No. 13-04-13. On motion for leave to file delayed appeal. Motion denied.

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

2004-1342. State v. Johnson.

Hamilton App. No. C-020455. On motion for leave to file delayed appeal. Motion denied.

2004-1343. State v. Coley.

Lucas App. Nos. L-02-1175, L-02-1176 and L-02-1177, 2004-Ohio-2776. On motion for leave to file delayed appeal. Motion denied.

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

2004-1344. State v. O'Neal.

Cuyahoga App. No. 83393, 2004-Ohio-2862. On motion for leave to file delayed appeal. Motion denied.

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

2004-1353. State v. Meyers.

Summit App. No. 21874, 2004-Ohio-4195. On motion for stay of court of appeals' judgment. Motion denied.

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

2004-1360. State v. Crawford.

Cuyahoga App. No. 82833, 2004-Ohio-500. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and O'Connor, JJ., dissent.

2004-1369. State v. Hunt.

Summit App. No. 21515, 2004-Ohio-6120. On motion for leave to file delayed appeal. Motion denied.

2004-1372. State v. Coreno.

Lorain App. No. 03CA008288, 2004-Ohio-1752. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2004-1378. State v. Grimsley.

Butler App. No. CA2003-03-061, 2004-Ohio-1710. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

APPEALS ACCEPTED FOR REVIEW

2004-0856. State v. Kelly.

Cuyahoga App. No. 83366, 2004-Ohio-1787. Discretionary appeal accepted to the following extent. The cause is remanded to the court of appeals to decide each assignment of error and give reasons in writing for its decision as required by App.R. 12(A).

2004-0963. State v. Tate.

Cuyahoga App. No. 82871, 2004-Ohio-2007. Discretionary appeal accepted; cause held for the decision in 2004-0900, *State v. Thomas*, Cuyahoga App. No. 82674, 2004-Ohio-1907; and briefing schedule stayed.

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

2004-0973. State v. Sutton.

Lucas App. No. L-03-1104, 2004-Ohio-2679. Discretionary appeal accepted.

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

Sua sponte, briefing schedule stayed until further notice by the court.

2004-1065. McCrone v. Bank One Corp.

Stark App. No. 2003 CA 00092, 2004-Ohio-2538. Discretionary appeal of Bur. of Workers' Comp. accepted and cause consolidated with 2004-1063, *McCrone v. Bank One Corp.*, Stark App. No. 2003 CA 00092, 2004-Ohio-2538.

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

Discretionary appeal of Bank One Corp. not accepted.

Lundberg Stratton, J., dissents.

2004-1074. State v. Haven.

Wayne App. No. 02CA0069, 2004-Ohio-2512. Discretionary appeal accepted; cause consolidated with 2004-1073, *State v. Haven*, Wayne App. No. 02CA0069, 2004-Ohio-2512; causes held for the decision in 2003-1194, *State v. Smith*, Morrow App. No. CA957, 2003-Ohio-3416; and briefing schedule stayed.

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

APPEALS NOT ACCEPTED FOR REVIEW

2004-0821. Rickels v. Goyings.

Paulding App. No. 11-04-02.

2004-0822. Rickels v. Goyings.

Paulding App. No. 11-04-03.

2004-0860. State v. Coudret.

Medina App. No. 03CA0070-M, 2004-Ohio-2245, 809 N.E.2d 78.

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

2004-0861. Medina v. Szwec.

Medina App. No. 03CA0068-M, 2004-Ohio-2245, 809 N.E.2d 78.

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

2004-0866. Citibank, N.A. v. Kessler.

Franklin App. No. 03AP-580, 2004-Ohio-1899.

2004-0867. Miller v. J.L. Zimmerman Realty.

Greene App. No. 2003-CA-31, 2004-Ohio-1934.

2004-0873. State v. Flannery.

Crawford App. No. 3-04-09.

2004-0874. In re Estate of Lazar.

Geauga App. No. 2003-G-2509, 2004-Ohio-1964.

Resnick, J., dissents.

2004-0877. State v. Miller.

Crawford App. No. 3-03-26, 2004-Ohio-1947.

2004-0878. State v. White.

Cuyahoga App. No. 84467.

2004-0880. State v. Price.

Cuyahoga App. No. 83344, 2004-Ohio-1910.

2004-0891. State v. Barrett.

Scioto App. No. 03CA2889, 2004-Ohio-2064.

O'Donnell, J., dissents.

2004-0897. State v. Naugle.

Auglaize App. No. 2-03-32, 2004-Ohio-1944.

2004-0902. ABN AMRO Mortgage Group Inc. v. Stantz.

Tuscarawas App. No. 2003 AP 07 0057, 2004-Ohio-2089.

2004-0907. State v. Abner.

Cuyahoga App. No. 82960, 2004-Ohio-2017.

2004-0915. Byron v. Byron.

Franklin App. No. 03AP-819, 2004-Ohio-2143.

2004-0929. Lange v. Honda of Am. Mfg., Inc.

Union App. No. 14-03-49, 2004-Ohio-2060.

2004-0931. State v. Johnson.

Clermont App. No. CA2003-02-010, 2004-Ohio-2213.

2004-0933. State v. Mayes.

Cuyahoga App. No. 82592, 2004-Ohio-2014.

2004-0935. State v. Unger.

Franklin App. No. 03AP-928.

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

2004-0936. State v. Garrett.

Richland App. No. 03-CA-49, 2004-Ohio-2231.

2004-0938. In re D.N., II.

Cuyahoga App. No. 82708, 2004-Ohio-1106.

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

2004-0941. Costakos v. Costakos.

Franklin App. No. 03AP-959, 2004-Ohio-2138.

2004-0943. Dodrill v. Dodrill.

Vinton App. Nos. 03CA578 and 03CA580, 2004-Ohio-2225.

2004-0945. State v. Shackleford.

Montgomery App. No. 19965, 2004-Ohio-2431.

2004-0947. State v. Moore.

Mahoning App. No. 02 CA 152, 2004-Ohio-2320.

2004-0949. Collins v. Carpenter.

Richland App. No. 03-CA-99, 2004-Ohio-2269 and 2004-Ohio-2579.

2004-0952. Hanson v. Shaker Hts.

Cuyahoga App. No. 84141.

2004-0953. Pauer v. Langaa.

Cuyahoga App. No. 83232, 2004-Ohio-2019.

2004-0954. State v. Raines.

Franklin App. No. 03AP-1076, 2004-Ohio-2524 and 2004-Ohio-3558.

2004-0956. State v. Chamblin.

Adams App. No. 02CA753, 2004-Ohio-2252.

2004-0958. State v. Henning.

Stark App. No. 2003 CA 00324, 2004-Ohio-2259.

2004-0959. Swick v. River Valley Local Schools.

Marion App. No. 9-04-16.

2004-0964. West Unity v. Merillat.

Williams App. No. WM-03-016, 2004-Ohio-2682.

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

2004-0965. State v. Dunn.

Wayne App. No. 03CA0037, 2004-Ohio-2249.

2004-0967. Robinson v. Freedom Faith Missionary Baptist Church.
Montgomery App. No. 20232, 2004-Ohio-2607.

2004-0968. American Premier Underwriters, Inc. v. Marathon Ashland Pipeline, L.L.C.
Mercer App. No. 10-03-12, 2004-Ohio-2222.

2004-0974. Pepper Pike v. Dantzig.
Cuyahoga App. No. 83425, 2004-Ohio-2562.

2004-0975. Medina v. Szwec.
Medina App. No. 03CA0073-M, 2004-Ohio-2245, 809 N.E.2d 78.
Moyer, C.J., Pfeifer and Lundberg Stratton, JJ., dissent.

2004-0978. Barger v. Freeman Mfg. & Supply Co.
Lorain App. No. 03CA008313, 2004-Ohio-2248.

2004-0980. State v. Smith.
Lorain App. No. 99CA007399.

2004-0981. State v. Uselton.
Ashland App. No. 03COA032, 2004-Ohio-2385.

2004-0983. Zamos v. Zamos.
Portage App. No. 2002-P-0085, 2004-Ohio-2310.
Resnick and Lundberg Stratton, JJ., dissent.

2004-0984. State v. Stanley.
Greene App. No. 2003-CA-87.

2004-0986. Wolf v. E. Liverpool City School Dist. Bd. of Edn.
Columbiana App. No. 03 CO 5, 2004-Ohio-2479.

2004-0990. State v. Dawson.
Ashland App. No. 03-COA-061, 2004-Ohio-2324.

2004-0991. State v. Rager.
Butler App. No. CA2003-05-132, 2004-Ohio-2485.

2004-0993. State v. Loofburrow.

Lucas App. No. L-03-1002, 2004-Ohio-2678.

2004-0994. State v. Smith.

Stark App. No. 2003 CA 00415, 2004-Ohio-2386.

2004-0995. State v. Russell.

Franklin App. No. 03AP-666, 2004-Ohio-2501.

2004-0997. McClintock v. Glick.

Wayne App. No. 03CA0073.

Resnick, J., dissents.

2004-0998. State v. Samatar.

Franklin App. No. 03AP-1057, 2004-Ohio-2641.

2004-1000. State v. O'Connor.

Butler App. No. CA2003-06-146.

2004-1001. State v. Crothers.

Clinton App. No. CA2003-08-020, 2004-Ohio-2299.

2004-1004. Wise v. Urban Industries of Ohio, Inc.

Crawford App. No. 3-03-43, 2004-Ohio-2361.

Resnick, J., dissents.

2004-1005. State v. Mouser.

Clinton App. No. CA2003-05-013, 2004-Ohio-2295.

2004-1007. Maumee & W. Ry. Corp. v. Indiana & Ohio Ry. Co.

Henry App. No. 7-03-05, 2004-Ohio-2360.

Pfeifer, J., dissents.

2004-1014. State v. Rose.

Cuyahoga App. No. 82635, 2004-Ohio-2151.

2004-1017. Hurst v. Ent. Title Agency, Inc.

Lake App. No. 2002-L-156, 2004-Ohio-2307.

2004-1018. Tamayo v. Stack Container Servs.

Cuyahoga App. No. 83228, 2004-Ohio-2161.

Resnick and Pfeifer, JJ., dissent.

2004-1020. Roe v. Heap.

Franklin App. No. 03AP-586, 2004-Ohio-2504.

2004-1021. In re Estate of Eyajan.

Ashtabula App. No. 2002-A-0043, 2004-Ohio-2312.

2004-1023. State v. Powers.

Pickaway App. No. 03CA21, 2004-Ohio-2720.

2004-1027. State v. Young.

Adams App. No. 03CA782, 2004-Ohio-2711.

2004-1028. Peters v. Peters.

Lorain App. Nos. 03CA008306 and 03CA008307, 2004-Ohio-2517.

2004-1029. State v. Gross.

Hamilton App. No. C-030467.

Lundberg Stratton, J., dissents.

2004-1031. Comeans v. Clark.

Montgomery App. No. 20239, 2004-Ohio-2420.

Pfeifer, J., dissents.

2004-1033. State v. Langford.

Cuyahoga App. No. 83560, 2004-Ohio-2336.

2004-1035. State v. Foster.

Cuyahoga App. No. 82207, 2003-Ohio-5636, 2004-Ohio-2400 and 2004-Ohio-2547.

2004-1042. State v. Fuson.

Knox App. No. 03CA11, 2004-Ohio-2490.

2004-1047. State v. Steed.

Stark App. No. 2003 CA 00260, 2004-Ohio-2653.

2004-1050. State v. Lee.

Cuyahoga App. No. 82326, 2003-Ohio-5640.

2004-1054. Smalley v. Friedman, Domiano & Smith Co., L.P.A.

Cuyahoga App. No. 83636, 2004-Ohio-2351.

2004-1055. State v. Farley.

Franklin App. No. 03AP-555, 2004-Ohio-1781. Motion to dismiss denied as moot.

2004-1058. Tolson v. Triangle Real Estate.

Franklin App. No. 03AP-715, 2004-Ohio-2640.

2004-1093. In re McDaniel.

Lake App. Nos. 2002-L-158 and 2002-L-159, 2004-Ohio-2595.

2004-1097. State v. Norman.

Cuyahoga App. No. 83561, 2004-Ohio-2409.

O'Donnell, J., not participating.

2004-1131. State v. McGee.

Cuyahoga App. No. 83613, 2004-Ohio-2856.

2004-1146. State v. Call.

Marion App. No. 9-03-21, 2004-Ohio-288.

2004-1180. State v. Sandoval.

Hamilton App. No. C-890293.

2004-1207. State v. Balwanz.

Belmont App. No. 03-BE-37, 2004-Ohio-1534.

2004-1264. In re Andy-Jones.

Franklin App. No. 03AP-1167, 2004-Ohio-3312.

Resnick and O'Connor, JJ., dissent.

2004-1268. State v. Daniels.

Cuyahoga App. No. 82586, 2003-Ohio-6479.

2004-1315. In re Johnson.

Franklin App. Nos. 03AP-1264 and 03AP-1265, 2004-Ohio-3886.

O'Connor, J., dissents.

RECONSIDERATION OF PRIOR DECISIONS

2003-0464 and 2003-0595. State v. Peoples.

Franklin App. No. 02AP-363, 151 Ohio App.3d 446, 2003-Ohio-151, 784 N.E.2d 713. Reported at 102 Ohio St.3d 460, 2004-Ohio-3923, 812 N.E.2d 963. On motion for reconsideration. Motion denied.

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

2003-0814. Rucker v. Everen Securities, Inc.

Cuyahoga App. No. 81540, 2003-Ohio-1166. Reported at 102 Ohio St.3d 1247, 2004-Ohio-3719, 811 N.E.2d 1141. On motion for reconsideration. Motion denied.

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

2004-0281. State v. Johnson.

Montgomery App. No. 19597, 155 Ohio App.3d 417, 2003-Ohio-6523, 801 N.E.2d 538. Reported at 103 Ohio St.3d 1404, 2004-Ohio-3980, 812 N.E.2d 1287. On motion for reconsideration. Motion denied.

2004-0501. State v. Boyd.

Cuyahoga App. Nos. 82921, 82922 and 82923, 2004-Ohio-368. Reported at 102 Ohio St.3d 1531, 2004-Ohio-3580, 811 N.E.2d 1150. On motion for reconsideration. Motion denied.

2004-0504. State v. LaMar.

Lawrence App. No. 95 C.A. 31. Reported at 102 Ohio St.3d 467, 2004-Ohio-3976, 812 N.E.2d 970. On motion for reconsideration. Motion denied.

2004-0529. State ex rel. Howard v. Skow.

Lucas App. No. L-04-1031, 2004-Ohio-1337. Reported at 102 Ohio St.3d 423, 2004-Ohio-3652, 811 N.E.2d 1128. On motion for reconsideration. Motion denied.

2004-0781. State v. Tolliver.

Franklin App. No. 02AP-811, 2004-Ohio-1603. Reported at 103 Ohio St.3d 1407, 2004-Ohio-3980, 812 N.E.2d 1287. On motion for reconsideration. Motion denied.

2004-0966. Lupinski v. State.

In Habeas Corpus. Reported at 103 Ohio St.3d 1402, 2004-Ohio-3980, 812 N.E.2d 1287. On motion for reconsideration. Motion denied.

2004-1304. State ex rel. Gonzalez v. McCall.

In Mandamus. Reported at 103 Ohio St.3d 1430, 2004-Ohio-4620, 814 N.E.2d 492. On motion for reconsideration. Motion denied.