

12/03/97

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

WEDNESDAY

December 3, 1997

MOTION DOCKET

96-536. State v. Henness.

Franklin App. No. 94APA02-240. This court received notification from the Supreme Court of the United States that said court on November 10, 1997, entered an order in No. 97-5959, Warren K. Henness 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 September 10, 1997 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.

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 Monday, the 2nd day of March, 1998, 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 Franklin 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.

97-1518. Clough v. Wilson.

On November 14, 1997, appellant filed a document titled "Motion to dismiss entry." Appellant's document is, in substance, a motion for reconsideration that was untimely filed. Whereas S.Ct.Prac.R. XIV(2)(C) prohibits the filing of a motion for

reconsideration that is not timely,

IT IS ORDERED by the court, sua sponte, that the document titled "Motion to dismiss entry" be, and hereby is, stricken.

97-1990. State ex rel. Bates v. Allen Cty. Prosecuting Attorney, Collection Div.

In Mandamus. On November 19, 1997, relator filed a document titled "Request judicial order for relief from judgment pursuant to the Ohio Rules of Civil Procedure, Rule 60(B); including respectfully the Ohio Constitution Article I, Sec. XVI." Relator's document is, in substance, a motion for reconsideration that was untimely filed. Whereas S.Ct.Prac.R. XIV(2)(C) prohibits the filing of a motion for reconsideration that is not timely,

IT IS ORDERED by the court, sua sponte, that the document be, and hereby is, stricken.

DISCIPLINARY DOCKET

97-808. Cincinnati Bar Assn. v. White.

On November 14, 1997, respondent filed an affidavit of compliance. Whereas the affidavit of compliance did not contain a proof of service as required by S.Ct.Prac.R. XIV(2),

IT IS ORDERED by the court, sua sponte, that respondent's affidavit of compliance be, and hereby is, stricken.

97-2185. Disciplinary Counsel v. Maxwell.

On November 17, 1997, respondent filed a document titled "Objections to findings of facts and recommendation." Whereas the document did not contain a proof of service, showing service upon relator, as required by S.Ct.Prac.R. XIV(2),

IT IS ORDERED by the court, sua sponte, that respondent's document titled "Objections to finding of fact and recommendation" be, and hereby is, stricken.

MISCELLANEOUS DISMISSALS

97-1682. Associated Estates Realty Corp. v. Cuyahoga Cty. Bd. of Revision.

Board of Tax Appeals, No. 96-A-337. This cause is pending before the court as an appeal from the Board of Tax Appeals. It appears from the records of this court that appellant's merit brief filed November 10, 1997 does not include a copy of the judgment or order from which this appeal is taken, as required by S.Ct.Prac.R. VI(1)(B)(5). Accordingly,

IT IS ORDERED by the court, sua sponte, that appellant's brief be, and hereby is, stricken. Whereas appellant has not filed a merit brief in compliance with the Rules of Practice of the Supreme Court and therefore has failed to prosecute this cause with the requisite diligence,

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

97-2345. State v. Marshall.

Richland App. No. 96CA108. On November 10, 1997, a notice of appeal was filed and docketed by the Clerk's Office without the docket fee required by S.Ct.Prac.R. XV(1), or the affidavit of

indigency in lieu of the fee, permitted by S.Ct.Prac.R. XV(3).
Accordingly,

IT IS ORDERED by the court, sua sponte, that the notice of appeal be, and hereby is, stricken.

IT IS FURTHER ORDERED by the court, sua sponte, that this cause be, and hereby is, dismissed for failure to pay the docket fee or file an affidavit of indigency in lieu of the fee.