

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

1:00 P.M.

WEDNESDAY
November 21, 2001

MERIT DOCKET

01-91. Shell Energy Serv. Co., L.L.C. v. Pub. Util. Comm.

Public Utilities Commission, Nos. 99-1729-EL-ETP and 99-1730-EL-ETP. On motion to dismiss and memorandum in support. Motion to dismiss sustained. Cause dismissed.

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

01-1709. Kemper v. Michigan Millers Mut. Ins. Co.

Certified State Law Question, No. 300CV07799. On review of preliminary memoranda. The certified questions are as follows:

“1. Are the requirements of *Linko v. Indemnity Ins. Co.*, 90 Ohio St.3d 565 (2000), relative to an offer of UM/UIM coverage, applicable to a policy of insurance written after enactment of HB 261 and before SB 97?

“2. If the *Linko* requirements are applicable, does, under HB 261, a signed rejection act as an effective declination of UM/UIM coverage, where there is no other evidence, oral or documentary, of an offer of coverage?”

The court declines to answer the certified questions, and this cause is dismissed.

Moyer, C.J., Resnick, Cook and Lundberg Stratton, JJ., concur.

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

01-1722. State ex rel. Wright v. Three Judges.

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

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

Pfeifer, J., dissents.

01-1798. Christy v. Bannon.

In Prohibition. On complaint in prohibition of Richard E. Christy. On S.Ct.Prac.R. X(5) determination, cause dismissed.

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

Pfeifer, J., dissents.

01-1799. State ex rel. Stevens v. Summit Cty. Court of Appeals.

In Prohibition. On motion to dismiss of Summit County Court of Appeals and former judges of court Dickinson, Baird, and Cook.

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.

01-1820. Francis v. Mack.

In Habeas Corpus. On petition for writ of habeas corpus of Jody Francis. *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**

01-1557. Nationsbanc Mtge. Corp. v. Kaplan.

Cuyahoga App. No. 79682.

01-1593. State v. Irely.

Summit App. No. 20571.

Pfeifer, J., dissents.

01-1595. Harrison v. Harrison.

Franklin App. No. 01AP-93.

01-1599. Smith v. State Med. Bd. of Ohio.

Franklin App. No. 00AP-1301.

01-1607. State v. Morgan.

Shelby App. No. 17-2000-11. On discretionary appeal and on motion to dismiss. Discretionary appeal denied.

Cook, J., would grant the motion to dismiss; the appeal is untimely and this court therefore lacks jurisdiction.

01-1612. State v. Kelly.

Cuyahoga App. No. 78422.

01-1614. Buchler v. Ohio Dept. of Commerce/Real Estate.

Cuyahoga App. No. 78401.

01-1619. State v. Robinson.

Cuyahoga App. No. 77981.

Pfeifer, J., dissents.

01-1623. Weinberger v. Weinberger.

Hamilton App. No. C-000271.

01-1626. State v. Cotterman.

Lucas App. No. L-00-1249.

Resnick, J., not participating.

01-1627. State v. Wynn.

Hamilton App. No. C-960258.

01-1633. State v. Wells.

Cuyahoga App. No. 78188.

01-1638. State v. Howe.

Lorain App. No. 00CA007732.

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

Pfeifer, J., would allow.

01-1640. State v. Hoop.
Brown App. No. CA2000-11-034.

01-1641. Scott v. Nelson.
Cuyahoga App. No. 79713.

01-1643. State v. Stockwell.
Cuyahoga App. No. 78501.

01-1645. State v. Slade.
Cuyahoga App. No. 78604.

01-1647. In re Name Change of Juntunen.
Trumbull App. No. 2000-T-0102.
Lundberg Stratton, J., dissents.

01-1648. In re Name Change of Juntunen.
Trumbull App. No. 2000-T-0103.
Lundberg Stratton, J., dissents.

01-1652. State v. Shingleton.
Montgomery App. No. CA7375.

01-1654. State v. Benner.
Athens App. No. 00CA32.

01-1657. State v. Apt.
Lucas App. Nos. L-00-1007 and L-00-1182.
Resnick, J., not participating.

01-1661. State v. Cookingham.
Ashtabula App. No. 2000-A-0067.

01-1662. State v. Edwards.
Hamilton App. No. C-990176.

01-1664. State v. Suttles.
Summit App. No. 19453.

01-1673. State v. Sharpless.
Portage App. No. 2000-P-0074.

01-1700. State v. McGill.
Greene App. No. 99-CA-25.

01-1703. State v. Parker.
Lorain App. No. 98CA007158.

01-1731. State v. Chandler.
Cuyahoga App. Nos. 59764 and 72310.

01-1746. State v. Sanchez.
Cuyahoga App. No. 62796.

01-1762. State v. Sutton.
Butler App. No. CA2000-04-061.

01-1781. In re Puckett.
Butler App. Nos. CA2000-10-203 and CA2000-11-223.

01-1782. In re Puckett.
Butler App. Nos. CA2000-10-203 and CA2000-11-223.

01-1836. In re Carver.
Franklin App. Nos. 01AP-320 and 01AP-321.

MOTION DOCKET

01-1353. State ex rel. Tenace v. Ohio Court of Claims.
Franklin App. No. 01AP-64. On motion to supplement record and on motion for settlement agreement. Motions denied.

01-1691. State ex rel. Portage Lakes Edn. Assn. OEA/NEA v. State Emp. Relations Bd.
In Mandamus. On answer of respondent, motion for leave to intervene as a respondent of Portage Lakes Career Center Board of Education, and answer of intervening respondent Portage Lakes Career Center Board of Education. Motion for leave granted. *Sua sponte*, alternative writ granted.

01-1801. Cotten v. Ohio Dept. of Rehab. & Corr.

Franklin App. No. 98AP-1367. On motion for leave to file delayed appeal. Motion denied.

01-1810. State v. Fuller.

Cuyahoga App. No. 72811. On motion for leave to file delayed appeal. Motion denied.

Douglas, J., dissents.

01-1824. State v. Richards.

Cuyahoga App. No. 78457. On motion for stay of court of appeals' judgment. Motion granted.

Pfeifer, J., dissents.

01-1847. Internatl. Union, United Auto., Aerospace & Agricultural Implement Workers of Am., UAW, Region 2 v. McFaul.

Cuyahoga App. No. 78683. On motion for immediate stay of court of appeals' judgment. Motion denied.

Cook and Lundberg Stratton, JJ., dissent.

01-1850. Decker v. Decker.

Hancock App. No. 5-01-23. On motion for stay of court of appeals' judgment. Motion denied.

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

01-1855. State v. Dunning.

Cuyahoga App. No. 75869. On motion for leave to file delayed appeal. Motion denied.

01-1889. State v. Mendoza.

Marion App. No. 9-01-02. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Cook, JJ., dissent.

DISCRETIONARY APPEALS ALLOWED

01-1495. Beek v. United Ohio Ins. Co.

Williams App. No. WM-00-008.

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

01-1566. Keener v. Legacy Health Serv.

Cuyahoga App. No. 78536.

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

01-1695. Geggie v. Cooper Tire & Rubber Co.

Hancock App. No. 5-01-13.

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

DISCRETIONARY APPEALS NOT ALLOWED

01-1587. State v. Larkin.

Hamilton App. No. C-000572.

01-1597. Harmon v. Dayton.

Montgomery App. No. 18725.

01-1611. Metro. Prop. & Cas. Ins. Co. v. Wetterau.

Summit App. No. 20381.

Lundberg Stratton, J., dissents.

01-1616. Okey v. Okey.

Stark App. No. 2000CA00189.

01-1620. Bartholet v. Carolyn Riley Realty, Inc.

Summit App. No. 20458.

01-1708. State v. Edwards.

Hamilton App. No. C-010082.

RECONSIDERATION DOCKET

01-1222. Dardinger v. Anthem Blue Cross & Blue Shield.

Licking App. Nos. 99CA127 and 99CA136. Reported at 93 Ohio St.3d 1451, ___ N.E.2d ___. On motion for reconsideration of court's denial of cross-appeal. Motion denied.

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

01-1258. Luckenbill v. Midwestern Indemn. Co.

Darke App. No. 01CA1536. Reported at 93 Ohio St.3d 1466, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

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

01-1300. Stone v. Medaglia-Dell.

Cuyahoga App. No. 78293. Reported at 93 Ohio St.3d 1451, ___ N.E.2d ___. On motion for reconsideration of Ernest Jurkuta, Executor, and motion for substitution of Ernest Jurkuta, Executor of the Estate of Donna Stone, as appellant. Motions granted and discretionary appeal allowed.

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

01-1324. State ex rel. Miller v. Fifth Dist. Court of Appeals.

In Mandamus. Reported at 93 Ohio St.3d 1444, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

01-1327. Robinson v. Springfield Local School Dist. Bd. of Edn.

Summit App. No. 20186. Reported at 93 Ohio St.3d 1452, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

01-1359. Progressive Preferred Ins. Co. v. Derby.

Fulton App. No. F-01-002. Reported at 93 Ohio St.3d 1452, ___ N.E.2d ___. On motion for reconsideration. The motion fails for want of four votes on the following vote:

Pfeifer, Cook and Lundberg Stratton, JJ., vote to deny.

Moyer, C.J., Douglas and F.E. Sweeney, JJ., vote to grant.

Resnick, J., not participating.

01-1389. State ex rel. Pointer v. Wilkinson.

In Mandamus. Reported at 93 Ohio St.3d 1444, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

01-1678. Luckenbill v. Midwestern Indemn. Co.

Darke App. No. 01CA1536. Reported at 93 Ohio St.3d 1466, ___ N.E.2d ___. On motion for reconsideration. Motion granted and certified conflict accepted.

Moyer, C.J., and Cook, J., concur and would also hold this cause for the decision in 01-1786, *Lemm v. The Hartford*, Franklin App. No. 01AP-251.

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