

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

1:00 P.M.

WEDNESDAY
February 17, 1999

MERIT DOCKET

98-2615. State ex rel. Howard v. Weiher.

Lucas App. No. L-98-1344. On motion to dismiss and motion for award of reasonable expenses. Motion to dismiss sustained. Cause dismissed.

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

Pfeifer, J., concurs and would also award attorney fees.

Resnick, J., not participating.

98-2672. State ex rel. Sterling v. Eleventh Dist. Appellate Court.

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.

98-2701. State ex rel. Skotynsky v. Ghee.

In Mandamus. On answer of respondent and on motion for temporary restraining order and preliminary injunction. 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.

99-34. Robinson v. Ohio Adult Parole Auth.

In Prohibition. 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.

99-182. Tye v. State.

In Habeas Corpus. *Sua sponte*, cause dismissed.

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

99-186. Menton v. Money.

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**

98-2249. State v. Taylor.

Cuyahoga App. No. 75107.

98-2273. State v. Thompson.

Allen App. No. 1-98-20.

98-2290. State v. White.

Athens App. No. 98CA36.

98-2300. Nwankpa v. Hines.

Franklin App. No. 98AP-147.

98-2314. State v. Johnson.

Hamilton App. Nos. C-980013 and C-980014.

Moyer, C.J., and Lundberg Stratton, J., dissent and would hold this cause for the decision in 98-2603, *State v. Edmonson*, Portage App. No. 97-P-0067.

98-2318. State v. Hendricks.

Erie App. No. E-96-060.

98-2327. State v. Hansel.

Franklin App. No. 98AP-164.

98-2334. Briggs v. Cincinnati Recreation Comm.

Hamilton App. No. C-971059.

98-2349. State v. Schoonover.

Adams App. No. 97CA647.

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

98-2355. State v. Bartram.

Ross App. No. 97CA2379.

Moyer, C.J., would allow on Propositions of Law Nos. I, III, and IV.

98-2370. State v. Johnson.

Ross App. Nos. 97CA2378 and 97CA2380.

98-2371. State v. Heer.

Franklin App. No. 97APA12-1670.

98-2378. State v. Archer.

Muskingum App. No. CT980035.

98-2379. State v. Shorter.

Montgomery App. No. 16983.

98-2384. State v. Brown.

Ross App. Nos. 97CA2356, 97CA2357, 97CA2358, 97CA2359, 97CA2360, 97CA2361, 97CA2362, 97CA2363, 97CA2364, 97CA2365, 97CA2366, 97CA2367, 97CA2368, 97CA2369, 97CA2370, 93CA2371, 97CA2372, 97CA2374, 97CA2375 and 97CA2376.

Moyer, C.J., would allow on Propositions of Law Nos. III and IV.

98-2389. State v. Morris.

Sandusky App. No. S-98-051.

Resnick, J., not participating.

98-2393. R.A.S. Entertainment, Inc. v. Cleveland.

Cuyahoga App. No. 72561.

Douglas and Pfeifer, JJ., dissent.

98-2395. State v. Leonardson.

Ashtabula App. No. 97-A-0076.

Lundberg Stratton, J., dissents.

98-2399. State v. Juniper.

Fairfield App. Nos. 97CA0015 and 97CA0017.

Resnick, J., dissents.

98-2401. State v. Adkins.

Auglaize App. No. 2-98-20.

98-2405. Kareth v. Toyota Motor Sales.

Clermont App. No. CA98-01-011.

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

98-2407. McBroom v. Techneglas, Inc.

Franklin App. No. 98AP-207.

98-2410. Vallery v. Universal Underwriters Ins. Co.

Pike App. No. 98CA615.

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

98-2411. State v. Delancey.

Tuscarawas App. No. 98AP030034.

98-2412. State v. Jones.

Tuscarawas App. No. 98AP030036.

98-2413. State v. Linard.

Tuscarawas App. No. 98AP030041.

98-2414. State v. Wolpe.

Tuscarawas App. No. 98AP030008.

98-2415. State v. Becker.

Tuscarawas App. No. 98AP030030.

98-2416. State v. Lawson.
Tuscarawas App. No. 98AP030040.

98-2417. State v. Sparks.
Tuscarawas App. No. 98AP030059.

98-2418. State v. Nofsinger.
Tuscarawas App. No. 98AP030049.

98-2419. State v. Tice.
Tuscarawas App. No. 98AP030062.

98-2420. State v. Schwiger.
Tuscarawas App. No. 98AP030057.

98-2421. State v. Myers.
Tuscarawas App. No. 98AP030048.

98-2422. State v. Kerns.
Tuscarawas App. No. 98AP030009.

98-2423. State v. Pease.
Tuscarawas App. No. 98AP030050.

98-2424. State v. Hoover.
Tuscarawas App. No. 98AP030035.

98-2425. State v. Phillips.
Tuscarawas App. No. 98AP030010.

98-2426. State v. Swinderman.
Tuscarawas App. No. 98AP030061.

98-2427. State v. Winrod.
Tuscarawas App. No. 98AP030016.

98-2428. State v. Kelvington.
Tuscarawas App. No. 98AP030037.

98-2429. State v. Kinnamon.
Tuscarawas App. No. 98AP030038.

98-2430. State v. Bigler.
Tuscarawas App. No. 98AP030022.

98-2431. State v. Conner.
Tuscarawas App. No. 98AP030031.

98-2440. Leader Mtge. Co. v. Logan.
Franklin App. No. 98AP-94.

98-2443. State v. Stutzman.
Tuscarawas App. No. 98AP030060.

98-2446. State v. Bishop.
Madison App. No. CA97-07-032.

98-2451. State v. Wise.
Fairfield App. No. 98CA00006.

98-2457. Warner v. Donnell.
Sandusky App. No. S-98-002.
Douglas and F.E. Sweeney, JJ., dissent.

98-2459. Hetzel v. Cent. State Univ.
Franklin App. No. 98AP-160.

98-2460. State v. Maddox.
Hamilton App. No. C-970792.

98-2501. State v. Fleming.
Licking App. No. 97CA133.

98-2503. State v. Gunther.
Trumbull App. No. 97-T-0086.

98-2513. State v. Case.
Hamilton App. No. C-970846.

98-2566. Constr. News Corp., Inc. v. Tracy.

Cuyahoga App. No. 74961.

Pfeifer and Cook, JJ., dissent.

98-2696. State v. Ralston.

Ross App. No. 97CA2287.

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

98-2716. State v. Lambert.

Montgomery App. No. 16667.

98-2720. State v. Lewis.

Summit App. No. 17939.

MOTION DOCKET

92-2565. State v. Scudder.

Franklin App. No. 91AP-506. On motion to set execution date. Motion denied.

Cook, J., would defer ruling on the motion at this time.

98-1679. State ex rel. Heddleston v. Mack.

Madison App. No. CA98-06-025. On request for findings of fact and conclusions of law. Request denied.

98-2548. State ex rel. Earl v. Shafer.

Richland App. No. 98CA93. On motion to stay proceedings pending decision in 98-1305, *Yonkings v. Wilkinson*, Franklin App. No. 97APE08-1083. Motion denied.

Resnick, Pfeifer and Cook, JJ., dissent.

99-8. State v. Willis.

Mahoning App. No. 95 C.A. 237. On motion for leave to file delayed appeal. Motion granted.

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

99-86. State v. Dawson.

Madison App. No. CA98-04-021. On motion for stay of court of appeals' judgment. Motion denied.

99-92. State v. Prichard.

Hamilton App. No. C-941011. On motion for stay of court of appeals' judgment. Motion denied.

99-170. FOE Aerie 0895 v. Ohio Liquor Control Comm.

Lawrence App. No. 98CA09. On motion for stay of court of appeals' judgment. Motion granted.

Pfeifer and Cook, JJ., dissent.

DISCRETIONARY APPEALS ALLOWED

98-2433. Ohio Council 8, Am. Fedn. of State, Cty. & Mun. Emp., AFL-CIO v. State Emp. Relations Bd.

Summit App. No. 18829.

98-2439. Ricker v. John Deere Ins. Co.

Franklin App. No. 97APE11-1505.

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

98-2444. Hillabrand v. Drypers Corp.

Marion App. No. 9-98-18.

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

98-2445. Stickney v. State Farm Mut. Auto. Ins. Co.

Richland App. No. 98CA7. Discretionary appeal allowed; *sua sponte*, cause to be argued on the same date as 98-1462, *Waite v. Progressive Ins. Co.*, Huron App. No. H-97-036.

Lundberg Stratton, J., dissents.

98-2456. Ormet Primary Aluminum Corp. v. Emp. Ins. Co. of Wausau.

Monroe App. No. 808. On discretionary appeal and on motion for admission *pro hac vice* of Neal R. Brendel, motion for admission *pro hac vice* of Paul K. Stockman, motion for admission *pro hac vice* of Stephen M. Murray, motion for

admission *pro hac vice* of Alfred L. Buchanan, motion for admission *pro hac vice* of Hugh C. Griffin, motion for admission *pro hac vice* of Jonathan D. Mutch, motion for admission *pro hac vice* of Anthony R. Zelle, and motion for admission *pro hac vice* of David J. Bloss. Discretionary appeal allowed and motions granted.

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

98-2482. AT&T Wireless PCS, Inc. v. Beavercreek Twp. Zoning Appeals.

Greene App. No. 98CA18. Discretionary appeal allowed; *sua sponte*, this cause shall be argued on the same date as 98-2479, *Symmes Twp. Bd. of Zoning Appeals v. Smyth*, Hamilton App. No. C-971028.

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

Resnick, J., not participating.

DISCRETIONARY APPEALS NOT ALLOWED

98-2145. Kohrman, Jackson & Krantz, P.L.L. v. Fraiberg.

Cuyahoga App. No. 73276.

98-2375. Aetna Cas. & Sur. Co. v. Cigany.

Cuyahoga App. Nos. 73230 and 73242. (Appeal of Dennis Cigany and appeal of Aetna Casualty & Surety Co. et al.)

Resnick and Pfeifer, JJ., dissent.

98-2392. In re Lame.

Portage App. Nos. 96-P-0265, 96-P-0266 and 96-P-0267.

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

98-2432. Pentaflex, Inc. v. Express Serv., Inc.

Clark App. No. 98CA18.

Douglas, J., dissents.

98-2438. State v. Price.

Franklin App. No. 98AP-80.

Pfeifer, J., dissents.

98-2447. Westfield Ins. Co. v. Am. Industries & Resources Corp.

Jefferson App. No. 97JE14.

Lundberg Stratton, J., dissents.

98-2454. Ohio Govt. Risk Mgt. Plan v. Cty. Risk Sharing Auth., Inc.
Fulton App. No. F-98-001.

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

98-2458. Reinoehl v. Trinity Universal Ins. Co.
Franklin App. No. 98AP-155.

98-2473. Slone v. Martin Marietta Energy Sys., Inc.
Pike App. No. 97CA602.

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

98-2487. State v. Kerr.
Lake App. No. 97-L-032.

98-2546. Donaldson v. Donaldson.
Clermont App. No. CA98-04-024.

RECONSIDERATION DOCKET

97-1791. State ex rel. Hillside Dairy Co. v. Conrad.
In Mandamus and Procedendo. Reported at 84 Ohio St.3d 314, ___ N.E.2d ___.
On motion for reconsideration. Motion denied.

98-1989. State v. Clark.
Lucas App. No. L-97-1151. Reported at 84 Ohio St.3d 1468, ___ N.E.2d ___. On
motion for reconsideration. Motion denied.

Lundberg Stratton, J., dissents as to Proposition of Law No. II and would
hold this cause for the decision in 98-2066 and 98-2067, *State v. Saylor*, Butler
App. No. CA98-03-053.

Resnick, J., not participating.

98-2053. Henry Meyer Assoc., Inc. v. Moreland Hills.
Cuyahoga App. No. 72754. Reported at 84 Ohio St.3d 1468, ___ N.E.2d ___. On
motion for reconsideration. Motion granted; *sua sponte*, the discretionary appeal
is allowed, and the cause is consolidated with 98-2054, *infra*.

Cook, J., dissents.

98-2054. Shemo v. Mayfield Hts.

Cuyahoga App. No. 73241. Reported at 84 Ohio St.3d 1468, ___ N.E.2d ___. On motion for reconsideration. Motion granted; *sua sponte*, the discretionary appeal is allowed, and the cause is consolidated with 98-2053, *supra*.

Cook, J., dissents.

98-2171. State v. Sherrills.

Cuyahoga App. No. 56777. Reported at 84 Ohio St.3d 1470, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

98-2257. State v. Sherrills.

Cuyahoga App. No. 60622. Reported at 84 Ohio St.3d 1471, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

99-14. State ex rel. Fries v. Williamson.

In Prohibition. Reported at 84 Ohio St.3d 1462, ___ N.E.2d ___. On motion for reconsideration and on request for findings of fact and conclusions of law. Motion and request denied.