

**SUPREME COURT OF OHIO**

**COLUMBUS**

**ANNOUNCEMENT**

9:00 A.M.

WEDNESDAY  
May 2, 2001

**MERIT DOCKET**

**00-2270. Indus. Energy Users-Ohio v. Pub. Util. Comm.**

Public Utilities Commission, Nos. 00-02-EL-ETP, 99-1168-EL-ETP, 99-1212-EL-ETP, 99-1658-EL-ETP and 99-1729-EL-ETP. On motion to dismiss. 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.

On motion for leave to intervene of Dayton Power & Light Company. Motion denied as moot.

Pfeifer, J., dissents.

Cook, J., not participating.

**01-129. State ex rel. Indus. Energy Users-Ohio v. Pub. Util. Comm.**

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

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

Pfeifer, J., dissents and would grant the writ.

Cook, J., not participating.

**01-389. Berthelot v. Whitmore.**

In Mandamus. On S.Ct.Prac.R. X(5) determination and consideration of relator's motion for leave to amend caption of complaint and respondents' motion to dismiss.

IT IS HEREBY ORDERED that the motion of relator be, and hereby is, granted.

IT IS FURTHER ORDERED that upon consideration of relator's amended complaint, the motion of respondents be granted, and that the cause be, and hereby is, dismissed.

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

**01-409. State ex rel. Anderson v. Fuerst.**

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.

**01-414. REPCO Electronics, Inc. v. Fuerst.**

In Mandamus. On motion to dismiss by Leonard Applebaum and Radio Parts Company and motion to dismiss by Judge Norman A. Fuerst. Motions to dismiss sustained. Cause dismissed.

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

**01-418. State ex rel. Harris v. State.**

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.

**01-452. State ex rel. Sillett v. Court of Common Pleas.**

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.

**01-520. State ex rel. Feher v. Bruzzese.**

In Mandamus. On motion to show cause, motion for writ of certiorari auxiliary to writ of mandamus, 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.

**01-543. State ex rel. Corn v. Spicer.**

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.

**01-544. Feher v. Abdalla.**

In Habeas Corpus. On petition for writ of habeas corpus by John Joseph Feher. *Sua sponte*, cause dismissed.

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

**01-563. Mobley v. Foley.**

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

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

**01-577. State ex rel. Kirin v. Mengel.**

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.

**01-585. Wright v. Court of Appeals Twelfth Dist.**

In Habeas Corpus. On petition for writ of habeas corpus by John L. Wright. *Sua sponte*, cause dismissed.

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

**01-612. State ex rel. Conley v. Wolfe.**

In Habeas Corpus. On petition for writ of habeas corpus by Charles Lamont Conley. *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**

**01-68. Wyper v. Wyper.**

Lucas App. No. L-99-1378.

Douglas and Resnick, JJ., not participating.

**01-161. Bruns v. Freeman Groves Ins. & Fin. Co.**

Mercer App. No. 10200017.

**01-162. State v. Sealey.**

Franklin App. No. 00AP-1079.

**01-172. State v. Diaz.**

Fulton App. Nos. F-00-023 and F-00-024.

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

**01-173. Fogle v. Carlisle.**

Warren App. No. CA2000-04-037.

**01-175. State v. Dunning.**

Brown App. No. CA2000-03-004.

**01-176. State v. Baker.**

Fairfield App. No. 00CA34.

**01-179. Ohio Dept. of Taxation v. Crabill.**

Clark App. No. 2000CA36.

**01-185. Princeton City School Dist. Bd. of Edn. v. Ohio Civ. Rights Comm.**

Hamilton App. No. C-990259.

**01-191. State v. Reaves.**

Richland App. No. 00CA42.

**01-195. State v. Powell.**

Montgomery App. No. 18095.

**01-196. Cuyahoga Falls v. Scupholm.**

Summit App. Nos. 19734 and 19735.

**01-198. Smith v. Dillard's Dept. Stores, Inc.**

Cuyahoga App. No. 75787.

**01-200. Pryor v. Pryor.**

Marion App. No. 9200055.

**01-202. State v. Shelton.**

Van Wert App. Nos. 15200014 and 15200015.

Lundberg Stratton, J., dissents.

**01-204. State v. Metz.**

Clark App. No. 2000CA44.

**01-220. Limpach v. Lane.**

Hocking App. No. 99CA12.

**01-222. State v. Byerly.**

Portage App. No. 99-P-0049. Discretionary appeal denied.

Moyer, C.J., and Douglas, J., would also grant the motion for admission *pro hac vice* by Paul C. Looney, Esq. by W. Andrew Hasselbach.

**01-227. State v. King.**

Cuyahoga App. No. 76925.

**01-241. State v. Smathers.**

Summit App. No. 19945.

**01-244. State v. Mayer.**

Highland App. No. 99CA8.

**01-246. State v. Carter.**

Trumbull App. No. 99-T-0133.

Moyer, C.J., dissents.

**01-249. State v. Turner.**

Franklin App. No. 00AP-248.

**01-252. State v. Slaughter.**

Franklin App. No. 00AP-572.

**01-257. State v. Harper.**

Franklin App. Nos. 00AP-23, 00AP-24, 00AP-25, 00AP-26 and 00AP-27.

**01-261. Akron v. Harvey.**

Summit App. No. 20016.

Lundberg Stratton, J., dissents.

**01-262. Schroeder v. Jones.**

Summit App. No. 19958.

**01-263. State v. Richard.**

Cuyahoga App. No. 79796.

**01-267. Birath v. Birath.**

Franklin App. No. 00AP-604.

Douglas, J., dissents.

**01-273. State v. Waters.**

Licking App. No. 00CA43.

**01-275. State v. Clay.**

Hamilton App. No. C-000304.

**01-279. Friend v. Buckeye Indus. Warehousing Dev. Corp.**

Marion App. No. 9200076.

**01-280. Moore v. Daw.**

Muskingum App. Nos. CT20000014 and CT20000017.

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

**01-288. State v. Wolfe.**

Belmont App. No. 97BA37.

**01-289. State v. Seegert.**

Lucas App. Nos. L-00-1042 and L-00-1043.

Resnick, J., not participating.

**01-290. State v. Gigliotti.**

Erie App. No. E-99-081.

**01-292. Cashelmara Condominium Owners' Assn., Inc. v. Woods.**

Cuyahoga App. Nos. 77676 and 77722.

**01-299. In re Bishop.**

Cuyahoga App. No. 78853.

**01-304. State v. Stith.**

Franklin App. No. 95APA07-934.

**01-305. State v. Pierce.**

Lake App. No. 98-L-232.

**01-318. State v. Jones.**

Hamilton App. No. C-990813.

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

**01-322. State v. Dudley.**

Trumbull App. No. 99-T-0166.

**01-323. State v. Smith.**

Portage App. Nos. 99-P-0039 and 99-P-0040.

**01-325. State v. Rigor.**

Cuyahoga App. No. 76201.

**01-326. State v. Beatty.**

Cuyahoga App. No. 75926.

**01-329. Schmidt v. Schmidt.**  
Cuyahoga App. No. 76779.

**01-330. Furness v. Pois.**  
Portage App. No. 99-P-0014.

**01-331. Simmons v. Cuyahoga Cty.**  
Cuyahoga App. No. 79188.

**01-346. State v. Smith.**  
Crawford App. No. 3200020.  
Lundberg Stratton, J., dissents.

**01-353. State v. Howard.**  
Montgomery App. No. 12360.

**01-356. Sepela v. MBL Partners, Ltd.**  
Clermont App. No. CA2000-06-038.  
*Sua sponte*, show cause order issued.  
Douglas, Resnick and F.E. Sweeney, JJ., dissent.

**01-363. State v. Bumbalough.**  
Montgomery App. No. 18307.

**01-401. State v. Ginley.**  
Lorain App. No. 99CA007423.

**01-439. In re Estep.**  
Franklin App. No. 00AP-623. Discretionary appeal and cross-appeal denied.  
Douglas and Lundberg Stratton, JJ., dissent.

**01-440. State v. Teets.**  
Medina App. No. 3022-M.

**01-455. In re Grant.**  
Franklin App. No. 00AP-431.  
Moyer, C.J., dissents.

**01-467. State v. Wheeler.**  
Cuyahoga App. No. 66923.

**MOTION DOCKET**

**00-252. E. Liverpool v. Columbia Cty. Budget Comm.**

Board of Tax Appeals, Nos. 97-D-1516 and 97-D-1517. On motion for sanctions by city of East Liverpool. Motion denied as untimely.

F.E. Sweeney, J., dissents.

**00-495. State v. Iacona.**

Medina App. No. 2891-M. On motion to supplement record. Motion granted.

Cook, J., dissents.

**00-591. State v. Hill.**

Fairfield App. No. 98CA67. On motion to vacate stay issued by Fairfield County Court of Appeals on May 12, 2000. Motion denied.

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

**00-1934. State v. Lee.**

Auglaize App. No. 2200010. On request for findings of fact and conclusions of law. Request denied.

**00-1984. Aetna Cas. & Sur. Co. v. Goodyear Tire & Rubber Co.**

Summit App. No. 19121. On motion for admission *pro hac vice* of M. Gregg and R. Roloff by L. Bach for Everest Reinsurance Co. and Mt. McKinley etc. and on motion for admission *pro hac vice* of R. Bates, Jr., M. Enriquez, and M. Sullivan for American Re-Insurance Co. Motions granted.

Cook, J., not participating.

**00-2127. Corporate Staffing Resources, Inc. v. Zaino.**

Board of Tax Appeals, No. 97-M-538. On request for argument before full court. Request granted.

**01-400. State ex rel. Painesville v. Lake Cty. Bd. of Commrs.**

Lake App. No. 99-L-057. On consideration of appellant's motion for remand to the court of appeals.

IT IS HEREBY ORDERED that the motion be, and hereby is, granted and that the case be remanded to the Court of Appeals for Lake County for a judgment on appellant's objections to the magistrate's decision.

**01-483. State ex rel. Potts v. Comm. on Continuing Legal Edn.**

In Mandamus and Prohibition. On answer of respondent. Alternative writs of mandamus and prohibition granted.

Resnick, J., not participating.

**01-500. Green v. Barbour.**

Huron App. No. H-00-026. On review of order certifying a conflict. The court determines that a conflict exists. *Sua sponte*, cause held for the decision in 00-745 and 00-801, *Littrell v. Wigglesworth*, Butler App. Nos. CA99-05-092 and CA99-08-141; briefing schedule stayed.

**01-546. State v. Roberson.**

Stark App. No. 1997CA00343. On motion for leave to file delayed appeal. Motion denied.

**01-560. Cuyahoga Falls v. Wells.**

Summit App. No. 19959. On motion for stay of court of appeals' judgment. Motion denied.

F.E. Sweeney, J., dissents.

**01-561. State v. Hendershot.**

Licking App. No. 99CA102. On motion for stay of court of appeals' judgment. Motion denied.

**01-565. State v. Brewer.**

Erie App. No. E-00-003. On motion for stay of court of appeals' judgment. Motion denied.

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

Resnick, J., not participating.

**01-570. State v. Shelton.**

Hamilton App. No. C-980862. On motion for leave to file delayed appeal. Motion denied.

**01-583. State v. Reidy.**

Erie App. No. E-98-009. On motion for leave to file delayed appeal. Motion granted.

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

Resnick, J., not participating.

**01-589. State v. Webber.**

Medina App. No. 3001-M. On motion for leave to file delayed appeal. Motion denied.

**01-596. State v. Stephens.**

Stark App. No. 1999CA00360. On motion for leave to file delayed appeal. Motion denied.

**01-599. State v. Marshall.**

Richland App. No. 00CA26. On motion for leave to file delayed appeal. Motion denied.

**01-604. State v. Gipson.**

Hamilton App. No. C-990450. On motion for leave to file delayed appeal. Motion denied.

**01-605. State v. Rose.**

Lorain App. No. 00CA007649. On motion for leave to file delayed appeal. Motion denied.

**01-613. State v. Loop.**

Clermont App. No. CA99-02-022. On motion for stay of execution of judgment pending appeal. Motion denied.

**01-620. State v. Hargrove.**

Hamilton App. No. C-960974. On motion for leave to file delayed appeal. Motion denied.

Moyer, C.J., dissents.

**01-623. State v. Alexander.**

Cuyahoga App. No. 78988. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Cook, JJ., dissent.

## **DISCRETIONARY APPEALS ALLOWED**

**01-81. Univ. Hosp. of Cleveland v. Lynch.**

Cuyahoga App. Nos. 77129 and 77134. Discretionary appeal and cross-appeal allowed.

F.E. Sweeney and Cook, JJ., dissent to the allowance of the discretionary cross-appeal.

On motion to strike notice of cross-appeal and memorandum in response and in support of cross-appeal. Motion denied.

**01-120. Lynch v. Yob.**

Trumbull App. No. 99-T-0062. Discretionary appeal allowed and cause consolidated with 01-121, *Lynch v. Yob*, Trumbull App. No. 99-T-0065.

Cook and Lundberg Stratton, JJ., dissent.

**01-121. Lynch v. Yob.**

Trumbull App. No. 99-T-0065. Discretionary appeal allowed and cause consolidated with 01-120, *Lynch v. Yob*, Trumbull App. No. 99-T-0062.

Cook and Lundberg Stratton, JJ., dissent.

**01-152. In re Cross.**

Stark App. No. 2000CA00122.

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

## **DISCRETIONARY APPEALS NOT ALLOWED**

**00-2282. State v. Clark.**

Montgomery App. No. 18314.

Pfeifer, J., dissents.

**01-180. Thompson ECP One v. Cuyahoga Metro. Hous. Auth.**

Cuyahoga App. No. 77591.

**01-197. Fuhrman v. Garrison Feist Constr. Co.**

Hamilton App. Nos. C-000063 and C-000080.

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

**01-207. Bartram v. Tuscarora, Inc.**

Marion App. No. 9200042.

**01-209. Levin v. Mayfield City School Dist. Bd. of Edn.**

Cuyahoga App. No. 75956.

Douglas and Resnick, JJ., dissent.

**01-212. Datchuk v. Morgan Adhesives Co.**

Summit App. No. 19920.

**01-213. Brecksville v. Alsenas.**

Cuyahoga App. No. 76519.

**01-221. State v. Byerly.**

Portage App. No. 99-P-0049. On motion for admission *pro hac vice* of Paul C. Looney, Esq. by W. Andrew Hasselbach. Motion denied.

**01-224. Greiner v. Greiner.**

Cuyahoga App. No. 77181.

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

**01-226. MedPartners, Inc. v. Calfee, Halter & Griswold L.L.P.**

Cuyahoga App. No. 77844.

**01-228. Oxford Oil Co. v. Wills.**

Tuscarawas App. No. 1999AP110067.

**01-229. Ormond v. Rollingbrook Estates Homeowners Assn.**

Cuyahoga App. No. 76482.

**01-247. Rodic v. Koba.**

Cuyahoga App. No. 77599.

**01-254. Harvey v. Heeb.**

Hamilton App. No. C-000247. Discretionary appeal and cross-appeal denied.

Lundberg Stratton, J., dissents.

**01-259. State v. Annotico.**

Cuyahoga App. No. 76202.

**01-260. Hatfield v. Wray.**

Franklin App. No. 00AP-52.

**01-264. State v. McAfee.**

Muskingum App. No. CT20000018.

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

Moyer, C.J., would allow.

**01-269. Bloxam v. Laws.**

Franklin App. No. 00AP-429.

Resnick and Pfeifer, JJ., dissent.

**01-276. Himmel v. CompuServe Inc.**

Franklin App. No. 00AP-505.

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

**01-278. Tackas-Davis v. Concorde Castings, Inc.**

Lake App. No. 99-L-035.

Resnick, J., dissents.

**01-281. Reed v. Armco, Inc.**

Muskingum App. No. CT20000005.

Resnick, J., dissents.

**01-283. Bullock v. Totes, Inc.**

Hamilton App. No. C-000269.

**01-284. Keck v. Health Care & Retirement Corp. of Am.**

Lake App. No. 99-L-105.

**01-287. Lovalenti v. Piping Industry Training Ctr.**

Lucas App. No. L-00-1222.

Resnick, J., not participating.

**01-293. Outen v. Rogers.**

Montgomery App. No. 18168.

**01-298. S.F.A., Inc. v. Dunning-Lathrop & Assoc., Inc.**

Franklin App. Nos. 00AP-165 and 00AP-178. Discretionary appeal and cross-appeal denied.

On motion for admission *pro hac vice* by Michael Romanello for David M. Ostrander. Motion denied.

**01-303. Farley v. Gary Nichols Builders.**

Lorain App. No. 99CA007530.

Lundberg Stratton, J., dissents.

**01-319. Lake Cty. Bd. of Commrs. v. Consumers Ohio Water Co.**

Lake App. No. 99-L-092.

Pfeifer, J., dissents.

**01-324. Andrews v. Davis.**

Hamilton App. No. C-000350.

**01-334. State v. Krueger.**

Cuyahoga App. No. 76624.

Resnick and Lundberg Stratton, JJ., dissent.

**01-337. Weeks v. Emergency Professional Serv.**

Cuyahoga App. No. 76902.

**01-344. Liberty Mut. Ins. Co. v. Ashland Chem., Inc.**

Hamilton App. No. C-000661.

Douglas, J., dissents.

**RECONSIDERATION DOCKET**

**00-1645. Howard v. Spore.**

Lucas App. No. L-00-1179. Reported at 91 Ohio St.3d 131, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.

Resnick, J., not participating.

**00-1658. State ex rel. Sherrills v. State.**

Cuyahoga App. No. 78261. Reported at 91 Ohio St.3d 133, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.

**00-2083. Cave v. Conrad.**

Pike App. No. 00CA645. Reported at 91 Ohio St.3d 1473, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion granted and discretionary appeal allowed.

Moyer, C.J., Pfeifer and Lundberg Stratton, JJ., would also hold this cause for the decision in 00-512 and 00-551, *Kilgore v. Chrysler Corp.*, Montgomery App. Nos. 17906 and 17915.

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

**00-2170. Ruble v. Republic Natl. Mtge. Co.**

Lucas App. No. L-00-1019. Reported at 91 Ohio St.3d 1459, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.

Resnick, J., not participating.

**00-2174. In re Yeckley.**

Cuyahoga App. No. 77260. Reported at 91 Ohio St.3d 1459, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.

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

Stark App. No. 2000CA00100. Reported at 91 Ohio St.3d 1464, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.

Pfeifer, J., dissents.

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

Franklin App. No. 99AP-1367. Reported at 91 Ohio St.3d 1470, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.

**00-2307. Kolar v. Ohio Cas. Group.**

Cuyahoga App. No. 77240. Reported at 91 Ohio St.3d 1471, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.

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

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

Lucas App. No. L-99-1340. Reported at 91 Ohio St.3d 1474, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.

Douglas and Resnick, JJ., dissent.

**00-2335. Porritt v. Howard.**

Lucas App. No. L-00-1259. Reported at 91 Ohio St.3d 1471, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.

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

Franklin App. No. 99AP-855. Reported at 91 Ohio St.3d 1470, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.

## **DISCIPLINARY DOCKET**

**01-412. Cleveland Bar Assn. v. Cleary.**

On motion for admission *pro hac vice* of Christopher A. Ferrara by Thomas W. Condit. Motion granted.