

**SUPREME COURT OF OHIO**

**COLUMBUS**

**ANNOUNCEMENT**

1:00 P.M.

WEDNESDAY  
January 19, 2000

**MERIT DOCKET**

**99-1445. Crittenden Court Apt. Assoc. L.P. v. Cuyahoga Cty. Bd. of Revision.**  
Board of Tax Appeals, No. 98-A-356. *Sua sponte*, cause dismissed.

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

Cook, J., would order appellant to show cause why this appeal should not be  
dismissed.

**99-1466. 195 E. Broad St. Co., Ltd. v. Franklin Cty. Aud.**  
Board of Tax Appeals, No. 98-J-992. *Sua sponte*, cause dismissed.

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

Cook, J., would order appellant to show cause why this appeal should not be  
dismissed.

**99-1522. Columbus Bd. of Edn. v. Franklin Cty. Bd. of Revision.**  
Board of Tax Appeals, Nos. 97-A-250, 97-A-251, 97-A-258 and 97-A-259. 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.

**99-1639. A.B. REO II v. Franklin Cty. Bd. of Revision.**

Board of Tax Appeals, Nos. 97-P-1554 and 97-P-1555. 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.

**99-1641. ALKOP, Inc. v. Ottawa Cty. Bd. of Revision.**

Board of Tax Appeals, No. 98-P-466. 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.

**99-1710. Cincom Sys., Inc. v. Hamilton Cty. Bd. of Revision.**

Board of Tax Appeals, No. 98-A-266. *Sua sponte*, cause dismissed.

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

Cook, J., would order appellant to show cause why this appeal should not be dismissed.

**99-1793. Columbus Bd. of Edn. v. Franklin Cty. Bd. of Revision.**

Board of Tax Appeals, No. 97-L-824. *Sua sponte*, cause dismissed.

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

Cook, J., would order appellant to show cause why this appeal should not be dismissed.

**99-1913. State ex rel. Harrison v. Alford-Smith.**

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

On motion for sanctions for frivolous action and motion for attorney fees. Motions denied.

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

**99-1990. State ex rel. Graham 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, Pfeifer, Cook and Lundberg Stratton, JJ., concur.

**99-2053. State ex rel. Prunty v. Saferin.**

In Mandamus. On complaint in mandamus by Robert E. Prunty and on motion for summary judgment. *Sua sponte*, cause dismissed.

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

**99-2062. State ex rel. Davis 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 Lundberg Stratton, JJ., concur.

**99-2064. State ex rel. McDougall v. Corrigan.**

In Procedendo. On answer of respondent and on motion for judgment on pleadings. Answer treated as motion to dismiss. Motion to dismiss sustained. Cause dismissed.

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

**99-2071. State ex rel. Wood 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, Pfeifer and Cook, JJ., concur.  
Lundberg Stratton, J., dissents and would grant an alternative writ.

**99-2096. State ex rel. Johnson v. Court of Appeals for Scioto Cty.**

In Mandamus. On answer of respondent and on motion for summary judgment. Answer treated as motion to dismiss. Motion to dismiss sustained. Cause dismissed.

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

**99-2102. Goffinet v. Stuckenberg.**

In Habeas Corpus. On petition for writ of habeas corpus by Mary Goffinet. *Sua sponte*, cause dismissed.

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

**99-2114. Snider v. Ohio Adult Parole Auth.**

In Habeas Corpus. On petition for writ of habeas corpus by Douglas Gene Snider. *Sua sponte*, cause dismissed.

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

**99-2128. Wente v. Mitchell.**

In Habeas Corpus. On petition for writ of habeas corpus by Charles Wente. *Sua sponte*, cause dismissed.

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

**99-2141. Beyers v. Ohio Adult Parole Auth.**

In Habeas Corpus. On petition for writ of habeas corpus by Robert Beyers. *Sua sponte*, cause dismissed.

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

**99-2148. State ex rel. Mickey v. Troutman.**

In Habeas Corpus. On petition for writ of habeas corpus by Audrey Mickey. *Sua sponte*, cause dismissed.

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

**99-2149. State ex rel. Mickey v. McGaul.**

In Habeas Corpus. On petition for writ of habeas corpus by Audrey Mickey. *Sua sponte*, cause dismissed.

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

**99-2160. Graham v. Ohio Adult Parole Auth.**

In Habeas Corpus. On petition for writ of habeas corpus by John Anthony Graham. *Sua sponte*, cause dismissed.

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

**99-2170. Maddox v. Morgan.**

In Habeas Corpus. On petition for writ of habeas corpus by Jesse Maddox. *Sua sponte*, cause dismissed.

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

**99-2178. Roland v. Gabbard.**

In Habeas Corpus. On petition for writ of habeas corpus by Robin Neil Roland. *Sua sponte*, cause dismissed.

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

**99-2197. Walls v. Dern.**

In Habeas Corpus. On petition for writ of habeas corpus by Patrick Walls. *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**

**99-1869. State v. Derosett.**

Cuyahoga App. No. 74717.

**99-1873. State v. Wolford.**

Miami App. No. 99CA10.

**99-1885. State v. Alford.**

Lake App. No. 98-L-043.

**99-1887. State v. Winters.**

Licking App. No. 99CA92.

**99-1892. Westlake v. Rothacker.**

Cuyahoga App. Nos. 73653, 73719 and 73720.

**99-1893. State v. Cowans.**

Clermont App. No. CA98-10-090.

Moyer, C.J., would allow on Proposition of Law No. I.

**99-1903. Olmsted Twp. Bd. of Trustees v. Berea.**

Cuyahoga App. Nos. 75426 and 75427.

Douglas and Resnick, JJ., dissent.

**99-1905. Byrd v. Peden.**

Franklin App. No. 99AP-111.

**99-1906. State v. Monchein.**

Lorain App. No. 98CA007198.

Moyer, C.J., and Cook, J., dissent, would allow on Proposition of Law No. II, and would hold this cause for the decision in 99-765, *State v. Suffecool*, Stark App. No. 1998CA00101.

**99-1907. State v. Buterbaugh.**

Franklin App. No. 98AP-1093.

**99-1908. State v. Franklin.**

Franklin App. No. 94AP-1690.

**99-1910. State v. White.**

Lorain App. No. 98CA007036.

Moyer, C.J., and Cook, J., dissent and would allow on Proposition of Law No. I.

**99-1911. State v. Felter.**

Huron App. No. H-99-001.

Moyer, C.J., and Douglas, J., dissent.

**99-1912. State v. White.**

Montgomery App. No. 17555.

**99-1914. State v. Sneed.**

Cuyahoga App. No. 76250.

**99-1916. State v. Mease.**  
Franklin App. No. 99AP-87.

**99-1917. State v. Minnich.**  
Huron App. No. H-96-060.  
Resnick, J., not participating.

**99-1919. State v. Covender.**  
Lorain App. No. 96CA006457.

**99-1925. State v. Edgeron.**  
Cuyahoga App. No. 74761.  
F.E. Sweeney, J., dissents.

**99-1926. State v. Chaiffetz.**  
Marion App. No. 9-99-23.  
Pfeifer, J., dissents.

**99-1928. State v. Miller.**  
Allen App. No. 1-99-32.  
Moyer, C.J., and Cook, J., dissent, would allow, and would hold this cause for the decision in 99-286, *State v. Williams*, Lake App. No. 97-L-191.

**99-1936. State v. Ellenwood.**  
Franklin App. No. 98AP-978.

**99-1937. State v. Clipner.**  
Franklin App. No. 98AP-1477.

**99-1943. State v. Coker.**  
Cuyahoga App. No. 74785.

**99-1944. State v. LeMaster.**  
Pickaway App. No. 98CA46.

**99-1949. Dombroski v. Dombroski.**  
Harrison App. No. 506.

**99-1950. State v. Rolley.**  
Hamilton App. No. C-980555.

**99-1952. State v. Kitchen.**  
Lucas App. No. L-98-1368.  
Moyer, C.J., dissents.  
Resnick, J., not participating.

**99-1953. Surdel v. MetroHealth Med. Ctr.**  
Cuyahoga App. No. 74538.  
Moyer, C.J., dissents.

**99-1956. Wasmus v. Brigano.**  
Warren App. No. CA99-03-035.

**99-1958. State v. Wooden.**  
Summit App. No. 19398.

**99-1961. Kovshovik v. Mandik.**  
Columbiana App. No. 97CO41.

**99-1963. State v. Cross.**  
Stark App. No. 1998CA00238.

**99-1964. State v. Green.**  
Trumbull App. No. 97-T-0112.

**99-1965. State v. Hines.**  
Hamilton App. No. C-980742.

**99-1966. State v. Draughn.**  
Franklin App. No. 97AP-1536.

**99-1969. State v. Cardwell.**  
Cuyahoga App. No. 74498.  
Pfeifer, J., dissents.

**99-1973. State v. Henness.**

Franklin App. No. 97APA04-465.

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

**99-1978. State v. Young.**

Belmont App. No. 96BA34.

**99-1980. State v. Ritch.**

Scioto App. No. 99CA2634.

**99-1981. State v. Ewing.**

Lorain App. No. 97CA006944.

**99-1983. State v. Williams.**

Summit App. No. 19477.

Moyer, C.J., would allow on Proposition of Law No. II only.

**99-1991. State v. Amill.**

Mahoning App. No. 96CA48.

**99-1992. State v. Chiolo.**

Stark App. No. 1999CA00030.

Pfeifer, J., dissents.

**99-1995. Hoog v. Hoog.**

Hamilton App. No. C-980977.

**99-1996. Miller v. Rollins Leasing Corp.**

Franklin App. No. 98AP-1347. On discretionary appeal. Appeal denied.

Lundberg Stratton, J., dissents.

On discretionary cross-appeal. Appeal denied.

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

**99-2002. State v. Pinkerton.**

Cuyahoga App. Nos. 75906 and 75907.

**99-2007. State v. Haynes.**

Hamilton App. Nos. C-970809 and C-970821.

**99-2009. State v. Kennan.**  
Clermont App. No. CA96-11-105.

**99-2013. State v. Nelson.**  
Lake App. No. 97-L-108. On discretionary appeal, motion to withdraw as counsel, and motion to strike amended memorandum in support of jurisdiction. Appeal denied, motion to withdraw granted, and motion to strike denied.

**99-2014. State v. Featherston.**  
Fairfield App. No. 99CA9.  
Cook, J., dissents.

**99-2041. Sampson v. Norfolk S. Corp.**  
Hamilton App. No. C-980844.  
Douglas, J., dissents.

**99-2047. State v. Gilliam.**  
Montgomery App. No. 17491.

**99-2049. State v. McVay.**  
Franklin App. No. 98AP-1246.

**99-2052. State v. Pasqualone.**  
Ashtabula App. No. 98-A-0074.

**99-2104. State v. Cannon.**  
Hamilton App. Nos. C-980928 and C-990315.

**99-2107. State v. Ballew.**  
Hamilton App. No. C-980442.

### **MOTION DOCKET**

**98-19. State v. Fears.**  
Hamilton C.P. No. B9702360B. On application for reopening under S.Ct.Prac.R. XI(5). Application denied.  
Moyer, C.J., Resnick and Pfeifer, JJ., dissent.

**99-1142. OHIC Ins. Co. v. Ohio Ins. Guar. Assn.**

In Mandamus. On motion for stay of all medical malpractice actions involving issue of exhaustion under R.C. 3955.01. Motion granted.

Douglas and Pfeifer, JJ., dissent.

**99-1419. Woods v. Telb.**

Lucas App. No. L-99-1083. On request for oral argument of the Ohio Adult Parole Authority and Eddie Hopkins,

IT IS ORDERED by the court that the request be, and hereby is, granted and that this case will be scheduled for oral argument.

Resnick, J., not participating.

**99-2001. State ex rel. Jackson v. Brigano.**

Warren App. No. CA99-08-090. On motion for stay of court of appeals' judgment. Motion denied.

**99-2106. Campbell v. Burton.**

Greene App. No. 99CA12. 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' Decision and Entry dated November 5, 1999, at Page 9:

"For purposes of the immunity exceptions in R.C. 2744.02(B)(5) and R.C. 2744.03(A)(6)(c), does R.C. 4121.421 expressly impose liability on political subdivisions and their employees for failure to report child abuse?"

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

*Sua sponte*, cause consolidated with 99-1838, *Campbell v. Burton*, Greene App. No. 99CA12.

The conflict cases are *Reed v. Perry Cty. Children's Serv.* (June 29, 1993), Perry App. No. CA-429, unreported, 1993 WL 274299; *Rich v. Erie Cty. Dept. of Human Serv.* (1995), 106 Ohio App.3d 88, 665 N.E.2d 278; *Sprouse v. Lucas Cty. Bd. of Edn.* (Mar. 12, 1999), Lucas App. No. L-98-1098, unreported, 1999 WL 128636; and *Crago v. Lorain Cty. Commrs.* (1990), 69 Ohio App.3d 24, 590 N.E.2d 15.

**99-2158. In re Adoption of Asente.**

Trumbull App. Nos. 99-T-0055, 99-T-0056, 99-T-0057 and 99-T-0058. *Sua sponte*, the Attorney General is invited to submit within thirty days an *amicus* memorandum addressing whether this court should grant a discretionary appeal in this cause.

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

**99-2165. State v. Gray.**

Mahoning App. No. 94CA5. On motion for leave to file delayed appeal. Motion denied.

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

**99-2166. State v. Garcia.**

Defiance App. No. 4-98-24. On motion for leave to file delayed appeal. Motion denied.

Moyer, C.J., and Douglas, J., dissent.

**99-2172. State v. Richardson.**

Cuyahoga App. No. 74443. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

**99-2179. In re Armijo.**

Belmont App. No. 97BA7. On motion for stay of court of appeals' decision. Motion denied.

**99-2193. State v. Mitchell.**

Hamilton App. Nos. C-980825, C-980826 and C-980827. On motion for leave to file delayed appeal. Motion denied.

**99-2196. State v. Ritchey.**

Columbiana App. No. 97CO44. On motion for leave to file delayed appeal. Motion denied.

Lundberg Stratton, J., dissents.

**99-2200. State ex rel. McCleskey v. Brigano.**

Warren App. No. CA99-09-113. On motion for stay of court of appeals' judgment. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

**99-2286. Sidle v. Ohio Adult Parole Auth.**

In Habeas Corpus. *Sua sponte*, writ allowed and post-release sanctions stayed. Allowing writ means that a return is ordered. See *Reed v. Kinkela* (1998), 84 Ohio St.3d 1427, 702 N.E.2d 903. Respondents are ordered to file a return of writ within twenty days of service of the petition, and petitioner may file a response within ten days after the return. Petitioner's physical presence before the court is not required. *Id.*

IT IS FURTHER ORDERED that this cause be *sua sponte* held for the decision in 99-1419, *Woods v. Telb*, Lucas App. No. L-99-1083.

F.E. Sweeney, J., dissents and would dismiss the cause.

**99-2287. Malcolm-Smith v. Goff.**

Cuyahoga App. No. 74648. On motion for stay of court of appeals' judgment. Motion granted.

**00-16. Kroh v. Continental Gen. Tire, Inc.**

Summit App. No. 19412. On motion for stay of court of appeals' decision. Motion denied.

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

**DISCRETIONARY APPEALS ALLOWED**

**99-1816. Butler v. Jordan.**

Cuyahoga App. No. 74509. Discretionary appeal allowed and cause to be argued on the same date as 99-1838 and 99-2106, *Campbell v. Burton*, Greene App. No. 99CA12.

Douglas and Pfeifer, JJ., dissent.

**99-1838. Campbell v. Burton.**

Greene App. No. 99CA12. Discretionary appeal allowed on Propositions of Law Nos. I, II, III and V, and cause consolidated with 99-2106, *Campbell v. Burton*, Greene App. No. 99CA12.

Douglas and Lundberg Stratton, JJ., would also allow on Proposition of Law No. IV.

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

**99-1876. Oberlin v. Akron Gen. Med. Ctr.**

Summit App. No. 18649.

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

**DISCRETIONARY APPEALS NOT ALLOWED**

**99-1891. Squires v. Whatman.**

Richland App. No. 99CA21.

**99-1899. Fabbro v. Natl. Fraternal Order of Eagles.**  
Licking App. No. 99CA00033.

**99-1902. Bach v. Bach.**  
Montgomery App. No. 17497.

**99-1915. Euclid v. Muller.**  
Cuyahoga App. No. 74541.

**99-1929. Gourash v. Gourash.**  
Cuyahoga App. Nos. 71882 and 73971.  
Moyer, C.J., dissents.

**99-1932. State Automotive Mut. Ins. Co. v. Lopez.**  
Franklin App. No. 99AP-15.  
Lundberg Stratton, J., dissents.

**99-1934. Duryee v. Rogers.**  
Franklin App. Nos. 98AP-1255 and 98AP-1256.

**99-1935. State v. Lee.**  
Hancock App. No. 5-99-20.

**99-1946. Friends of Ottawa River v. Schregardus.**  
Franklin App. No. 98AP-1314.  
Douglas, J., not participating.

**99-1948. Thomas v. Shaevitz.**  
Franklin App. No. 98AP-1370.

**99-1951. Security Natl. Bank & Trust Co. v. Springfield City School Dist. Bd. of Edn.**  
Clark App. No. 98CA104.  
Douglas, J., dissents.

**99-1959. Makris v. Scandinavian Health Spa, Inc.**  
Mahoning App. No. 98CA183.

**99-1967. Thomas v. Rittner.**  
Franklin App. No. 99AP-136.

**99-2034. Feldman v. State Med. Bd. of Ohio.**  
Franklin App. No. 98AP-1627.  
Douglas, J., dissents.

### **RECONSIDERATION DOCKET**

**98-190. Estate of Weitzel v. Cuyahoga Falls.**  
Portage App. No. 97-P-0036. Reported at 87 Ohio St.3d 200, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.  
Moyer, C.J., Cook and Lundberg Stratton, JJ., dissent.

**98-1040. State ex rel. Leyendecker v. Duro Test Corp.**  
Franklin App. No. 96APD08-1006. Reported at 87 Ohio St.3d 237, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.

**99-956. State ex rel. Bruggeman v. Auglaize Cty. Court of Common Pleas.**  
Auglaize App. No. 2-99-7. Reported at 87 Ohio St.3d 257, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.

**99-1313. Evans v. Klaeger.**  
Franklin App. No. 99AP-297. Reported at 87 Ohio St.3d 260, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.

**99-1621. State v. Reed.**  
Lucas App. No. L-98-1367. Reported at 87 Ohio St.3d 1450, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.  
Resnick, J., not participating.

**99-1696. Mun. Micro Computer Sys., Inc. v. Madonia.**  
Cuyahoga App. No. 76380. Reported at 87 Ohio St.3d 1451, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.

**99-1802. Agostinelli v. DeBartolo Realty Corp.**  
Mahoning App. No. 97CA227. Reported at 87 Ohio St.3d 1453, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.  
Pfeifer, J., dissents.

**99-1984. State v. Cool.**

Summit App. No. 19329. Reported at 87 Ohio St.3d 1445, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.

Lundberg Stratton, J., dissents.