

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

9:00 A.M.

WEDNESDAY

April 19, 2000

MERIT DOCKET

98-179. State ex rel. Griffin v. Judge.

In Mandamus. *Sua sponte*, cause dismissed.

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

99-1585. State ex rel. Chesney v. Lisbon.

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

Douglas, Resnick, F.E. Sweeney, Cook and Lundberg Stratton, JJ., concur.

Moyer, C.J., and Pfeifer, J., would deny the motion to dismiss and grant an alternative writ.

00-214. State ex rel. Berch v. Ghee.

In Mandamus. On S.Ct.Prac.R. X(5) determination, cause dismissed.

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

00-251. State ex rel. Schrock v. Wilkinson.

In Mandamus. On S.Ct.Prac.R. X(5) determination, cause dismissed.

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

00-254. Campbell v. Ohio Dept. of Rehab. & Corr.

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.

00-287. State ex rel. Turner v. Wilkinson.

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.

00-347. State ex rel. Holsinger v. Fairfield Cty. Mun. Court.

In Prohibition. On motion to dismiss by the Honorable Don S. McAuliffe and the Honorable Chris A. Martin. Motion to dismiss sustained. Cause dismissed.

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

00-356. State ex rel. Deaton v. Seventh 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.

00-359. State ex rel. Thrower v. Mengel.

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

Douglas, Resnick, F.E. Sweeney, Pfeifer and Lundberg Stratton, JJ., concur.
Moyer, C.J., and Cook, J., not participating.

00-430. Sims v. Carter.

In Habeas Corpus. On petition for writ of habeas corpus by Jonathan Sims. *Sua sponte*, cause dismissed.

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

00-441. Howard v. Ohio Bur. of Workers' Comp.

Action pursuant to R.C. 4121.25. On motions to dismiss. Motions to dismiss sustained. Cause dismissed.

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

Moyer, C.J., not participating.

00-504. Reeder v. Bagley.

In Habeas Corpus. On petition for writ of habeas corpus by Michael D. Reeder. *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**

99-2218. State v. King.

Cuyahoga App. No. 76373.

Resnick, J., dissents.

99-2306. Hamilton Cty. Bd. of Commrs. v. Cincinnati.

Hamilton App. No. C-990431.

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

00-29. Hamilton v. Johnson.

Butler App. No. CA99-02-025.

Lundberg Stratton, J., dissents.

00-61. State v. Sherman.

Licking App. No. 99CA71.

00-63. E. Cleveland v. Echols.

Cuyahoga App. No. 74941.

00-65. State v. Hodge.

Butler App. Nos. CA99-01-001 and CA99-01-002.

00-77. State v. Guillem.

Cuyahoga App. No. 75995.

00-78. Gunsorek v. Pingue.

Franklin App. No. 99AP-62.

00-79. State v. Nivens.

Franklin App. No. 99AP-242.

00-81. One Columbus Bldg. Assn. Ltd. v. Columbus Div. of Income Tax.

Franklin App. No. 98AP-1309.

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

00-82. State v. Wynn.

Franklin App. Nos. 99AP-372 and 99AP-373.

Moyer, C.J., and Cook, J., dissent and would hold this cause for the decision in 99-286, *State v. Williams*, Lake App. No. 97-L-191.

00-83. State v. Bradford.

Franklin App. No. 98AP-1546.

00-88. State v. Collins.

Auglaize App. No. 2-99-31.

00-90. McGuinness v. Baggaley.

Greene App. No. 99CA83.

00-92. Liverpool Twp. Bd. of Trustees v. Obuch.

Medina App. No. 2923-M.

00-94. State v. Kelso.

Franklin App. No. 99AP-266.

Cook and Lundberg Stratton, JJ., dissent.

00-96. In re Estate of Davis.
Montgomery App. No. 17626.

00-100. State v. Taogaga.
Cuyahoga App. No. 75055.
Lundberg Stratton, J., dissents.
Resnick, J., not participating.

00-102. State v. Keller.
Seneca App. No. 13-99-16.

00-107. Stine v. Stine.
Butler App. No. CA99-06-108.

00-112. State v. Bolt.
Lake App. Nos. 98-L-067 and 98-L-068.

00-113. State v. Dannemiller.
Stark App. No. 1999CA00263.

00-117. McElrath v. McElrath.
Cuyahoga App. No. 75177.
Resnick, J., not participating.

00-121. Marks v. Streetsboro Planning Comm.
Portage App. No. 98-P-0076.

00-124. State v. Bluford.
Cuyahoga App. No. 75228.

00-125. Woodside Pet Cemetery, Inc. v. W.G. Lockhart Constr. Co.
Stark App. No. 1999CA00062.

00-127. State v. Littlejohn.
Hamilton App. No. C-990826.

00-130. State v. Richardson.
Franklin App. No. 98AP-1500.

00-135. In re Jessica H.

Lucas App. No. L-99-1076.

Resnick, J., not participating.

00-136. State v. Reeves.

Montgomery App. Nos. 17631 and 17768.

00-137. Floyd v. Master Industries, Inc.

Darke App. No. 1489.

Douglas, J., dissents.

00-138. State v. Read.

Lake App. No. 98-L-127.

00-140. Lutchey v. Napoleon.

Henry App. No. 7-99-02.

00-141. Englehart v. C.T. Taylor Co., Inc.

Summit App. No. 19325.

00-142. State v. Mills.

Cuyahoga App. No. 74700.

Resnick, J., not participating.

00-143. Rocky River v. Attewell.

Cuyahoga App. No. 76269.

Pfeifer and Lundberg Stratton, JJ., dissent.

Resnick, J., not participating.

00-145. State v. Parker.

Cuyahoga App. Nos. 75117 and 75118.

00-149. Cochran v. State Bd. of Bldg. Appeals.

Medina App. No. 2975-M.

00-152. Barker v. Ohio Dept. of Rehab. & Corr.

Franklin App. No. 99AP-563.

Pfeifer, J., dissents.

00-153. Helton v. Vermillion.
Hardin App. No. 6-99-06.

00-154. Georgeadis v. Dials.
Franklin App. No. 99AP-232.

00-159. State v. Songer.
Trumbull App. No. 98-T-0100.

00-162. State v. Wagner.
Fairfield App. No. 99CA23.

00-163. State v. Dewey.
Ashtabula App. No. 99-A-0055.

00-165. State v. Hunter.
Cuyahoga App. Nos. 75345 and 75346.

00-166. State v. Scott.
Franklin App. No. 99AP-1165.

00-167. State v. Ayala.
Cuyahoga App. No. 75207.
Moyer, C.J., dissents.

00-169. Battes v. Battes.
Lake App. No. 98-L-216.

00-171. In re Adoption of Yurick.
Summit App. No. 19520.

00-172. Thomas v. Miami Valley Hosp.
Montgomery App. No. 17694. On discretionary appeal. Discretionary appeal denied.

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

On motion for admission *pro ha vice* of David J. De Long by James T. Ambrose. Motion granted.

00-173. State v. Yasko.

Cuyahoga App. No. 75221.

Resnick, J., not participating.

00-175. State v. Bone.

Montgomery App. No. 18057.

Lundberg Stratton, J., dissents.

00-176. State v. Walkup.

Morgan App. No. 99CA06.

00-177. State v. Stone.

Ashtabula App. No. 98-A-0102.

00-179. State v. Sallie.

Lucas App. No. L-99-1060.

Lundberg Stratton, J., dissents.

Resnick, J., not participating.

00-182. State v. Schlee.

Lake App. No. 98-L-187.

00-184. Wise v. Qualified Emergency Specialists, Inc.

Hamilton App. No. C-980802.

F.E. Sweeney, J., dissents.

00-186. Stalnaker v. Stalnaker.

Stark App. No. 1999CA00059.

Pfeifer and Lundberg Stratton, JJ., dissent.

00-190. Jacks v. Berryhill.

Licking App. No. 99CA00062.

00-191. Franklin Cty. Dist. Bd. of Health v. Sturgill.

Franklin App. No. 99AP-362.

00-193. Moots, Cope & Stanton v. Triplett.

Franklin App. No. 99AP-333.

00-197. State v. Meadows.

Lucas App. Nos. L-98-1424 and L-98-1425.

00-199. State v. Badurik.

Mahoning App. No. 98CA106.

00-201. State v. Evans.

Cuyahoga App. Nos. 74683 and 74684.

00-202. State v. Harris.

Lorain App. No. 98CA007142.

00-204. State v. Royston.

Summit App. No. 19182.

00-205. In re Moore.

Summit App. Nos. 19202 and 19217.

00-207. State v. Lovelace.

Hamilton App. No. C-990063.

00-208. State v. Carmicle.

Cuyahoga App. No. 75001.

00-210. State v. Covington.

Lucas App. No. L-97-1196.

Resnick, J., not participating.

00-212. Euclid v. Moore.

Cuyahoga App. No. 75143.

00-215. State v. Clinkscale.

Franklin App. No. 98AP-1586.

00-220. State v. Taylor.

Cuyahoga App. No. 75208.

00-224. State v. Haydon.

Summit App. No. 19094.

00-226. Husarcik v. Levy.

Cuyahoga App. No. 75114.

Cook, J., dissents.

00-231. State v. Kent.

Crawford App. No. 3-99-21.

00-233. State v. Brock.

Cuyahoga App. No. 75168.

Resnick and Pfeifer, JJ., dissent.

00-237. State v. Gulley.

Clinton App. No. CA99-02-004.

Lundberg Stratton, J., dissents.

00-246. State v. Edwards.

Hamilton App. No. C-990176.

00-269. State v. Duelley.

Hamilton App. No. C-990327.

Douglas, J., dissents.

00-270. State v. Gale.

Hamilton App. No. C-990007.

00-300. Haywood v. Estate of Baluck.

Knox App. No. 99CA16.

00-306. State v. Jones.

Hamilton App. No. C-990068.

00-307. State v. Brown.

Hamilton App. No. C-990067.

00-321. State v. Slade.

Franklin App. No. 98AP-1618.

MOTION DOCKET

98-2287. State ex rel. Liposchak v. Indus. Comm.

Franklin App. No. 97APD10-1427. On request for oral argument. Request granted.

99-1280. Toledo Edison Co. v. Bryan.

Williams App. No. WM98-017. On motion for admission *pro hac vice* of John P. Coyle by John W. Bentine and on motion for admission *pro hac vice* of David C. Rinebolt by Jeffrey L. Small. Motions granted.

Douglas, Resnick and Cook, JJ., not participating.

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

Cuyahoga App. No. 74055. On motion to strike brief of *amicus curiae* Ohio Employment Lawyers Association, Ohio Academy of Trial Lawyers, et al.; motion to strike *amici curiae* brief of Feminist Majority Foundation, Women Employed et al.; and on motion to strike Proposition of Law No. II from appellants' merit and reply briefs. Motions denied.

99-1769. Painesville Bldg. Dept. v. Dworken & Bernstein Co., L.P.A.

Lake App. No. 98-L-223. On motion to strike appellant's brief. Motion denied and appellee is allowed thirty days to file its brief.

99-1879. Emerson Elec. Co. v. Tracy.

Board of Tax Appeals, No. 97-S-1288. On request for argument before full court. Request granted.

F.E. Sweeney, J., dissents.

99-2110. State ex rel. Reliance Elec. Co. v. Wright.

Franklin App. No. 98AP-1617. On motion to strike appellant's merit brief by Industrial Commission of Ohio and on motion to strike appellant's merit brief by Glen C. Wright. Motions denied; appellees are allowed thirty days to file their brief.

99-2293. Linko v. Indemn. Ins. Co. of N. Am.

Certified State Law Question, No. 98CV129S. On motion for admission *pro hac vice* of Dan D. Kohane by Murray Lenson and Jay Pearlman. Motion granted.

00-57. State v. Hughbanks.

Hamilton App. No. C-980595. On motion to withdraw as counsel by A. Norman Aubin and Herbert E. Freeman. Motion denied. The attorneys for appellant are ordered to file a merit brief within twenty days of the date of this entry.

Douglas, J., would also order a copy of the brief sent to appellant.

00-59. State v. Fannin.

Ross App. No. 98CA2456. On request for findings of fact/conclusions of law. Request denied.

00-170. Davidson v. Motorists Mut. Ins. Co.

Franklin App. No. 99AP-163. 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 January 24, 2000, at page 2:

"Is a homeowner's policy, which provides limited motor vehicle coverage, subject to the requirements of R.C. 3937.18?"

The conflict case is *Overton v. W. Res. Group* (Dec. 8, 1999), Wayne App. No. 99CA0007, unreported, 1999 WL 1215138.

F.E. Sweeney, J., dissents.

Sua sponte, cause consolidated with 00-132, *Davidson v. Motorists Mut. Ins. Co.*, Franklin App. No. 99AP-163.

00-361. State v. Drake.

Franklin App. No. 99AP-394. On motion for leave to file delayed appeal. Motion granted.

F.E. Sweeney, J., dissents.

00-362. State v. Miller.

Tuscarawas App. No. 1999AP020010. On motion for leave to file delayed appeal and on motion to dismiss. Motion for delayed appeal granted.

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

Motion to dismiss denied.

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

00-365. State v. Doss.

Cuyahoga App. No. 77130. On motion for leave to file delayed appeal. Motion denied.

Resnick and Pfeifer, JJ., dissent.

00-370. State v. Thompson.

Clark App. No. 98CA100. On motion for leave to file delayed appeal. Motion denied.

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

00-384. State v. Allen.

Lucas App. No. L-97-1444. On motion for leave to file delayed appeal. Motion denied.

Cook and Lundberg Stratton, JJ., dissent.

Resnick, J., not participating.

00-387. State ex rel. Am. Tool Co. v. Indus. Comm.

Franklin App. No. 98AP-1593. On motion to dismiss notice of appeal by American Tool Company. Motion denied.

00-393. State v. Holley.

Ashtabula App. No. 98-A-0089. On motion for leave to file delayed appeal. Motion denied.

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

00-397. State ex rel. Solnick v. Cuyahoga Cty. Court of Appeals.

In Mandamus. On motion for stay of proceedings in Cuyahoga County Court of Appeals case No. 76413. Motion denied.

Pfeifer, J., dissents.

00-401. State v. Grimes.

Guernsey App. No. 98CA02. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

00-434. State v. Rogers.

Cuyahoga App. No. 74988. On motion for leave to file delayed appeal. Motion denied.

00-435. State v. Ross.

Mahoning App. No. 96CA247. On motion for leave to file delayed appeal. Motion denied.

00-451. State v. Trent.

Montgomery App. No. 17705. On motion for leave to file delayed appeal. Motion denied.

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

00-452. State v. Conant.

Richland App. No. 99CA45. On motion for stay of court of appeals' judgment. Motion granted.

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

00-545. Bardes v. Todd.

Hamilton App. No. C-000055. On motion for stay of court of appeals' proceedings and on motion to strike motion for stay of proceedings. Motion for stay denied and motion to strike denied as moot.

DISCRETIONARY APPEALS ALLOWED

99-2158. In re Adoption of Asente.

Trumbull App. Nos. 99-T-0055, 99-T-0056, 99-T-0057 and 99-T-0058.

F.E. Sweeney, J., dissents.

00-21. Southwest Ohio Regional Transit Auth. v. Amalgamated Transit Union, Local 627.

Hamilton App. No. C-980974.

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

00-132. Davidson v. Motorists Mut. Ins. Co.

Franklin App. No. 99AP-163. On discretionary appeal. Appeal allowed.

F.E. Sweeney, J., dissents.

Sua sponte, cause consolidated with 00-170, *Davidson v. Motorists Mut. Ins. Co.*, Franklin App. No. 99AP-163.

DISCRETIONARY APPEALS NOT ALLOWED

00-71. Kurtz v. Wayne Mut. Ins. Co.

Richland App. No. 99CA24.

Lundberg Stratton, J., dissents.

00-72. Pivarski v. Hissong-Kenworth, Inc.
Summit App. No. 19454.

00-73. Young v. Bridgestone APM Co.
Hancock App. No. 5-99-12.
Lundberg Stratton, J., dissents.

00-80. Kamenar RR. Salvage Co. v. Ohio Power Co.
Union App. No. 14-99-20.
Pfeifer and Lundberg Stratton, JJ., dissent.

00-87. Brandt v. Daugstrup.
Cuyahoga App. No. 75065.

00-98. State v. Guy.
Cuyahoga App. No. 74457.
Resnick, J., not participating.

00-105. State v. Johnson.
Muskingum App. No. CT990005.

00-111. State v. Protheroe.
Trumbull App. No. 98-T-0057.

00-123. DiGioia Bros. Excavating, Inc. v. Cleveland Dept. of Pub. Util., Div. of Water.
Cuyahoga App. No. 75081.
Douglas and Pfeifer, JJ., dissent.

00-126. Pool v. Insignia Residential Group.
Hamilton App. No. C-990122.
Moyer, C.J., dissents.

00-131. Amerifirst Savings Bank of Xenia v. Krug.
Montgomery App. No. 17349.
Lundberg Stratton, J., dissents.

00-144. Ackerman v. State Farm Mut. Auto. Ins. Co.

Hamilton App. No. C-990332.

Resnick and Pfeifer, JJ., dissent.

00-147. Euclid Beach Ltd. v. Brockett.

Cuyahoga App. No. 75047.

Resnick, J., not participating.

00-148. Amerifirst Savings Bank of Xenia v. Krug.

Montgomery App. Nos. 17345 and 17349.

00-150. State v. Stevens.

Morgan App. No. CA-99-02.

Resnick, J., dissents.

00-161. Board v. Ohio Lottery Comm.

Franklin App. No. 99AP-208.

Pfeifer, J., dissents.

00-174. State v. Jodrey.

Clermont App. No. CA99-04-038.

00-181. Maloof v. Hollingsworth.

Cuyahoga App. No. 75379.

Resnick, J., not participating.

00-185. State v. Paschal.

Cuyahoga App. No. 75312.

Resnick, J., not participating.

00-188. North v. Grange Mut. Cas. Co.

Franklin App. No. 99AP-128.

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

00-192. State v. Keith.

Cuyahoga App. Nos. 76469, 76479 and 76610.

00-194. Estate of Hodary v. Chancey.
Hamilton App. No. C-980896.

00-198. Brune-Harpenau-Torbeck Builders, Inc. v. Torbeck.
Hamilton App. No. C-990319.
Pfeifer, J., dissents.

00-209. State ex rel. Dove v. Basinski.
Lorain App. No. 99CA007298.

00-217. State v. Mallon.
Trumbull App. No. 98-T-0032.

00-221. Hamilton v. Ohio Savings Bank.
Cuyahoga App. No. 76056.

00-227. Mitchell Motor Parts, Inc. v. Sepich Constr. Co.
Franklin App. No. 99AP-444.
F.E. Sweeney and Pfeifer, JJ., dissent.

00-250. Pasco v. State Auto. Mut. Ins. Co.
Franklin App. No. 99AP-430.

00-267. Wietrzykowski v. J-ARD Corp.
Lucas App. No. L-99-1120.
Douglas, J., dissents.

00-285. Shepherd v. Shepherd.
Franklin App. No. 99AP-226.

00-350. Francis Corp. v. Sun Co., Inc.
Cuyahoga App. No. 74966.

RECONSIDERATION DOCKET

99-1495. State v. Brooks.
Cuyahoga App. No. 73729. Reported at 88 Ohio St.3d 1432, 724 N.E.2d 809. On motion for reconsideration. Motion denied.
Lundberg Stratton, J., dissents.

99-1728. Hairston v. Seidner.

Richland App. No. 96CA61. Reported at 88 Ohio St.3d 57, 723 N.E.2d 575. On motion for reconsideration. Motion denied.

99-1974. State ex rel. Fields v. State Emp. Relations Bd.

In Mandamus. Reported at 88 Ohio St.3d 1431, 724 N.E.2d 808. On motion for reconsideration. Motion denied.

99-2116. State v. Taylor.

Clermont App. Nos. CA99-05-042 and CA99-05-043. Reported at 88 Ohio St.3d 1424, 723 N.E.2d 1112. On motion for reconsideration. Motion denied.

99-2188. Dimario v. Aras.

Hamilton App. No. C-990107. Reported at 88 Ohio St.3d 1432, 724 N.E.2d 809. On motion for reconsideration. Motion denied.

99-2201. Craig v. Grange Ins. Co.

Montgomery App. No. 17675. Reported at 88 Ohio St.3d 1437, 724 N.E.2d 812. On motion for reconsideration. Motion denied.

Douglas, Resnick and Pfeifer, JJ., dissent.

99-2222. Young v. Ohio Adult Parole Auth.

Franklin App. No. 99AP-677. Reported at 88 Ohio St.3d 1433, 724 N.E.2d 809. On motion for reconsideration. Motion denied.

99-2249. Hobbs v. Golding.

Clark App. No. 99CA6. Reported at 88 Ohio St.3d 1434, 724 N.E.2d 810. On motion for reconsideration. Motion denied.

99-2304. State ex rel. Pollock v. Lucas Cty. Court of Appeals.

In Mandamus. Reported at 88 Ohio St.3d 1423, 723 N.E.2d 1112. On motion for reconsideration. Motion denied.

Resnick, J., not participating.

00-288. State ex rel. Landis v. Morrow Cty. Bd. of Elections.

Reported at 88 Ohio St.3d 187, 724 N.E.2d 775. On motion for reconsideration. Motion denied.

Douglas, J., dissents.