

ATTENTION

DIRECT ANY QUESTIONS ABOUT THE ANNOUNCEMENT TO WALTER S. KOBALKA,
REPORTER OF DECISIONS, AND DEBORAH J. WHITTEN AT (614) 466-4961 OR
1-800-826-9010.

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

9:00 A.M.

WEDNESDAY
March 17, 1993

MERIT DOCKET

91-2372. State v. Ackison.
Lawrence County. Appeal from the Court of Appeals for Lawrence
County, Nos. 1967 and 1968. Sua sponte, this cause is dismissed as
having been improvidently allowed.

Moyer, C.J., A.W. Sweeney, Douglas and Resnick, JJ., concur.
Wright, F.E. Sweeney and Pfeifer, JJ., dissent.

92-1324. Disciplinary Counsel v. Nichols.
On Certified Report by the Board of Commissioners on Grievances and
Discipline of the Supreme Court, No. 90-73. LeRoy Alvin Nichols is
placed on a third year of monitored probation.

A.W. Sweeney, Douglas, Wright, Resnick, F.E. Sweeney and Pfeifer,
JJ., concur.
Moyer, C.J., dissents.

92-2164. Lorain Cty. Bar Assn. v. Motsch.
On Certified Report by the Board of Commissioners on Grievances and
Discipline of the Supreme Court, No. 91-07. Barry B. Motsch is
suspended from the practice of law for six months, stayed, on
conditions.

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E. Sweeney
and Pfeifer, JJ., concur.

92-2248. Roselawn Community Council, Inc. v. Pub. Util. Comm.
Public Utilities Commission, No. 91-1648-TP-ATA. On motions to
dismiss and motion to strike. Motions to dismiss sustained. Cause
dismissed.

A.W. Sweeney, Douglas and F.E. Sweeney, JJ., concur.

Wright, J., would grant the motions to dismiss, would grant the motion to intervene, and would deny the motion to strike.

Pfeifer, J., would overrule the motions to dismiss, and would allow Cincinnati Bell to intervene.

Moyer, C.J., and Resnick, J., not participating.

92-2252. Consumers' Counsel v. Pub. Util. Comm.

Public Utilities Commission, No. 91-1648-TP-ATA. On motion to dismiss. Motion to dismiss sustained. Cause dismissed.

A.W. Sweeney, Douglas, Wright, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

Moyer, C.J., not participating.

92-2511. Consumers' Counsel v. Pub. Util. Comm.

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

A.W. Sweeney, Douglas, Wright, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

Moyer, C.J., not participating.

92-2587. Walls v. Capots.

In Mandamus. On answer of respondent. Answer treated as motion to dismiss. Motion to dismiss sustained. Cause dismissed.

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick and Pfeifer, JJ., concur.

F.E. Sweeney, J., dissents.

92-2604. State ex rel. Susser v. Meagher.

In Mandamus. On answer of respondent. Answer treated as motion to dismiss. Motion to dismiss sustained. Cause dismissed.

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

92-2641. Celebrezze v. Marshall.

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

Moyer, C.J., A.W. Sweeney, Douglas, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

Wright, J., not participating.

93-36. State ex rel. Bekesz v. Judges of Court of Appeals, Eleventh App. Dist.

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

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

93-65. State ex rel. Malin v. Calabrese.

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

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

93-94. State ex rel. Coe v. Judges of the Court of Appeals for the Ninth App. Dist.

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

Cause dismissed.

Moyer, C.J., A.W. Sweeney, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

Douglas, J., would convert the motion to dismiss to a motion for summary judgment, and would grant the motion for summary judgment after notification.

Wright, J., dissents.

93-135. State ex rel. Thrower v. Bond.

In Prohibition. Sua sponte, cause dismissed.

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

93-136. State ex rel. Thrower v. Baird.

In Mandamus. Sua sponte, cause dismissed.

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

93-143. Post v. Rogers.

In Habeas Corpus. On motion to dismiss. Motion to dismiss sustained. Cause dismissed.

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

DISMISSALS, SUA SPONTE, NO SUBSTANTIAL CONSTITUTIONAL
QUESTION AND JURISDICTIONAL MOTIONS OVERRULED

92-2120. State v. Smith.

Greene County, No. 90-CA-87.

Wright, J., dissents.

92-2250. Nur v. State.

Cuyahoga County, No. 61077.

92-2291. State v. Cornett.

Butler County, No. CA91-10-180.

Wright, J., would allow on Proposition of Law No. II only.

92-2396. Sanders v. Cincinnati Ins. Co.

Montgomery County, No. CA 13300.

Douglas, J., dissents.

92-2495. State v. Stringfield.

Medina County, No. 2077.

92-2516. State v. Ferdinandsen.

Erie County, No. E-91-36.

Wright, J., dissents.

92-2518. State v. Agee.

Cuyahoga County, No. 59984.

92-2522. DeVito v. Acceleration Life Ins. Co.

Licking County, No. 92-CA-60.

92-2528. Green v. Cumberland.

Highland County, No. 92CA801.

92-2539. Cleveland v. Murad.
Cuyahoga County, No. 60478.
Pfeifer, J., dissents.

92-2541. State v. Kelly.
Summit County, No. 15510.

92-2544. State v. Clelland.
Hocking County, No. 91-CA-9.

92-2550. Strandwitz v. Ohio Bd. of Dietetics.
Franklin County, No. 92AP-681.
Wright, J., dissents.

92-2551. Kindness v. Ohio Bd. of Dietetics.
Franklin County, No. 92AP-682.
Wright, J., dissents.

92-2556. In re Visitation with Bonwich.
Greene County, No. 92-CA-15.

92-2557. State v. Stallworth.
Franklin County, No. 90AP-841.

92-2558. State v. Wren.
Cuyahoga County, No. 59618.
Wright, J., dissents.

92-2559. State v. Dawson.
Summit County, No. 15483.

92-2562. In re Cumberlander.
Franklin County, No. 92AP-656.
Moyer, C.J., and Pfeifer, J., dissent.

92-2568. Hunter v. Cuyahoga Cty. Dept. of Human Serv.
Cuyahoga County, No. 61177.
Pfeifer, J., dissents.

92-2569. State v. Steele.
Hamilton County, No. C-920080.
Pfeifer, J., dissents.

92-2570. State v. Shafer.
Cuyahoga County, No. 63211.

92-2574. State v. Clements.
Franklin County, No. 91AP-1238.

92-2577. State v. McCoffin.
Franklin County, No. 91AP-1233.

92-2578. State v. Rodriguez.
Miami County, No. 92-CA-4.
Moyer, C.J., and Douglas, J., dissent.

92-2579. State v. Greenlee.
Hamilton County, No. C-920085.

92-2592. Solon v. Murad.
Cuyahoga County, No. 61201.

92-2598. State v. Gleason.
Summit County, No. 15749.
Wright, J., dissents.

MOTION DOCKET

92-833. Cleveland Bar Assn. v. Mallory.
On motion for leave to file affidavit instanter. Motion granted.

92-989. State ex rel. Celebrezze v. Natl. Lime & Stone Co.
Wyandot County, No. 16-91-7. On motion for leave to substitute pages
of record. Motion granted.

92-1165. Jackson v. Regional Transit Auth.
Cuyahoga County, No. 60443. On request for findings of fact and
conclusions of law. Request denied.

92-1199. MCI Telecommunications Corp. v. Limbach.
Board of Tax Appeals, No. 88-G-1137. On request for oral argument.
Request granted. On motion for extension of time. Motion granted.
F.E. Sweeney, J., not participating.

92-1682. Hyde v. Reynoldsville Casket Co.
Ashtabula County, No. 91-A-1660. On motion to reconsider denial of
extension. Motion denied.
Douglas and Pfeifer, JJ., dissent.

92-1758. State v. Amato.
Lake County, No. 91-L-092. On motions for leave to file amicus of
Vindicator Printing Company and Ohio Public Defender et al. Motions
granted.

92-1802. State v. Freeman.
Montgomery County, No. 12198. On motion for leave to file amended
memorandum in support instanter. Motion granted.
F.E. Sweeney, J., dissents.
Resnick, J., not participating.

92-1865. In re Martin.
Monroe County, No. 692. On motion for leave to file amicus of
National Council for Adoption. Motion granted.

92-2057. State ex rel. Hattie v. Capots.
Franklin County, No. 91AP-1117. On motion for leave to file amicus of
Ohio Public Defender. Motion granted.

92-2075. State v. DeLisio.
Greene County, No. 91-CA-46. On motion to reverse judgment. Motion
denied.

Pfeifer, J., would dismiss.

92-2081. State ex rel. Waddle v. Indus. Comm.
Franklin County, No. 91AP-1331. On motion for leave to file amicus of
Ohio AFL-CIO et al. instanter. Motion granted.

Moyer, C.J., dissents because the motion is out of rule.

92-2201. Ward v. Witzman.
Stark County, No. CA-9018. On motion for leave to file memorandum in
support instanter. Motion denied.

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

On motion for leave to exceed limit. Motion denied.

Douglas, J., dissents.

92-2213. Scelza v. Emp. Mut. Liab. Ins.
Summit County, No. 15451. On motion to reconsider allowance of motion
to certify or, in the alternative, motion to dismiss. Motions denied.

92-2338. State v. Miller.
Franklin County, No. 92AP-52. On motion to produce/transmit record.
Motion denied.

Pfeifer, J., dissents.

92-2341. State v. Davenport.
Richland County, No. CA-2851. On motion for leave to amend
memorandum. Motion granted.

Moyer, C.J., further cautions that the amendment must be within
the page limit.

F.E. Sweeney, J., dissents.

92-2379. Zalud Oldsmobile, Inc. v. Limbach.
Board of Tax Appeals, No. 90-M-510. On motion for leave to file
amicus of Ohio Automobile Dealers Association. Motion granted.

92-2553. Gem Savings Assn. v. Fitzpatrick Realty.
Montgomery County, No. 12719. On motion for leave to amend
memorandum. Motion granted.

92-2611. State ex rel. Fowler v. Smith.
Cuyahoga County, No. 63728. On request for oral argument. Request
denied.

92-2642. State v. Murnahan.
Clark County, No. 2161. On motion for leave to file request for
extension instanter. Request granted.

Resnick, J., dissents.

93-3. State Farm Mut. Auto Ins. Co. v. Latimore.
Cuyahoga County, No. 63142. On motion for leave to file memorandum in
support instanter. Motion granted.

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

93-10. Toledo Premium Yogurt, Inc. v. Pub. Util. Comm.
Public Utilities Commission, No. 91-1528-EL-CSS. On motion for leave
to intervene of New Towne Mall Company et al. Motion granted.

F.E. Sweeney, J., dissents.

93-24. State ex rel. Yeagley v. Harden.
In Quo Warranto. On motion to dismiss. Motion to dismiss overruled.

93-140. Shaffoe v. Ward.
Erie County, No. E-91-64. On motions to dismiss. Motions denied.
F.E. Sweeney and Pfeifer, JJ., dissent.
Resnick, J., not participating.

93-151. Ansari v. Glaser.
Hamilton County, No. C-910118. On motion to reconsider granting of
extension. Motion denied.

93-159. Hattie v. Hattie.
Stark County, No. CA-9067. On motion for leave to file memorandum in
support instanter. Motion granted.

93-195. Dennis v. Cornett.
Butler County, No. CA92-03-047. On motion to dismiss and on request
for leave to file notice of appeal and memorandum. Motion denied and
request granted.
Moyer, C.J., Wright and F.E. Sweeney, JJ., dissent.

93-197. State v. Hamilton.
Lorain County, No. 91CA005219. On motion for leave to file delayed
appeal. Motion granted.
Moyer, C.J., Douglas and F.E. Sweeney, JJ., dissent.

93-201. State v. Johnson.
Cuyahoga County, No. 60617. On motion for leave to file delayed
appeal. Motion denied.
Resnick, F.E. Sweeney and Pfeifer, JJ., dissent.

93-208. State v. Bell.
Cuyahoga County, No. 60937. On motion for leave to file delayed
appeal. Motion denied.
Resnick and Pfeifer, JJ., dissent.

93-226. State v. McGlone.
Scioto County, No. 90CA1910. On motion for leave to file delayed
appeal. Motion denied.
Pfeifer, J., dissents.

93-252. Perry v. Abdalla. In Habeas Corpus. On motion to dismiss.
Sua sponte, writ granted and sheriff ordered to respond.
Wright, J., would overrule the motion to dismiss.
Pfeifer, J., would grant the motion to dismiss.
Resnick, J., not participating.

JURISDICTIONAL MOTIONS ALLOWED

92-2212. Illinois Controls, Inc. v. Langham.
Cuyahoga County, No. 60730. On motion and cross-motion to certify the
record. Motions allowed.
Moyer, C.J., Wright and Resnick, JJ., dissent.

92-2326. Ohio Council 8, AFSCME, AFL-CIO v. Summit Cty. Child Support

Enforcement Agency.

Franklin County, No. 92AP-304. On motion to certify the record.
Motion denied.

Wright , J., dissents.

On cross-motion to certify the record. Cross-motion allowed.

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

92-2479. Harkcom v. Ohio Power Co.

Stark County, No. CA-8714. On motion and cross-motion to certify the
record, and on motion for leave to amend memorandum. Motions granted.

Moyer, C.J., A.W. Sweeney and Wright, JJ., dissent.

JURISDICTIONAL MOTIONS OVERRULED

92-2171. Tresner v. Pepsi Cola Bottling Co. of Columbus.

Franklin County, No. 91AP-1093. On motion to certify the record and
on motion for leave to file additional authorities. Motions denied.

92-2190. State v. Russell.

Trumbull County, No. 92-T-4650.

92-2258. State v. Snow.

Summit County, No. 15919.

92-2421. Crouch v. West-Whi Columbus Northwest Partners.

Franklin County, No. 92AP-58.

Pfeifer, J., not participating.

92-2502. Pearson v. Wheatley Co.

Marion County, No. 9-92-1.

Pfeifer, J., dissents.

92-2505. Sciko v. Cleveland Elec. Illum. Co.

Cuyahoga County, No. 63443. On motion and cross-motion to certify the
record. Motions denied.

Douglas and Pfeifer, JJ., dissent.

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

92-2520. Gerner v. Salem City School Dist. Bd. of Edn.

Columbiana County, No. 91-C-33.

Resnick and Pfeifer, JJ., dissent.

92-2542. State v. Van Hook.

Hamilton County, No. C-910505.

92-2545. State v. Johnson.

Hamilton County, No. C-920218.

92-2546. State v. Williams.

Hamilton County, No. C-920160.

92-2547. Commonwealth Life Ins. Co. v. Oakes.

Stark County, Nos. CA-8976 and CA-9005.

92-2548. Farmers Ins. of Columbus, Inc. v. Atkinson.

Stark County, No. CA-8931.

92-2555. Wren v. Weitherman.
Champaign County, No. 91-CA-18.
Douglas, Resnick and F.E. Sweeney, JJ., dissent.

92-2566. State v. Allen.
Hamilton County, No. C-910933.

92-2576. Breitenstein v. Moraine.
Montgomery County, No. CA 13375.

92-2585. Fraternal Order of Police, Ohio Labor Council, Inc. v.
Athens.
Athens County, No. CA-1529.

92-2591. Reed v. Weber.
Hamilton County, No. C-910548.

92-2594. Cincinnati Bd. of Edn. v. Armstrong World Industries, Inc.
Hamilton County, No. C-910803.
Wright, J., dissents.

92-2595. Watts v. Pryor.
Cuyahoga County, No. 61212.
F.E. Sweeney, J., not participating.

92-2596. State v. Williams.
Cuyahoga County, No. 61080.

92-2599. Rogers v. Buckel.
Cuyahoga County, No. 61175.
Moyer, C.J., and Wright, J., dissent.

REHEARING DOCKET

85-1221. State v. Winters.
Lucas County, No. L-84-151. On motion for rehearing and remand for
new trial. Motion denied.
F.E. Sweeney, J., not participating.

92-863. Greene v. University Hosp. of Cleveland.
Cuyahoga County, No. 59899. Reported at 66 Ohio St.3d 1402,
N.E.2d . On motion for rehearing. Rehearing denied.

92-1535. Awadalla v. Robinson Mem. Hosp.
Portage County, No. 91-P-2385. Reported at 65 Ohio St.3d 1444,
N.E.2d . On motion for rehearing. The motion is denied on the
following vote:
A.W. Sweeney, Resnick and Pfeifer, JJ., would deny the motion.
Moyer, C.J., Douglas and Wright, JJ., would grant the motion.
F.E. Sweeney, J., not participating.

92-1987. Leber v. Smith.
Erie County, No. E-87-43. Reported at 66 Ohio St.3d 1415,
N.E.2d. . On third motion for rehearing, motion to vacate order of
February 10, 1993, motion to decide motion to vacate filed January 11,

1993, and motion for appointment of acting justices. The motions are denied on the following vote:

Moyer, C.J., and Wright, J., would deny the motions.

A.W. Sweeney, Douglas and Pfeifer, JJ., would grant the motions.

Resnick and F.E. Sweeney, JJ., not participating.

92-2238. Mitchell v. Med. College of Ohio.

Franklin County, No. 92AP-247. Reported at 66 Ohio St.3d 1404,

N.E.2d . On motion for rehearing. Rehearing denied.

Douglas, J., dissents.

92-2264. Anderson v. Blakeslee.

Stark County, No. CA-8662. Reported at 66 Ohio St.3d 1405,

N.E.2d . On motion for rehearing. Rehearing denied.

Resnick, J., dissents.

92-2281. State v. Denune.

Butler County, Nos. CA90-07-128 and CA90-07-129. Reported at 66 Ohio

St.3d 1402, N.E.2d . On motion for rehearing. Rehearing

denied.

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

On motion for leave to file amicus of Ohio Prosecuting Attorneys Association. Motion granted.

92-2333. State v. Tucker.

Darke County, No. 1310. Reported at 66 Ohio St.3d 1401, N.E.2d

. On motion for rehearing. Rehearing denied.

DISCIPLINARY DOCKET

91-854. Cleveland Bar Assn. v. Jurek.

On motion not to be held in contempt and for extension of time.

Motion granted and extension granted to August 1, 1993.

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

91-2003. Northwest Ohio Bar Assn. v. Noble.

On response to show cause and motion for leave to file response

instanter. Motion denied; respondent is found in contempt.

Douglas, J., would also require that no interest be charged.

Wright, Resnick and Pfeifer, JJ., dissent and would grant an extension of time.

92-419. Disciplinary Counsel v. McMahon.

Thomas Paul McMahon is found in contempt. He is granted ten days to

purge himself. If he fails to purge himself within ten days, he will

be suspended indefinitely from the practice of law until he pays his

costs in full.

Pfeifer, J., would find respondent in contempt.

92-1340. Dayton Bar Assn. v. McDonald.

Michael J. McDonald is found in contempt. He is granted ten days to

purge himself. If he fails to purge himself within ten days, he will

be suspended indefinitely from the practice of law until he pays his

costs in full.

Pfeifer, J., would find respondent in contempt.

ADMINISTRATIVE DOCKET

Proposed amendments to Rule VI of the Rules for the Government of the Bar of Ohio (Interest on Attorney Trust Accounts ["IOLTA"]) will be published for a public-comment period.

Recommendations of the Task Force on the Unauthorized Practice of Law will be published for a public-comment period, and the Task Force Report will be released to the public.