

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

9:00 A.M.

WEDNESDAY

January 15, 1997

MERIT DOCKET

96-1702. Jackson v. Brigner.

Montgomery App. No. 15719. Sua sponte, cause dismissed.

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

96-2394. State ex rel. Lawson v. Spiegel.

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

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

96-2423. State ex rel. Smith v. Nicely.

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

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

96-2436. State ex rel. Sweet v. Sixth Dist. Court of Appeals.

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

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

Resnick, J., not participating.

96-2443. State ex rel. Hamilton v. Fifth Dist. Court of Appeals.

In Mandamus. On motion to dismiss of Daniel G. Padden et al., motion to dismiss of Fifth District Court of Appeals, and motion to dismiss of Judge David Arthur Ellwood. Motions to dismiss sustained. Cause dismissed.

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

96-2478. State ex rel. Forsyth v. Brigner.

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

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

96-2494. State ex rel. Coleman v. Ohio Adult Parole Auth.
In Mandamus. On motion to dismiss. Motion to dismiss
sustained. Cause dismissed.

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

96-2502. State ex rel. Fallang v. Conese.
In Mandamus. On motion to dismiss. Motion to dismiss
sustained. Cause dismissed.

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

96-2506. State ex rel. Parks v. Court of Appeals, Second Dist.
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 Lundberg Stratton, JJ., concur.

96-2535. State ex rel. Tucker v. Ninth Dist. Court of Appeals.
In Mandamus. On motion to dismiss. Motion to dismiss
sustained. Cause dismissed.

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

96-2542. State ex rel. Perkins v. West.
In Mandamus. Sua sponte, cause dismissed.

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

96-2581. State ex rel. Nieves v. Ninth Dist. Court of Appeals.
In Procedendo. On motion to dismiss. Motion to dismiss
sustained. Cause dismissed.

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

96-2584. State ex rel. Hart v. Zaleski.
In Quo Warranto. On motion to dismiss. Motion to dismiss
sustained. Cause dismissed.

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

96-2885. State ex rel. Mayberry v. Kurfess.
In Prohibition. Sua sponte, cause dismissed.

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

96-2886. State ex rel. Mayberry v. Kurfess.
In Prohibition. Sua sponte, cause dismissed.

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

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

96-1566. State v. Gonzalez.

Lorain App. No. 95CA006241.

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

96-1612. State v. Miller.
Hamilton App. No. C-950677.

96-1642. State v. Bogle.
Montgomery App. No. 14774.

96-1679. State v. Powell.
Hamilton App. No. C-950732.

96-1686. State v. Davis.
Montgomery App. Nos. 14748 and 15261.

96-1687. State v. Walker.
Franklin App. No. 95APA08-1010.

96-1689. State v. Lambert.
Ross App. No. 95CA2104.

96-1831. State v. Tarver.
Summit App. No. 17472.

96-1943. State v. Jerome.
Marion App. No. 9-95-54.

96-2057. Neel v. Neel.
Cuyahoga App. Nos. 68786 and 68787.

Moyer, C.J., would allow on Propositions of Law Nos. I and II only.

Lundberg Stratton, J., would allow the discretionary appeal.

96-2104. State v. Mastronardi.
Erie App. No. E-96-033.

96-2119. Case v. Ohio Bur. of Workers' Comp.
Washington App. No. 96CA1.

96-2121. Warrenville Hts. v. Bobbitt.
Cuyahoga App. No. 69946.

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

96-2128. Cincinnati v. Robinson.
Hamilton App. No. C-960386.

96-2129. Cincinnati v. Robinson.
Hamilton App. No. C-960385.

96-2138. Wells v. Spirit Fabricating, Ltd.
Cuyahoga App. No. 69755.
F.E. Sweeney and Pfeifer, JJ., dissent.

96-2140. State v. Hunt.
Cuyahoga App. No. 69726.

96-2141. State v. Brown.

Montgomery App. No. 15492.

96-2163. Hiener v. Cleveland Elec. Illum. Co.
Geauga App. No. 95-G-1948.

F.E. Sweeney, J., not participating.

96-2168. Karnes v. Karnes.
Athens App. No. 95CA1666.

96-2169. State v. Edsall.
Summit App. No. 17452.

Lundberg Stratton, J., would allow on Proposition of Law No. I only.

96-2170. Honnold v. Wagenknecht.
Franklin App. No. 96APE03-299.
Pfeifer, J., dissents.

96-2180. Gentzler Tool & Die Corp. v. Green.
Summit App. No. 17633.
Douglas, J., dissents.

96-2184. State v. Haley.
Greene App. No. 95CA97.

96-2185. State v. Jividen.
Lucas App. No. L-95-213.

96-2190. Cleveland v. Trzebuckowski.
Cuyahoga App. No. 69478.
Resnick, Pfeifer and Lundberg Stratton, JJ., dissent.

96-2191. State v. Gibson.
Cuyahoga App. No. 69691.

96-2198. Dallas v. Dotson.
Lorain App. No. 95CA006300.
Moyer, C.J., dissents.

96-2200. State v. Johnson.
Franklin App. No. 95APA10-1380.

96-2202. State v. McClain.
Hamilton App. No. C-950859.

96-2205. Bittinger v. Klotzman.
Cuyahoga App. No. 69025.

96-2206. Paris v. Georgetown Homes, Inc.
Summit App. No. 17445.
Lundberg Stratton, J., dissents.

96-2209. State v. Davis.
Hamilton App. No. C-960452.
Lundberg Stratton, J., not participating.

96-2210. State v. Powell.

Cuyahoga App. No. 69449.

96-2211. State v. Goebel.
Stark App. No. 1996CA0243.

96-2212. State v. Hoyt.
Huron App. No. H-96-022.
Pfeifer and Lundberg Stratton, JJ., dissent.
Resnick, J., not participating.

96-2213. State v. Wright.
Jefferson App. No. 94-J-33.
Douglas and Resnick, JJ., dissent.

96-2215. Loyer v. Loyer.
Huron App. No. H-95-068.
Resnick, J., not participating.

96-2216. Detchon v. Medina Cty. Sheriff.
Medina App. No. 2524-M.
Douglas, J., dissents.

96-2218. State v. Davis.
Highland App. No. 95CA881.

96-2219. State v. Greasby.
Lucas App. No. L-96-206.
Resnick, J., not participating.

96-2224. State v. Guess.
Franklin App. No. 94APA09-1278.

96-2228. Smith v. Fitch, Kendall, Cecil & Robinson Co., L.P.A.
Columbiana App. No. 95C014.

96-2229. State v. Engle.
Greene App. No. 96CA44.

96-2232. State v. Bunsie.
Franklin App. No. 96APA04-427.
Lundberg Stratton, J., not participating.

96-2233. State v. Knuckles.
Butler App. No. CA96-05-106.

96-2236. State v. Burns.
Cuyahoga App. No. 69676.
Douglas, J., dissents.

96-2238. State v. Rocker.
Guernsey App. No. 94CA28.

96-2240. State v. Reed.
Summit App. No. 17635.

96-2241. Scheetz v. Seville.
Medina App. No. 2482-M.

96-2242. State v. Keats.
Columbiana App. No. 93-C-57.

96-2245. State v. Hunter.
Hamilton App. No. C-950836.
Moyer, C.J., dissents.

96-2249. Moore v. Daw.
Muskingum App. No. CT9520.
Douglas, J., dissents.

96-2251. Columbus Mun. Airport Auth. v. Unknown Heirs of
Gennett.
Franklin App. No. 96APE03-317.

96-2252. State v. Geisler.
Athens App. No. 95CA1697.
Pfeifer, J., dissents.

96-2253. State v. Robinson.
Summit App. No. 17640.

96-2257. Natl. City Bank v. Packer.
Summit App. Nos. 17531 and 17578.

96-2260. Kleve v. Wenstrup.
Hamilton App. No. C-950422.

96-2261. State v. Conley.
Cuyahoga App. No. 69597.

96-2263. State v. Watson.
Montgomery App. No. 15449.
Moyer, C.J., dissents.

96-2264. State v. Vild.
Cuyahoga App. No. 69574.

96-2265. State v. Hillman.
Franklin App. No. 96APA04-449.

96-2266. Capadona v. Stern.
Cuyahoga App. No. 69891.

96-2269. State v. Johnson.
Clinton App. No. CA88-02-002.

96-2270. State v. Johnson.
Clinton App. No. CA83-10-015.

96-2271. Snyder-Forsyth v. Forsyth.
Clark App. No. 95CA106.

96-2273. State v. Haley.
Greene App. No. 96CA36.

96-2280. Kaiser Aluminum & Chem. Corp. v. Home Ins. Co.
Licking App. Nos. 95CA155 and 95CA156. Discretionary appeal,
second appeal by Home Insurance Company, and cross-appeal by
Kaiser Aluminum and Chemical Corp. denied.

Moyer, C.J., Cook and Lundberg Stratton, JJ., dissent.

96-2282. State v. Keaton.
Fayette App. Nos. CA95-09-021 and CA95-09-022.

Douglas, J., dissents.

96-2283. State v. Phillips.
Lorain App. No. 91CA004999.

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

96-2284. In re Barr.
Stark App. No. 1995CA00419.

Douglas, Resnick and Lundberg Stratton, JJ., dissent.

96-2297. Michitsch v. Summit Cty.
Summit App. No. 17694.

Douglas, J., dissents.

96-2299. Walsh v. Indus. Powder Coatings, Inc.
Huron App. No. H-95-073.

Moyer, C.J., and Lundberg Stratton, J., dissent, and would
allow the discretionary appeal and hold the cause for the
decision in 95-2635, McClosky v. Regal Mining, Inc., Carroll App.
No. 650.

Resnick, J., not participating.

96-2300. State v. Robinson.
Stark App. No. 1996CA00009.

Pfeifer, J., dissents.

96-2302. Baumgardner v. Franck.
Logan App. No. 8-96-4.

F.E. Sweeney, J., dissents.

96-2303. Motorists Mut. Ins. Co. v. Baumgardner.
Logan App. No. 8-96-7.

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

96-2306. Conover v. Lake Cty. Metro Parks Sys.
Lake App. No. 95-L-201.

F.E. Sweeney, J., dissents.

96-2308. State v. Lugli.
Erie App. No. E-95-025.

96-2309. State v. Davis.
Cuyahoga App. No. 68543.

96-2313. State v. Wampler.
Darke App. No. 1406.

Cook and Lundberg Stratton, JJ., dissent.

96-2315. Garrity v. Ral Partha Ent., Inc.

Hamilton App. No. C-960149.

96-2316. Brooks v. Ohio State Anesthesia Corp.
Franklin App. No. 96APE05-576.

96-2318. Toledo v. Jaber.
Lucas App. No. L-95-246.
Resnick, J., dissents.

96-2319. State v. Barnes.
Montgomery App. No. 15149.

96-2321. State v. Faller.
Licking App. No. 96CA01.

96-2322. State v. Charles.
Franklin App. No. 96APA02-186.

96-2323. State v. Hunt.
Cuyahoga App. No. 69658.
Pfeifer, J., dissents.

96-2329. State v. Guess.
Franklin App. No. 96APA08-985.

96-2331. State v. Ellis.
Hamilton App. No. C-950307.

96-2332. State v. Hubbard.
Butler App. No. CA90-10-215.

96-2333. Zukowski v. Testa.
Franklin App. No. 96APH03-358.

96-2337. State v. Barnhill.
Fayette App. No. CA96-01-001.

96-2338. State v. Johnson.
Cuyahoga App. Nos. 69547 and 70173.

96-2340. State v. Favors.
Fairfield App. No. 95CA77.
Moyer, C.J., dissents.

96-2343. State v. Hayes.
Cuyahoga App. No. 70052.

96-2344. Euclid v. Withrow.
Cuyahoga App. No. 69797.

96-2345. State v. Sapp.
Cuyahoga App. No. 69429.

96-2347. McNea v. Cleveland.
Cuyahoga App. Nos. 69160 and 69208.
Douglas, J., dissents.

96-2355. N. Olmsted v. Cipiti.
Cuyahoga App. Nos. 69706 and 69810.

96-2357. Guess v. Landefeld.
Fairfield App. Nos. 96CA37, 96CA39, 96CA40 and 96CA45.

96-2364. State v. Lally.
Clermont App. No. CA96-04-039.
Moyer, C.J., dissents.

96-2365. McConnell v. Ohio Bur. of Emp. Serv.
Franklin App. No. 96APE03-360.

96-2369. State v. Bocook.
Muskingum App. No. CT960017.

96-2374. State v. Phadphom.
Crawford App. No. 3-96-11.

96-2377. Davis v. Davis.
Montgomery App. No. 15628.

96-2378. Brown v. Minster Machine Co.
Defiance App. No. 4-96-07.
Moyer, C.J., and Resnick, J., dissent.

96-2381. State v. Simmons.
Ross App. No. 95CA2107.

96-2385. State v. Moore.
Hamilton App. No. C-960113.

96-2386. State v. Payne.
Defiance App. No. 4-96-22.

96-2387. Ostasz v. Med. College of Ohio.
Franklin App. No. 96API03-315.

96-2390. State v. Colvin.
Richland App. No. 95CA76.

96-2392. Lucas, Prendergast, Albright, Gibson & Newman v.
Schach.
Franklin App. No. 95APE12-1663.

96-2393. State v. Brooks.
Lucas App. No. L-95-188.

96-2401. Kremer v. Cox.
Summit App. Nos. 17370 and 17394.
Cook, J., not participating.

96-2407. Schmidt v. Ohio Dept. of Mental Health.
Franklin App. No. 95API11-1495.

96-2408. Offenbeher v. Lomax, Soful & Foster, Inc.
Summit App. No. 17725.

96-2416. State v. Childs.
Summit App. No. 17653.

96-2418. State v. Clements.
Cuyahoga App. No. 70435.

96-2439. Spetz v. Burgin.
Lucas App. No. L-95-261.
Resnick, J., not participating.

96-2451. State v. Garcia.
Lucas App. No. L-95-339.
Moyer, C.J., dissents.

96-2453. Fair Hous. Advocates Assoc., Inc. v. James.
Summit App. No. 17622.
Moyer, C.J., dissents.

96-2472. State v. Johnson.
Montgomery App. No. 15253.

96-2475. Brock v. Unknown.
Franklin App. No. 96API09-1189.

96-2488. State v. Misner.
Stark App. No. 1996CA00076.

96-2492. State v. Williams.
Stark App. No. 95CA0258.
Moyer, C.J., Resnick and Lundberg Stratton, JJ., dissent.

96-2545. Loyer v. Loyer.
Huron App. No. H-96-027.
Resnick, J., not participating.

96-2547. State v. Davis.
Butler App. No. CA95-07-124.

96-2563. State v. Lippert.
Stark App. No. 1995CA00225.

96-2577. State v. Michael.
Columbiana App. No. 91C39.

96-2597. State v. Davenport.
Richland App. No. 91CA2851.

MOTION DOCKET

96-779. State v. Creasey.
Cuyahoga App. No. 65717. On request for findings of fact/conclusions of law. Request denied.

96-1054. Enyart v. Columbus Metro. Area Community Action Org.
Franklin App. No. 95APE08-1033. On motion to consolidate case with case No. 96-2235, Enyart v. Columbus Metro. Area Community

Action Org., Franklin App. No. 96APE01-42. Motion granted.

Lundberg Stratton, J., dissents.

Sua sponte, discretionary appeal allowed in 96-2235.

Cook and Lundberg Stratton, JJ., dissent.

On motion for sanctions pursuant to Civil Rule 11; revised motion to vacate entry granting stay of execution of judgment and motion to expedite; motion to strike appellants' supplement, and motion for sanctions; motion to require appellants to post bond; and motion to expedite appeal. Motions denied.

Pfeifer, J., dissents.

96-2155. Risien v. Indus. Comm.

Franklin App. No. 95APD03-336. On motion for admission pro hac vice of Harold G. Levison filed by Eric K. Combs. Motion granted.

96-2247. State ex rel. The Plain Dealer v. Ohio Dept. of Ins.

In Mandamus. On answer of respondent. Sua sponte, alternative writ granted. On motion for leave to intervene by Blue Cross & Blue Shield Mutual of Ohio. Motion granted.

On request to expedite. Request denied.

Pfeifer, J., dissents.

Sua sponte, cause to be scheduled for oral argument.

96-2333. Zukowski v. Testa.

Franklin App. No. 96APH03-358. On motion for stay of proceedings. Motion denied.

96-2384. Ron Scheiderer & Assoc. v. London.

Madison App. No. CA95-08-022. 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 as follows:

"The above cause is before the court pursuant to a motion to certify record filed by counsel for appellant, Daniel E. Shifflet, on August 15, 1996. The motion avers that the judgment of this court filed on August 5, 1996 in the above case is in conflict with a judgment on the same question made by the Hamilton County Court of Appeals in the case styled Riley v. Langer (1994), 95 Ohio App.3d 151 [642 N.E.2d 1].

"Upon due consideration of the foregoing, the court finds that its judgment is in conflict with the above case and appellant's motion for certification is therefore hereby GRANTED. The question for certification is whether an award for frivolous conduct under R.C. 2323.51 should include attorney fees incurred in prosecuting the motion for sanctions brought under R.C. 2323.51."

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

96-2543. State v. Frederick.

Warren App. No. CA94-12-102. On motion for leave to file delayed appeal. Motion denied.

Resnick and Pfeifer, JJ., dissent.

96-2567. State v. Brown.

Franklin App. No. 91AP-1205. On motion for leave to file delayed appeal. Motion denied.

96-2594. State v. Wood.
Portage App. No. 95-P-0009. On motion for leave to file delayed
appeal. Motion granted.

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

96-2614. State v. Arnold.
Lorain App. No. 93CA005693. On motion for leave to file delayed
appeal. Motion denied.

Pfeifer, J., dissents.

96-2631. State v. Davis.
Franklin App. No. 96APA02-240. On motion for leave to file
delayed appeal. Motion denied.

Resnick, Pfeifer and Lundberg Stratton, JJ., dissent.

96-2639. State v. Knight.
Montgomery App. No. 14278. On motion for leave to file delayed
appeal. Motion denied.

96-2641. In re Hitchcock.
Cuyahoga App. Nos. 69291 and 69292. On motion to vacate stay of
proceedings. Motion denied.

F.E. Sweeney and Lundberg Stratton, JJ., dissent.

96-2625. Yepko v. State Farm Mut. Auto. Ins. Co.
Certified State Law Question, No. 395CV7550. On consideration of
preliminary memoranda pursuant to S.Ct.Prac.R. XVIII(6). The
following question of Ohio law was certified by the United States
District Court for the Northern District of Ohio, Western
Division:

"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,
either individually or through the administratrix of the
decedent's estate, if the claimant is not an insured as defined
in the policy."

Sua sponte, the certified question and the cause are held
for the decision in 96-764 and 96-852, Holt v. Grange Mut. Cas.
Co., Butler App. No. CA95-11-192; briefing schedule stayed; oral
argument shall not be scheduled.

96-2656. Castle Nursing Homes, Inc. v. Sullivan.
Holmes App. No. 95CA541. On motion for supersedeas bond. Motion
granted and bond set at \$700,000.

96-2660. State v. Otis.
Summit App. No. 17489. On motion for leave to file delayed
appeal. Motion denied.

Resnick, Pfeifer and Lundberg Stratton, JJ., dissent.

96-2671. State v. Williams.
Stark App. No. 95CA0258. 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 November 4, 1996:

"This cause comes before us upon appellant's motion to

certify conflict to the Supreme Court pursuant to App.R. 25.

"Upon review we find our opinion in the within is in conflict with the Eighth District Court of Appeals, namely: State v. Parro (February 22, 1979), Cuyahoga App. #38706, unreported; State v. Mab[r]y (1982), 5 Ohio App.3d 13 [5 OBR 14, 449 N.E.2d 16]; State v. Chatmon (May 2, 1985), Cuyahoga App. #485[6]9, unreported [1985 WL 8972]; and State v. Whalen (November 27, 1991), Cuyahoga App. #59366, unreported [1991 WL 251668].

"Accordingly we certify the following issue to the Supreme Court for final resolution.

"Whether felonious assault is a lesser included offense of attempted murder?

"We further note we have already certified this issue in State v. Nelson (August 6, 1996), Tuscarawas App. #95AP070051, unreported [1996 WL 488879].

"The motion to certify is sustained."

Cooks, J., dissents.

96-2679. State v. Hall.

Summit App. Nos. 17315 and 17390. On motion for leave to file delayed appeal. Motion denied.

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

96-2712. State v. Salazar.

Hamilton App. No. C-950047. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, Cook and Lundberg Stratton, JJ., dissent.

96-2715. State v. Bartelson.

Trumbull App. No. 95-T-5322. On motion for leave to file delayed appeal. Motion granted.

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

96-2724. State v. Judd.

Franklin App. No. 96APA03-330. On motion for leave to file delayed appeal. Motion granted.

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

96-2733. State v. Greathouse.

Huron App. No. H-96-014. On motion for stay of execution of sentence. Motion denied.

96-2752. State ex rel. Williams v. Brigano.

Warren App. No. CA96-10-108. On motion for stay. Motion denied.

Cook, J., dissents.

96-2768. Bratton v. E. Ohio Gas.

Summit App. No. 18137. On motion for stay. Motion denied.

96-2881. State v. Lawson.

Cuyahoga App. No. 69899. On motion for stay. Motion denied.

Moyer, C.J., dissents.

DISCRETIONARY APPEALS ALLOWED

96-2113. Wayne Mut. Ins. Co. v. Mills.

Wayne App. No. 95CA0091.

Moyer, C.J., Cook and Lundberg Stratton, JJ., dissent.

96-2127. Collins v. Sotka.

Lake App. No. 95-L-155.

Moyer, C.J., and Cook, JJ., dissent.

96-2137. Branham v. CIGNA Healthcare of Ohio, Inc.

Ross App. No. 95CA2156. On discretionary appeal and cross-appeal. Appeals allowed.

96-2160. State v. Nelson.

Tuscarawas App. No. 95AP070051. Discretionary appeal allowed; sua sponte, cause held for the decision in 96-2671, State v. Williams, supra; briefing schedule stayed.

Cook, J., dissents.

96-2226. McDonald v. Nationwide Mut. Ins. Co.

Cuyahoga App. No. 69419. Discretionary appeal allowed; sua sponte, cause held for the decision in 96-764 and 96-852, Holt v. Grange Mut. Cas. Co., Butler App. No. CA95-11-192; briefing schedule stayed.

Pfeifer, J., dissents.

96-2227. Pipe Fitters Union Local 392 v. Kokosing Constr. Co.

Hamilton App. Nos. C-950220 and C-950234. On discretionary appeal and second appeal of Kokosing Construction Company. Appeals allowed.

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

96-2250. State v. Mack.

Montgomery App. No. 15375.

Resnick, Pfeifer and Cook, JJ., dissent.

96-2335. Cox v. Ohio State Univ. Hosp.

Franklin App. No. 96API03-316.

Moyer, C.J., and Cook, J., dissent.

96-2350. Smith v. Granville Twp. Bd. of Trustees.

Licking App. No. 96CA98.

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

96-2359. Simpson v. Estate of Simpson.

Butler App. Nos. CA95-10-180 and CA95-11-190.

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

96-2396. Martin v. Pfeiffer.

Montgomery App. No. 15778. Discretionary appeal allowed; sua sponte, cause held for the decision in 95-2427, Lewis v. Trimble, Greene App. No. 95CA37; briefing schedule stayed.

Pfeifer and Cook, JJ., dissent.

DISCRETIONARY APPEALS NOT ALLOWED

96-1818. Ashiegbu v. Ohio Civ. Rights Comm.

Franklin App. No. 96APE01-4.

96-2086. Kinard v. Donco Carriers, Inc.

Cuyahoga App. No. 69806.
Moyer, C.J., dissents.

96-2094. Nichols v. Villarreal.
Scioto App. No. 96CA2402.
96-2099. Brunnett v. Ohio Dept. of Transp.
Franklin App. Nos. 96APE02-133 and 96APE02-134.
Moyer, C.J., Cook and Lundberg Stratton, JJ., dissent.

96-2132. Wolfe v. Wolfe.
Stark App. No. 1996CA00068.

96-2144. Ron Scheiderer & Assoc. v. London.
Madison App. Nos. CA95-08-022 and CA95-08-024.
Douglas, J., dissents.

96-2150. State v. Wilkins.
Licking App. No. 95CA74.
Moyer, C.J., dissents.

96-2152. In re Estate of Murphy.
Clark App. No. 96CA45.

96-2157. Poch v. J. F. & M. Trucking, Inc.
Harrison App. No. 480.
Pfeifer, J., dissents.

96-2181. Easton v. Tabet.
Stark App. Nos. 1995CA00296 and 1995CA00313.
Pfeifer, J., dissents.

96-2188. Barnes v. Center Assoc. Realty Corp.
Columbiana App. No. 95C01.
Pfeifer, J., dissents.

96-2196. Kosegi v. Everett.
Tuscarawas App. No. 96AP020021.
Moyer, C.J., and Cook, J., dissent, and would allow the discretionary appeal and hold the cause for the decision in 96-1926, Quonset Hut, Inc. v. Ford Motor Co., Stark App. No. 1995CA00394.

96-2197. Ackerman v. Med. College of Ohio Hosp.
Franklin App. No. 96API02-251.
Douglas, J., dissents.
Resnick, J., not participating.

96-2199. Alsip v. Klosterman Baking Co.
Hamilton App. No. C-950721. On discretionary appeal and second appeal of Klosterman Baking Company. Appeals denied.

96-2203. Eitel v. Eitel.
Pickaway App. No. 95CA11.
Douglas, J., dissents.

96-2207. Frank v. Kett Tool Co.
Hamilton App. No. C-950572.

96-2208. Walsh v. Shirey.
Hamilton App. No. C-960053.

96-2222. State v. Mayne.
Hamilton App. No. C-950765.

96-2237. Booher v. Honda of Am. Mfg., Inc.
Union App. No. 14-95-33.

96-2239. Cincinnati Ins. Co. v. Niederhouse.
Lucas App. No. L-95-222.

96-2246. Baker v. Baker.
Summit App. No. 17533.
Moyer, C.J., and Lundberg Stratton, J., dissent.

96-2262. Evans v. Jallaq.
Licking App. No. 95CA127.

96-2272. Reese v. Indiana Ins. Co.
Allen App. No. 1-96-23.
96-2277. Kovacic v. All States Freight Sys.
Cuyahoga App. No. 69926.
Douglas, J., dissents.

96-2278. State v. Colby.
Preble App. No. CA95-11-025.

96-2279. Millers Mut. Ins. Co. v. Plastivax, Inc.
Lake App. No. 95-L-176. Discretionary appeal and second appeal
by Ronald and Laurene Hughes denied.
Douglas, J., dissents.

96-2281. Painesville Twp. Local School Dist. v. Natl. Energy
Mgt. Inst.
Lake App. No. 96-L-014.
Pfeifer, J., dissents.

96-2287. Creggin Group, Ltd. v. Crown Diversified Industries
Corp.
Warren App. No. CA95-09-083.
F.E. Sweeney, J., dissents.

96-2288. Columbus v. Carroll.
Franklin App. No. 96APC01-90.
Douglas, J., dissents.

96-2291. State v. Lallathin.
Licking App. No. 95CA118.

96-2292. State Farm Mut. Auto. Ins. Co. v. Reinhart.
Seneca App. Nos. 13-94-38 and 13-94-39.
F.E. Sweeney, J., dissents.

96-2294. Fowler v. Williams Cty. Commrs.
Williams App. No. WM-95-034.

Lundberg Stratton, J., dissents.
Resnick, J., not participating.

96-2296. Future Communications, Inc. v. Hightower.
Franklin App. No. 96APE03-372.

96-2298. Englewood City Council v. Malott.
Montgomery App. No. 14986. Discretionary appeal and cross-appeal
of Englewood City Council denied.

96-2307. First Natl. Bank of Ohio v. Form Forge Mach., Inc.
Summit App. No. 17665.

96-2339. Kirkwood v. Kirkwood.
Hamilton App. No. C-950940.
Moyer, C.J., and Pfeifer, J., dissent.

96-2354. Kling v. Reading Concrete Products.
Butler App. No. CA95-08-145.

96-2358. Anderle v. Ideal Mobile Home Park, Inc.
Cuyahoga App. No. 70014.
Douglas, J., dissents.

96-2361. State v. Green.
Lucas App. No. L-96-264.
Resnick, J., not participating.

96-2367. Thompson v. Cent. Ohio Cellular, Inc.
Cuyahoga App. No. 68525.
F.E. Sweeney, J., dissents.

96-2368. Fields v. Midwestern Indemn. Co.
Cuyahoga App. No. 70421.

96-2371. Whiting v. Coyne.
Cuyahoga App. No. 69410.

96-2379. Poorman v. Kidron, Inc.
Summit App. No. 17573.

96-2389. Paul v. Grae-Con Constr., Inc.
Jefferson App. No. 95JE34.

96-2399. In re Adoption of Donley.
Jefferson App. No. 95JE25.

96-2400. Davis v. Sam's Club.
Cuyahoga App. No. 69647.

96-2404. State v. Brockwell.
Cuyahoga App. No. 70552.

96-2412. In re Suspension of Dreyfus.
Cuyahoga App. No. 70004.

96-2450. Cummings v. Thriftway Food & Drug.

Hamilton App. No. C-960160.

96-2470. Needham v. Gaylor.

Montgomery App. No. 14834.

Moyer, C.J., and Lundberg Stratton, J.J., dissent.

96-2546. Williams v. Warren Gen. Hosp.

Trumbull App. No. 95-T-5378.

Douglas, J., dissents.

96-2560. Belcher v. Wess.

Franklin App. No. 96APE04-400.

RECONSIDERATION DOCKET

95-1222. Byrnes v. LCI Communication Holdings Co.

Franklin App. Nos. 94APE09-1372 and 94APE09-1396. Reported at 77

Ohio St.3d 125, ___ N.E.2d ___. On motion for reconsideration

and on motion of Ohio Chapter of the National Organization for

Women et al. for leave to file motion for reconsideration.

Motions denied.

Resnick and Pfeifer, J.J., dissent.

95-1653. New Hampshire Ins. Group v. Frost.

Cuyahoga App. No. 67823. Reported at 77 Ohio St.3d 1218, ___

N.E.2d ___. On motion for reconsideration. Motion denied.

Douglas, Resnick and Cook, J.J., dissent.

95-2059. Romp v. Haig.

Hamilton App. No. C-940268. Reported at 77 Ohio St.3d 1219, ___

N.E.2d ___. On motion for reconsideration. Motion denied.

96-1127. Westfield Cos. v. Kette.

Erie App. No. E-95-051. Reported at 77 Ohio St.3d 154, ___

N.E.2d ___. On motion for reconsideration. Motion denied.

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

96-1469. Perfection Graphics, Inc. v. Sheehan.

Geauga App. No. 95-G-1915. Reported at 77 Ohio St.3d 1480, ___

N.E.2d ___. On motion for reconsideration. Motion denied.

Moyer, C.J., dissents.

96-2630. State ex rel. Karasek v. Moyer.

In Mandamus. Reported at 77 Ohio St.3d 1462, ___ N.E.2d ___. On

motion for reconsideration. Motion denied.

Moyer, C.J., not participating.