

**SUPREME COURT OF OHIO**

**COLUMBUS**

**ANNOUNCEMENT**

9:00 A.M.

WEDNESDAY  
October 4, 2000

**MERIT DOCKET**

**00-660. USX Corp. v. Penn Cent. Corp.**

Cuyahoga App. No. 74755. On motion to strike motion to dismiss. Motion denied.

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

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

Pfeifer, Cook and Lundberg Stratton, JJ., dissent.

**00-1399. Bivens v. State Personnel Bd. of Review.**

In Mandamus. On motion to dismiss of State Personnel Board of Review and on motion to dismiss of Ohio Department of Commerce and Ohio Department of Administrative Services. Motions to dismiss sustained. Cause dismissed.

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

**00-1446. State ex rel. Harris v. Lorain Cty. Court of Common Pleas, Juv. Div.**

In Mandamus. On S.Ct.Prac.R. X(5) determination, cause dismissed.

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

**00-1460. State ex rel. Childers v. Hamilton Cty. Clerk of Court, Juv. Div.**

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.

**00-1524. Estep v. Wilkinson.**

In Habeas Corpus. On petition for writ of habeas corpus by Clifford R. Estep. *Sua sponte*, cause dismissed.

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

**00-1538. State ex rel. Caldwell v. Gabbard.**

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

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

**00-1558. Mack v. Brooks.**

In Habeas Corpus. On petition for writ of habeas corpus by Zavis D. Mack. *Sua sponte*, cause dismissed.

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

**00-1582. Hefner v. Ohio Adult Parole Auth.**

In Habeas Corpus. On petition for writ of habeas corpus by William G. Hefner. *Sua sponte*, cause dismissed.

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

**00-1598. Wooten v. Wilkinson.**

In Habeas Corpus. On petition for writ of habeas corpus by Danny R. Wooten, Jr. *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**

**00-1178. State v. Saffell.**

Wayne App. No. 2928.

**00-1156. State v. Brown.**

Greene App. No. 99CA86.

**00-1170. State v. Manley.**

Allen App. No. 1-99-102.

**00-1185. Williams v. Ohio Dept. of Rehab. & Corr.**

Franklin App. No. 99AP-843.

**00-1196. State v. Covey.**

Lucas App. No. L-98-1173.

**00-1200. Mann v. Daniel.**

Montgomery App. Nos. 18052 and 18142.

**00-1203. State v. Wilson.**

Lucas App. No. L-99-1124.

Resnick and Lundberg Stratton, JJ., dissent.

**00-1209. State v. Mix.**

Tuscarawas App. No. 2000AP020020.

**00-1213. State ex rel. Wilson v. Clinton Cty. Court of Common Pleas.**

Clinton App. No. CA99-08-023.

**00-1216. State v. Evans.**

Clinton App. Nos. CA200001001 and CA200001002.

**00-1227. State v. Rodriguez.**

Defiance App. No. 4200002.

**00-1234. State v. Richey.**  
Putnam App. No. 12200003.

**00-1239. State v. Douse.**  
Cuyahoga App. No. 76069.  
Lundberg Stratton, J., dissents.  
Resnick, J., not participating.

**00-1240. Wysowaty v. J.C. Penney Co.**  
Lucas App. No. L-99-1288.  
Resnick, J., not participating.

**00-1243. Oakman v. Wise.**  
Hancock App. No. 5200001.

**00-1253. Levengood v. Levengood.**  
Tuscarawas App. No. 1998AP100114.  
Pfeifer, J., dissents.

**00-1254. State v. Bolton.**  
Columbiana App. No. 98CO33.

**00-1260. State v. Bird.**  
Franklin App. No. 99AP-823.  
Pfeifer, J., dissents.

**00-1266. State v. Simon.**  
Lake App. No. 98-L-134.  
Cook, J., would allow on Proposition of Law No. I.  
Lundberg Stratton, J., would allow.

**00-1268. Krzynowek v. Krzynowek.**  
Cuyahoga App. No. 75893.  
Resnick, J., not participating.

**00-1269. State v. King.**  
Medina App. No. 2963-M.

**00-1270. Master v. Chalko.**  
Cuyahoga App. No. 75973.

**00-1278. Ramey v. Collins.**  
Scioto App. No. 99CA2665.

**00-1279. Cleveland v. Cleveland Police Patrolman's Assn.**  
Cuyahoga App. No. 76181.  
Lundberg Stratton, J., dissents.

**00-1281. Akron Hous. Appeals Bd. v. Zindle.**  
Summit App. No. 19822.

**00-1289. Johnson v. Dublin.**  
Franklin App. No. 99AP-1241.

**00-1290. Fourth & Plum Apts. v. Tuzzolino.**  
Hamilton App. No. C-990568.

**00-1291. State v. Manning.**  
Lorain App. No. 98CA007212.

**00-1297. State v. Leaks.**  
Richland App. No. 99CA68.

**00-1305. In re Harris.**  
Tuscarawas App. No. 1999AP030013.  
Resnick, J., dissents.

**00-1306. State v. Ushery.**  
Hamilton App. No. C-990329.

**00-1307. State v. Mayfield.**  
Summit App. No. 19764.

**00-1311. State v. Kavlich.**  
Cuyahoga App. No. 77217.

**00-1340. Saffold v. Hillside Rehab. Hosp.**  
Mahoning App. No. 99CA76.

**00-1363. State v. Eberle.**  
Clermont App. No. CA97-03-019.  
Lundberg Stratton, J., dissents.

**00-1394. State v. Steele.**  
Hamilton App. No. C-990102.

**00-1403. State v. Dominguez.**  
Hamilton App. No. C-980148.

**00-1413. State v. Alvarez.**  
Lorain App. No. 00CA007544.  
Cook, J., dissents.

### **MOTION DOCKET**

**00-1115. State ex rel. Madonia v. Callahan.**  
In Mandamus. On motion for stay of foreclosure pending disposition of the motion for reconsideration. Motion denied.

**00-1518. State ex rel. Saffel v. Wiest.**  
Wayne App. No. 00CA0028. On motion for leave to file delayed appeal. Motion denied.  
Moyer, C.J., and Pfeifer, J., dissent.

**00-1525. State v. Hoffman.**  
Huron App. No. H-99-035. On motion for leave to file delayed appeal. Motion granted.  
Douglas and F.E. Sweeney, JJ., dissent.  
Resnick, J., not participating.

**00-1580. State v. Kelly.**  
Cuyahoga App. No. 74912. On motion for leave to file delayed appeal. Motion denied.

**00-1581. State v. Mitchell.**

Montgomery App. No. 17763. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

**00-1595. State v. Barnes.**

Portage App. No. 98-P-0052. On motion for stay of court of appeals' judgments. Motion granted.

Lundberg Stratton, J., dissents.

**00-1596. State v. Trummer.**

Columbiana App. No. 95CO15. On motion for leave to file delayed appeal. Motion denied.

**00-1605. State v. Brant.**

Portage App. No. 99-P-0037. On motion for stay of court of appeals' judgment. Motion granted.

Lundberg Stratton, J., dissents.

**00-1613. Rizvi v. State Med. Bd. of Ohio.**

Franklin App. No. 99AP-1136. On motion for stay of court of appeals' decision. Motion granted.

Douglas and Resnick, JJ., dissent.

**DISCRETIONARY APPEALS ALLOWED**

**00-1076. Royster v. Toyota Motor Sales, U.S.A., Inc.**

Cuyahoga App. No. 75634.

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

**00-1134. Benton v. Cuyahoga Metro. Hous. Auth.**

Cuyahoga App. No. 76508. Discretionary appeal allowed and cause held for the decision in 00-472 and 00-481, *Johnson v. Greene Cty. Drug Task Force*, Greene App. No. 99CA61; briefing schedule stayed.

Douglas, J., dissents.

Resnick, J., not participating.

**00-1145. Davis v. Wal-Mart Stores, Inc.**

Cuyahoga App. No. 75224. Discretionary appeal allowed and motion for admission *pro hac vice* of Melanie P. Sarwal by Brian G. Selden granted.

Resnick and Pfeifer, JJ., dissent.

**00-1151. State v. Mitchell.**

Cuyahoga App. No. 77428. The discretionary appeal is allowed on Proposition of Law No. III.

Moyer, C.J., Cook and Lundberg Stratton, JJ., would also reverse the judgment and remand the cause on authority of *Woods v. Telb* (2000), 89 Ohio St.3d 504, 733 N.E.2d 1103.

Resnick, J., would allow all propositions of law.

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

**00-1154. Jones v. Ashland Chem. Co.**

Franklin App. No. 99AP-764.

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

**00-1160. Liechty v. Yoder Mfg., Inc.**

Cuyahoga App. No. 75654. The discretionary appeal is allowed and the cause is consolidated with 00-769, *Goodin v. Columbia Gas of Ohio, Inc.*, Athens App. No. 99CA30.

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

**00-1168. Kelm v. Kelm.**

Franklin App. No. 99AP-747.

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

**00-1177. State v. Hlavsa.**

Cuyahoga App. No. 76221. The discretionary appeal is allowed on Proposition of Law No. I; *sua sponte*, cause held for the decision in 00-357 and 00-415, *State v. Wells*, Montgomery App. No. 17501; briefing schedule stayed.

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

**00-1273. Wampler v. Higgins.**

Pickaway App. No. 2000CA5.

Douglas, Resnick and Lundberg Stratton, JJ., dissent.

**DISCRETIONARY APPEALS NOT ALLOWED**

**00-1163. Chatfield v. Chatfield.**

Marion App. No. 9200008.

Lundberg Stratton, J., not participating.

**00-1195. Angles v. Sears, Roebuck & Co.**

Miami App. No. 20005.

**00-1199. Indiana Ins. Co. v. Hardgrove.**

Franklin App. No. 99AP-1132.

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

**00-1204. Doody v. Centerior Energy Corp.**

Lake App. No. 98-L-235.

Douglas, J., dissents.

Cook, J., not participating.

**00-1221. Syphax v. Kirkland.**

Warren App. No. CA99-05-049.

F.E. Sweeney, J., dissents.

**00-1225. Kubicek v. Kubicek.**

Cuyahoga App. Nos. 76815, 76916 and 77088.

**00-1232. Columbus Show Case Co. v. ABF Freight Sys., Inc.**

Franklin App. No. 99AP-865.

Moyer, C.J., dissents.

**00-1241. LeuVoy v. LeuVoy.**

Franklin App. No. 99AP-737.

**00-1244. State v. Forgette.**

Lucas App. No. L-99-1036.

Resnick, J., not participating.

**00-1246. State v. Mitchell.**

Hamilton App. No. C-990756.

**00-1261. Metro. Prop. & Cas. Ins. Co. v. Lengyel.**  
Summit App. Nos. 19460 and 19479.  
Pfeifer, J., dissents.

**00-1272. Cooper v. Ohio Bur. of Workers' Comp.**  
Warren App. Nos. CA99-07-082 and CA99-09-108.

**00-1282. State v. Houston.**  
Franklin App. No. 99AP-850.  
Lundberg Stratton, J., dissents.

**00-1292. Haller v. Wiles, Doucher, Van Buren & Boyle Co., L.P.A.**  
Franklin App. No. 99AP-1341.  
Moyer, C.J., and Lundberg Stratton, J., not participating.

**00-1293. Inchaurregui v. Ford Motor Co.**  
Lorain App. No. 98CA007187.  
F.E. Sweeney, J., dissents.

**00-1361. Hand v. Paragon Steak House Restaurants.**  
Lorain App. No. 99CA007292.

**00-1383. Kucharski v. Weakland.**  
Portage App. No. 99-P-0013. On motion for sanctions for frivolous action by Joan and William Weakland. Motion denied.

### **RECONSIDERATION DOCKET**

**98-664. Cincinnati Bar Assn. v. Adjustment Serv. Corp.**  
Reported at 89 Ohio St.3d 385, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration.  
Motion denied.

**98-666. Cincinnati Bar Assn. v. Fuqua.**  
Reported at 89 Ohio St.3d 385, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration.  
Motion denied.

**99-1107. State v. Homan.**

Erie App. No. E-97-100. Reported at 89 Ohio St.3d 421, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration, *amicus curiae* motion for leave to file under S.Ct.Prac.R. XI by Ohio Municipal Attorneys Association, *amicus curiae* motion for leave to file under S.Ct.Prac.R. XI by Ohio Attorney General Betty D. Montgomery, *amicus curiae* motion for leave to file under S.Ct.Prac.R. XI by Mothers Against Drunk Driving, and *amicus curiae* motion for leave to file under S.Ct.Prac.R. XI by Ohio Prosecuting Attorneys Association et al. The above motions fail for want of four votes on the following vote:

Moyer, C.J., F.E. Sweeney and Pfeifer, JJ., vote no.  
Douglas, Cook and Lundberg Stratton, JJ., vote yes.  
Resnick, J., not participating.

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

Trumbull App. Nos. 99-T-0055, 99-T-0056, 99-T-0057 and 99-T-0058. Reported at 90 Ohio St.3d 91, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.

**00-696. State ex rel. Montgomery v. Bolt-Meredith.**

In Mandamus. Reported at 89 Ohio St.3d 1475, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.

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