

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

9:00 A.M.

WEDNESDAY

March 7, 2001

MERIT DOCKET

00-1189. State ex rel. E. Liverpool v. Hadley.

In Mandamus. On motion to dismiss. Motion to dismiss sustained. Cause dismissed. On motion for leave to intervene by all Columbiana County Townships and motion to dismiss by all Columbiana County Townships. Motions denied as moot.

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

00-1958. Indus. Energy Users-Ohio v. Pub. Util. Comm.

Public Utilities Commission, Nos. 00-02-EL-ETP, 99-1658-EL-ETP, 99-1729-EL-ETP, 99-1212-EL-ETP and 99-1687-EL-ETP. On motion to dismiss. Motion to dismiss sustained. Cause dismissed.

Pfeifer, J., dissents.

Cook, J., not participating.

On motion for leave to intervene of the Dayton Power and Light Company and on motion for leave to intervene by Columbus Southern Power Company. Motions denied as moot.

Pfeifer, J., dissents.

Cook, J., not participating.

00-2176. Indus. Energy Users-Ohio v. Pub. Util. Comm.

In Mandamus. On motion to dismiss by Public Utilities Commission. Motion to dismiss sustained. Cause dismissed.

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

Pfeifer, J., dissents.

Cook, J., not participating.

00-2296. Cincinnati Gas & Elec. Co. v. Hamilton Cty. Bd. of Rev.

Board of Tax Appeals, No. 98-L-1386. 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.

00-2327. State ex rel. Brown v. Licking Cty. Court of Appeals.

In Mandamus. On answer of respondent 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.

01-23. State ex rel. Cincinnati Enquirer v. Krings.

Hamilton App. No. C-000408. On motion to dismiss appeal. Motion to dismiss sustained. Cause dismissed.

Moyer, C.J., Resnick, Pfeifer and Cook, JJ., concur.

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

01-75. State ex rel. Mitchell v. Montgomery Cty. 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.

01-158. Poole v. Franklin Cty.

In Prohibition. On motion to dismiss by Dr. Jack Wagner. Motion to dismiss sustained. Cause dismissed.

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

01-215. Simms v. Ohio Adult Parole Auth.

In Habeas Corpus. On petition for writ of habeas corpus by Gary L. Simms. *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**

00-1915. State v. Collier.

Cuyahoga App. No. 76433.

00-2088. State ex rel. Becker v. Court of Claims.

Franklin App. No. 99AP-1408.

00-2090. State v. Quillen.

Butler App. No. CA99-11-195.

Lundberg Stratton, J., dissents.

00-2133. Admr. of Veterans Affairs v. Koryta.

Cuyahoga App. No. 77648.

00-2136. State v. Robb.

Sandusky App. No. S-00-013.

00-2152. State v. Hodge.

Lorain App. No. 98CA007056.

Cook, J., dissents and would hold this cause for the decision in 99-788, *State v. Eppinger*, Cuyahoga App. No. 72686.

00-2161. State v. Beck.

Lucas App. Nos. L-00-1061 and L-00-1062.

Douglas, J., dissents.

Resnick, J., not participating.

00-2162. State v. Jones.

Franklin App. No. 99AP-889.

00-2167. State v. Bradley.
Hamilton App. No. C-000184.

00-2169. State v. Wilson.
Cuyahoga App. No. 76302.
Lundberg Stratton, J., dissents.

00-2170. Ruble v. Republic Natl. Mtge.
Lucas App. No. L-00-1019.
Resnick, J., not participating.

00-2174. In re Yeckley.
Cuyahoga App. No. 77260.

00-2177. Spencer v. Lakeview School Dist.
Trumbull App. No. 2000T0060.
Moyer, C.J., dissents and would hold this cause for the decision in 00-472 and 00-481, *Johnson v. Greene Cty. Drug Task Force*, Greene App. No. 99CA61.

00-2192. State v. Buckner.
Hamilton App. Nos. C-990670 and C-990671.

00-2202. State v. Adelman.
Summit App. No. 20072.

00-2204. State v. Mack.
Cuyahoga App. No. 77459.

00-2205. Charles Gruenspan Co., L.P.A. v. Thompson.
Cuyahoga App. No. 77276.
Moyer, C.J., and Lundberg Stratton, J., dissent.

00-2212. State v. Elkins.
Pickaway App. No. 98CA30.

00-2214. State v. Poe.
Franklin App. No. 00AP-300.

00-2215. State v. Griffin.

Wood App. No. WD-00-031.

00-2216. State v. Mease.

Franklin App. No. 00AP-294.

00-2218. State v. Williams.

Summit App. No. 19895.

00-2219. State v. Johnson.

Montgomery App. No. 18288.

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

00-2220. State v. Hill.

Hamilton App. No. C-000122.

00-2224. Tomcany v. Ranger Constr. Co.

Lake App. No. 2000L123.

00-2225. Martin v. Henderson.

Cuyahoga App. No. 77064.

00-2231. State v. Smith.

Hamilton App. No. C-990689.

00-2234. In re Slusser.

Mercer App. No. 10200008.

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

00-2242. State v. Tester.

Lorain App. No. 00CA007569.

00-2247. State v. Malroit.

Medina App. No. 3034-M.

00-2248. State v. Phillips.

Lorain App. Nos. 99CA007297 and 99CA007302.

Moyer, C.J., dissents.

00-2253. Corbitt v. McPherson.
Franklin App. No. 00AP-430.

00-2256. Calim v. Comer.
Shelby App. No. 17200006.
Pfeifer, J., dissents.

00-2275. State v. Evans.
Sandusky App. No. S-00-016.
Resnick, J., not participating.

00-2290. Freeman-McCown v. Cuyahoga Metro. Hous. Auth.
Cuyahoga App. Nos. 77182 and 77380.
Pfeifer, J., dissents.

00-2294. Snavelly Dev. Co. v. Willoughby Hills.
Lake App. No. 99-L-169.

00-2313. Reeves v. Ohio Bur. of Emp. Serv.
Cuyahoga App. No. 77976.

00-2314. State v. Kaufman.
Franklin App. No. 99AP-1366.

01-21. State v. Hassink.
Columbiana App. Nos. 2000CO12 and 2000CO11.

01-151. State v. Rideau.
Montgomery App. No. 17002.

MOTION DOCKET

00-281. State ex rel. Hisle v. Indus. Comm.
Franklin App. No. 98AP-1490. On request for oral argument. Request granted.

00-358. Kemppe v. Zaino.
Board of Tax Appeals, No. 98-K-698. On motion for substitution of party by Russell E. Kemppe, personal administrator of the estate of Carrie M. Kemppe. Motion granted.

00-1457. State ex rel. Commt. for the Referendum of Ordinance No. 3543-00 v. White.

In Mandamus. On relators' documentation and bill in support of award for attorney fees and costs. Relators are granted \$22,356.25 in attorney fees and a refund of \$140 in costs (security deposit and docket fee). Relators' request for additional fees is denied.

00-1641. State v. Holsinger.

Fairfield App. No. 00CA06. On request for findings of fact and conclusions of law. Request denied.

00-1700. Internatl. Business Machines Corp. v. Zaino.

Board of Tax Appeals, No. 99-K-616. On request for argument before full court. Request granted.

00-1725. Charvat v. Dispatch Consumer Serv., Inc.

Franklin App. No. 99AP-1368. On motion to invite the Federal Communications Commission to appear as *amicus curiae*. Motion denied.

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

00-2044. State ex rel. Ormond v. Solon.

In Mandamus. On motion for sanctions for frivolous action by city of Solon and motion for sanctions for frivolous action by Cameratta Properties, L.P., and DiSanto Enterprises, Inc. Motions denied.

00-2339. State v. Avery.

Union App. No. 14-97-30. On motion for leave to file delayed appeal. Motion denied.

01-136. State v. Williams.

Allen App. No. 1200032. On motion for leave to file delayed appeal. Motion denied.

Lundberg Stratton, J., dissents.

01-140. State v. Cobb.

Seneca App. No. 13200007. On motion for leave to file delayed appeal. Motion denied.

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

01-143. State v. Ali.

Summit App. No. 19590. On motion for leave to file delayed appeal. Motion denied.

01-146. State v. Goffee.

Guernsey App. No. 00CA03. On motion for leave to file delayed appeal. Motion denied.

Lundberg Stratton, J., dissents.

01-147. State v. Holsinger.

Franklin App. No. 00AP-216. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

01-154. State v. Feathers.

Summit App. No. 19837. On motion for leave to file delayed appeal. Motion denied.

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

01-157. State v. Henry.

Hamilton App. No. C-000681. On motion for leave to file delayed appeal. Motion denied.

01-159. Doganiero v. Ins. Co. of Ohio.

Cuyahoga App. No. 77075. On review of order certifying a conflict. The court determines that a conflict exists; *sua sponte*, 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, *Clark v. Scarpelli*, Montgomery App. No. 17883; briefing schedule stayed.

01-160. State ex rel. Johnny Appleseed Metro. Park Dist. v. Delphos.

Allen App. No. 1200050. On motion for stay of court of appeals' decision. Motion denied.

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

01-161. Bruns v. Freeman Groves Ins. & Fin. Corp.

Mercer App. No. 10200017. On motion for stay of court of appeals' judgment. Motion denied.

01-177. State v. Toddy.

Ashtabula App. No. 99-A-0054. On motion for stay of court of appeals' judgment. Motion denied.

01-179. State Dept. of Taxation v. Crabill.

Clark App. No. 2000CA36. On motion for stay of the court of appeals' decision. Motion denied.

01-210. State v. Koonce.

Erie App. No. E-96-002. On motion for leave to file delayed appeal. Motion denied.

Resnick, J., not participating.

01-211. State v. Allen.

Cuyahoga App. No. 78297. On motion for leave to file delayed appeal. Motion denied.

01-216. State v. Feathers.

Summit App. No. 19837. On motion for leave to file delayed appeal. Motion denied.

01-218. State v. Batich.

Cuyahoga App. No. 78748. On motion for leave to file delayed appeal. Motion denied.

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

01-233. State v. Flinchum.

Butler App. No. CA99-11-193. 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' Entry Granting Motion to Certify Conflict filed January 17, 2001, at page 2:

“The issue for certification is whether the Fourth Amendment is contravened by warrantless entry into a home made to effect a misdemeanor arrest.”

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

The conflict cases are *State v. Davis* (1999), 133 Ohio App.3d 114, 726 N.E.2d 1092; *State v. Scott M.* (1999), 135 Ohio App.3d 253, 733 N.E.2d 653; *Cleveland v. Shields* (1995), 105 Ohio App.3d 118, 663 N.E.2d 726; *State v. Banks* (Aug. 20, 1999), Hamilton App. No. C-980774, unreported, 1999 WL 632924; and *State v. Trammel* (Jan. 22, 1999), Montgomery App. No. 17196, unreported, 1999 WL 22884.

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

Franklin App. No. 99AP-855. On motion to modify judgments and on amended motion for stay of court of appeals' judgment. Motions denied.

01-309. Christe v. GMS Mgt. Co.

Summit App. No. 18992. On motion for stay of court of appeals' judgment and motion to waive necessity of bond or, in the alternative, motion for appeal bond. Motions denied.

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

01-321. State v. Bair.

Stark App. No. 1999CA00372. On motion for stay of court of appeals' judgment. Motion denied.

DISCRETIONARY APPEALS ALLOWED

00-2123. Estate of Oliver v. Dewey.

Lake App. No. 99-L-156.

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

00-2130. Canton v. State.

Stark App. No. 2000CA00076.

00-2138. Estate of Roberts v. Zaino.

Miami App. No. 2000CA15.

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

00-2140. Suburban Lodges of Am., Inc. v. Columbus Graphics Comm.

Franklin App. No. 99AP-1065.

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

DISCRETIONARY APPEALS NOT ALLOWED

00-2089. In re Tutt.

Cuyahoga App. No. 77028.

00-2096. Corp v. P.C.C. Airfoils, Inc.

Perry App. No. 99CA29.

Resnick, J., dissents.

00-2134. Ferritto v. Alejandro.

Summit App. No. 19682.

Moyer, C.J., and Resnick, J., dissent.

00-2163. Hess v. Cincinnati Ins. Co.

Franklin App. No. 00AP-167.

Douglas and Resnick, JJ., dissent.

Cook, J., not participating.

00-2165. Shane v. Tracy.

Cuyahoga App. No. 77025.

Douglas, J., dissents.

00-2168. Urfer v. St. Vincent Med. Ctr.

Lucas App. No. L-00-1046.

Douglas and Pfeifer, JJ., dissent.

Resnick, J., not participating.

00-2186. Tri-County Concrete Co. v. Uffman-Kirsch.

Cuyahoga App. No. 76866.

Douglas, J., dissents.

00-2207. Wellman v. Wheeling & Lake Erie Ry. Co.

Stark App. No. 2000CA00100.

Pfeifer, J., dissents.

00-2208. State v. Van Meter.

Henry App. No. 720006.

Cook, J., dissents and would hold this cause for the decision in *State v. Eppinger*, Cuyahoga App. No. 72686.

00-2213. Williams v. Crawford.

Cuyahoga App. No. 77445.

Cook and Lundberg Stratton, JJ., dissent.

00-2217. Youngstown Buick Co. v. Hayes.

Mahoning App. No. 98CA159.

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

00-2223. State v. Wheatt.
Cuyahoga App. No. 77292.

00-2227. Csulik v. Nationwide Mut. Ins. Co.
Stark App. No. 2000CA00153.
Lundberg Stratton, J., dissents.

00-2228. State v. Brock.
Hamilton App. No. C-000085.

00-2232. Dickerson v. Yetsko.
Cuyahoga App. No. 77636.
Resnick and Pfeifer, JJ., dissent.

00-2240. State v. Turner.
Cuyahoga App. No. 77429.

00-2252. Piersoll v. Keaton.
Franklin App. No. 00AP-392.
F.E. Sweeney, J., dissents.

00-2258. Nicholas v. Gayston Corp.
Warren App. Nos. CA99-01-012, CA99-01-013 and CA99-01-014.

00-2259. Stuber v. Parker.
Cuyahoga App. No. 77495.

00-2263. Cuyahoga Deputy Sheriffs' Union Local 1 v. McFaul.
Cuyahoga App. No. 77693.
Resnick and Pfeifer, JJ., dissent.

00-2266. Lassiter v. Oakley-Everson.
Hamilton App. No. C-000180.

00-2305. State ex rel. Goeglein v. Wray.
Franklin App. No. 00AP-424.
Moyer, C.J., and Pfeifer, J., dissent.

00-2333. Hebden v. Hebden.
Allen App. No. 1200057.

RECONSIDERATION DOCKET

00-839. Estate of Liposchak v. Ohio Bur. of Workers' Comp.

Jefferson App. No. 98JE26. Reported at 90 Ohio St.3d 1248, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

Pfeifer, J., dissents.

00-1673. State ex rel. Sherrills v. Ohio Adult Parole Auth.

Franklin App. No. 99AP-1295. Reported at 91 Ohio St.3d 1408, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

00-1808. Rust v. Harris-Gordon.

Lucas App. No. L-99-1287. Reported at 91 Ohio St.3d 1414, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

Resnick, J., not participating.

00-1851. Bohanan v. Old Republic Title Agency of Columbus, Inc.

Franklin App. No. 00AP-644. Reported at 91 Ohio St.3d 1415, ___ N.E.2d ___. On motion for reconsideration and on motion to strike motion for reconsideration. Motions denied.

00-1894. State v. Lorraine.

Trumbull App. No. 99-T-0060. Reported at 91 Ohio St.3d 1416, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

00-1943. Baker v. Ohio Dept. of Human Serv.

Lucas App. No. L-00-1253. Reported at 91 Ohio St.3d 1416, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

00-2029. Snow v. Brown.

Franklin App. No. 99AP-1234. Reported at 91 Ohio St.3d 1417, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

00-2041. Soler v. Evans, St. Clair & Kelsey.

Franklin App. No. 99AP-1020. Reported at 91 Ohio St.3d 1417, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

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