

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

1:00 P.M. WEDNESDAY
May 15, 1996

MERIT DOCKET

96-480. Smith v. Record Custodian, Ohio Dept. of Pub. Safety, Bur. of Motor Vehicles.

In Mandamus. On answer of respondent. Sua sponte, the cause is dismissed without prejudice for failure of relator to comply with the affidavit requirement of S.Ct.Prac.R. X(4)(B).

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

96-516. State v. Caslin.

Franklin County, No. 94APA11-1589. Sua sponte, cause dismissed.

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

96-701. State ex rel. Graves v. Callahan.

In Mandamus and Procedendo. Sua sponte, cause dismissed.

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

96-721. State ex rel. Guess v. Judges.

In Mandamus. Sua sponte, cause dismissed.

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

96-765. State ex rel. Graham v. Van Hoose.

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

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

96-774. State ex rel. White v. Goldsberry.

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

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

96-775. Allen v. Ohio Adult Parole Auth.

In Mandamus and Habeas Corpus. Sua sponte, cause dismissed.

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

96-827. Martell v. Fed. Correctional Inst.
In Habeas Corpus. Sua sponte, cause dismissed.

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

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

96-5. In re Forfeiture of 1990 Jeep, VIN 2J4FY29T3LJ541994.
Franklin County, No. 95APE05-536.

Stratton, J., not participating.

96-8. State v. Kiggans.
Stark County, No. 1995CA00157.
Pfeifer, J., dissents.

96-15. Armco, Inc. v. N. Assur. Co. of Am.
Butler County, No. CA94-02-026.
Stratton, J., dissents.

96-27. In re Parra.
Cuyahoga County, No. 68891.
Stratton, J., dissents.

96-31. State v. Zanders.
Summit County, No. 17147 and 17243.

96-32. State v. Spears.
Preble County, No. CA95-07-016.

96-33. State v. Ray.
Summit County, No. 17248.

96-45. State v. Balmer.
Hamilton County, No. C-950275.

96-55. State v. Holmes.
Licking County, No. 95CA61.

96-65. State v. Brown.
Cuyahoga County, No. 67653.

96-68. State v. Beatty.
Geauga County, No. 94-G-1885.
Moyer, C.J., dissents.

96-72. State v. Pittman.
Cuyahoga County, No. 68163.
Stratton, J., dissents.

96-74. State v. McDaniels.
Cuyahoga County, No. 68845.

96-78. State v. Blankenship.
Butler County, No. CA95-07-120.

96-81. Stinchcomb v. C.I.R., Inc.
Lake County, No. 95-L-007.

96-82. State v. Buckley.
Cuyahoga County, No. 68419.

96-83. State v. Parker.
Cuyahoga County, No. 68054.

96-84. Goldberg Cos., Inc. v. Richmond Hts. Council.
Cuyahoga County, Nos. 68291 and 68292.
Douglas, Resnick and F.E. Sweeney, JJ., dissent.

96-92. Newark v. Schumaker.
Licking County, No. 94CA00121.

96-100. State v. Griffith.
Hamilton County, No. C-950431.

96-109. State v. Krothe.
Coshocton County, No. 95CA19.

96-111. Applegate v. Weadock.
Auglaize County, No. 2-95-24.

96-112. Jones v. Ohio Dept. of Human Serv.
Allen County, No. 1-95-42.

96-118. Frazier v. Crown Temporary Serv., Inc.
Franklin County, No. 95APE10-1291.

96-122. State v. Garcia.
Cuyahoga County, No. 67867.

96-124. State v. Lucas.
Van Wert County, No. 15959.

96-132. Szep v. Ohio State Bd. of Pharmacy.
Lake County, No. 95-L-073.

96-139. State v. Johnson.
Cuyahoga County, No. 68519.

96-145. State v. Freeman.
Cuyahoga County, No. 68320.

96-153. State v. Randleman.
Seneca County, No. 13-95-15.

96-171. State v. Mallory.
Hamilton County, No. C-950377.

96-222. Fant v. Bank One, Cleveland, N.A.
Cuyahoga County, No. 69300.

96-612. State v. Martin.
Hardin County, No. 6-95-11.

MOTION DOCKET

95-1664. Shidel v. Liberty Mut. Ins. Co.
Mahoning County, No. 94 C.A. 114. On motion to participate in oral argument.
Motion denied.

96-614. State v. Martin.
Hardin County, No. 6-95-11. On review of order certifying a conflict. The court determines that a conflict exists; sua sponte, cause held for the decision in 95-1377 and 95-1466, State v. Gustafson, Mahoning County, No. 94 C.A. 232; briefing schedule stayed.

96-797. State v. Gearing.
Cuyahoga County, No. 62202. On motion for leave to file delayed appeal. Motion denied.

96-806. State v. Higgins.
Montgomery County, No. 14335. On motion for leave to file delayed appeal.
Motion denied.

96-811. State v. Eames.
Union County, No. 14-93-3. On motion for leave to file delayed appeal. Motion denied.

96-829. State v. Smith.
Paulding County, No. 11-95-7. On motion for leave to file delayed appeal.
Motion denied.

Resnick, Pfeifer and Stratton, JJ., dissent.

96-852. Holt v. Grange Mut. Cas. Co.
Butler County, No. CA95-11-192. 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' Entry Granting Motion for Certification, filed April 3, 1996:

"The above cause is before the court pursuant to a motion to certify conflict to the Ohio Supreme Court filed by counsel for appellant, Grange Mutual Casualty Co., on March 12, 1996, and a memorandum in opposition filed by counsel for appellee, Ingrid E. Holt, Executrix, on March 19, 1996. Appellant contends that the court's decision in this case is in conflict with decisions by three other appellate courts: Thompson v. Utomo (Oct. 27, 1995), Lucas App.No. L-95-034, unreported [___ WL ___]; Estate of Joseph Simone v. Nationwide Insurance Co. (Nov. 3, 1994), Cuyahoga App. 67-81, unreported [___ WL ___]; and Berleman v. State Farm Mutual Auto Insurance Co. (1992), 76 Ohio App.3d 81 [600 N.E.2d 1145].

"Upon due consideration of the foregoing, the court finds that its decision in this case is in fact in conflict with the three cases cited above. Accordingly, appellant's motion to certify is hereby GRANTED. The issue for certification is whether a wrongful death claimant who is a statutory beneficiary of an insured decedent can recover under the uninsured motorist

provisions of the decedent's insurance policy if he is not a named insured under the policy."

F.E. Sweeney, J., dissents.

Resnick, J., not participating.

96-892. Associated Paper Stock, Inc. v. Tracy.
Mahoning County, No. 95 C.A. 34. On motion for stay of execution. Motion granted.

Pfeifer, Cook and Stratton, JJ., dissent.

DISCRETIONARY APPEALS ALLOWED

95-2657. Bucyrus v. Fritz.
Crawford County, No. 39520. Discretionary appeal allowed on Proposition of Law No. II only; sua sponte, cause held for the decision in 95-1377 and 95-1466, supra; briefing schedule stayed.

95-2668. Nationwide Mut. Ins. Co. v. Gula.
Summit County, No. 17221. Discretionary appeal allowed; sua sponte, cause held for decision in 94-2569, Cole v. Holland, Summit County, No. 16703; briefing schedule stayed.

95-2677. Columbus v. Grove.
Franklin County, No. 95APC06-679. Discretionary appeal allowed on Proposition of Law Nos. I and II; sua sponte, cause held for the decision in 95-372, State v. Dick, Tuscarawas County, No. 94AP040025; briefing schedule stayed.
Discretionary appeal allowed on Proposition of Law No. III; sua sponte, cause held for decision in 95-1377 and 95-1466, supra; briefing schedule stayed.

96-66. Columbus v. Brown.
Franklin County, No. 95APC08-993. Discretionary appeal allowed; sua sponte, cause held for the decision in 95-1377 and 95-1466, supra; briefing schedule stayed.

96-67. State v. Gordon.
Franklin County, No. 95APC08-1098. Discretionary appeal allowed; sua sponte, cause held for the decision in 95-1377 and 95-1466, supra; briefing schedule stayed.

96-69. Columbus v. Lambros.
Franklin County, No. 95APC06-704. Discretionary appeal allowed; sua sponte, cause held for the decision in 95-1377 and 95-1466, supra; briefing schedule stayed.

96-108. Perez v. Cleveland.
Hamilton County, No. C-940553.
F.E. Sweeney, Pfeifer and Cook, JJ., dissent.

96-116. State v. Reyna.
Franklin County, No. 95APC06-706. Discretionary appeal allowed; sua sponte, cause held for the decision in 95-1377 and 95-1466, supra; briefing schedule stayed.

96-764. Holt v. Grange Mut. Cas. Co.
Butler County, No. CA95-11-192. Discretionary appeal allowed; sua sponte, cause consolidated with 96-852, supra.

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

DISCRETIONARY APPEALS NOT ALLOWED

95-2585. Spriestersbach v. Ohio Edison Co.
Lorain County, No. 95CA006026.
Cook, J., not participating.

95-2656. Brennan v. Brennan.
Portage County, No. 94P0060.
Douglas, J., dissents.

95-2662. State v. Lester.
Hamilton County, No. C-950451.

95-2674. Haller v. Borrer.
Franklin County, No. 95APE05-530.
Stratton, J., not participating.

96-10. Frost v. Mihm.
Clark County, No. 95CA38.
Douglas, Resnick and F.E. Sweeney, JJ., dissent.

96-35. State v. Carlton.
Montgomery County, No. 14930.
Douglas, J., dissents.

96-57. State v. Landis.
Montgomery County, No. 15099.

96-58. Agee v. Hofelich.
Crawford County, No. 3-95-10.

96-70. Cent. Res. Life Ins. Co. v. Hartzell.
Tuscarawas County, No. 94AP120094.
Cook and Stratton, JJ., dissent.

96-71. Keck v. Masters.
Hamilton County, No. C-950037.
Resnick, J., dissents.

96-79. Farren v. Cleveland Browns, Inc.
Cuyahoga County, No. 69072.

96-80. Roberts v. Luneau-Gordon.
Montgomery County, No. 15212.
Douglas, Resnick and F.E. Sweeney, JJ., dissent.

96-89. Perry v. Perry.
Wayne County, No. 95CA0021.
Moyer, C.J., and Stratton, J., dissent.

96-96. Seneca Cty. Bd. of Commrs. v. Luke Theis Ent., Inc.
Seneca County, No. 13-95-18.
Douglas and Stratton, JJ., dissent.

96-102. Garfield Hts. v. Allison.
Cuyahoga County, No. 68735.
Douglas and Stratton, JJ., dissent.

96-161. Enriquez v. Enriquez.
Lucas County, No. L-94-252. On discretionary appeal and cross-appeal. Appeals denied.
Douglas, J., dissents.

96-177. Megginson v. Song.
Scioto County, No. 95CA2337.
Stratton, J., dissents.

96-196. State v. Ivy.
Cuyahoga County, No. 69823.

RECONSIDERATION DOCKET

94-2284. Redman v. Ohio Dept. of Indus. Relations.
Franklin County, Nos. 93APE12-1670 and 93APE12-1671. Reported at 75 Ohio St.3d 399, ___ N.E.2d ___. On motion for reconsideration. Motion denied.
Douglas and F.E. Sweeney, JJ., dissent.
Stratton, J., not participating.

95-1184. State ex rel. Stern v. Mascio.
Jefferson County, No. 93-J-42. Reported at 75 Ohio St.3d 422, ___ N.E.2d ___.
On motion for reconsideration. Motion denied.
Stratton, J., not participating.