

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

9:00 A.M.

WEDNESDAY

July 15, 1998

MERIT DOCKET

98-939. State ex rel. Graham v. McMonagle.

In Procedendo. Sua sponte, cause dismissed.

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

98-988. Litman v. Irving.

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.

98-996. State ex rel. Brumley v. Ohio Dept. of Rehab. & Corr.

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.

98-1005. Bernard v. Marion Corr. Inst.

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.

98-1049. State ex rel. Powell v. Boyko.

In Procedendo. Sua sponte, cause dismissed.

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

98-1052. State ex rel. Williams v. Tenth Appellate Dist.

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.

98-1063. State ex rel. Clay v. Ohio Disciplinary Counsel.

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.

98-1064. State ex rel. Mootispaw v. Judges of the Fourth 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.

98-1105. State ex rel. Roland v. Voris.

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.

98-1158. State ex rel. Booker v. State.

In Habeas Corpus. Sua sponte, cause dismissed.

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

98-1211. State ex rel. Miller v. Ohio Bd. of Paroles.

In Mandamus and Prohibition. On motion to dismiss of Defiance County Court of Common Pleas, and answer of Ohio Parole Board, Betty D. Montgomery, and Harold Carter. Answer treated as motion to dismiss. Motions to dismiss sustained. Cause dismissed.

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

98-1213. Guerriero v. Anderson.

In Habeas Corpus. Sua sponte, cause dismissed.

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

98-1219. Pritchard v. Ohio Bur. of Workers' Comp.

Tuscarawas App. No. 97APD080053. On review of order certifying a conflict. The court determines that no conflict exists within the meaning of S.Ct.Prac. R. IV(2)(B). This cause is therefore dismissed.

Douglas, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

Cook, J., dissents and would accept review on Propositions of Law Nos. I, II, III, and IV only.

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

98-1221. Hatcher v. State.

In Habeas Corpus. Sua sponte, cause dismissed.

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

98-1240. State v. Wolfe.

In Habeas Corpus. 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

98-693. Srail v. RJF Internatl. Corp.
Cuyahoga App. No. 72050.

Douglas, J., would allow on Proposition of Law No. I.

98-773. Fagan v. Timken Co.
Stark App. No. 97CA00277. (Appeal of Richard and Erleen Fagan
and cross-appeal of Timken Company.)

98-863. State v. Johnson.
Montgomery App. No. 16445.

98-867. Wood v. Dorcus.
Lucas App. No. L-96-406.

98-869. State v. Stokes.
Franklin App. No. 97APA06-836.

98-872. Wylie v. Wiley.
Hamilton App. No. C-970243.

98-875. Hart v. Ohio State Dental Bd.
Putnam App. No. 12-97-18.
Douglas, J., dissents.

98-881. State v. Nichols.
Cuyahoga App. No. 73852.

98-882. State v. Gonzalez.
Lorain App. No. 98CA007053.

98-885. First Fed. S. & L. Assn. of Warren v. A & M Towing &
Road Serv., Inc.
Trumbull App. No. 97-T-0028.

98-888. In re Earley.
Cuyahoga App. No. 74142.

98-894. In re Grant.
Cuyahoga App. No. 71046.

98-898. In re Leverett.
Cuyahoga App. Nos. 71357, 71358, 71359 and 71360.
Resnick, J., dissents.

98-901. State v. Patterson.
Hamilton App. No. C-970285.
Douglas and Lundberg Stratton, JJ., dissent.

98-906. State v. Hinkle.
Allen App. No. 1-97-75.

98-907. State v. Decker.
Lucas App. No. L-98-1088.

98-916. State v. James.

Hardin App. No. 6-97-25.

98-919. Ohio Veterinary Med. Bd. v. Singh.
Hamilton App. No. C-970432.

98-925. State v. Terry.
Hamilton App. No. C-960548.

98-932. State v. Wade.
Richland App. No. 98CA14.
Pfeifer, J., dissents.

98-935. State v. Brown.
Hamilton App. No. C-860381.

98-937. State v. Mastronardi.
Erie App. No. E-97-110.
Resnick, J., not participating.

98-942. State v. Sensor.
Summit App. No. 18643.

98-945. State v. Stevens.
Montgomery App. No. 16509.

98-947. State v. Kirkland.
Franklin App. No. 97APA07-873.

98-954. State v. McCarley.
Summit App. No. 18522.

98-966. State v. Sparks.
Lucas App. No. L-84-143.

98-971. Ott v. Borchardt.
Seneca App. No. 13-97-47.
Douglas, Resnick and F.E. Sweeney, JJ., dissent.

98-973. Transamerica Fin. Serv. Co. v. Horton.
Lucas App. No. L-97-1390.
Resnick, J., not participating.

98-979. State v. Balder.
Tuscarawas App. No. 96AP080059.

98-983. Shutrump v. Mill Creek Metro. Park Dist.
Mahoning App. No. 97 C.A. 40.

98-1007. State v. Treen.
Ottawa App. No. OT-95-023.
Resnick, J., not participating.

98-1021. Zagaris v. Whitehall News.
Franklin App. No. 98AP-48.

98-1024. State v. Hattery.
Wood App. No. WD-95-089.

98-1033. Getch v. Bel-Park Anesthesia Assoc.
Mahoning App. No. 96 C.A. 84.
Resnick, J., dissents.

98-1044. Grubbs v. Ohio Bur. of Workers' Comp.
Ashland App. No. CA1236.
Douglas and Resnick, JJ., dissent.

98-1056. State v. Foster.
Hamilton App. No. C-900850.

MOTION DOCKET

96-1997. State ex rel. Rea v. Ohio Dept. of Edn.
In Mandamus. On motion for attorney fees. Motion granted.
Moyer, C.J., and Cook, J., dissent.
Lundberg Stratton, J., dissents for the reasons stated in
her dissenting opinion In State ex rel. Rea v. Ohio Dept. of Edn.
(1998), 81 Ohio St.3d 527, 534-542, ___ N.E.2d ___, ___.

97-1920. Gen. Dynamics Land Sys., Inc. v. Tracy.
Board of Tax Appeals, Nos. 95-A-443 and 95-A-444. On motion for
admission pro hac vice of Paul M. Smith. Motion granted.

97-2341. Sudnek v. Klein.
Geauga App. No. 96-G-2018. On motion to strike appellee's merit
brief appendix and second supplement. Motion denied.

97-2730. State v. Smith.
Butler App. No. CA97-01-011. On motion to strike appellee's
merit brief in part. Motion denied.

98-206. Sasaki v. McKinnon.
Cuyahoga App. No. 71941. On motion for leave to intervene of ABS
Industries, Inc., William J. McCarthy, and David C. Dean; and on
motion for admission pro hac vice of Edwin A. McCabe, Philip Y.
Brown, and Larry R. Tipton. Motions denied.

98-677. State v. Cooper.
Montgomery App. No. 16095. On review of order certifying a
conflict. The court determines that a conflict exists; sua
sponte, cause held for the decision in 97-1778, State v. Rush,
Stark App. No. 96CA419; briefing schedule stayed.
Cook, J., dissents.

98-960. State v. Goode.
Miami App. No. 97CA14. On review of order certifying a conflict.
The court determines that a conflict exists; sua sponte, cause
held for the decision in 97-1985, State v. Cook, Allen App. No. 1-
97-21; briefing schedule stayed and cause consolidated with 98-
934, infra.

98-1084. State v. Robinson.
Cuyahoga App. No. 72320. On motion for leave to file delayed
appeal. Motion denied.
Pfeifer and Lundberg Stratton, JJ., dissent.

98-1141. State v. Searcy.
Franklin App. No. 95APA01-68. On motion for leave to file
delayed appeal. Motion denied.

98-1143. State v. Cornwell.
Trumbull App. No. 95-T-5379. On motion for leave to file delayed
appeal. Motion granted.
F.E. Sweeney, J., dissents.

98-1151. State v. Jackson.
Hamilton App. No. C-960628. On motion for leave to file delayed
appeal. Motion granted.
Douglas, Resnick and F.E. Sweeney, JJ., dissent.

98-1204. State v. Strodes.
Clark App. No. 2475. On motion for leave to file delayed appeal.
Motion granted.
Douglas, Resnick and F.E. Sweeney, JJ., dissent.

98-1217. State v. Jewett.
Franklin App. No. 97APA10-1303. On review of order certifying a
conflict. The court determines that a conflict exists; sua
sponte, cause held for the decision in 97-1985, State v. Cook,
Allen App. No. 1-97-21; briefing schedule stayed.

98-1226. Doe v. Doe Corp. One.
Lucas App. No. L-97-1136. On motion for stay of court of
appeals' judgment. The motion fails for want of four votes on
the following vote:
F.E. Sweeney, Pfeifer and Cook, JJ., would deny.
Moyer, C.J., Douglas and Lundberg Stratton, JJ., would
grant.
Resnick, J., not participating.

98-1238. State v. Bruchac.
Ottawa App. No. OT-97-011. On motion for stay. Motion denied.
Resnick, J., not participating.

98-1246. Cincinnati v. Sidney.
Hamilton App. No. C-970310. On motion for stay of court of
appeals' judgment. Motion denied.
Douglas and Resnick, JJ., dissent.

98-1255. State v. Shaffer.
Marion App. No. 9-97-70. On review of order certifying a
conflict. The court determines that a conflict exists; sua
sponte, cause held for the decision in 97-1985, State v. Cook,
Allen App. No. 1-97-21; briefing schedule stayed.

DISCRETIONARY APPEALS ALLOWED

98-862. State v. Lewis.
Hamilton App. No. C-970289. Discretionary appeal allowed on
Propositions of Law Nos. I and III only; sua sponte, cause held
for the decision in 97-1985, State v. Cook, Allen App. No. 1-97-
21; briefing schedule stayed.

Douglas, J., dissents.

98-895. State v. Wilkins.
Montgomery App. No. 16586.
Pfeifer and Cook, JJ., dissent.

98-899. State v. Fortman.
Montgomery App. No. 16565. Discretionary appeal allowed; sua sponte, cause held for the decision in 97-1985, State v. Cook, Allen App. No. 1-97-21; briefing schedule stayed.
Resnick, J., dissents.

98-934. State v. Goode.
Miami App. No. 97CA14. Discretionary appeal allowed on Propositions of Law Nos. I and II only; sua sponte, cause held for the decision in 97-1985, State v. Cook, Allen App. No. 1-97-21; briefing schedule stayed and cause consolidated with 98-960, supra.

Moyer, C.J., Resnick and F.E. Sweeney, JJ., would also allow all propositions of law.

Douglas, Pfeifer and Cook, JJ., dissent.

98-1028. State v. Sprafka.
Lake App. No. 96-L-137. Sua sponte, cause held for the decision in 97-1778, State v. Rush, Stark App. No. 96CA419; briefing schedule stayed.

DISCRETIONARY APPEALS NOT ALLOWED

98-846. Kagy v. Toledo Lucas Cty. Port Auth.
Fulton App. No. 97-FU-9. On appeal of Toledo-Lucas County Port Authority. Appeal denied.

Douglas and Lundberg Stratton, JJ., dissent.

Resnick, J., not participating.

On cross-appeal of Joseph & Winifred Kagy et al. Cross-appeal denied.

Moyer, C.J., and Douglas, J., dissent.

Resnick, J., not participating.

98-865. Hauck v. Gannett Corp.
Hamilton App. No. C-970171.

98-871. Lane v. Corp. Info. Serv.
Summit App. No. 18525. Discretionary appeal denied. On motion for sanctions for frivolous action. Motion denied.

Cook and Lundberg Stratton, JJ., dissent.

98-891. State v. Dotson.
Pickaway App. No. 97CA9.

98-892. In re Claim of Abate.
Belmont App. No. 97-BA-13. (Appeal of Administrator, Ohio Bureau of Employment Services, and appeal of Wheeling Pittsburgh Steel Corp.)

Lundberg Stratton, J., dissents.

98-897. In re Claim of McCafferty.

Fairfield App. No. 97CA00026.

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

98-900. Marsh v. Vigluicci.

Portage App. No. 97-P-0076.

98-902. Caldwell v. Buckeye Steel Castings Co.

Franklin App. No. 97APE07-963.

Douglas and Resnick, JJ., dissent.

98-911. Naragon v. Dayton Power & Light Co.

Shelby App. No. 17-97-21.

98-914. State Auto Ins. Co. v. Golden.

Cuyahoga App. Nos. 72631 and 72657.

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

98-917. Bishop v. Miller.

Defiance App. Nos. 4-97-30 and 7-97-31.

Douglas, J., dissents.

98-922. Davis v. Becton Dickinson & Co.

Cuyahoga App. No. 72335.

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

98-955. Carey v. Strauss.

Cuyahoga App. No. 74058. Discretionary appeal denied and motion to consolidate with 97-1870, Burger v. Cleveland Hts., Cuyahoga App. No. 72675, denied.

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

98-968. Cahill v. Nakel.

Cuyahoga App. No. 74500.

Lundberg Stratton, J., dissents.

RECONSIDERATION DOCKET

98-554. State v. Blackwell.

Franklin App. No. 96APA03-348. Reported at 82 Ohio St.3d 1430, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

98-702. State ex rel. Forsyth v. Brigner.

In Mandamus. Reported at 82 Ohio St.3d 1429, ___ N.E.2d ___. On motion for reconsideration. Motion denied.