

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

FRIDAY

January 8, 1999

MOTION DOCKET

96-1213. State v. McGuire.

Preble App. No. CA95-01-001. On January 14, 1998, this court granted a stay of execution in this cause pending disposition of a timely filed petition for a writ of certiorari in the United States Supreme Court and disposition of state post-conviction proceedings. Appellee has filed a motion to set an execution date on the ground that appellant's direct appeals and state post-conviction remedies have been exhausted. Whereas, on October 19, 1998, this court received notice that the United States Supreme Court had denied appellant's petition for a writ of certiorari and, whereas, on September 23, 1998, this court declined jurisdiction in case No. 98-1095, appellant's post-conviction appeal,

IT IS ORDERED by the court, *sua sponte*, that an execution date be set.

IT IS HEREBY ORDERED by the court that appellant's sentence be carried into execution by the Warden of the Southern Ohio Correctional Facility or, in his absence, by the Deputy Warden on Thursday, the 8th day of April, 1999, in accordance with the statutes so provided.

IT IS FURTHER ORDERED that the certified copy of this entry and a warrant under the seal of this court be duly certified to the Warden of the Southern Ohio Correctional Facility and that the Warden shall make due return thereof to the Clerk of the Court of Common Pleas of Preble County.

98-104. Wagner v. Roche Laboratories.

Lucas App. No. L-93-277. This cause is pending before the court as an appeal from the Court of Appeals for Lucas County. On January 6, 1999, appellees filed a designation of John Winter, an attorney who is not admitted to practice in Ohio, as counsel of record in this case. Whereas John Winter has not complied with the *pro hac vice* requirements of S.Ct.Prac.R. I(2), and has not been granted leave to appear *pro hac vice* in this case, he is not permitted to file pleadings, memoranda, briefs, or documents other than those required to perfect an appeal, or to participate in oral argument. Accordingly,

IT IS ORDERED by the court, *sua sponte*, that appellees' designation of John Winter as counsel of record be, and hereby is, stricken.

98-758. Cleveland Hts./Univ. Hts. Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision.

Board of Tax Appeals, Nos. 95-D-1124, 95-D-1125, 95-D-1126, 95-D-1127, 95-D-1128, 95-D-1129 and 95-D-1130. This cause is pending before the court as an appeal from the Board of Tax Appeals. Upon consideration of the motion of appellees, Melvin S. Ross and Daryl B. Ross, to participate in oral argument scheduled for January 13, 1999,

IT IS ORDERED by the court that the motion to participate in oral argument be, and hereby is, denied.

98-984. Cleveland Hts./Univ. Hts. Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision.

Board of Tax Appeals, Nos. 95-D-1124, 95-D-1125, 95-D-1126, 95-D-1127, 95-D-1128, 95-D-1129 and 95-D-1130. This cause is pending before the court as an appeal from the Board of Tax Appeals. Upon consideration of the motion of appellees, Melvin S. Ross and Daryl B. Ross, to participate in oral argument scheduled for January 13, 1999,

IT IS ORDERED by the court that the motion to participate in oral argument be, and hereby is, denied.

RECONSIDERATION DOCKET

98-1824. State v. Vidu.

Cuyahoga App. Nos. 71703 and 71704. Reported at 84 Ohio St.3d 1434, ___ N.E.2d ___. This cause came on for further consideration upon appellant's motion for reconsideration and emergency motion for continuance of court's 9/25/98 order granting stay and bail pending appeal. Upon consideration thereof,

IT IS ORDERED by the court that the motions be, and hereby are, denied.

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

Lundberg Stratton, J., would grant reconsideration as to Proposition of Law No. I in appellant's jurisdictional memorandum.

98-2267. In re Objection to Order of Bd. of Commrs. on the Unauthorized Practice of Law.

Reported at 83 Ohio St.3d 1476, ___ N.E.2d ___.

IT IS ORDERED by the court that the motion for reconsideration in this case be, and hereby is, denied.

MISCELLANEOUS DISMISSALS

98-1751. United States Fid. & Guar. Co. v. St. Elizabeth Med. Ctr.

Montgomery App. No. 16518. This cause is pending before the court as an appeal from the Court of Appeals for Montgomery County. Upon consideration of appellant's application for dismissal,

IT IS ORDERED by the court that the application for dismissal be, and hereby is, granted.

ACCORDINGLY, IT IS FURTHER ORDERED by the court that this cause be, and hereby is, dismissed.

98-2697. Bratton v. Stores.

Portage App. No. 98-P-0068. This cause is pending before the court as a discretionary appeal and a claimed appeal of right. In lieu of payment of the filing fee required by S.Ct.Prac.R. XV, appellant filed a statement in which she asserts that she is "unable to pay court costs." Appellant's statement is not confirmed by oath or affirmation. Furthermore, appellant's purported affidavit does not contain the jurat of a notary public or other official authorized to administer an oath or affirmation.

S.Ct.Prac.R. XV requires that the docket fee imposed by R.C. 2503.17 be paid before an appeal is docketed. Section 3 of the rule permits an affidavit of indigency to be filed in lieu of docket fees. The rule further provides that the court may review and determine the sufficiency of an affidavit at any stage in the proceeding.

Pursuant to S.Ct.Prac.R. XV(3), the court determines that, whereas appellant's statement is not confirmed by oath or affirmation and is not properly notarized, it does not meet the requirements of an affidavit of indigency under S.Ct.Prac.R. XV and therefore is not sufficient for waiver of the docket fee. Accordingly,

IT IS ORDERED by the court that this cause be, and hereby is, dismissed.

MISCELLANEOUS DOCKET

1999 TERM

In re Report of the Commission :
on Continuing Legal Education. :

: O R D E R

This matter originated in this court on the filing of a report by the Commission on Continuing Legal Education (the "commission") pursuant to Gov.Bar R. X(6)(A)(1)(b) and (A)(2)(d). The commission recommended the imposition of sanctions against certain attorneys, the respondents herein, for failure to comply with the provisions of Gov.Bar R. X, Attorney Continuing Legal Education, for the 1996-1997 reporting period.

On November 18, 1998, pursuant to Gov.Bar R. X(6)(B)(1), this court issued to each respondent an order to show cause why the commission's recommendation should not be adopted and an order so entered against the respondent. One hundred three respondents filed objections to the commission's recommendation. Pursuant to Gov.Bar. R. X(6)(B)(2), the commission may file an answer brief to the objections within fifteen days.

IT IS ORDERED by the court, *sua sponte*, that the commission may consolidate its responses to the respondents' objections in a single answer brief that shall be filed no later than February 19, 1999.

IT IS FURTHER ORDERED by the court, *sua sponte*, that the notice and service requirements of Gov.Bar R. X(6)(C) shall not apply to this order; and announcement and publication of this order by the Supreme Court Reporter in the Ohio Official Reports and the Ohio State Bar Association Report shall constitute notice to the respondents.