

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

9:00 A.M. WEDNESDAY
May 8, 1996

MERIT DOCKET

- 96-110. State ex rel. Housman v. Indus. Comm.
In Prohibition. On motions to dismiss. Motions to dismiss sustained. Cause dismissed.
Moyer, C.J., Douglas, Resnick, F.E. Sweeney, Pfeifer, Cook and Stratton, JJ., concur.
- 96-411. Brooks v. Whitmore.
In Prohibition. On motion to dismiss. Motion to dismiss sustained. Cause dismissed.
Moyer, C.J., Douglas, Resnick, F.E. Sweeney, Pfeifer, Cook and Stratton, JJ., concur.
- 96-412. State ex rel. Hitco Technologies, Inc. v. Callahan.
In Prohibition. On motion for leave to intervene by Aircraft Braking System Corporation. Motion granted.
On motion to dismiss. Motion to dismiss sustained. Cause dismissed.
Moyer, C.J., Douglas, Resnick, F.E. Sweeney, Pfeifer, Cook and Stratton, JJ., concur.
- 96-506. State ex rel. Brown v. Burden.
In Mandamus. On motion to dismiss. Motion to dismiss sustained. Cause dismissed.
Moyer, C.J., Douglas, Resnick, F.E. Sweeney, Pfeifer, Cook and Stratton, JJ., concur.
- 96-557. Garcia v. Puskas Family Flowers, Inc.
Lorain County, No. 95CA006104. On review of order certifying a conflict. The court determines that no conflict exists within the meaning of S.Ct.Prac.R. IV(2)(B). This cause is therefore dismissed.
Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer and Stratton, JJ., concur.
Douglas and Cook, JJ., dissent.
- 96-565. Coats v. Giavasis.
In Mandamus. On motion to dismiss. Motion to dismiss sustained. Cause dismissed.
Moyer, C.J., Douglas, Resnick, F.E. Sweeney, Pfeifer, Cook and Stratton, JJ., concur.
- 96-567. State ex rel. Boddie 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., Douglas, Resnick, F.E. Sweeney, Pfeifer, Cook and Stratton, JJ., concur.

96-600. State ex rel. Minardi v. Lakewood Div. of Police.

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

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

96-603. State ex rel. Waits 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., Douglas, Resnick, F.E. Sweeney, Pfeifer, Cook and Stratton, JJ., concur.

96-605. State ex rel. Hall v. Ninth Dist. Court of Appeals.

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

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

96-623. State ex rel. Cobb v. Coyle.

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

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

96-624. State ex rel. Pilgrim v. Ohio Adult Parole Auth.

In Mandamus. On motions to dismiss. Motions to dismiss sustained. Cause dismissed.

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

96-651. Robertson v. Greene.

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

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

96-652. Kelly v. Gwin.

In Mandamus. On motion to dismiss of respondents Gwin, Edwards, Horowitz, Beard and Giavasis, and on answer of respondents Sheila Farmer, Irene Smart and William B. Hoffman. Answer treated as motion to dismiss. Motions to dismiss sustained. Cause dismissed.

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

96-653. State ex rel. Williams v. Ghee.

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

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

96-660. State ex rel. Williams-Bey v. Doan.

In Prohibition. On motion to dismiss by Joseph T. Deters. Motion to dismiss sustained. Cause dismissed.

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

96-668. Chesney v. State.

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

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

96-700. State ex rel. Morris 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., Douglas, Resnick, F.E. Sweeney, Pfeifer, Cook and Stratton, JJ., concur.

96-704. Gettys v. Coyle.

In Habeas Corpus. Sua sponte, cause dismissed.

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

96-705. Powell v. Fed. Correctional Inst., Inc.

In Habeas Corpus. Sua sponte, cause dismissed.

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

95-2141. Garfield Hts. v. Pub. Util. Comm.

Public Utilities Commission, Nos. 94-1176-EL-CMR, 94-1177-EL-CMR and 94-578-EL-CMR. Sua sponte, cause dismissed as moot.

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

DISMISSALS, SUA SPONTE, NO SUBSTANTIAL
CONSTITUTIONAL QUESTION AND DISCRETIONARY
APPEALS, IF APPLICABLE, NOT ALLOWED

95-2366. Cran v. Drabek.
Cuyahoga County, No. 67801.

95-2393. Lentz v. Ohio Dept. of Rehab. & Corr.
Franklin County, No. 94APD12-1742.

95-2431. Whitehall v. Weese.
Franklin County, No. 95APC02-169. On discretionary appeal and cross-appeal.
Appeals denied.

95-2434. State v. Mason.
Ashland County, No. CA1104.

95-2553. State v. Paden.
Pickaway County, No. 94CA25.
Douglas and Stratton, JJ., dissent.

95-2563. Pheils v. Gossett.
Wood County, No. WD-95-021.

95-2570. State v. Herda.
Licking County, No. 95CA11.

95-2582. In re Boatman.
Defiance County, No. 4-95-7.
Stratton, J., not participating.

95-2587. State v. Moore.
Franklin County, No. 95APA06-776.

95-2598. State v. Guerra.
Miami County, No. 94CA62.

95-2603. Schube v. Hamilton Cty. Bd. of Zoning Appeals.
Hamilton County, No. C-940437.

95-2611. State v. Calderon.
Montgomery County, No. 15250.
Moyer, C.J., dissents.

95-2612. Pinque v. Pinque.
Delaware County, No. 95CAF02006.

95-2615. State v. Souders.
Stark County, No. 1994CA00148.

95-2629. State v. Russo.
Hamilton County, No. C-941052.

95-2659. Giallombardo v. Terhune.
Lake County, No. 95-L-046.

95-2666. Cole v. Broomsticks, Inc.
Hamilton County, Nos. C-950058 and C-950086.
Douglas, J., dissents.
Stratton, J., not participating.

96-1. Dayton Area Health Plan, Inc. v. Dept. of Ins.
Montgomery County, No. 14784.
Douglas, J., dissents.

96-4. State v. Howard.
Hamilton County, No. C-930963.

96-21. State v. Gessler.
Miami County, No. 95CA23.

96-22. Pyle v. Pease.
Jefferson County, No. 94-J-35.
Pfeifer, J., dissents.

96-23. State v. Boeddeker.
Hamilton County, No. C-950137.

96-25. Toledo v. Emery.
Lucas County, No. L-95-069.

Douglas, J., not participating.

96-29. State v. Newlin.
Franklin County, No. 95APA03-379.

96-49. State v. Manos.
Cuyahoga County, No. 68547.

96-50. Jerningham v. Shiplevy.
Allen County, No. 1-95-43.

96-87. Grimes v. Nationwide Mut. Ins. Co.
Stark County, No. 1995CA00145.
Cook and Stratton, JJ., dissent and would allow on Proposition of Law No. II.

96-94. State v. Apanovitch.
Cuyahoga County, No. 68742.
F.E. Sweeney, J., not participating.

96-97. State v. Shegog.
Franklin County, Nos. 95APA09-1238 and 95APA09-1252.

96-126. State v. Williams.
Hamilton County, No. C-941024.

96-133. State v. Harris.
Hamilton County, No. C-950321.
Stratton, J., not participating.

96-201. Belcher v. Lesley.
Franklin County, Nos. 95APE05-662 and 95APE05-663.

96-223. State v. Williams.
Hamilton County, No. C-950430.
Stratton, J., not participating.

MOTION DOCKET

87-1614. State v. Benner.
Summit County, No. 12664. On motion for reconsideration under S.Ct.Prac.R. XI(1)(B). Motion denied and execution date set.

88-717. State v. Tyler.
Cuyahoga County, No. 51696. On motion for reconsideration under S.Ct.Prac.R. XI(1)(B). Motion denied.

89-2128. State v. Jackson.
Cuyahoga County, No. 55758. On motion for reconsideration under S.Ct.Prac.R. XI(1)(B). Motion denied.
On motion to set execution date. Motion granted.

90-1815. State v. Slagle.
Cuyahoga County, No. 55759. On motion for reconsideration under S.Ct.Prac.R. XI(1)(B). Motion denied.

91-374. State v. Rojas.

Hamilton County, No. C-880332. On motion for reconsideration under S.Ct.Prac.R. XI(1)(B). Motion denied.

91-963. State v. Carter.

Hamilton County, No. C-890513. On motion for reconsideration under S.Ct.Prac.R. XI(1)(B). Motion denied.

91-2417. State v. Lewis.

Cuyahoga County, No. 59535. On motion for reconsideration under S.Ct.Prac.R. XI(1)(B). Motion denied.

On motion to set execution date. Motion granted.

92-405. State v. Hawkins.

Hamilton County, Nos. C-920092 and C-910017. On motion for reconsideration under S.Ct.Prac.R. XI(1)(B). Motion denied.

94-722. State v. Fautenberry.

Hamilton County, No. C-920734. On motion for reconsideration under S.Ct.Prac.R. XI(1)(B). Motion denied.

95-58. State ex rel. Huebner v. W. Jefferson Village Council.

Madison County, No. CA94-08-030. On application for attorney fees. Application denied and costs denied.

Moyer, C.J., and Cook, J., dissent and would allow attorney fees only.
Stratton, J., not participating.

95-1380. State ex rel. Alben v. State Emp. Relations Bd.

In Mandamus. On request for oral argument. Request denied.

F.E. Sweeney, J., dissents.

95-1703. Nehls v. Quad K Advertising.

Cuyahoga County, No. 67358. On motion to remand appeal to implement settlement. Motion granted and cause remanded to the court of appeals with instructions for it to remand to the court of common pleas.

Resnick, Pfeifer and Cook, JJ., dissent.

95-1779. Columbus Metro. Community Action Org. v. Enyart.

Franklin County, No. 94APE12-1802. On motion to retrieve attorney fees and costs. Motion denied.

Stratton, J., not participating.

96-18. State ex rel. Vance v. Marikis.

Franklin County, No. 94APD12-1784. On motion to consolidate case with 96-472, State ex rel. Vance v. Marikis, Franklin County, No. 94APD12-1784. Motion granted.

96-65. State v. Brown.

Cuyahoga County, No. 67653. On motion for appeal bond. Motion denied.

96-136. In re Election of November 7, 1995 for the Office of Member of Rock Hill Local School Dist. Bd. of Edn.

Lawrence County, No. 95OC873. On motion to dismiss appeal of Wanda Jenkins. Motion denied.

On motion to dismiss appeal of Lawrence County Board of Elections. Motion granted.

On motion to amend notice of appeal of Lawrence County Board of Elections.
Motion denied.

On motion to supplement record by Lawrence County Board of Elections.
Motion denied.

96-312. Keppel v. Keppel Estate.

Lorain County, No. 95CA006157. On review of order certifying a conflict. The court determines that a conflict exists; sua sponte, cause held for the decision in 94-2569, Cole v. Holland, Summit County, No. 16703; briefing schedule stayed.

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

96-445. Calvaruso v. Ohio Biodyne, Inc.

Summit County, No. 17273. On motion to seal record/all documents filed in case.
Motion granted.

Pfeifer, J., dissents.

96-468. State v. Howe.

Montgomery County, No. 13969. On motion to consolidate with 96-676, State v. Howe, Montgomery County, No. 15139. Motion granted.

Pfeifer and Cook, JJ., dissent.

96-505. State v. Shephard.

Montgomery County, No. 14045. On motion for leave to file delayed appeal.
Motion denied.

96-574. State v. Moore.

Franklin County, No. 95APA05-629. On motion for leave to file delayed appeal.
Motion denied.

Pfeifer and Stratton, JJ., dissent.

96-584. State ex rel. Jones v. Court of Common Pleas.

Montgomery County, No. 15657. On request for oral argument. Request denied.

96-639. State v. Kleve.

Hamilton County, No. C-950384. On motion for stay of execution. Motion denied.

96-671. Incarnato v. Metro. Prop. & Cas. Ins. Co.

Tuscarawas County, No. 95AP050037. On review of order certifying a conflict. The court determines that a conflict exists; sua sponte, cause held for the decision in 95-269, Schaefer v. Allstate Ins. Co., Franklin County, No. 94APE04-507; briefing schedule stayed.

96-678. State v. Smith.

Butler County, No. CA96-02-024. On motion to consolidate case with 96-677, State v. Smith, Butler County Court of Common Pleas, No. CR95050471. Motion granted.

96-679. State v. Casas.

Medina County, Nos. 2451-M and 2452-M. On review of order certifying a conflict. The court determines that a conflict exists; sua sponte, cause held for decision in 95-859, Dayton v. Erickson, Montgomery County, No. 14712; briefing scheduled stayed.

96-689. State v. Straughter.

Franklin County, No. 95APA03-310. On motion for leave to file delayed appeal.
Motion denied.

Resnick and Pfeifer, JJ., dissent.

96-693. State v. Blair.
Clark County, No. 2659. On motion for leave to file delayed appeal. Motion denied.

96-702. State v. McDade.
Montgomery County, No. 14339. On motion for leave to file delayed appeal. Motion denied.
Resnick and Stratton, JJ., dissent.

96-734. State v. Parker.
Wood County, No. WD-94-127. On motion for leave to file delayed appeal. Motion denied.
Moyer, C.J., Resnick and Stratton, JJ., dissent.

96-753. State v. Petty.
Clermont County, No. CA95-05-028. On motion for leave to file delayed appeal. Motion granted.
Douglas, F.E. Sweeney and Cook, JJ., dissent.

96-770. In re Davis.
Cuyahoga County, No. 68302. On motion for leave to file delayed appeal. Motion granted.
F.E. Sweeney and Cook, JJ., dissent.

96-803. Miller v. Midwestern Indemn. Co.
Montgomery County, No. 15360. On review of order certifying a conflict. The court determines that a conflict exists; sua sponte, cause held for the decision in 95-1653, New Hampshire Ins. Group v. Frost, Cuyahoga County, No. 67823; briefing schedule stayed.

96-820. State v. Lorraine.
Trumbull County, No. 95-T-5196. On motion for stay of execution and to remand. Motion denied.
F.E. Sweeney, J., dissents.

DISCRETIONARY APPEALS ALLOWED

95-2433. Lovewell v. Physicians Ins. Co. of Ohio.
Cuyahoga County, No. 68542.
Douglas, Resnick and Pfeifer, JJ., dissent.

95-2558. Sparks v. State Farm Mut. Auto. Ins. Co.
Franklin County, No. 95APE03-339.
Moyer, C.J., Cook and Stratton, JJ., dissent.

95-2573. State v. Hollen.
Franklin County, No. 95APC06-699. Sua sponte, cause held for the decision in 95-1377 and 95-1466, State v. Gustafson, Mahoning County, No. 94 C.A. 232; briefing schedule stayed.

DISCRETIONARY APPEALS NOT ALLOWED

95-2346. White v. Internatl. Union Plant Guard Workers, Local No. 166.
Montgomery County, No. 15252.

95-2382. State v. Luna.
Huron County, No. H-95-064.

95-2402. Town Dev., Inc. v. Lorain.
Lorain County, No. 94CA006019.
Douglas and Pfeifer, JJ., dissent.

95-2450. Sisler v. Ford Motor Co.
Lorain County, No. 95CA006075.
Douglas, Resnick and F.E. Sweeney, JJ., dissent.

95-2562. State v. Erdman.
Madison County, No. CA95-03-011.

95-2579. Federer v. Wolske.
Perry County, No. 94486.

95-2581. Elbert v. Bexley Bd. of Zoning Appeals.
Franklin County, Nos. 95APE04-451, 95APE04-452, 95APE04-453, 95APE04-454 and
95APE05-551.
Stratton, J., not participating.

95-2583. Taylor v. Moraitis.
Franklin County, No. 95APE04-404.
Douglas and Pfeifer, JJ., dissent.

95-2613. Keider v. Fed. Ins. Co.
Cuyahoga County, No. 68196.
Pfeifer, J., dissents.

95-2618. The Hermitage Club Co., Inc. v. Powers.
Hamilton County, No. C-940195.

95-2655. Richmond Hts. v. Cleveland.
Cuyahoga County, No. 68516.
Douglas, J., dissents.

95-2660. Nationwide Mut. Fire Ins. Co. v. Carreras.
Lorain County, No. 95CA006031.

95-2664. Brooks v. Ohio Dept. of Mental Health, Millcreek Psychiatric Ctr. for
Children Dept.
Franklin County, No. 95API04-505.
Douglas, J., dissents.

95-2665. State v. Dye.
Lorain County, No. 95CA006097.
Moyer, C.J., dissents.

95-2667. Lanahan v. Nationwide Mut. Ins. Co.
Lucas County, No. L-95-032.
Resnick, J., dissents.

96-2671. Osborne v. Revco Drug Stores, Inc.
Summit County, No. 17138.

95-2679. Miller v. W. Carrollton.
Montgomery County, No. 15094.
Douglas, J., dissents.

96-7. Tonti v. Birch.
Wood County, No. WD-95-005.
Resnick, J., not participating.

96-44. Castillo v. Rochowiak.
Lucas County, No. L-95-106.
Resnick, J., not participating.

96-48. Cleveland v. Ringel.
Cuyahoga County, No. 69095.

96-56. Williams v. Colejon Mechanical Corp.
Cuyahoga County, No. 68819. On discretionary appeal and cross-appeal. Appeals denied.

96-174. In re Estate of Bay.
Muskingum County, No. CT950011.

96-415. Keppel v. Nationwide Ins. Co.
Lorain County, No. 95CA006157.
Douglas and Stratton, JJ., dissent.

96-555. Garcia v. Puskas Family Flowers, Inc.
Lorain County, No. 95CA006104.
Douglas and Cook, JJ., dissent.

RECONSIDERATION DOCKET

95-1679. State ex rel. Ricchiuto v. Reagan.
Original Action Involving Expedited Election Matter. Reported at 74 Ohio St.3d 11, 655 N.E.2d 1298. On motion for relief from judgment. Motion denied.
Stratton, J., not participating.

95-2435. Taylor v. Triple A in the U.S.A., Inc.
Belmont County, No. 93-B-51. Reported at 75 Ohio St.3d 1422, ___ N.E.2d ___.
On motion for reconsideration. Motion denied.

95-2476. Karlowicz v. Die-Matic Corp.
Cuyahoga County, No. 68563. Reported at 75 Ohio St.3d 1422, ___ N.E.2d ___. On motion for reconsideration. Motion denied.
Stratton, J., dissents.

95-2521. Cheren v. Fitch.
Summit County, No. 17181. Reported at 75 Ohio St.3d 1422, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

95-2560. State ex rel. Lewis v. Collins.
In Mandamus. Reported at 75 Ohio St.3d 1421, ___ N.E.2d ___. On motion for reconsideration. Motion granted; cause restored to the active docket and merit briefing to proceed.
Resnick, Cook and Stratton, JJ., dissent.

95-2630. Brakora v. Haudenschild.

Hardin County, No. 6-95-9. Reported at 75 Ohio St.3d 1425, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

95-2658. Comley v. Pub. Util. Comm.

Public Utilities Commission, Nos. 94-590-TR-CSS and 94-593-TR-CSS. Reported at 75 Ohio St.3d 1421, ___ N.E.2d ___. On motion for reconsideration. Motion denied.

96-234. Lawson v. Fed. Correctional Inst., Inc.

In Habeas Corpus. Reported at 75 Ohio St.3d 1421, ___ N.E.2d ___. On motion for reconsideration. Motion denied.