

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  
November 9, 1994

MERIT DOCKET

93-705. State ex rel. Eberhart v. Flxible Corp.  
Franklin County. Appeal from the Court of Appeals for Franklin  
County, No. 92AP-492. Judgment affirmed.  
A.W. Sweeney, Douglas, Resnick and F.E. Sweeney, JJ., concur.  
Moyer, C.J., Wright and Pfeifer, JJ., dissent.

93-1329. Dellenbach v. Robinson.  
Franklin County. Appeal from the Court of Appeals for Franklin  
County, No. 92AP-884. Sua sponte, cause dismissed as having been  
improvidently allowed.  
A.W. Sweeney, Douglas, Resnick, F.E. Sweeney and Pfeifer, JJ.,  
concur.  
Moyer, C.J., and Wright, J., dissent.

93-1625. State ex rel. Jabbar v. LTV Steel Co.  
Franklin County. Appeal from the Court of Appeals for Franklin  
County, No. 92AP-116. Judgment affirmed.  
Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E.  
Sweeney and Pfeifer, JJ., concur.

93-1726. State ex rel. Unger v. Indus. Comm.  
Franklin County. Appeal from the Court of Appeals for Franklin  
County, No. 92AP-755. Judgment affirmed.  
Moyer, C.J., A.W. Sweeney, Wright, F.E. Sweeney and Pfeifer,  
JJ., concur.

Douglas and Resnick, JJ., dissent.

93-1813. State ex rel. Filipiak v. Midview Local School Dist. Bd. of Edn.

Lorain County. Appeal from the Court of Appeals for Lorain County, No. 92CA005502. Sua sponte, cause dismissed as having been improvidently allowed.

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

93-1890. State ex rel. Erico Products, Inc. v. Indus. Comm. Franklin County. Appeal from the Court of Appeals for Franklin County, No. 92AP-613. Judgment reversed and writ allowed.

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

Douglas and Resnick, JJ., dissent.

93-2066. Cyrus v. Henes.

Lorain County. Appeal from the Court of Appeals for Lorain County, No. 92CA005527. Judgment reversed and cause remanded.

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

Wright, J., dissents.

94-813. State v. Smith.

Cuyahoga County. Appeal from the Court of Appeals for Cuyahoga County, No. 54416. Judgment affirmed.

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

Wright, J., dissents.

94-865. State v. Porter.

Cuyahoga County. Appeal from the Court of Appeals for Cuyahoga County, No. 57251. Judgment affirmed.

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

Wright, J., dissents.

94-1000. State v. Runyons.

Union County. Appeal from the Court of Appeals for Union County, No. 14-91-30. Judgment affirmed.

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

94-1090. State v. Cockrell.

Knox County. Appeal from the Court of Appeals for Knox County, No. 91-CA-30. Judgment affirmed.

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

94-1130. State ex rel. Seballos v. School Emp. Retirement Sys. Franklin County. Appeals from the Court of Appeals for Franklin County, No. 93AP-809. Judgment reversed and cause remanded.

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

94-1206. State v. Brady.

Summit County. Appeal from the Court of Appeals for Summit County, No. 16329. Judgment affirmed.

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

94-1210. State v. Wright.

Cuyahoga County. Appeal from the Court of Appeals for Cuyahoga County, No. 58953. Judgment affirmed.

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

94-1220. Young v. Young.

Miami County. Appeal from the Court of Appeals for Miami County, No. 93-CA-10. Discretionary appeal allowed; judgment reversed and trial court's judgment reinstated.

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

94-1309. State v. Carter.

Hamilton County. Appeal from the Court of Appeals for Hamilton County, No. C-890513. Judgment affirmed.

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

94-1321. State v. Timmons.

Pickaway County. Appeal from the Court of Appeals for Pickaway County, No. 80 CA 26. Judgment affirmed.

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

94-1376. Cleveland Bar Assn. v. Faison.

On Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 93-54. Jacquelyn J.C. Faison is indefinitely suspended from the practice of law in the state of Ohio.

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

94-1378. Cleveland Bar Assn. v. Frye.

On Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 93-48. Thomas Frye is suspended from the practice of law for six months.

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

94-1401. Potter v. Amerisure Ins. Co.

Cuyahoga County. Appeal from the Court of Appeals for Cuyahoga County, No. 65285. Discretionary appeal allowed; judgment reversed and trial court's judgment reinstated.

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

Wright, J., dissents.

94-1446. In re Application of Wang.

On Report by the Board of Commissioners on Character and Fitness, No. 96. The application of Donald Zhendong Wang is disapproved and he may not sit for the Ohio bar examination prior to February 1995.

See opinion.

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

MOTION DOCKET

87-1334. State v. DePew.  
Butler County, No. CA8507075. On motions for delayed reinstatement  
of appeal and for delayed reconsideration. Motions denied.  
Wright, J., dissents.

89-722. State v. Spirko.  
Van Wert County, No. 15-84-22. On motion for delayed  
reconsideration. Motion denied.  
Wright, J., dissents.

89-722. State v. Spirko.  
Van Wert County, No. 15-84-22. On application for stay of  
execution. Application denied.

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

9:00 A.M.

WEDNESDAY  
November 9, 1994

MERIT DOCKET

91-547. Baker v. Pease Co.  
Certified Question of State Law, No. 893985. Sua sponte, pursuant  
to S.Ct.Prac.R. XVIII(6), the court declines to answer the certified  
questions and dismisses this cause.

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

Douglas, J., would answer the certified questions.

F.E. Sweeney, J., would continue the stay.

94-2040. State ex rel. Forsyth v. Brigner.  
In Mandamus. On motions to dismiss. Motions to dismiss sustained.  
Cause dismissed.

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

94-2069. State ex rel. Jackson v. Rogers.  
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 F.E.  
Sweeney, JJ., concur.

Pfeifer, J., dissents and would grant an alternative writ.

94-2118. State ex rel. Black v. Ohio Dept. of Rehab. & Corr.  
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.

DISMISSALS, SUA SPONTE, NO SUBSTANTIAL CONSTITUTIONAL  
QUESTION AND DISCRETIONARY APPEALS, IF APPLICABLE, NOT ALLOWED

94-1054. State v. White.  
Cuyahoga County, No. 64892.

Douglas and Resnick, JJ., dissent.

94-1097. State v. Tripp.  
Licking County, No. 93-CA-113.

94-1135. State v. Hunt.  
Ashtabula County, No. 93-A-1780.

94-1221. R & K Contractors, Inc. v. Lone Star Constr. Co.  
Trumbull County, No. 92-T-4809.

94-1240. State v. Coyne.  
Lake County, No. 93-L-068.

94-1252. Toledo v. Wacenske.  
Lucas County, No. L-93-298.

Pfeifer, J., dissents.  
Douglas and Resnick, JJ., not participating.

94-1275. State v. Bozeman.  
Montgomery County, No. 13741.

Moyer, C.J., dissents.

94-1320. State v. Brooks.  
Licking County, No. 93CA00087.

Pfeifer, J., dissents.

94-1330. State v. James.  
Medina County, No. 2261-M.

Resnick and Pfeifer, JJ., dissent.

94-1479. Chiles v. M.C. Capital Corp.

Franklin County, No. 93API09-1317.  
Moyer, C.J., and Wright, J., dissent.

94-1482. State v. Orr.  
Cuyahoga County, No. 65122.

94-1492. Brown v. E. Cleveland Bd. of Edn.  
Cuyahoga County, No. 65607.

94-1495. State v. Kish.  
Lorain County, No. 93CA005773.

94-1507. Riddel v. Blodgett.  
Fairfield County, No. 38-CA-93.

94-1510. Hoagland v. Webb.  
Montgomery County, Nos. 14024 and 14061.  
Douglas and Pfeifer, JJ., dissent.

94-1511. Taylor v. G.M. Assembly Div.  
Trumbull County, No. 93-T-4958.

94-1520. Mayfield Hts. v. Albert.  
Cuyahoga County, No. 65318.

94-1551. State v. Ramos.  
Lorain County, No. 93CA005741.

94-1572. State v. Hamilton.  
Montgomery County, No. 14256.

94-1587. State v. Schocke.  
Clermont County, No. CA93-11-080.

94-1596. Jones v. Massillon Bd. of Edn.  
Stark County, No. 94CA0018.  
Resnick and F.E. Sweeney, JJ., dissent.

94-1597. Dubose v. Trimble.  
Trumbull County, No. 93-T-4868.  
A.W. Sweeney, Douglas and Resnick, JJ., dissent.

94-1607. State v. Sahady.  
Cuyahoga County, No. 65410.  
Wright, J., dissents.

94-1617. Garfield Hts. v. Perkins.  
Cuyahoga County, No. 66554.

94-1642. State v. Herfel.  
Franklin County, No. 93APA09-1231.

94-1677. State ex rel. Bayes v. Bayes.  
Hardin County, No. 6-94-4.

94-1678. Acton v. Ventling.  
Butler County, No. CA93-05-088.

94-1691. State v. Smith.  
Hamilton County, No. C-930404.  
Wright, J., dissents.

94-1708. State v. Loftis.  
Ashtabula County, No. 93-A-1798.

94-1717. Whitmer v. Great Lakes Cary Corp.  
Cuyahoga County, Nos. 64931 and 64932. On motion and cross-motion  
to certify the record. Motions denied.

94-1742. State v. Wickline.  
Franklin County, No. 93APA10-1411.  
Wright and Pfeifer, JJ., dissent.

94-1785. Bank One, Columbus, N.A. v. Park Plaza, Ltd.  
Licking County, No. 94CA00035. (Appeal by Michael J. Young; second  
appeal by Park Plaza, Ltd., Town Plaza, Ltd., Bron Investments, and  
Ronald R. Schenk.)  
Wright, J., not participating.

94-1809. Dallas v. Childs.  
Cuyahoga County, No. 65150.

94-1819. Langford v. Emergency Pet Clinic.  
Cuyahoga County, No. 66599.

#### MOTION DOCKET

94-361. Great Lakes Metals Corp. v. Cuyahoga Cty. Bd. of Revision.  
Board of Tax Appeals, No. 91-P-1497. On motion to confirm  
settlement. Having been advised of the parties' settlement, this  
court remands this cause to the Board of Tax Appeals for settlement  
entry and dismissal.

94-1549. Westlake Village, Inc. v. Cuyahoga Cty. Bd. of Revision.  
Board of Tax Appeals, No. 92-A-1505. On motion to remand. Motion  
granted.

94-1850. Huber Hts. Circuit Courts, Ltd. v. Carne.  
Montgomery County, No. 14378. On review of order certifying a  
conflict. The court determines that a conflict exists; the parties  
are to brief the issue certified by the court of appeals on page 2  
of its Decision and Entry, filed August 16, 1994. Sua sponte, this  
cause is consolidated with 94-1613, *infra*.

94-2025. Ins. Co. of N. Am. v. Gould, Inc.  
Cuyahoga County, Nos. 66595, 66675, 66681, 66693 and 66701. On  
motion for admission *pro hac vice* by Rocco N. Covino and Laurie A.  
Frost, and on motion for admission *pro hac vice* of Sidney Rosen for  
Continental Insurance Company. Motions granted.

94-2051. State ex rel. Multimedia, Inc. v. Snowden.  
In Mandamus. On motion for peremptory writ of mandamus or  
alternative writ. Alternative writ granted.

94-2093. Gates v. Precision Post.

On review of order certifying a conflict. The court determines that a conflict exists; the parties are to brief the issue certified by the court of appeals on page 2 of its Journal Entry, filed September 15, 1994. Sua sponte, this cause is consolidated with 94-2094, infra.

Wright, J., dissents.

94-2130. State v. Smith.

Lorain County, Nos. 16027 and 16049. On motion for leave to file delayed appeal. Motion denied.

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

94-2174. State v. Harris.

Cuyahoga County, No. 65653. On motion for leave to file delayed appeal. Motion denied.

#### DISCRETIONARY APPEALS ALLOWED

94-961. State v. McGlaughlin.

Franklin County, No. 93AP-1109.

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

94-1501. Williams v. Grange Mut. Cas. Co.

Franklin County, No. 93APE12-1735.

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

94-1600. Erb v. Erb.

Cuyahoga County, Nos. 65666 and 65667.

Pfeifer, J., dissents.

94-1613. Huber Hts. Circuit Court v. Carne.

Montgomery County, No. 14378.

94-1618. Continental W. Condominium Unit Owners Assn. v. Howard E. Ferguson, Inc.

Cuyahoga County, No. 66330.

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

94-1621. State v. Daws.

Montgomery County, No. 13914. Appeal and cross-appeal allowed.

A.W. Sweeney and F.E. Sweeney, JJ., dissent.

94-1655. Neiberline v. Resash, Inc.

Franklin County, No. 93APE12-1692.

A.W. Sweeney and F.E. Sweeney, JJ., dissent.

94-1780. Hack v. Gillespie.

Cuyahoga County, No. 65673.

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

94-2094. Gates v. Post.

Marion County, No. 9-94-21. On motion to certify the record.

Motion allowed on Proposition of Law No. II only.

Pfeifer, J., would allow the entire case.

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

DISCRETIONARY APPEALS NOT ALLOWED

94-688. State v. Walton.  
Wyandot County, No. 16-93-13.

94-717. FCC Natl. Bank v. Woods.  
Montgomery County, No. 14452.

94-1052. State v. Patterson.  
Stark County, No. CA-9435.  
Moyer, C.J., Douglas and F.E. Sweeney, JJ., dissent.

94-1224. Cline v. Lewton.  
Summit County, No. 16466.

94-1274. State v. Stearns.  
Seneca County, No. 13-94-2.

94-1281. Robb v. Ohio Dept. of Liquor Control.  
Franklin County, No. 93AP-1041.  
Douglas, J., dissents.

94-1289. Coy v. Shroyer.  
Delaware County, No. 93CAG09030.

94-1297. Weimer v. Springfield Twp. Pub. School Dist. Bd. of Edn.  
Summit County, No. 16334.  
Pfeifer, J., dissents.

94-1439. Park Centre Party Ctr. v. Zell.  
Cuyahoga County, No. 65221.  
Moyer, C.J., and Douglas, J., dissent.

94-1490. Eastbelle Co. v. Nutter.  
Greene County, No. 93-CA-19.  
Resnick, J., dissents.

94-1561. Brown v. Dayton Power & Light Co.  
Montgomery County, No. 14081.  
Resnick, J., dissents.

94-1583. Arbor Village Condominium Assn. v. Arbor Village Ltd.  
Franklin County, No. 93APE10-1500. On motion and cross-motion to  
certify the record. Motions denied.  
Douglas, J., dissents.

94-1593. Ramos v. Kalfas.  
Cuyahoga County, No. 64806.  
Resnick and F.E. Sweeney, JJ., dissent.  
Pfeifer, J., would allow on Proposition of Law No. II only.

94-1603. Frappier v. Excello Specialty Co.  
Cuyahoga County, No. 65605.

94-1614. Joehnk v. Cincinnati Ins. Co.  
Clermont County, No. CA93-12-087.  
Douglas, Resnick and F.E. Sweeney, JJ., dissent.

94-1624. In re Estate of Peters.  
Athens County, Nos. 92CA1553 and 92CA1560.  
Pfeifer, J., dissents.

94-1635. Haller v. Borrer.  
Franklin County, No. 93APE12-1657.  
Wright, J., not participating.

94-1637. Shoemaker v. Dayton Walther Corp.  
Montgomery County, No. 13555.  
Wright, J., dissents.

94-1647. State v. McGraw.  
Cuyahoga County, No. 65202.  
Moyer, C.J., and Resnick, J., dissent.

94-1649. Strain v. Gaines.  
Hamilton County, Nos. C-930143 and C-930173.

94-1664. Benak v. Cleveland.  
Cuyahoga County, No. 64871.  
Wright, J., dissents.

94-1764. Cincinnati Ins. Co. v. Rogers.  
Mercer County, No. 10-94-5.  
Wright and Pfeifer, JJ., dissent.

94-1770. In re Good Samaritan Hosp.  
Franklin County, Nos. 94APH09-1335 and 94APH09-1336.  
Douglas and Wright, JJ., dissent.

94-1903. Schwenk v. Spitzer Marina.  
Cuyahoga County, No. 65660.  
F.E. Sweeney, J., dissents.

#### RECONSIDERATION DOCKET

85-712. State v. Buell.  
Cuyahoga County, No. 48621. Reported at 70 Ohio St.3d 1211,  
N.E.2d . On motion for reconsideration. Motion denied.  
A.W. Sweeney and Wright, JJ., dissent.

92-2273. Dandino v. Hoover.  
Lucas County, No. L-91-078. Reported at 70 Ohio St.3d 506,  
N.E.2d . On motion for reconsideration. Motion denied.  
Wright, J., dissents.  
Resnick, J., not participating.

93-808. Horner v. Toledo Hosp.  
Lucas County, No. L-91-417. Reported at 70 Ohio St.3d 1211,  
N.E.2d . On motion for reconsideration. Motion denied.

93-1811. State ex rel. Martines v. Cleveland City School Dist. Bd. of Edn.

Cuyahoga County, No. 64837. Reported at 70 Ohio St.3d 416, N.E.2d . On motion for reconsideration. Motion denied.

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

On request for oral argument. Request denied.

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

93-2038. Stewart v. Kennedy.

Hamilton County, No. C-920152. Reported at 70 Ohio St.3d 536, N.E.2d . On motion for reconsideration. Motion denied.

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

94-1311. Nozik v. Mentor Lagoons, Inc.

Lake County, No. 93-L-057. Reported at 70 Ohio St.3d 1454, N.E.2d . On motion for reconsideration. Motion denied.

Pfeifer, J., dissents.

94-1351. Grigsby v. Anesthesiologists of Southwestern Ohio, Inc.

Hamilton County, No. C-930008. Reported at 70 Ohio St.3d 1455, N.E.2d . On motion for reconsideration. Motion denied.

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