

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
April 26, 1995

MERIT DOCKET

93-2252. Brody v. Mihm.
Stark County. Appeal from the Court of Appeals for Stark County, No.
9224. Judgment affirmed.
Moyer, C.J., Douglas, Wright, Resnick, F.E. Sweeney and Pfeifer,
JJ., concur.
Cook, J., concurs in judgment only.

93-2366. State ex rel. Osborne v. Indus. Comm.
Franklin County. Appeal from the Court of Appeals for Franklin
County, No. 92AP-1597. Judgment affirmed.
Moyer, C.J., Douglas, Wright, Resnick, F.E. Sweeney, Pfeifer and
Cook, JJ., concur.

93-2636. State v. Weaver.
Champaign County. Appeal from the Court of Appeals for Champaign
County, No. 93 CA 02. Sua sponte, cause dismissed as having been
improvidently allowed.
Wright, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.
Moyer, C.J., Douglas and Cook, JJ., dissent.

94-63. Ashland Oil Co. v. Tracy.
Appeal from the Board of Tax Appeals, Nos. 91-M-1379 and 91-M-1380.
Decision affirmed.
Moyer, C.J., Douglas, Wright, Resnick, F.E. Sweeney, Pfeifer and
Cook, JJ., concur.

94-436. State ex rel. Boggs v. Springfield Local School Dist. Bd. of Edn.

Summit County. Appeal from the Court of Appeals for Summit County, No. 16451. Judgment reversed and cause remanded.

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

Wright and Cook, JJ., not participating.

94-896. State ex rel. Williams Ford Sales, Inc. v. Connor.

Franklin County. Appeal from the Court of Appeals for Franklin County, No. 93APD11-1539. Judgment reversed and cause remanded.

Moyer, C.J., Wright, Resnick, F.E. Sweeney, Pfeifer and Cook, JJ., concur.

Douglas, J., concurs in judgment only.

94-1831. State ex rel. Heck v. Kessler.

In Mandamus and Prohibition. Writs granted in part and dismissed in part.

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

94-1853. State ex rel. Sellers v. Gerken.

Hocking County. Appeal from the Court of Appeals for Hocking County, No. 94 CA 11. Judgment affirmed.

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

94-2056. State v. Reddick.

Cuyahoga County. Appeal from the Court of Appeals for Cuyahoga County, No. 50814. Judgment affirmed.

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

94-2104. State ex rel. Edwards v. Toledo City School Dist. Bd. of Edn.

Lucas County. Appeal from the Court of Appeals for Lucas County, No. L-94-206. Judgment affirmed in part, reversed in part and cause remanded.

Moyer, C.J., Wright, Resnick, F.E. Sweeney, Pfeifer and Cook, JJ., concur.

Douglas, J., concurs in part and dissents in part.

94-2437. State v. Carroll.

Cuyahoga County. Appeal from the Court of Appeals for Cuyahoga County, No. 62747. Judgment affirmed.

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

94-2467. State v. White.

Cuyahoga County. Appeal from the Court of Appeals for Cuyahoga County, No. 57944. Judgment affirmed.

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

Wright, J., dissents.

94-2653. Cleveland Bar Assn. v. Chandler.

On Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 94-03. Everett Alfred Chandler

is suspended from the practice of law for two years, one year stayed, on conditions.

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

Pfeifer, J., dissents.

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94-1783. State ex rel. Roberts v. Ohio State Hwy. Patrol Retirement Bd.

In Mandamus. On motion for adoption of agreed settlement entry. The court having been advised that the parties reached a settlement of their dispute dismisses this cause.

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

94-2372. State ex rel. Hall v. Brown.

Licking County, No. 94CA102. On joint motion to dismiss. The court having been advised that the parties reached a settlement of their dispute dismisses this cause.

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

95-111. Pusey v. Markovitch.

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

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

Pfeifer, J., dissents.

95-475. Cuyahoga Cty. Court of Common Pleas v. Coats.

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

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

95-508. State ex rel. Murr v. Sargeant.
In Procedendo. Sua sponte, cause dismissed.

Moyer, C.J., Douglas, Wright, Resnick, Pfeifer and Cook, JJ., concur.

F.E. Sweeney, J., dissents and would grant an alternative writ.

95-512. State ex rel. Buoscio v. Seventh Judicial Dist. of Ohio.
In Mandamus. Sua sponte, cause dismissed.

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

Wright and Cook, JJ., dissent and would grant an alternative writ.

95-516. Hall v. Shaker.

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

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

95-536. State ex rel. Luna v. White.
In Procedendo. Sua sponte, cause dismissed.

Moyer, C.J., Douglas, Wright, Resnick, Pfeifer and Cook, JJ., concur.

F.E. Sweeney, J., dissents and would grant an alternative writ.

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

94-2614. State v. Proffitt.
Hamilton County, No. C-940123.

95-72. In re St. Vincent Med. Ctr.
Franklin County, No. 94APH05-725.
Douglas and F.E. Sweeney, JJ., dissent.
Wright, J., not participating.

95-85. State v. Tyler.
Franklin County, No. 94APA04-492.
Resnick, J., dissents.

95-90. Hall v. W. Res. Mut. Ins. Co.
Hamilton County, No. C-940016.

95-93. State v. Mapp.
Stark County, No. 9181.

95-97. Lowe v. Gerlach.
Scioto County, No. 93CA2183.

95-99. State v. Hall.
Lucas County, No. L-94-008.

95-103. Jarrett v. Sandusky.
Erie County, No. E-93-63.

Resnick, J., not participating.

95-104. State v. Creasey.
Cuyahoga County, Nos. 65717 and 65718.

95-105. Jurek v. Ohio Motor Vehicles Dealers Bd.
Cuyahoga County, No. 66373.
F.E. Sweeney, J., dissents.

95-107. Fed. Land Bank v. Walton.
Wyandot County, No. 16-94-7.

95-110. State v. Hattery.
Wood County, No. 94WD105.

95-113. State v. Dublin.
Cuyahoga County, Nos. 65800, 65807 and 65808.

95-117. Chirumbolo v. Dent.
Stark County, No. CA-9507.
Douglas, J., dissents.

95-119. State v. Zerla.
Franklin County, No. 93APA09-1304.

95-120. State v. Niesz.
Stark County, No. CA-9231.

95-122. Visyak v. Wintersville.
Jefferson County, No. 94-J-1.

95-126. Dover v. Colvin.
Tuscarawas County, No. 94AP040027.
Moyer, C.J., and Wright, J., dissent.

95-137. Killeen v. Natl. City Corp.
Lorain County, No. 94CA005783.
Cook, J., not participating.

95-141. State v. Mason.
Hamilton County, No. C-940197.

95-144. State v. Paige.
Cuyahoga County, No. 66743.

95-152. State v. Stevens.
Highland County, No. 93CA832.
Pfeifer, J., dissents.

95-154. State v. Colwell.
Hamilton County, No. C-930806.
Wright, J., dissents.

95-156. State v. Blankenship.
Butler County, Nos. CA93-12-238 and CA94-05-106.

95-162. State v. Pariseau.

Cuyahoga County, No. 67496.

95-163. State v. Lushch.
Cuyahoga County, No. 66395.

95-166. State v. Cox.
Lawrence County, No. 94CA01.
Wright, J., dissents.

95-175. State v. Fye.
Stark County, No. 1994CA00210.

95-176. State v. Baker.
Shelby County, No. 17-94-18.

95-177. State v. Tuttle.
Richland County, No. 93CA101.

95-178. State v. Williams.
Montgomery County, No. 14270.

95-181. State v. Platt.
Ashtabula County, No. 94-A-0015.

95-182. State v. Broyles.
Ashtabula County, No. 93-A-1818.

95-189. State v. Ware.
Franklin County, No. 94APA07-979.

95-199. Sellers v. Doe.
Franklin County, No. 94APE06-947.
Wright and Cook, JJ., dissent.

95-204. State v. Johnson.
Hamilton County, Nos. C-940305 and C-940306.

95-208. State v. Riley.
Lorain County, No. 94CA005668.
Cook, J., not participating.

95-221. State v. Reynolds.
Cuyahoga County, No. 66417.
Wright, J., dissents.

95-223. State v. Brooks.
Cuyahoga County, Nos. 66588 and 66589.
Pfeifer, J., would allow on Proposition of Law No. I only.

95-243. State v. Taylor.
Ashtabula County, No. 93-A-1812.

95-256. Boden v. Boden.
Franklin County, No. 94APF05-689.

95-262. State v. Stevens.
Summit County, No. 16582.

Cook, J., not participating.

95-277. Columbus Div. of Income Tax v. Reckless.
Franklin County, No. 94APG05-717.
Wright and Pfeifer, JJ., dissent.

95-329. Burket v. Springfield Civ. Serv. Trial Bd.
Hamilton County, No. C-930810.

MOTION DOCKET

91-2294. State ex rel. Weiss v. Indus. Comm.
On motion for relief from judgment, request for oral argument on
motion for relief from judgment, and motion to strike or dismiss
motion for relief from judgment. Motions denied.

94-1944. May v. Bowland.
Hamilton County, No. C-940522. On motion for damages, litigation
expenses, and attorney fees. Motion denied.

94-1947. May v. Bowland.
Hamilton County, No. C-940568. On motion for damages, litigation
expenses, and attorney fees. Motion denied.

94-1948. May v. Bowland.
Hamilton County, No. C-930924. On motion for damages, litigation
expenses, and attorney fees. Motion denied.

94-2141. Robb v. Chagrin Lagoons Yacht Club, Inc.
Lake County, No. 93-L-064. On motion for leave to supplement the
record. Motion denied.
Moyer, C.J., Wright and Pfeifer, JJ., dissent.

94-2201. Ed Schory & Sons, Inc. v. Francis.
Stark County, No. 9474. On motion for leave to supplement the
record. Motion granted.
F.E. Sweeney, J., dissents.

95-42. State v. Wogenstahl.
Hamilton County, No. C-930222. On motion to file additional pro se
merit brief and motion to reimburse counsel for expenses. Motions
denied.

95-372. State v. Dick.
Tuscarawas County, No. 94AP040025. On review of order certifying a
conflict. The court determines that a conflict exists; the parties
are to brief the issue stated in the court of appeals' Judgment Entry,
filed March 28, 1995, as follows: "The judgment of this Court in the
instant cause is in conflict with the judgments of the Scioto County
Court of Appeals in State v. Fraley (1991), 77 Ohio App.3d 104, and
the Columbiana Court of Appeals in State v. Gilliam (Aug. 2, 1993),
Columbiana App. No. 92-C-33, unreported, on the following rule of
law: Whether, in a prosecution pursuant to R.C. 4511.19 the result of
a breath-alcohol content test is admissible where the Department of
Health regulation that the subject be observed for twenty minutes
before administration of the test is satisfied in whole or in part by

someone other than the operator of the testing instrument. This cause is hereby certified to the Supreme Court of Ohio for determination."

95-455. State v. Howe.

Montgomery County, No. 13969. On motion to exceed page limitation and motion to allow appellant to address all assignments of error in his merit brief. Motions denied.

95-515. State v. Brown.

Lucas County, No. L-87-241. On motion for appointment of counsel. Motion denied.

Wright and Cook, JJ., would also refer this cause to the court of appeals for appointment of counsel.

Resnick, J., dissents.

95-540. State v. Russell.

Montgomery County, No. 14002. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Cook, JJ., dissent.

95-570. Guy v. Buckeye Publishing Co.

Columbiana County, No. 93-C-33. On motion for admission pro hac vice by James A. Prozzi, Esq. Motion granted.

DISCRETIONARY APPEALS ALLOWED

95-100. Trader v. People Working Coop., Inc.

Hamilton County, No. C-930716. Discretionary appeal allowed; sua sponte, cause held for the decision in 94-405, Haynes v. Zoological Soc. of Cincinnati, Hamilton County, Nos. C-910598 and C-910635; briefing schedule stayed.

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

95-149. Dublin v. Young.

Franklin County, No. 94APC05-769.

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

95-185. Curtis v. Square-D Co.

Williams County, No. 94WM000003. Discretionary appeal allowed; sua sponte, cause held for the decision in 94-354, McAuliffe v. W. States Import Co., Cuyahoga County, No. 65297; briefing schedule stayed.

Douglas, J., dissents.

Resnick, J., not participating.

DISCRETIONARY APPEALS NOT ALLOWED

95-88. Mill Creek Metro. Park Dist. v. Ohio Unemp. Comp. Bd. of Review.

Franklin County, No. 94APE05-775.

Moyer, C.J., dissents.

95-118. State ex rel. Rose Lane, Inc. v. Creighton.

Stark County, No. 94CA0151.

95-124. Armco Steel Corp. v. Catchpole.

Butler County, No. CA94-02-037.
Moyer, C.J., Wright and Cook, JJ., dissent.

95-138. Internatl. EPDM Rubber Roofing Sys. v. Midwestern Indemn. Co.
Lucas County, No. L-94-167.
Resnick, J., not participating.

95-143. Waldron v. Ohio Dept. of Human Serv.
Montgomery County, No. 14108.
Resnick and Pfeifer, JJ., dissent.

95-147. Gaus v. Westerville City School Dist. Bd. of Edn.
Franklin County, No. 94APE07-980.

95-148. In re McVay.
Lawrence County, No. 94CA7.

95-151. Saydell v. Geppetto's Pizza & Ribs Franchise Sys., Inc.
Cuyahoga County, No. 66326.

95-160. Salgado v. Shoreway Circle, Inc.
Lake County, No. 93-L-071.

95-164. Thornton v. Caronchi.
Cuyahoga County, No. 66664.

95-168. Eddy v. Am. Std., Inc.
Columbiana County, No. 93-C-49.

95-173. Chandler v. Empire Chem., Inc.
Summit County, No. 16708.
Douglas, J., dissents.

95-174. State v. Luken.
Hamilton County, No. C-940324.

95-184. In re Adoption of Brown.
Hamilton County, No. C-940178.

95-190. Williams v. Veterans of Foreign War, Brookville Mem. Post No.
3228, Inc.
Montgomery County, No. 14520.
Douglas, Wright and Cook, JJ., dissent.

95-197. State v. Lawrence.
Shelby County, No. 17-94-28.
Pfeifer, J., dissents.

95-299. Crawford v. LTV Steel Co.
Cuyahoga County, No. 67461.
F.E. Sweeney and Pfeifer, JJ., dissent.

95-309. State v. Warner.
Ashland County, No. CA-1082.

RECONSIDERATION DOCKET

93-1929. Garfield Hts. City School Dist. Bd. of Edn. v. State Bd. of Edn.

Cuyahoga County, Nos. 63304 and 63315. Reported at 71 Ohio St.3d 590, N.E.2d . On motion for reconsideration. Motion denied. Moyer, C.J., Douglas and F.E. Sweeney, JJ., dissent.

94-2066. Johnson v. Univ. Mednet.

Cuyahoga County, No. 65623. Reported at 71 Ohio St.3d 608, N.E.2d . On motion for reconsideration. Motion denied. Moyer, C.J., Wright and Cook, JJ., dissent.

94-2566. Incorporated Village of Octa v. Interstate Adult Arcade.

Fayette County, No. CA94-04-002. Reported at 71 Ohio St.3d 1491, N.E.2d . On motion for reconsideration. Motion denied.

94-2577. State v. Lott.

Cuyahoga County, Nos. 66388, 66389 and 66390. Reported at 71 Ohio St.3d 1491, N.E.2d . On motion for reconsideration. Motion denied.

Wright, J., dissents.

94-2599. Dickerson v. Internatl. United Auto Workers Union.

Cuyahoga County, Nos. 65513 and 65543. Reported at 71 Ohio St.3d 1492, N.E.2d . On motion for reconsideration. Motion denied. Moyer, C.J., and Wright, J., dissent.

94-2600. Westvaco v. W. 114th Berea Realty Corp.

Cuyahoga County, No. 66180. Reported at 71 Ohio St.3d 1493, N.E.2d . On motion for reconsideration. Motion denied.

94-2605. State v. Spears.

Preble County, No. CA94-01-001. Reported at 71 Ohio St.3d 1492, N.E.2d . On motion for reconsideration. Motion denied.

94-2607. Price v. New Madison.

Darke County, No. 1348. Reported at 71 Ohio St.3d 1494, N.E.2d . On motion for reconsideration. Motion denied. F.E. Sweeney and Cook, JJ., dissent.

95-127. Dickerson v. Internatl. Union UAW.

Cuyahoga County, Nos. 65513 and 65543. Reported at 71 Ohio St.3d 1492, N.E.2d . On motion for reconsideration. Motion denied. Wright, J., dissents.