

ATTENTION

DIRECT ANY QUESTIONS ABOUT THE ANNOUNCEMENT TO WALTER S. KOBALKA,
REPORTER OF DECISIONS, OR JUSTINE MICHAEL, ADMINISTRATIVE ASSISTANT, AT
(614) 466-4961 OR 1-800-826-9010.

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

9:00 A.M.

WEDNESDAY
September 30, 1992

MERIT DOCKET

92-260. State ex rel. Gabriel v. Youngstown.

Mahoning County, No. 89 C.A. 179. On motion to dismiss. Motion to
dismiss sustained. Cause dismissed.

Moyer, C.J., Sweeney, Holmes, Douglas, Wright, H. Brown and Resnick,
JJ., concur.

92-679. State ex rel. Brown v. Kovacic.

In Mandamus. On request for oral argument. Sua sponte, cause dismissed.

Moyer, C.J., Sweeney, Holmes, Douglas, Wright, H. Brown and Resnick,
JJ., concur.

92-1209. Grange Mut. Cas. Co. v. Altizer.

Knox County, No. CA-9126. On motion to dismiss as to Grange Mutual
Insurance Company. Motion to dismiss as to Grange Mutual Insurance
Company sustained. Cause dismissed.

Moyer, C.J., Sweeney, Holmes, Douglas, Wright, H. Brown and Resnick,
JJ., concur.

92-1235. Cree v. Kessler.

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

Moyer, C.J., Sweeney, Holmes, Douglas, Wright, H. Brown and Resnick,
JJ., concur.

92-1251. State ex rel. Scherman v. Ohio Adult Parole Auth.

In Mandamus. On answer of respondent. Answer treated as motion to

dismiss. Motion to dismiss sustained. Cause dismissed.

Moyer, C.J., Sweeney, Holmes, Douglas, Wright, H. Brown and Resnick, JJ., concur.

92-1282. State ex rel. Gee v. Brown.

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

Moyer, C.J., Sweeney, Holmes, Douglas, Wright, H. Brown and Resnick, JJ., concur.

92-1286. State ex rel. Leinasars v. Wilkinson.

In Mandamus. On answer of respondent. Answer treated as motion to dismiss. Motion to dismiss sustained. Cause dismissed.

Moyer, C.J., Sweeney, Holmes, Douglas, Wright, H. Brown and Resnick, JJ., concur.

92-1321. State ex rel. Trudell v. Stein.

In Mandamus. On request to dismiss. Request to dismiss sustained. Cause dismissed.

Moyer, C.J., Sweeney, Holmes, Douglas, Wright, H. Brown and Resnick, JJ., concur.

92-1386. State ex rel. Budreaux v. Gaul.

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

Moyer, C.J., Sweeney, Holmes, Douglas, Wright, H. Brown and Resnick, JJ., concur.

92-1448. Hurst v. Rogers.

In Mandamus. On request to dismiss. Request to dismiss sustained. Cause dismissed.

Moyer, C.J., Sweeney, Holmes, Douglas, Wright, H. Brown and Resnick, JJ., concur.

92-1478. State ex rel. Campbell v. Cirigliano.

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

Moyer, C.J., Sweeney, Holmes, Douglas, Wright, H. Brown and Resnick, JJ., concur.

DISMISSALS, SUA SPONTE, NO SUBSTANTIAL CONSTITUTIONAL
QUESTION AND JURISDICTIONAL MOTIONS OVERRULED

92-1027. State v. Lee.

Lorain County, No. 91CA005137.

Wright, J., dissents.

92-1058. State v. Patterson.

Cuyahoga County, No. 59902.

92-1085. Carroll v. Ohio Dept. of Rehab. & Corr.

Franklin County, No. 91AP-1221.

92-1086. State v. Harper.

Cuyahoga County, No. 62178.

92-1105. State v. Ionna.
Hamilton County, No. C-910597.

92-1109. State v. Walker.
Hamilton County, No. C-910630.

92-1115. State v. Phelps.
Delaware County, No. 91CAC11040.

92-1134. State v. Horton.
Cuyahoga County, No. 60393.

92-1135. State v. Crossty.
Hamilton County, No. C-910527.

92-1138. State v. Johnson.
Franklin County, No. 91AP-958.

92-1144. State v. Webb.
Hamilton County, No. C-920162.

92-1146. State v. Hollins.
Cuyahoga County, No. 60148.

92-1149. State v. Jackson.
Hamilton County, No. C-910643.

92-1155. State v. Holt.
Hamilton County, No. C-920164.

92-1156. State v. Arstone.
Cuyahoga County, No. 59770.
Resnick, J., dissents.

92-1164. Napper v. Ameritech Publishing, Inc.
Cuyahoga County, Nos. 60015 and 60016.
Holmes, Wright and H. Brown, JJ., dissent.

92-1167. State v. Norris.
Medina County, No. 2037.

92-1171. State v. McLindon.
Hamilton County, No. C-850868.

92-1176. State v. Sparks.
Lucas County, No. L-91-338.

92-1177. State v. Howard.
Cuyahoga County, No. 59855.

92-1179. Hoffman v. Fitness Circuit, Inc.
Cuyahoga County, No. 60238.
Moyer, C.J., Holmes and Wright, JJ., dissent.

92-1183. State v. Williams.
Hamilton County, No. C-920268.

Holmes, J., dissents.

92-1187. State v. Goad.
Cuyahoga County, No. 60418.

92-1191. Nottingham v. Akron Bd. of Edn.
Summit County, No. 15321.

92-1194. Compston v. Automanage, Inc.
Clermont County, No. CA91-09-072.

92-1198. State v. Holloway.
Franklin County, No. 91AP-365.

92-1201. In re Custody of Dunn.
Auglaize County, No. 2-91-21.
Holmes and Douglas, JJ., dissent.

92-1202. Wilcox Indus., Inc. v. Ohio.
Hamilton County, No. C-910461.
Moyer, C.J., Holmes and Douglas, JJ., dissent.

92-1203. State v. Williams.
Cuyahoga County, No. 60246.

92-1212. State v. Goodman.
Franklin County, No. 91AP-1298.
Wright, J., dissents.

92-1222. In re Austin.
Clermont County, No. CA91-10-082.
Wright and H. Brown, JJ., dissent.

92-1224. State v. Woodford.
Franklin County, No. 91AP-652.
Moyer, C.J., not participating.

92-1236. State v. Alexander.
Lorain County, No. 88CA004457.
Wright, J., dissents.

92-1240. State v. Scott.
Cuyahoga County, No. 60562.

92-1242. State v. Furlow.
Montgomery County, No. 13213.
Moyer, C.J., Douglas and Resnick, JJ., dissent.

92-1253. State v. Wood.
Greene County, No. 91-CA-65.
Douglas, J., dissents.

92-1255. Runck v. Runck.
Clermont County, No. CA91-07-049.

92-1263. Wehrman-Deuschle v. Deuschle.
Hamilton County, No. C-910190.

92-1264. State v. Fulton.
Seneca County, No. 13-91-30.

92-1284. State v. Canady.
Cuyahoga County, No. 60355.

92-1291. In re Summit Health Care Ctr.
Franklin County, No. 91AP-1155.
Wright, J., dissents.

92-1292. Diller v. Ohio Dept. of Health.
Franklin County, No. 91AP-1154.
Wright and H. Brown, JJ., dissent.

92-1296. State v. Greathouse.
Cuyahoga County, No. 60069.
Douglas and Resnick, JJ., dissent.

92-1302. State v. Billups.
Franklin County, No. 91AP-598.
H. Brown, J., dissents.

92-1304. State v. Adkins.
Athens County, No. 1472.
Wright and H. Brown, JJ., dissent.

92-1309. State v. Smith.
Cuyahoga County, No. 60262.
Holmes, J., dissents.

92-1316. State v. Smith.
Butler County, No. CA91-08-0141.

92-1317. State v. Martin.
Cuyahoga County, No. 47301.
Wright and H. Brown, JJ., dissent.

92-1322. RAO Wholesale Tire Centers, Inc. v. Cherko.
Lucas County, No. L-91-132.
Resnick, J., not participating.

92-1326. State v. Grant.
Hamilton County, No. C-910857.

92-1347. State v. Lattimer.
Montgomery County, No. 13063.

92-1362. State v. Murphy.
Hamilton County, Nos. C-910699 and C-910700.
Wright, J., dissents.

92-1399. State v. Powell.
Hamilton County, No. C-910377.
Wright, J., dissents.

92-1428. State v. Humphrey.

Montgomery County, No. CA 13214.

MOTION DOCKET

89-688. Leber v. Smith.

Erie County, No. E-87-43. On motion to order court of appeals to transmit record. Motion denied.

Douglas, J., dissents and would order the record transmitted within thirty days.

Resnick, J., not participating.

90-2071. State ex rel. Ohio Dept. of Health v. Sowald.

Franklin County, No. 88AP-1171. On motion for leave to file additional authority. Motion granted.

Holmes, J., dissents.

On motion to advance. Motion denied.

Douglas, J., dissents.

91-2484. State ex rel. Brown v. Columbus City Schools.

Franklin County, No. 90AP-847. On motion for leave to amend appellee's brief. Motion granted.

92-190. State ex rel. Vindicator Printing Co. v. Watkins.

Trumbull County, No. 91-T-4555. On request for oral argument. Request granted.

Holmes, J., dissents.

92-282. St. Elizabeth Hosp. Med. Ctr. v. Moliterno.

Mahoning County, No. 89 C.A. 185. On motion to reconsider denial of motion to vacate or, in the alternative, on request for extension of time. Motion to reconsider denied and request for extension of time granted.

Holmes, J., dissents.

92-324 and 92-652. Carpenter v. Consol. Rail Corp.

Mahoning County, No. 90 C.A. 116. On motion for leave to file amicus of the state of Ohio. Motion granted.

92-953. State v. Yoder.

Union County, No. 14-91-31. On motion for leave to file record and brief instant. Motion granted.

92-954. State v. Grigsby.

Union County, No. 14-91-33. On motion for leave to file record and brief instant. Motion granted.

92-981. State v. Davidson.

Union County, No. 14-91-36. On motion for leave to file appellant's record instant. Motion granted.

92-1327. Bank One, Columbus, N.A. v. O'Brien.

Franklin County, Nos. 91AP-820 and 91AP-882. On motion for leave to file memorandum in support instant. Motion granted.

H. Brown, J., not participating.

92-1388. State v. Freeman.
Montgomery County, No. 12198. On motion to reconsider denial of extension. Motion denied.

92-1435. Ohio Domestic Violence Network v. Pub. Util. Comm.
Public Utilities Commission, Nos. 90-467-TP-ATA and 90-471-TP-ATA. On motion for leave to intervene of Ohio Bell Telephone Company. Motion granted.

92-1441. State v. Thomas.
Logan County, No. 8-91-18. On motion for leave to file memorandum in support instanter. Motion granted.
Wright and Resnick, JJ., dissent.

92-1445. Griffith v. Portage Cty. Agricultural Soc.
Portage County, No. 91-P-2315. On motion for leave to file amicus of Portage County Prosecuting Attorney. Motion granted.
On motion for leave to file amicus brief instanter. Motion granted.

92-1542. State v. Mowery.
Hocking County, No. 91-CA-19. On motion for leave to file notice of appeal instanter and request for extension to file memorandum in support. Motion and request granted.
Holmes, J., dissents.

92-1551. State v. Ashby.
Cuyahoga County, No. 59616. On motion for leave to file delayed appeal. Motion granted.
Holmes and Wright, JJ., dissent.

92-1562. State v. Scott.
Logan County, No. 8-91-5. On motion for leave to file delayed appeal. Motion denied.
Douglas and H. Brown, JJ., dissent.

92-1563. State v. Royer.
Stark County, No. CA-8568. On motion for leave to file delayed appeal. Motion denied.
H. Brown and Resnick, JJ., dissent.

92-1574. State v. Rankin.
Hamilton County, No. C-900843. On motion for leave to file delayed appeal. Motion denied.
H. Brown and Resnick, JJ., dissent.

92-1575. State v. Lewis.
Cuyahoga County, No. 59127. On motion for leave to file delayed appeal. Motion granted.
Moyer, C.J., and Holmes, J., dissent.

92-1625. Mid Fed. Savings Bank v. Martin.
Butler County, No. CA91-12-202. On motion for leave to file notice of appeal instanter. Motion denied.
Douglas and Resnick, JJ., dissent.

92-1101. Snide v. Columbus Bd. of Edn.
Franklin County, No. 91AP-1327.
Holmes and Wright, JJ., dissent.

92-1102. Pleasant City v. Ohio Div. of Reclamation.
Guernsey County, No. 91-CA-09. On motion and cross-motion to certify the
record. Motions allowed.
Sweeney and Resnick, JJ., dissent.

92-1116. Polikoff v. TRW, Inc.
Cuyahoga County, No. 63515.
Sweeney and H. Brown, JJ., dissent.

92-1117. DeFillippis v. TRW, Inc.
Cuyahoga County, No. 63514.
Sweeney and H. Brown, JJ., dissent.

92-1118. DeFillippis v. TRW, Inc.
Cuyahoga County, No. 63513.
Sweeney and H. Brown, JJ., dissent.

92-1119. Polikoff v. Adam.
Cuyahoga County, No. 63516.
Sweeney, Holmes and H. Brown, JJ., dissent.

92-1120. Akron v. Rowland.
Summit County, No. 15307.
Sweeney, Holmes and H. Brown, JJ., dissent.

92-1130. Bresnik v. Beulah Park Ltd. Partnership.
Franklin County, No. 91AP-1068. On motion to certify the record and on
motion for leave to file amicus of Scioto Downs et al. Motions granted.
Sweeney and Resnick, JJ., dissent.

92-1147. McIntyre v. Ohio Elections Comm.
Franklin County, No. 90AP-1221.
Resnick, J., dissents.

92-1161. Bedford Hts. v. France.
Cuyahoga County, No. 60198. On motion to certify the record (notice of
appeal by France et al. and second notice of appeal by the Industrial
Commission) and on motion for leave to amend memorandum in support.
Motions granted.
Moyer, C.J., Holmes and Wright, JJ., dissent.

92-1216. Cecil v. Cottrill.
Hocking County, No. 91-CA-10. On motion and cross-motion to certify the
record. Motions granted.
Moyer, C.J., Holmes and Wright, JJ., dissent.

92-1244. In re Miamisburg Train Derailment Litigation.
Montgomery County, No. 12590.
Holmes, J., dissents.

JURISDICTIONAL MOTIONS OVERRULED

92-1057. State v. McFadden.
Holmes County, No. CA-447.

92-1059. Turak v. A.C. Leadbetter & Son, Inc.
Lucas County, No. L-91-138.
Douglas, J., dissents.

92-1060. Gilmore v. Klepfer.
Mahoning County, No. 91 C.A. 00146.
Holmes and H. Brown, JJ., dissent.

92-1077. Sternberg v. Wacksman.
Hamilton County, No. C-910153.
Wright and H. Brown, JJ., dissent.

92-1103. Slagle v. White Castle Sys., Inc.
Franklin County, No. 91AP-889.
Douglas, J., dissents.

92-1106. State v. Randle.
Hamilton County, No. C-910662.

92-1127. Noth v. Wynn.
Hamilton County, No. C-910433.

92-1128. Grote v. Landers.
Hamilton County, No. C-910674.
Douglas, J., dissents.

92-1152. Fugate v. Volck.
Montgomery County, No. 12831.
Holmes, J., dissents.

92-1153. Syler v. Signode Corp.
Tuscarawas County, No. 91AP090071.
Holmes, J., dissents.

92-1154. Beckworth v. Niemes.
Clermont County, Nos. CA91-03-018 and CA91-03-020.
Holmes, J., dissents.

92-1158. Giambrone v. Spalding & Evenflo Co., Inc.
Miami County, No. 91-CA-7. On motion and cross-motion to certify the
record. Motions overruled.
Moyer, C.J., and H. Brown, J., dissent.

92-1162. Gupta v. Summit Cty. Auditor.
Summit County, No. 15550.

92-1163. Indian Village Fed. S. & L. Assn. v. Wages.
Tuscarawas County, No. 91AP100076.

92-1170. Yearling v. State Farm Ins. Co.
Franklin County, No. 91AP-1094.

Sweeney, Douglas and Resnick, JJ., dissent.

92-1172. Cowles v. Detamore.
Stark County, No. CA-8671.
Sweeney, Douglas and Resnick, JJ., dissent.

92-1173. Sciortino v. Ohio Bur. of Emp. Serv.
Ross County, No. 1727.
Holmes, J., dissents.

92-1174. White v. Rhodes.
Montgomery County, No. CA 12877.
Holmes, Wright and H. Brown, JJ., dissent.

92-1175. Zell v. Ohio Dept. of Commerce, Div. of Real Estate.
Cuyahoga County, No. 60365.
Moyer, C.J., dissents.

92-1178. Tempo Holding Co. v. Oxford City Council.
Butler County, No. CA91-08-135.

92-1180. Evans v. Evans.
Hamilton County, No. C-910214.

92-1189. State v. Domers.
Wayne County, No. 2703.

92-1190. Doe v. Sys. Parking, Inc.
Cuyahoga County, No. 62603.
Moyer, C.J., dissents.
Resnick, J., not participating.

92-1193. Terex Corp. v. Grim Welding Co.
Summit County, No. 15300.

92-1195. Clark v. Simon.
Portage County, No. 91-P-2362.

92-1196. Sherlin v. Palace Theatre.
Stark County, No. CA-8476.

92-1197. Sherlin v. Palace Theatre.
Stark County, No. CA-8725.

92-1206. Coup v. Coup.
Sandusky County, No. S-91-29.
Resnick, J., dissents.

92-1209. Grange Mut. Cas. Co. v. Altizer.
Knox County, No. CA-9126.
Holmes and Wright, JJ., dissent.

92-1215. Williams v. LTV Steel Co.
Stark County, No. CA-8685.
Wright, J., dissents.
H. Brown, J., not participating.

92-1217. Buscemi v. Rhodes.
Cuyahoga County, No. 62420.
Holmes, J., dissents.

92-1218. F. & J. Welding, Inc. v. Emery.
Tuscarawas County, No. 91AP060025.

92-1234. Huebner v. Scott.
Madison County, No. CA92-03-005.

92-1247. WEM, Ohio Business Trust No. 31 v. Ohio Bur. of Emp. Serv.
Franklin County, No. 91AP-870.
Holmes and Wright, JJ., dissent.

92-1252. State v. Lane.
Hamilton County, No. C-900837.

92-1256. McKinney v. Aultman Hosp.
Stark County, No. CA-8603.
Holmes and Wright, JJ., dissent.

92-1258. Gadfield v. Ferris Chevrolet.
Tuscarawas County, No. 91AP060029.
Douglas, J., dissents.

92-1260. Brown v. Solon Restaurant Repair.
Cuyahoga County, No. 60179.

92-1265. Justice v. Lutheran Social Serv. of Central Ohio.
Franklin County, Nos. 91AP-1198 and 91AP-1215.

92-1267. Botker v. West Geauga Local School Dist. Bd. of Edn.
Gauga County, No. 91-G-1641.
Moyer, C.J., Douglas and Resnick, JJ., dissent.

92-1268. Rickel v. Cloverleaf Local School Dist. Bd. of Edn.
Medina County, No. 2045.
Moyer, C.J., Douglas and Resnick, JJ., dissent.

92-1271. State v. Yuhanick.
Wayne County, No. 2668.

92-1301. State v. Watson
Butler County, No. CA91-09-155.
Resnick, J., dissents.

92-1352. Humbert v. Cincinnati.
Hamilton County, No. C-910467.

92-1360. Hurst v. Starr.
Franklin County, No. 91AP-1149.
Moyer, C.J., Holmes and H. Brown, JJ., dissent.

92-1370. State v. Uhler.
Wayne County, No. 2683.
Douglas and Resnick, JJ., dissent.

REHEARING DOCKET

- 90-177. State v. Hill.
Trumbull County, Nos. 3720 and 3745. Reported at 64 Ohio St.3d 313,
N.E.2d . On motion for rehearing. Rehearing denied.
- 90-338. State v. Richey.
Putnam County, No. 12-87-2. Reported at 64 Ohio St.3d 353,
N.E.2d . On motion for rehearing. Rehearing denied.
Wright and H. Brown, JJ., dissent.
- 90-1342. State v. Lawson.
Clermont County, No. CA88-05-044. Reported at 64 Ohio St.3d 336,
N.E.2d . On motion for rehearing. Rehearing denied.
- 90-1613. State v. Gillard.
Stark County, No. CA-6701. Reported at 64 Ohio St.3d 304,
N.E.2d . On motion for rehearing. Rehearing denied.
Wright, J., dissents.
- 91-1052. State v. Witwer.
Licking County, No. CA-3587. Reported at 64 Ohio St.3d 421,
N.E.2d . On motion for rehearing. Rehearing denied.
H. Brown, J., dissents.
- 91-1498. State v. Dever.
Hamilton County, No. C-880712. Reported at 64 Ohio St.3d 401,
N.E.2d . On motion for rehearing. Rehearing denied.
Wright, J., dissents.
- 91-1938. State v. Hughes.
Marion County, No. 9-90-68. Reported at 62 Ohio St.3d 1481, 581 N.E.2d
1388, and 62 Ohio St.3d 1504, N.E.2d . On motion for
rehearing. Rehearing granted and motion for leave to appeal allowed.
- 92-142. State v. Bernard.
Cuyahoga County, No. 59452. Reported at 64 Ohio St.3d 1444,
N.E.2d . On motion for rehearing. Rehearing denied.
- 92-486. Nelson v. Forman.
Cuyahoga County, No. 60169. Reported at 64 Ohio St.3d 1444,
N.E.2d . On motion for rehearing. Rehearing denied.
- 92-547. State ex rel. Moss v. Ohio Adult Parole Auth.
In Mandamus. Reported at 64 Ohio St.3d 1437, N.E.2d . On
motion for rehearing. Rehearing denied.
- 92-806. State ex rel. Fears v. Morris.
In Habeas Corpus. Reported at 64 Ohio St.3d 1427, N.E.2d . On
motion for rehearing. Rehearing denied.
- 92-827. State v. Clark.
Portage County, No. 91-P-2331. Reported at 64 Ohio St.3d 1438,
N.E.2d . On motion for rehearing. Rehearing denied.

92-952. Savoie v. Grange Mut. Cas. Co.
Holmes County, No. CA-450. Reported at 64 Ohio St.3d 1444,
N.E.2d . On motion for rehearing. Rehearing granted and motion to
certify record allowed.

Wright and H. Brown, JJ., dissent.

92-1159. State ex rel. Svette v. Eighth Dist. Court of Appeals.
In Mandamus. Reported at 64 Ohio St.3d 1438, N.E.2d . On
motion for rehearing. Rehearing denied.

92-1237. State v. Huey.
Cuyahoga County, No. 57547. Reported at 64 Ohio St.3d 1441,
N.E.2d . On motion for rehearing. Rehearing denied.

Resnick, J., dissents.

DISCIPLINARY DOCKET

90-1705. Columbus Bar Assn. v. Nichols.
On response to show cause order. Respondent Leroy Alvin Nichols is in
contempt unless he pays his costs in full on or before February 1, 1993.

Moyer, C.J., would hold respondent in contempt.

Holmes, J., would order respondent to show cause.

91-2003. Northwest Ohio Bar Assn. v. Noble.
On request to extend time to pay costs. Request granted.

Moyer, C.J., dissents.

Wright, J., would hold respondent John D. Noble in contempt.

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

WEDNESDAY
September 30, 1992

MISCELLANEOUS DISMISSALS

92-1209. Grange Mut. Cas. Co. v. Altizer.
Knox County, No. CA-9126. This cause is pending before the court on the filing of a motion and cross-motion for an order directing the Court of Appeals for Knox County to certify its record. It appears from the records of this court that appellee/cross-appellant, Ching Fu Englebrecht, has failed to prosecute his appeal with the requisite diligence. Upon consideration thereof,

IT IS ORDERED by the court that the cross-appeal be, and hereby is, dismissed sua sponte.