

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

MONDAY
April 29, 1996

MOTION DOCKET

90-471. State v. Frazier.

Cuyahoga County, No. 54771. UPON CONSIDERATION of the motion filed by counsel for appellant to stay the execution of sentence in the above-styled cause pending the exhaustion of state post-conviction remedies,

IT IS ORDERED by the court that the motion be, and is hereby, granted.

IT IS FURTHER ORDERED by the court that, pursuant to State v. Glenn (1987), 33 Ohio St.3d 601, 514 N.E.2d 869, a stay is granted for a period of six months, beginning April 4, 1996, and ending October 4, 1996, to allow appellant an opportunity to file a petition for post-conviction relief. If a petition for post-conviction relief is not filed within the time allotted, this stay will expire. No further time for the filing of the petition will be granted except in unusual circumstances.

IT IS FURTHER ORDERED by the court that, if a petition for post-conviction relief is filed within the time allotted, a date-stamped copy of the petition shall be filed by appellant with the Clerk of this court, and this stay shall remain in effect until exhaustion of all state post-conviction proceedings, including any appeals.

IT IS FURTHER ORDERED by the court that compliance with the mandate and execution of sentence be, and is hereby, stayed for the six-month period allotted by this order and, if a petition for post-conviction relief is filed within the time allotted, pending the exhaustion of all proceedings for post-conviction relief before the courts of this state.

IT IS FURTHER ORDERED that counsel for the appellant and for the appellee shall notify this court when all proceedings for post-conviction relief before courts of this state have been exhausted.

91-1675. State v. Murphy.

Marion County, No. 9-87-35. On January 7, 1994, this court granted a stay for a period of six months to allow appellant an opportunity to file a petition for post-conviction relief. On October 4, 1995, this court declined jurisdiction and dismissed the appeal in case No. 95-1343, appellant's post-conviction appeal. On November 15, 1995, this court denied appellant's motion for reconsideration.

Appellee has filed a motion to set an execution date on the ground that the time for filing a petition for a writ of certiorari in the Supreme Court of the United States from this court's decision in appellant's post-conviction appeal has expired. Appellant filed no response to the motion. Upon consideration thereof,

IT IS HEREBY ORDERED by this court, effective April 26, 1996, that the sentence be carried into execution by the Warden of the Southern Ohio Correctional Facility or, in his absence, by the Deputy Warden on Thursday, the 25th day of July, 1996, in accordance with the statutes so provided.

IT IS FURTHER ORDERED that a certified copy of this entry and a warrant under the seal of this court be duly certified to the Warden of the Southern Ohio Correctional Facility and that the Warden shall make due return thereof to the Clerk of the Court of Common Pleas of Marion County.

93-7. State v. Williams.

Butler County, Nos. CA91-04-060 and CA92-06-110. UPON CONSIDER-ATION of the motion filed by counsel for appellant to stay the execution of sentence in the above-styled cause pending the exhaustion of state post-conviction remedies,

IT IS ORDERED by the court that the motion be, and is hereby, granted.

IT IS FURTHER ORDERED by the court that, pursuant to State v. Glenn (1987), 33 Ohio St.3d 601, 514 N.E.2d 869, a stay is granted for a period of six months, beginning April 4, 1996, and ending October 4, 1996, to allow appellant an opportunity to file a petition for post-conviction relief. If a petition for post-conviction relief is not filed within the time allotted, this stay will expire. No further time for the filing of the petition will be granted except in unusual circumstances.

IT IS FURTHER ORDERED by the court that, if a petition for post-conviction relief is filed within the time allotted, a date-stamped copy of the petition shall be filed by appellant with the Clerk of this court, and this stay shall remain in effect until exhaustion of all state post-conviction proceedings, including any appeals.

IT IS FURTHER ORDERED by the court that compliance with the mandate and execution of sentence be, and is hereby, stayed for the six-month period allotted by this order and, if a petition for post-conviction relief is filed within the time allotted, pending the exhaustion of all proceedings for post-conviction relief before the courts of this state.

IT IS FURTHER ORDERED that counsel for the appellant and for the appellee shall notify this court when all proceedings for post-conviction relief before courts of this state have been exhausted.

93-569. State v. Simko.

Lorain County, No. 91CA005214. Upon consideration of the motion filed by counsel for appellant to continue stay of execution in the above-styled cause pending the exhaustion of state post-conviction remedies, and it appearing from the exhibits to the motion that a petition for post-conviction relief has been filed by appellant with the Lorain County Common Pleas Court,

IT IS ORDERED by the court that said motion be, and the same is hereby, granted.

IT IS FURTHER ORDERED by the court that compliance with the mandate and execution of sentence be, and the same are hereby, stayed pending the exhaustion of all proceedings for post-conviction relief before courts of this state.

IT IS FURTHER ORDERED that counsel for the appellant and for the appellee shall notify this court when all proceedings for post-conviction relief before courts of this state have been exhausted.

93-2179. State v. Lundgren.

Lake County, Nos. 90-L-15-140 and 91-L-036. UPON CONSIDERATION of the motion filed by counsel for appellant to stay the execution of sentence in the above-styled cause pending the exhaustion of state post-conviction remedies,

IT IS ORDERED by the court that the motion be, and is hereby, granted.

IT IS FURTHER ORDERED by the court that, pursuant to State v. Glenn (1987), 33 Ohio St.3d 601, 514 N.E.2d 869, a stay is granted for a period of six months, beginning April 8, 1996, and ending October 8, 1996, to allow appellant an opportunity to file a petition for post-conviction relief. If a petition for post-conviction relief is not filed within the time allotted, this stay will expire. No further time for the filing of the petition will be granted except in unusual circumstances.

IT IS FURTHER ORDERED by the court that, if a petition for post-conviction relief is filed within the time allotted, a date-stamped copy of the petition shall be filed by appellant with the Clerk of this court, and this stay shall remain in effect until exhaustion of all state post-conviction proceedings, including any appeals.

IT IS FURTHER ORDERED by the court that compliance with the mandate and execution of sentence be, and is hereby, stayed for the six-month period allotted by this order and, if a petition for post-conviction relief is filed within the time allotted, pending the exhaustion of all proceedings for post-conviction relief before the courts of this state.

IT IS FURTHER ORDERED that counsel for the appellant and for the appellee shall notify this court when all proceedings for post-conviction relief before courts of this state have been exhausted.

93-2377. State v. Allen.

Cuyahoga County, No. 62275. UPON CONSIDERATION of the motion filed by counsel for appellant to stay the execution of sentence in the above-styled cause pending the exhaustion of state post-conviction remedies,

IT IS ORDERED by the court that the motion be, and is hereby, granted.

IT IS FURTHER ORDERED by the court that, pursuant to State v. Glenn (1987), 33 Ohio St.3d 601, 514 N.E.2d 869, a stay is granted for a period of six months, beginning April 8, 1996, and ending October 8, 1996, to allow appellant an opportunity to file a petition for post-conviction relief. If a petition for post-conviction relief is not filed within the time allotted, this stay will expire. No further time for the filing of the petition will be granted except in unusual circumstances.

IT IS FURTHER ORDERED by the court that, if a petition for post-conviction relief is filed within the time allotted, a date-stamped copy of the petition shall be filed by appellant with the Clerk of this court, and this stay shall remain in effect until exhaustion of all state post-conviction proceedings, including any appeals.

IT IS FURTHER ORDERED by the court that compliance with the mandate and execution of sentence be, and is hereby, stayed for the six-month period allotted by this order and, if a petition for post-conviction relief is filed within the time allotted, pending the exhaustion of all proceedings for post-conviction relief before the courts of this state.

IT IS FURTHER ORDERED that counsel for the appellant and for the appellee shall notify this court when all proceedings for post-conviction relief before courts of this state have been exhausted.

94-1964. State v. Garner.

Hamilton County, No. C-920864. This court received notification from the Supreme Court of the United States that said court on April 15, 1996, entered an order in No. 95-8200, William L. Garner v. Ohio, which stated:

"The petition for a writ of certiorari is denied."

Upon consideration that the stay of execution of sentence granted by this court on January 24, 1996 was conditioned upon final disposition of appellant's petition to the Supreme Court of the United States, and it appearing to this

court that the Supreme Court of the United States has rendered a final disposition of the petition,

IT IS ORDERED that the stay of execution is hereby terminated as of the date of this entry, April 25, 1996.

IT IS HEREBY ORDERED by this court that the sentence be carried into execution by the Warden of the Southern Ohio Correctional Facility or, in his absence, by the Deputy Warden on Wednesday, the 24th day of July, 1996, in accordance with the statutes so provided.

IT IS FURTHER ORDERED that a certified copy of this entry and a warrant under the seal of this court be duly certified to the Warden of the Southern Ohio Correctional Facility and that the Warden shall make due return thereof to the Clerk of the Court of Common Pleas of Hamilton County.

IT IS FURTHER ORDERED by the court that, upon written application of appellant, and pursuant to State v. Glenn (1987), 33 Ohio St.3d 601, 514 N.E.2d 869, this court will grant one additional stay for a period ending six months from the date of this entry to allow appellant an opportunity to file a petition for post-conviction relief.

95-1042. Roberts v. Ohio Permanente Med. Group, Inc.
Summit County, No. 16913. This cause is pending before the court as an appeal from the Court of Appeals for Summit County. Upon consideration of the motion of amicus curiae, Ohio Academy of Trial Lawyers, to present oral argument within the time allotted to appellant,

IT IS ORDERED by the court that the motion of amicus curiae, Ohio Academy of Trial Lawyers, to present oral argument within the time allotted to appellant be, and hereby is, granted.

95-1042. Roberts v. Ohio Permanente Med. Group, Inc.
Summit County, No. 16913. This cause is pending before the court as an appeal from the Court of Appeals for Summit County. Upon consideration of the motion of amici curiae, Ohio Hospital Association and Ohio State Medical Association, to present oral argument within the time allotted to appellees,

IT IS ORDERED by the court that the motion of amici curiae, Ohio Hospital Association and Ohio State Medical Association, to present oral argument within the time allotted to appellees be, and hereby is, granted.

96-474. In re Graybill/Rowe Children.
Stark County, No. 95CA0109. This cause is pending before the court as a discretionary appeal and as a claimed appeal of right. Upon consideration of the motion of Shirley Rowe to participate in oral argument,

IT IS ORDERED by the court that the motion to participate in oral argument be, and hereby is, denied.

DISCIPLINARY DOCKET

94-2645. Disciplinary Counsel v. Mbakpuo.
On August 23, 1995, this court indefinitely suspended respondent, Chukwujindu Victor Mbakpuo. On October 12, 1995, this court issued an order for respondent to show cause why he should not be held in contempt for failure to comply fully with the court's order of August 23, 1995. On December 20, 1995, respondent was found in contempt of this court. On February 20, 1996, respondent filed a Motion to Vacate Order of Contempt. Upon consideration thereof,

IT IS ORDERED by the court that the contempt order dated December 20, 1995, be and is, hereby, vacated.

94-2651. Cleveland Bar Assn. v. Kurtz.

IT IS ORDERED by the court that the motion for reconsideration in this case be, and hereby is, denied.

96-465. Disciplinary Counsel v. Witt.

On Certified Order of the Statewide Grievance Committee, State of Connecticut, Grievance Complaint No. 94-0651. This cause is pending before the Supreme Court of Ohio in accordance with the reciprocal discipline provisions of Gov.Bar R. V(11)(F).

On February 27, 1996, the Office of Disciplinary Counsel of the Supreme Court of Ohio filed with this court a certified copy of an order of the Statewide Grievance Committee of the State of Connecticut, Raymond E. Jackson v. Otto Witt, Grievance Complaint No. 94-0651, dated January 19, 1996, reprimanding respondent, Otto P. Witt.

On March 14, 1996, this court ordered respondent to show cause why identical or comparable discipline should not be imposed in this state. Respondent filed no response to said show cause order and this cause was considered by the court. On consideration thereof,

IT IS ORDERED AND ADJUDGED by this court that pursuant to Gov.Bar R. V(11)(F)(4), respondent, Otto P. Witt, a.k.a., Otto Phillip Witt, Attorney Registration No. 0056574, last known address in Shaker Heights, Ohio, be publicly reprimanded.

IT IS FURTHER ORDERED, sua sponte, that service shall be deemed made on respondent by sending this order, and all other orders in this case, by certified mail to the most recent address respondent has given to the Attorney Registration Office.

IT IS FURTHER ORDERED that the Clerk of this court issue certified copies of this order as provided for in Gov.Bar R. V(8)(D)(1), that publication be made as provided for in Gov.Bar R. V(8)(D)(2), and that respondent bear the costs of publication.

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

MISCELLANEOUS DISMISSALS

96-396. State ex rel. Wilkey v. Indus. Comm.

Franklin County, No. 94APD11-1675. This cause is pending before the court as an appeal from the Court of Appeals for Franklin County. Upon consideration of appellant's application for dismissal,

IT IS ORDERED by the court that the application for dismissal be, and hereby is, granted.

ACCORDINGLY, IT IS FURTHER ORDERED by the court that this cause be, and hereby is, dismissed.

96-581. State ex rel. Wykoff v. Indus. Comm.

Franklin County, No. 95APD03-331. This cause is pending before the court as an appeal and cross-appeal from the Court of Appeals for Franklin County. Upon consideration of appellants/cross-appellees' application for dismissal of their appeal,

IT IS ORDERED by the court that the application for dismissal be, and hereby is, granted.

The appeal of Robert G. Wykoff remains pending and the parties shall proceed under S.Ct.Prac.R. VI(1), (2), and (3). The brief of appellant, Robert G. Wykoff, shall be due within forty days of the date of this entry.

