

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

1:00 P.M.

WEDNESDAY
November 10, 1999

MERIT DOCKET

98-992. State ex rel. Dunlap v. Indus. Comm.

Franklin App. No. 97APD02-282. On motion to supplement record and on motion to dismiss. Motions granted and cause dismissed.

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

99-624. State ex rel. Linger v. Indus. Comm.

Franklin App. No. 98AP-433. On motion to dismiss by Industrial Commission. Motion to dismiss sustained. Cause dismissed.

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

99-1622. State ex rel. Watters v. Ghee.

In Mandamus. On answer of respondents. 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.

99-1666. State ex rel. Reed v. Cox.

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.

99-1695. State ex rel. Glover v. Ghee.

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.

99-1798. Beaver v. Chillicothe Correctional Inst.

In Habeas Corpus. On petition for writ of habeas corpus by Michael Beaver, a.k.a. Michael Hudson. *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**

99-1404. State v. Barrera.

Sandusky App. No. S-98-047.

99-1421. State v. Wilson.

Franklin App. No. 98AP-965.

99-1492. State v. Walker.

Ross App. No. 98CA2438.

99-1505. State v. McDowell.

Cuyahoga App. No. 76506.

99-1506. Nunley v. Wayne Builders Corp.

Franklin App. No. 98AP-1202.

99-1512. State v. Hike.

Franklin App. No. 98AP-1126.

99-1514. State v. Smith.

Perry App. No. CA982.

99-1515. State v. Weidinger.

Huron App. No. H-98-035.

Pfeifer, J., dissents.

Resnick, J., not participating.

99-1517. In re Wood.

Franklin App. No. 98AP-1061.

99-1523. State v. Hayden.

Montgomery App. No. 17649.

99-1525. State v. Bies.

Hamilton App. No. C-980688.

99-1526. Boron v. Brooks Beverage Mgt., Inc.

Franklin App. No. 98AP-902.

99-1528. Van Kan v. Mattheus.

Geauga App. No. 98-G-2139.

Moyer, C.J., dissents.

99-1533. In re Turner.

Shelby App. No. 17-99-11.

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

99-1535. In re Turner.

Shelby App. No. 17-99-12.

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

99-1537. State v. Siler.

Mahoning App. No. 95CA207.

99-1538. Fallsway Equip. Co. v. Kirtland Auto Sales, Inc.

Geauga App. No. 98-G-2169.

99-1539. State v. Davis.

Mahoning App. No. 98CA97.

99-1540. State v. Brooks.

Cuyahoga App. No. 74428.

99-1541. State v. Patterson.

Lucas App. No. L-97-1377.

Resnick, J., not participating.

99-1542. State v. Georgekopoulos.

Summit App. No. 19334.

99-1564. In re Estate of Fouras.

Licking App. No. 99CA55.

Pfeifer, J., dissents.

99-1567. State v. Shingleton.

Montgomery App. No. 17546.

99-1569. Cunningham v. Hildebrand.

Cuyahoga App. No. 74524.

99-1573. Roseville v. Glass.

Perry App. No. 98CA13.

99-1578. In re Kuehne.

Butler App. No. CA98-09-192.

Douglas and Pfeifer, JJ., dissent.

99-1579. Walton Hills v. Simpfendorfer.

Cuyahoga App. No. 74471.

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

99-1589. State v. Epps.

Cuyahoga App. No. 76530.

99-1594. State v. Brooks.

Cuyahoga App. No. 75522.

99-1612. Varhola v. Akron.
Summit App. No. 19299.

99-1617. State v. Snedegar.
Hamilton App. No. C-980078.

99-1623. State v. Weston.
Washington App. No. 97CA31.

99-1628. State v. Wallace.
Cuyahoga App. No. 74474.

99-1630. State v. Reeves.
Montgomery App. No. 16987.

99-1634. Mentor v. Babul.
Lake App. No. 98-L-244.
Moyer, C.J., and Cook, J., dissent.

99-1636. U.S.A. Mgt. & Dev., Inc. v. Lake Cty. Dept. of Utility.
Lake App. No. 98-L-019.

99-1647. Hiener v. Kelley.
Washington App. No. 98CA7.
Resnick, J., dissents.

99-1685. Woods v. Wingfield.
Cuyahoga App. No. 76101.

99-1686. State v. Allen.
Lucas App. No. L-98-1433.
Resnick, J., not participating.

99-1712. State v. Hoop.
Brown App. No. CA98-04-017.
F.E. Sweeney, J., dissents.

MOTION DOCKET

97-2527. State ex rel. Jaynor v. Gerstenslager Co.

Franklin App. No. 96APD08-1024. On request for oral argument. Request denied.

98-1203. State ex rel. Rothkegel v. Westlake.

Franklin App. No. 97APD04-505. On request for oral argument. Request denied.

99-1780. R&R Serv. v. Ohio Petroleum Underground Storage Tank Release Comp. Bd.

Sandusky App. No. S-99-003. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated at page 12 of the court of appeals' Opinion and Judgment Entry journalized September 3, 1999:

“[T]his court finds that our judgment in the instant appeal is in conflict with *Amoco Oil Co. v. Petroleum Underground Storage Tank Compensation Release Bd.* (June 30, 1999), Montgomery App. No. 17672, unreported [1999 WL 961243], on the issue of whether Ohio Adm.Code 3737-1-07(A)(1) is an invalid rule. Consequently, we hereby certify the record in this case to the Supreme Court of Ohio for review and final determination of the conflict presented pursuant to Section 3(B)(4), Article IV, Ohio Constitution, and App.R. 25.”

This cause is consolidated with 99-1481, *infra*.

F.E. Sweeney, J., dissents to the above.

Resnick, J., not participating.

99-1781. State v. Cedeno.

Hamilton App. No. C-970465. On motion for leave to file delayed appeal. Motion denied.

99-1785. State v. Elliot.

Hamilton App. No. C-960072. On motion for leave to file delayed appeal. Motion denied.

99-1813. State v. Knighton.

Stark App. No. 1998CA00190. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

99-1881. State v. Jones.

Cuyahoga App. No. 74247. On motion for stay of execution of court of appeals' judgment. Motion granted.

Pfeifer, J., dissents.

DISCRETIONARY APPEALS ALLOWED

99-1405. Alrjub v. Wheeler.

Franklin App. No. 98AP-1171. Discretionary appeal allowed and cause held for the decision in 99-219, 99-222, 99-223 and 99-224, *Karr v. Borchardt*, Seneca App. Nos. 13-98-33, 13-98-36, 13-98-35 and 13-98-34; briefing schedule stayed.

Lundberg Stratton, J., dissents.

99-1444. Gliner v. Saint-Gobain/Norton Indus. Ceramics Corp.

Cuyahoga App. No. 74055.

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

99-1469. Fairborn Professional Fire-Fighters' Assn. v. Fairborn.

Greene App. No. 99CA19.

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

99-1473. Parker v. I&F Insulation Co.

Hamilton App. No. C-980502.

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

99-1481. Amoco Oil Co. v. Petroleum Underground Tank Release Comp. Bd.

Montgomery App. No. 17672. Discretionary appeal allowed and cause consolidated with 99-1780, *supra*.

F.E. Sweeney, J., dissents.

Resnick, J., not participating.

DISCRETIONARY APPEALS NOT ALLOWED

99-852. Anderson v. Linkscorp, Inc.

Franklin App. No. 98AP-454.

Douglas, J., dissents.

99-998. State v. Sanchez.

Ashtabula App. No. 98-A-0006.

Resnick, J., would allow on Proposition of Law No. II.

Lundberg Stratton, J., would allow.

99-1493. Lang v. Cent. Clinic.

Hamilton App. No. C-980959.

99-1501. Security Dollar Bank v. Yamaha Corp. of Am.

Trumbull App. No. 98-T-0059.

99-1529. Mannix v. Ohio Dept. of Human Serv.

Montgomery App. No. 17720.

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

99-1536. Earley v. Keenan.

Cuyahoga App. No. 76653.

99-1551. Internatl. Assn. of Fire Fighters, Local 606 v. Delaware.

Delaware App. No. 98CA311059.

Lundberg Stratton, J., dissents.

99-1592. Dever v. Dever.

Clermont App. No. CA98-07-050.

Pfeifer, J., dissents.

99-1596. Babb v. Grizzell.

Montgomery App. No. 17551.

99-1600. Mocarski v. Akron.

Summit App. No. 19138.

99-1607. Johnson v. Kroger Co.

Hamilton App. No. C-980888.

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

99-1619. Safdi v. Gallegos.

Hamilton App. No. C-980814.

Cook, J., dissents.

99-1645. Sampson v. Hughes.

Ross App. No. 98CA2435.

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

99-1654. Maasen v. Zopff.

Warren App. Nos. CA98-10-135, CA98-10-138 and CA98-12-153.

Moyer, C.J., dissents.

99-1724. State v. Scaggs.

Cuyahoga App. No. 74653.

Douglas and Resnick, JJ., dissent.

RECONSIDERATION DOCKET

99-1107. State v. Homan.

Erie App. No. E-97-100. Reported at 87 Ohio St.3d 1413, ___ N.E.2d ___. On motion for reconsideration and on *amicus curiae* motion for leave to file under S.Ct.Prac.R. XI of Ohio Prosecuting Attorneys Association. Motions granted and discretionary appeal allowed.

Cook and Pfeifer, JJ., dissent.

99-1197. Anderson v. Alger.

Hardin App. No. 6-98-10. Reported at 86 Ohio St.3d 1493, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

Moyer, C.J., dissents.

99-1354. State ex rel. Sevayega v. Pace.

In Mandamus. Reported at 86 Ohio St.3d 1487, ___ N.E.2d ___. On motion for reconsideration. Motion denied.