

## SUPREME COURT OF OHIO

## COLUMBUS

## ANNOUNCEMENT

9:00 A.M.

WEDNESDAY  
June 17, 1998

## MERIT DOCKET

98-818. Gadd 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.

98-842. State ex rel. Melnik v. Ohio Adult Parole Auth.

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

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

Cook and Lundberg Stratton, JJ., dissent and would grant an alternative writ.

98-861. State ex rel. Boggs v. Ohio Adult Parole Auth.

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

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

Cook and Lundberg Stratton, JJ., dissent and would grant an alternative writ.

98-879. State ex rel. Codner v. Ohio Adult Parole Auth.

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

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

Cook and Lundberg Stratton, JJ., dissent and would grant an alternative writ.

98-889. State ex rel. Lincoln v. Ohio Adult Parole Auth.

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

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

Cook and Lundberg Stratton, JJ., dissent and would grant an

alternative writ.

98-923. State ex rel. Mangiopane v. Brigano.

In Habeas Corpus. Sua sponte, cause dismissed.

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

98-995. Klostermeyer v. State.

In Habeas Corpus. Sua sponte, cause dismissed.

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

98-1004. Key v. Mohr.

In Habeas Corpus. Sua sponte, cause dismissed.

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

98-1023. Cook v. Anderson.

In Habeas Corpus. Sua sponte, cause dismissed.

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

98-1038. Szigethy v. Ohio Adult Parole Bd.

In Habeas Corpus. Sua sponte, cause dismissed.

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

#### MOTION DOCKET

97-1920. Gen. Dynamics Land Sys., Inc. v. Tracy.

Board of Tax Appeals, Nos. 95-A-443 and 95-A-444. On motion for admission pro hac vice of David English Carmack and Donald B. Tobin. Motion granted.

On motion to strike portion of fourth merit brief. Motion granted and Sections B, C, D, and E on pages 2-10 are stricken.

Lundberg Stratton, J., dissents.

98-815. Kopich v. Kopich.

Hamilton App. No. C-970175. 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, filed April 17, 1998:

"[I]t is the Order of this Court that this appeal is certified to the Ohio Supreme Court regarding the following issue upon which the two decisions conflict:

"`Whether the language `ALL UNTIL FURTHER ORDER OF THIS COURT' appearing as the last paragraph of a divorce decree is sufficient, of itself, to satisfy the requirement of Ressler v. Ressler (1985), 17 Ohio St.3d 17 [17 OBR 14], 476 N.E.2d 1032, that a decreeing court must expressly reserve jurisdiction in order to later modify a spousal support award of fixed duration.'"

The conflict case is Moore v. Moore (Dec. 27, 1988), Warren App. No. CA88-06-051, unreported.

Sua sponte, cause consolidated with 98-749, infra.

98-835. State v. Ferguson.

Franklin App. No. 97APA05-674. On motion for stay. Motion

granted.

Douglas and Cook, JJ., dissent.

98-855. State v. Alexander.

Cuyahoga App. No. 72028. On motion for leave to file delayed appeal. Motion granted.

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

98-904. State v. Herring.

Mahoning C.P. No. 96CR339. On motion for leave to file delayed appeal. Motion granted.

Resnick, J., dissents.

98-908. State v. Davis.

Cuyahoga App. No. 71853. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

98-936. State v. Williams.

Lucas App. No. L-96-353. On motion for leave to file delayed appeal. Motion denied.

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

98-941. State v. King.

Stark App. No. 96CA0378. On motion for leave to file delayed appeal. Motion denied.

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

98-1046. State v. Hull.

Greene App. No. 97CA22. On motion for stay. Motion denied.

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

98-572. Smith v. State Teachers Retirement Bd.

Franklin App. No. 97APE07-943. On appeal of Nancy S. Smith et al. Discretionary appeal denied.

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

On cross-appeal of State Teachers Retirement Board et al. Discretionary cross-appeal denied.

Moyer, C.J., F.E. Sweeney and Lundberg Stratton, JJ., dissent.

98-663. State v. Jackson.

Summit App. No. 17903.

98-672. State v. Lacey.

Columbiana App. No. 97CO46.

98-680. Budco Enterprises v. Panny.

Union App. No. 14-97-42.

Moyer, C.J., dissents and would hold this cause for the decision in 98-437 and 98-499, Galt Alloys, Inc. v. Keybank N.A., Stark App. No. 1997CA00264.

Lundberg Stratton, J., dissents.

98-683. State v. Workman.  
Stark App. No. 1997CA00224.

98-684. State v. Abdur-Rahman.  
Hamilton App. No. C-970498.

98-690. State v. Chaney.  
Cuyahoga App. No. 71274.

98-703. State v. Slusher.  
Clermont App. No. CA97-12-110.

98-705. State v. Carrick.  
Licking App. No. CA3619.

98-708. State v. Reed.  
Wood App. No. WD-97-031.

98-709. State v. McCoy.  
Clermont App. Nos. CA97-03-027 and CA97-03-032.

98-716. State v. Gaines.  
Scioto App. No. 97CA2533.

98-723. State v. Ferrell.  
Stark App. No. 1997CA0005.

98-724. State v. Young.  
Portage App. No. 95-P-0139.

98-729. Holland v. Warnock.  
Lucas App. No. L-97-1066.  
Douglas and Pfeifer, JJ., dissent.  
Resnick, J., not participating.

98-731. State v. Gilman.  
Warren App. No. CA97-05-041.  
Moyer, C.J., and Lundberg Stratton, J., dissent.

98-732. State v. Moore.  
Cuyahoga App. No. 71995.

98-733. Myers v. Grange Mut. Cas. Co.  
Franklin App. No. 97APE08-998.

98-734. In re Hare.  
Scioto App. No. 97CA2532.

98-735. Fitzpatrick v. Fitzpatrick.  
Clermont App. No. CA97-05-049.  
Moyer, C.J., dissents.

98-736. State v. Stephens.  
Hamilton App. No. C-970127.

98-738. State v. Ballew.  
Hamilton App. No. C-970313.

98-752. State v. Gauntt.  
Cuyahoga App. No. 63792.

98-761. State v. Montoya.  
Lucas App. No. L-97-1226.  
F.E. Sweeney and Lundberg Stratton, JJ., dissent.  
Resnick, J., not participating.

98-777. State v. Cummings.  
Cuyahoga App. No. 69966.

98-789. Knoppe v. Ohio Real Estate Comm.  
Delaware App. No. 97CAE11051.

98-797. State v. Klostermeyer.  
Cuyahoga App. No. 73990.

98-799. State v. Weaver.  
Franklin App. No. 97APA07-908.

98-801. State v. Smith.  
Cuyahoga App. No. 72027.

98-803. State v. Haliym.  
Cuyahoga App. No. 72411.

98-804. State v. Grogan.  
Hardin App. No. 6-95-8.

98-805. State v. White.  
Cuyahoga App. No. 74135.  
Pfeifer, J., dissents.

98-814. State v. Cavanaugh.  
Montgomery App. No. 16622.  
Moyer, C.J., dissents.

98-817. State v. Saikus.  
Cuyahoga App. No. 71981.

98-821. State v. Shahan.  
Franklin App. No. 97APC08-1107.

98-830. State v. Mootispaw.  
Lawrence App. No. 97CA26.

98-850. State v. Jones.  
Cuyahoga App. No. 71178.

98-878. State v. Schulte.  
Lake App. No. 97-L-054.

98-880. State v. Klostermeyer.  
Cuyahoga App. Nos. 72385 and 72386.

DISCRETIONARY APPEALS ALLOWED

98-739. State v. Rhodes.  
Franklin App. No. 97APA06-793. Discretionary appeal allowed;  
sua sponte, cause consolidated with 98-390, State v. Brewer,  
Clermont App. No. CA97-03-030, and 98-740 and 98-741, infra.  
Pfeifer, J., dissents.

98-740. State v. Sowards.  
Franklin App. No. 97APA07-907. Discretionary appeal allowed;  
sua sponte, cause consolidated with 98-390, supra, 98-739,  
supra, and 98-741, infra.  
Pfeifer, J., dissents.

98-741. State v. Hanrahan.  
Franklin App. No. 97APA03-394. Discretionary appeal allowed;  
sua sponte, cause consolidated with 98-390, 98-739 and 98-740,  
supra.  
Pfeifer, J., dissents.

98-749. Kopich v. Kopich.  
Hamilton App. No. C-970175. Sua sponte, cause consolidated with  
98-815, supra.

98-772. Csulik v. Nationwide Mut. Ins. Co.  
Stark App. No. 1997CA00283.  
Moyer, C.J., Cook and Lundberg Stratton, JJ., dissent.

98-816. State v. Eldred.  
Hamilton App. No. C-970300. Discretionary appeal allowed on  
Propositions of Law Nos. I and II only and cause held for the  
decision in 97-1985, State v. Cook, Allen App. No. 1-97-21;  
briefing schedule stayed.

Douglas, Resnick and Lundberg Stratton, JJ., would also  
allow all other propositions of law.

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

98-910. State v. Violette.  
Franklin App. No. 97APA09-1234. Discretionary appeal allowed on  
Propositions of Law Nos. I and II only; sua sponte, cause held  
for the decision in 97-1985, State v. Cook, Allen App. No. 1-97-  
21; briefing schedule stayed.

98-948. State v. Ferguson.  
Franklin App. No. 97APA06-858. Discretionary appeal allowed on  
Propositions of Law Nos. I and II only; sua sponte, cause held  
for the decision in 97-1985, State v. Cook, Allen App. No. 1-97-  
21; briefing schedule stayed.

DISCRETIONARY APPEALS NOT ALLOWED

97-2284. Anderson v. Nationwide Ins. Co.  
Montgomery App. No. 16309.  
Lundberg Stratton, J., dissents.

98-699. McQuillin v. PIE Nationwide, Inc.  
Williams App. No. WM-97-024.  
Pfeifer, J., dissents.  
Resnick, J., not participating.

98-701. Tobias v. Al Neff Ins.  
Greene App. No. 97CA96.

98-707. Kellogg v. Doe.  
Cuyahoga App. No. 72619.  
Douglas and Resnick, JJ., dissent.

98-746. Southers v. Rapp.  
Ross App. No. 97CA2296.

98-750. Manning v. Hamamey.  
Cuyahoga App. No. 72072.

98-751. Serenity Recovery Homes, Inc. v. Somani.  
Mahoning App. No. 96 C.A. 124.

98-754. Williams v. Williams.  
Williams App. No. WM-97-022.  
Douglas and Resnick, JJ., dissent.

98-786. Monotube Pile Corp. v. Union Metal Corp.  
Stark App. No. 1997CA00185.  
Moyer, C.J., and Pfeifer, J., dissent.

98-809. Boone v. CSX Transp., Inc.  
Hamilton App. No. C-961119.

98-896. Nozik v. Dalheim.  
Lake App. No. 96-L-205.  
Douglas, J., dissents.

98-927. Holloway v. Ohio Bur. of Workers' Comp.  
Hamilton App. No. C-961038.  
Lundberg Stratton, J., dissents.

#### RECONSIDERATION DOCKET

96-2620. Grace v. Koch.  
Hamilton App. No. C-950802. Reported at 81 Ohio St.3d 577, \_\_\_  
N.E.2d \_\_\_. On motion for reconsideration. Motion denied.  
Cook, J., dissents.

97-19. State v. Sallie.  
Lucas App. No. L-95-263. Reported at 81 Ohio St.3d 673, \_\_\_  
N.E.2d \_\_\_. On motion for reconsideration. Motion denied.  
Resnick, J., not participating.

97-268. State v. Mitts.  
Cuyahoga App. No. 68612. Reported at 81 Ohio St.3d 223, \_\_\_  
N.E.2d \_\_\_. On motion for reconsideration. Motion denied.

97-376. State v. Bird.  
Franklin App. No. 96APA04-505. Reported at 81 Ohio St.3d 582,  
\_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.  
Pfeifer, J., dissents.

97-2562. State v. Ackison.  
Fairfield App. No. 96CA0064. Reported at 81 Ohio St.3d 1520,  
\_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.

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

Lundberg Stratton, J., not participating.

97-2609. Breidenbach v. Conrad.

Seneca App. No. 13-97-6. Reported at 81 Ohio St.3d 1261, \_\_\_  
N.E.2d \_\_\_. On motion for reconsideration. Motion denied.

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

98-470. Mustric v. Williams.

Franklin App. Nos. 97APE09-1174, 97APE09-1175, 97APE09-1176 and  
97APE10-1309. Reported at 81 Ohio St.3d 1522, \_\_\_ N.E.2d \_\_\_.  
On motion for reconsideration. Motion denied.