

ATTENTION

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

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

9:00 A.M.

WEDNESDAY
December 7, 1994

MERIT DOCKET

93-1455. Rocco v. Cuyahoga Cty. Bd. of Revision.
Appeal from the Board of Tax Appeals, No. 92-J-871. Decision
affirmed.

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

93-1698. State ex rel. Dayton Walther Corp. v. Indus. Comm.
Franklin County. Appeal from the Court of Appeals for Franklin
County, No. 92AP-1216. Judgment affirmed.

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

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

93-1749. Davenport v. M/I Schottenstein Homes, Inc.
Hamilton County. Appeal from the Court of Appeals for Hamilton
County, No. C-920142. Sua sponte, cause dismissed as having been
improvidently allowed.

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

Pfeifer, J., dissents.

93-1949. State ex rel. Shively v. Murphy Motor Freight.
Franklin County. Appeal from the Court of Appeals for Franklin
County, No. 92AP-914. Judgment reversed and writ allowed.

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E.

Sweeney and Pfeifer, JJ., concur.

93-2105. State ex rel. Singleton v. Indus. Comm.
Franklin County. Appeal from the Court of Appeals for Franklin
County, No. 92AP-1581. Judgment affirmed.

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

Resnick, J., dissents.

93-2620. State ex rel. Martinez v. Avon Oaks Nursing Home.
Franklin County. Appeal from the Court of Appeals for Franklin
County, No. 93AP-153. Judgment affirmed.

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

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

94-1021. State ex rel. Johnson v. Talikka.
Ashtabula County. Appeal from the Court of Appeals for Ashtabula
County, No. 93-A-1816. Judgment affirmed.

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

94-1377. Cuyahoga Cty. Bar Assn. v. Stidham.
On Certified Report by the Board of Commissioners on Grievances and
Discipline of the Supreme Court, No. 94-11. Ronald J. Stidman 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.

94-1396. State v. King.
Knox County. Appeal from the Court of Appeals for Knox County, No.
88-CA-45. Judgment affirmed.

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

94-1436. State v. Beard.
Medina County. Appeal from the Court of Appeals for Medina County,
No. 2170-M. Cause dismissed. See opinion.

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

94-1487. State v. Jackson.
Hamilton County. Appeal from the Court of Appeals for Hamilton
County, No. C-910298. Judgment affirmed.

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

94-1763. Disciplinary Counsel v. Cochrane.
On Certified Order of the Supreme Court of Nevada, No. 23463.
Thomas H. Cochrane is publicly reprimanded.

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

94-1810. Disciplinary Counsel v. Phillips.
On Certified Report by the Board of Commissioners on Grievances and
Discipline of the Supreme Court, No. 93-86. Thomas Ewing Phillips
is suspended from the practice of law for one year, stayed on two
years' probation and conditions.

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

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

94-1813. Disciplinary Counsel v. Schumann.

On Certified Report by the Board of Commissioners on Grievances and
Discipline of the Supreme Court, No. 94-10. William Manning
Schumann is publicly reprimanded.

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

94-1843. Disciplinary Counsel v. Cargo.

On Certified Report by the Board of Commissioners on Grievances and
Discipline of the Supreme Court, No. 93-43. William Andrew Cargo is
suspended from the practice of law for six months, stayed on
conditions.

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

F.E. Sweeney, J., dissents.

94-1861. Mahoning Cty. Bar Assn. v. DiMartino.

On Certified Report by the Board of Commissioners on Grievances and
Discipline of the Supreme Court, No. 92-55. Dennis DiMartino is
suspended from the practice of law for six months, stayed on
conditions.

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

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

SUPREME COURT OF OHIO

COLUMBUS

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9:00 A.M.

WEDNESDAY
December 7, 1994

MERIT DOCKET

94-2223. State ex rel. Chester v. Steiner.

In Mandamus. On motion for summary judgment. Sua sponte, cause

dismissed.

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

Moyer, C.J., would grant the motion for summary judgment.

94-2232. State ex rel. Sherrills v. Eighth Dist. Court of Appeals. In Procedendo. Sua sponte, cause dismissed.

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

94-2240. Walton v. Ghee.

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.

94-2257. State ex rel. Rhea v. DeWeese.

In Procedendo. 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.

94-2294. State ex rel. Penix v. Judges of the Fourth Dist. Court of Appeals.

In Procedendo. 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.

94-2314. Carpenter v. Smilanick.

In Mandamus. Sua sponte, cause dismissed.

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

94-2344. State ex rel. Hill v. Ohio Dept. of 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.

94-2345. State ex rel. Henry v. Ohio Dept. of 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.

94-2351. Travis v. Eighth Dist. Court of Appeals.

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.

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

94-1403. Auburn Glen Corp. v. Auburn Twp.

Geauga County, No. 93-G-1786.
Douglas and Pfeifer, JJ., dissent.

94-1452. Yancey v. Glazer.
Montgomery County, No. 13825.

94-1470. State v. Minnifield.
Hamilton County, Nos. C-930459 and C-930475.
Pfeifer, J., dissents.

94-1481. Pruden v. Pruden.
Franklin County, No. 93APF10-1428.
Moyer, C.J., and Pfeifer, J., dissent.

94-1513. Rahman v. Greater Cleveland Regional Transit Auth.
Cuyahoga County, No. 66166.

94-1679. Reece v. Reece.
Miami County, No. 93-CA-45.

94-1706. Bancplus Mtge. Corp. v. Cleveland.
Cuyahoga County, No. 65011.
Wright, J., dissents.

94-1714. Shockey v. Wilkinson.
Ross County, No. 93CA1977.
Wright, J., dissents.

94-1735. In re Quarles.
Tuscarawas County, No. 93AP110082.
Moyer, C.J., A.W. Sweeney and Pfeifer, JJ., dissent.

94-1738. State v. Wagenknecht.
Wayne County, No. 2864.

94-1745. Witherby v. G.A. Avril Co.
Hamilton County, NO. C-930493.

94-1760. In re Adoption of Hatfield.
Hamilton County, No. C-930416.
Pfeifer, J., dissents.

94-1767. State v. Spearman.
Hamilton County, No. C-930301.

94-1768. State v. Jones.
Hamilton County, No. C-930300.

94-1775. Columbus v. Trippe.
Franklin County, No. 94APC01-7.

94-1792. State v. Jackson.
Hamilton County, No. C-930873.

94-1798. State v. Giles.
Cuyahoga County, No. 65731.

94-1805. State v. Redd.
Cuyahoga County, Nos. 65671 and 65672.

94-1816. Paulus v. Paulus.
Geauga County, No. 93-G-1828.
Moyer, C.J., dissents.

94-1817. Magistrelli v. Toyota Motor Corp.
Summit County, No. 16461.
Wright, J., dissents.

94-1824. Walton v. Sankovic.
Cuyahoga County, No. 65659.
Pfeifer, J., dissents.

94-1827. State v. Miller.
Tuscarawas County, No. 93AP070045.
Wright, J., dissents.

94-1829. State v. Crawley.
Warren County, No. CA9309072.
Moyer, C.J., dissents.

94-1832. Nakoff v. Fairveiw Gen. Hosp.
Cuyahoga County, No. 64256.
Wright and Pfeifer, JJ., dissent.

94-1836. State v. Chamberlain.
Licking County, No. 93CA146.
Wright, J., not participating.

94-1849. Black v. Cleveland Police Dept.
Cuyahoga County, No. 65715.

94-1854. State v. Lockhart.
Adams County, No. 94CA577.

94-1855. State v. Mason.
Ashland County, No. CA-975.
Wright, J., dissents.

94-1856. Nichols v. Ryder Truck Rental, Inc.
Cuyahoga County, No. 65376.

94-1865. State v. Snyder.
Montgomery County, No. 14089.
Pfeifer, J., dissents.

94-1867. Bluffs of Wildwood Home Owners' Assn., Inc. v. Dinkel.
Butler County, No. CA94-02-036.
Resnick, J., dissents.

94-1868. State v. Ellison.
Franklin County, No. 93APC12-1696.
Moyer, C.J., dissents.

94-1870. Scarnati v. Ohio Dept. of Mental Health.

Franklin County, No. 94API01-102.
Pfeifer, J., dissents.

94-1877. Fairlawn v. Barrett.
Summit County, No. 16619.

94-1882. State v. Brooks.
Cuyahoga County, No. 65776.
Resnick, J., dissents.

94-1887. Columbus v. Stickles.
Franklin County, No. 94APC01-72.
Moyer, C.J., and Wright, J., dissent.

94-1895. May v. Ohio Dept. of Hwy. Safety.
Franklin County, No. 93APH12-1652.

94-1901. State v. McManus.
Cuyahoga County, No. 65930.

94-1902. Reinert v. Irwin.
Montgomery County, No. 13674.

94-1904. State v. Weiss.
Guernsey County, No. 93-CA-24.
On motion and cross-motion to certify the record. Motions denied.
Moyer, C.J., Douglas and Resnick, JJ., dissent.

94-1914. State v. Celli.
Franklin County, No. 94APA04-579.

94-1915. State v. Callins.
Hamilton County, No. C-930428.

94-1922. McMaster v. Akron Hous. Appeals Bd.
Summit County, No. 16665.

94-1942. State v. Wagner.
Lorain County, No. 93CA005660.

94-1974. Gumpl v. Wilkinson.
Lorain County, No. 94CA005858.

MOTION DOCKET

94-115 and 94-1041. Horton v. Harwick Chem. Corp.
Montgomery County, No. 13872. On motion to expedite. Motion
granted.

94-339. Lewis v. Steinreich.
Summit County, No. 16203. On motion to dismiss. Motion denied.
Moyer, C.J., and Wright, J., dissent.

94-1484. State v. Beeman.
Cuyahoga County, No. 67208. On motion to consolidate case with
94-1483, State v. Beeman, Cuyahoga County, No. 67207. Motion

granted.

94-2191. Wren v. Oliver.
In Mandamus. Sua sponte, alternative writ granted.
Douglas and Resnick, JJ., would dismiss the cause.

94-2234. State v. Thorn.
Coshocton County, No. 84-CA-17. On motion for leave to file delayed
appeal. Motion denied.

94-2324. State v. Schaffer.
Summit County, No. 16712. On motion for leave to file delayed
appeal. Motion denied.
Moyer, C.J., and Wright, J., dissent.

94-2342. State v. Whalen.
Hamilton County, No. C-930367. On motion for leave to file delayed
appeal. Motion denied.
Moyer, C.J., dissents.

94-2367. State v. McKenzie.
Cuyahoga County, No. 59850. On motion for leave to file delayed
appeal. Motion denied.

94-2384. State v. Wright.
Cuyahoga County, No. 58953. On motion for leave to file delayed
appeal. Motion denied.

94-2396. State v. Shepherd.
Cuyahoga County, No. 62894. On motion for leave to file delayed
appeal. Motion denied.

94-2400. Hacker v. Dickman.
Erie County, No. E-93-65. On review of order certifying a conflict
and on motion urging Supreme Court to determine that a conflict does
not exist. The court determines that a conflict exists; the parties
are to brief the issue of the construction of the exclusionary
clause, as set forth in the court of appeals' Decision and Judgment
Entry, decided November 2, 1994.
Douglas, J., dissents.
Resnick, J., not participating.

94-2412. State v. Croy.
Union County, No. 14-93-2. On motion for leave to file delayed
appeal. Motion denied.

94-2495. Visocky v. Farmers Ins. of Columbus.
Cuyahoga County, No. 66356. On review of order certifying a
conflict. The court determines that a conflict exists; the parties
are to brief the issue set forth in the court of appeals' Journal
Entry, filed October 25, 1994.
Sua sponte, this cause is consolidated with 94-2212, infra.

DISCRETIONARY APPEALS ALLOWED

94-1200. Byers v. Consol. Aluminum Corp.

Monroe County, No. 716. Sua sponte, cause held for decision in 94-354, McAuliffe v. W. States Import Co., Cuyahoga County, No. 65297; briefing schedule stayed.

94-1806. In re Owens.

Cuyahoga County, No. 66452.

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

94-1830. Petras v. Ohio Concrete Constr. Co.

Cuyahoga County, No. 65600. On appeal by Automatic Sprinkler Corporation of America and on appeal by Tower City Development, Inc., and Forest City Commercial Construction Co. Discretionary appeal of Tower City Development, Inc. and Forest City Commercial Constr. Co. allowed; discretionary appeal of Automatic Sprinkler Corp. of America not allowed.

Wright and Pfeifer, JJ., would allow both appeals.

Moyer, C.J., would allow neither appeal.

94-2212. Visocky v. Farmers Ins. of Columbus.

Cuyahoga County, No. 66356.

DISCRETIONARY APPEALS NOT ALLOWED

94-1660. Colasant v. Olmsted Twp.

Cuyahoga County, No. 65200.

94-1671. Smith v. Cosco Ind.

Hamilton County, No. C-940289.

94-1672. Smith v. Serv-A-Portion, Inc.

Hamilton County, No. C-940199.

94-1686. Xenia v. Jones.

Greene County, No. 93-CA-69.

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

94-1694. Goering v. Kleve.

Hamilton County, No. C-930490.

94-1727. Bebout v. Conley.

Stark County, No. CA-9512.

Wright, J., dissents.

94-1730. Trina v. Warren.

Trumbull County, No. 93-T-4925.

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

94-1731. Weiss v. Simms.

Cuyahoga County, No. 65847.

Douglas and Pfeifer, JJ., dissent.

94-1732. State v. Montaz-Pagan.

Trumbull County, No. 91-T-4635.

Douglas and Resnick, JJ., dissent.

94-1744. Knoll Group Mgt. Co. v. Wolfe.

Adams County, Nos. 93CA553 and 93CA554.
Moyer, C.J., dissents.

94-1762. David M. v. Erie Cty. Dept. of Human Serv.
Erie County, No. E-93-40.
Resnick, J., not participating.

94-1778. Blatnick v. Sheller-Globe Corp.
Cuyahoga County, No. 65516.
Wright, J., dissents.

94-1784. Khasawneh v. Trimble.
Franklin County, No. 94APE01-39.

94-1786. State v. Leatherwood.
Lorain County, No. 93CA005744.

94-1787. Dean v. Johns.
Hamilton County, No. C-930427.

94-1797. Harris v. E. Ohio Gas. Co.
Lake County, No. 93-L-030.
Wright, J., dissents.

94-1799. Fink v. Motorists Mut. Ins. Co.
Geauga County, No. 93-G-1784.
Resnick and F.E. Sweeney, JJ., dissent.

94-1801. Gnomes Knoll Farm, Inc. v. Aurora Inn Operating
Partnership, L.P.
Geauga County, Nos. 93-G-1772 and 93-G-1780.
Moyer, C.J., dissents.

94-1812. Farmers Ins. of Columbus, Inc. v. Sotak.
Franklin County, Nos. 94APE01-128 and 94APE01-127.

94-1852. Soc. Natl. Bank v. Edmunds Mgt. Co.
Cuyahoga County, No. 65280.
Pfeifer, J., dissents.
Resnick, J., not participating.

94-1900. Perrico Property Sys. v. Independence.
Cuyahoga County, No. 65142.

94-1905. Brooks v. Progressive Specialty Ins. Co.
Summit County, No. 16639.
Resnick, J., dissents.

94-1926. State v. Bolser.
Hamilton County, No. C-930915.

94-1965. State v. Martin.
Cuyahoga County, No. 65999. On motion and cross-motion for leave to
appeal. Motions denied.
Moyer, C.J., and Resnick, J., dissent.

94-1973. State v. Green.

Lake County, No. 93-L-121.

94-2050. Wright v. Integral Ins. Co.
Stark County, No. 94CA0132.

RECONSIDERATION DOCKET

93-646. Leber v. Smith.
Erie County, No. E-87-43. Reported at 70 Ohio St.3d 548,
N.E.2d . On motion for reconsideration. Motion denied.
Moyer, C.J., and Wright, J., dissent.
Resnick, J., not participating.

93-2012. State ex rel. Beacon Journal Publishing Co. v. Akron.
Summit County, No. 15872. Reported at 70 Ohio St.3d 605,
N.E.2d . On motion for reconsideration. Motion denied.
Douglas, Resnick and F.E. Sweeney, JJ., dissent.
Stephen R. Shaw, J., of the Third Appellate District, sitting
for Wright, J.

94-947. Guendelsberger v. Ng.
Hardin County, No. 6-93-4. Reported at 70 Ohio St.3d 1473,
N.E.2d . On motion for reconsideration and on motion to transmit
record. Motions denied.

94-1222. State ex rel. Wright v. Ohio Adult Parole Auth.
Franklin County, No. 93AP-622. Reported at 70 Ohio St.3d 1473,
N.E.2d . On motion for reconsideration. Motion granted and
direct appeal restored to active docket.
Wright, F.E. Sweeney and Pfeifer, JJ., dissent.

94-1394. Kester v. Rodgers.
Lake County, Nos. 93-L-056 and 93-L-072. Reported at 70 Ohio St.3d
1465, N.E.2d . On motion for reconsideration. Motion denied.
Douglas, J., dissents.

94-1405. E. Liverpool v. Chisler.
Columbiana County, No. 93-C-19. Reported at 70 Ohio St.3d 1465,
N.E.2d . On motion for reconsideration. Motion denied.

94-1413. Malone v. Courtyard by Marriott, L.P.
Franklin County, No. 93APE10-1407. Reported at 70 Ohio St.3d
1465, N.E.2d . On motion for reconsideration. Motion
granted and discretionary appeal allowed.
Resnick and F.E. Sweeney, JJ., dissent.

94-1437. Feichtner v. Cleveland.
Cuyahoga County, No. 65483. Reported at 70 Ohio St.3d 1476,
N.E.2d . On motion for reconsideration. Motion denied.

94-1468. State v. Cooley.
Summit County, Nos. 15895 and 15966. Reported at 70 Ohio St.3d
1465, N.E.2d . On motion for reconsideration. Motion denied.
Pfeifer, J., dissents.

94-1543. Forsyth v. Forsyth.

Montgomery County, No. 14327. Reported at 70 Ohio St.3d 1474,
N.E.2d . On motion for reconsideration. Motion denied.

94-1545. State v. Moore.
Lake County, No. 92-L-092. Reported at 70 Ohio St.3d 1474,
N.E.2d . On motion for reconsideration. Motion denied.

94-1669. Smith v. Serv-A-Portion, Inc.
Hamilton County, No. C-940214. Reported at 70 Ohio St.3d 1474,
N.E.2d . On motion for reconsideration. Motion denied.

94-1670. Smith v. Marketing Programs, Inc.
Hamilton County, Nos. C-940288 and C-940356. Reported at 70 Ohio
St.3d 1477, N.E.2d . On motion for reconsideration. Motion
denied.