

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

9:00 A.M.

WEDNESDAY

March 21, 2001

MERIT DOCKET

00-2010. Natl. Elec. Contrs. Assn. v. Pub. Util. Comm.

Public Utilities Commission, Nos. 99-1213-EL-ATA, 99-1214-EL-AAM and 99-121-EL-ETP. *Sua sponte*, cause dismissed.

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

00-2105. State ex rel. Klein v. Russell.

Warren App. No. CA2000-08-069. On motion to strike appellant's brief and motion to strike memorandum opposing motion to strike. *Sua sponte*, cause dismissed.

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

Moyer, C.J., Douglas and Cook, JJ., would grant the motion to strike appellant's brief.

00-2145. Citizen Power, Inc. v. Pub. Util. Comm.

Public Utilities Commission, Nos. 99-1212-EL-ETP, 99-1213-EL-ATA and 99-1214-EL-AAM. This cause is pending before the court as an appeal from the Public Utilities Commission of Ohio ("commission"). Upon consideration of various motions by the parties and a petition by the appellant,

IT IS ORDERED by the court that the motion by FirstEnergy Corp. for leave to intervene as an appellee be, and hereby is, sustained.

Cook, J., not participating.

IT IS FURTHER ORDERED by the court that the motions to dismiss the appeal by the commission and FirstEnergy Corp. be, and hereby are, sustained.

Pfeifer, J., dissents.

Cook, J., not participating.

ACCORDINGLY, IT IS FURTHER ORDERED by the court that this cause be, and hereby is, dismissed.

Pfeifer, J., dissents.

Cook, J., not participating.

IT IS FURTHER ORDERED by the court that the commission's motion to strike the appellant's petition for writ of mandamus be sustained and appellant's request for sanctions be denied as moot.

Pfeifer, J., dissents.

Cook, J., not participating.

ACCORDINGLY, IT IS FURTHER ORDERED by the court that the appellant's petition for writ of mandamus be, and hereby is, stricken and appellant's request for sanctions be, and hereby is, denied.

Pfeifer, J., dissents.

Cook, J., not participating.

00-2210. Natl. Elec. Contrs. Assn. v. Pub. Util. Comm.

Public Utilities Commission, Nos. 99-1212-EL-ETP, 99-1213-EL-ATA and 99-1214-EL-AAM. *Sua sponte*, cause dismissed.

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

01-56. Reid v. McClinton.

In Procedendo. On complaint in procedendo by Richard Reid. 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.

01-88. State ex rel. Modern Tool & Die Co. v. Cuyahoga Cty. Court of Common Pleas.

In Prohibition. On motion for leave to intervene by Randy J. Vitale and motion to dismiss. Motion to dismiss sustained. Cause dismissed.

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

01-139. Kirkwood v. Sixth Appellate Dist. Court of Appeals.

In Procedendo. 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.

01-230. State ex rel. Brown v. McMonagle.

In Mandamus. On answer of respondent and motion for summary judgment. 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.

01-240. State ex rel. Howard v. Seaway Foodtown, Inc.

Franklin App. No. 99AP-855. On motion to dismiss by Industrial Commission of Ohio and Bureau of Workers' Compensation. Motion to dismiss sustained. Cause dismissed.

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

01-336. Nash v. Money.

In Habeas Corpus. On petition for writ of habeas corpus by Timothy M. Nash. *Sua sponte*, cause dismissed.

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

01-364. Nash v. Money.

In Habeas Corpus. On petition for writ of habeas corpus by Timothy M. Nash and request for findings of fact and conclusions of law. *Sua sponte*, cause dismissed.

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

01-383. Corley v. Ohio Adult Parole Auth.

In Habeas Corpus. On petition for writ of habeas corpus by Michael E. Corley. *Sua sponte*, cause dismissed.

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

01-399. Gilliam v. Leonard.

In Habeas Corpus. On petition for writ of habeas corpus by Edward Gilliam. *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**

00-2171. Garrett v. Garrett.

Franklin App. Nos. 99AP-1050 and 99AP-1306.

00-2273. State v. McNamee.

Franklin App. No. 00AP-302.

00-2280. State v. Harris.

Clermont App. No. CA2000-02-11.

00-2288. State v. Boylen.

Stark App. No. 1999CA00278.

00-2291. Welty v. Ohio Dept. of Ins.

Franklin App. No. 99AP-1367.

00-2295. State v. Johnson.

Hamilton App. Nos. C-990482 and C-990483.

00-2297. State v. Kustron.

Cuyahoga App. No. 77102.

Moyer, C.J., dissents.

00-2298. State v. Koenig.

Allen App. No. 1-95-61.

00-2300. State v. Winters.

Fulton App. No. F-00-022.

Resnick, J., not participating.

00-2301. State v. Winland.
Wayne App. No. 00CA0031.

00-2309. State v. Huss.
Seneca App. No. 13200014.

00-2310. State v. Black.
Crawford App. No. 3200014.

00-2318. State v. Halgrimson.
Lorain App. No. 99CA007389.

00-2323. Ruble v. Republic Natl. Mtge. Co.
Lucas App. No. L-00-1019.

00-2324. State v. Reigle.
Hancock App. No. 5200014.
Lundberg Stratton, J., would allow on Propositions of Law Nos. I and II.
Moyer, C.J., would allow.

00-2325. In re Forfeiture of Prop. of Anderson-Melton.
Montgomery App. No. 18357.
Douglas and Resnick, JJ., dissent.

00-2326. State v. Nickleberry.
Cuyahoga App. No. 77516.

00-2328. Earley v. David M. Myers College.
Cuyahoga App. No. 78405.

00-2334. State v. Smiley.
Cuyahoga App. No. 77244.

00-2335. Porritt v. Howard.
Lucas App. No. L-00-1259. On discretionary appeal and on motion to correct judgment entries of November 16, 2000, and November 29, 2000. Appeal and motion denied.

00-2338. State v. Smith.
Cuyahoga App. No. 76692.

00-2340. Scotts Co. v. Warburg, Pincus Ventures, L.P.

Union App. No. 14200019.

Resnick, J., dissents.

00-2342. State v. Madrigal.

Lucas App. No. L-00-1006.

F.E. Sweeney, J., dissents.

Resnick, J., not participating.

00-2343. State v. Baston.

Lucas App. No. L-98-1264.

00-2347. State v. Rogers.

Scioto App. Nos. 98CA2620 and 98CA2625.

00-2349. State v. Pies.

Hamilton App. No. C-000161.

00-2352. State v. Mitchell.

Franklin App. No. 99AP-1492.

01-2. Aironet Wireless Communications, Inc. v. Grimm.

Summit App. No. 19974.

01-7. State v. McCoy.

Huron App. No. H-00-015.

Resnick and Lundberg Stratton, JJ., dissent.

01-11. State v. Suttles.

Summit App. No. 19453.

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

01-33. State v. Thorne.

Stark App. No. 2000CA00067.

01-86. Collier v. Dorcik.

Medina App. No. 3009-M.

01-95. State v. Bigelow.
Lucas App. No. L-99-1421.

01-110. State v. Brown.
Stark App. Nos. 2000CA00085 and 2000CA00199.

01-117. State v. Parks.
Summit App. No. 20330.

01-142. State v. Mackey.
Cuyahoga App. No. 75300.

01-170. State v. Logan.
Summit App. No. 19726.

01-310. Garrett v. Garrett.
Franklin App. Nos. 99AP-1050 and 99AP-1306.

MOTION DOCKET

00-1160. Liechty v. Yoder Mfg., Inc.
Cuyahoga App. No. 75654. On motion to strike appellee's brief and supplement.
Motion denied.
F.E. Sweeney, J., dissents.

00-1812. State v. Maxwell.
Franklin App. No. 99AP-1177. On motion for order to set bond. Motion denied.

00-2293. Brown v. Kinkela.
In Habeas Corpus. On request for findings of fact and conclusions of law.
Request denied.

01-312. State v. Schrock.
Summit App. No. 20051. On motion for leave to file delayed appeal. Motion denied.

01-343. Dicke v. Safeco Ins. Co.

Allen App. No. 1200064. On review of order certifying a conflict. The court determines that a conflict exists; *sua sponte*, cause held for the decision in 00-132 and 00-170, *Davidson v. Motorists Mut. Ins. Co.*, Franklin App. No. 99AP-163; briefing schedule stayed.

01-390. State v. Spencer.

Guernsey App. No. 99CA43. On motion for leave to file delayed appeal. Motion granted.

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

01-391. State v. Dobosu.

Franklin App. No. 00AP-19. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

01-394. State v. Riley.

Medina App. No. 3082-M. On motion for leave to file delayed appeal. Motion denied.

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

01-395. State v. Gaddis.

Cuyahoga App. No. 77058. On motion for leave to file delayed appeal. Motion denied.

DISCRETIONARY APPEALS ALLOWED

00-2155. Worley v. Cooper Tire & Rubber Co.

Hancock App. No. 5200016.

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

00-2156. Justice v. State Farm Ins. Co.

Licking App. No. 2000CA29.

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

00-2178. Wallace v. Ohio Dept. of Commerce, Div. of State Fire Marshal.

Franklin App. No. 99AP-1303.

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

00-2198. Miljkovic v. Greater Cleveland Regional Transit Auth.

Cuyahoga App. No. 77214.

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

00-2236. Kostelnik v. Helper.

Cuyahoga App. No. 76809.

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

00-2241. Carpenter v. United Ohio Ins. Co.

Noble App. No. 272. Discretionary appeal allowed and cause held for the decisions in 00-745 and 00-801, *Littrell v. Wigglesworth*, Butler App. Nos. CA99-05-092 and CA99-08-141; and 00-206 and 00-374, *Clark v. Scarpelli*, Montgomery App. No. 17883; briefing schedule stayed.

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

00-2271. Heilman v. Progressive Ins. Co.

Richland App. No. 00CA28. Discretionary appeal allowed and cause held for the decisions in 00-745 and 00-801, *Littrell v. Wigglesworth*, Butler App. Nos. CA99-05-092 and CA99-08-141; and 00-206 and 00-374, *Clark v. Scarpelli*, Montgomery App. No. 17883; briefing schedule stayed.

Cook, J., would allow and hold only on Proposition of Law No. II.

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

DISCRETIONARY APPEALS NOT ALLOWED

00-2268. Hansen Consulting Group, Inc. v. Maumee OB-GYN Assoc., Inc.

Lucas App. No. L-99-1413.

00-2302. Wallace v. Muskingum Watershed Conservancy Dist.

Tuscarawas App. No. 2000AP030029.

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

00-2303. Roelle v. Orkin Exterminating Co.

Franklin App. No. 00AP-14.

Lundberg Stratton, J., dissents.

00-2320. Triplett v. Liberty Mut. Ins. Co.

Lucas App. No. L-99-1340.

Resnick, J., dissents.

00-2332. State v. Epstein.

Lorain App. No. 99CA007362.

Cook, J., dissents.

00-2337. State v. Pack.

Auglaize App. No. 2200020.

00-2344. Hoskins v. Smith.

Franklin App. No. 00AP-211.

00-2346. State v. Griffin.

Lucas App. No. L-98-1215.

Douglas and Pfeifer, JJ., dissent.

Resnick, J., not participating.

00-2350. Wagoner v. United Dairy Farmers, Inc.

Hamilton App. No. C-990767.

F.E. Sweeney, J., dissents.

00-2351. Nester v. Lima Mem. Hosp.

Allen App. No. 1200027.

Moyer, C.J., dissents.

00-2354. Schultz v. Natl. Revenue Corp.

Franklin App. No. 99AP-543.

Moyer, C.J., dissents.

01-3. Gutlove v. Fisher Foods, Inc.

Stark App. No. 2000CA00098.

F.E. Sweeney, J., dissents.

01-5. McGlone v. Blaha.

Ross App. No. 99CA2533.

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

01-6. Neitz v. Lakemore.

Summit App. No. 19730.

01-12. Snyder v. Lima.

Allen App. No. 1200043.

Douglas, J., dissents.

01-32. Ranft v. Shaffer.

Stark App. No. 2000CA00014.

Lundberg Stratton, J., dissents.

01-61. In re Petitions to Annex Approximately 83.70 & 151.163 Acres of Amboy Twp. Land.

Fulton App. No. F-00-008.

01-66. S. Euclid v. Khodor.

Cuyahoga App. No. 77640.

Resnick, J., dissents.

RECONSIDERATION DOCKET

00-2000. State v. Myers.

Hardin App. No. 6200004. Reported at 91 Ohio St.3d 1428, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

00-2054. In re Guardianship of Clark.

Mahoning App. Nos. 99CA103 and 99CA88. Reported at 91 Ohio St.3d 1432, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

00-2188. State ex rel. Jennings v. Kraft.

In Mandamus. Reported at 91 Ohio St.3d 1426, ___ N.E.2d ___. On motion for reconsideration and request for findings of fact and conclusions of law. Motion and request denied.

01-26. State v. Montgomery.

Franklin App. No. 99AP-750. Reported at 91 Ohio St.3d 1430, ___ N.E.2d ___. On motion for reconsideration. Motion granted and leave to file delayed appeal granted.

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