

The Supreme Court of Ohio

CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

June 12, 2002

MERIT DECISIONS WITH OPINIONS

2000-0886. State ex rel. United Auto Aerospace & Agricultural Implement Workers of Am. v. Ohio Bur. of Workers' Comp., 2002-Ohio-2491.

Franklin App. No. 99AP-406. Judgment affirmed and writ granted.

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

Resnick, J., concurs in syllabus and judgment.

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

2000-1705. Cincinnati v. Beretta U.S.A. Corp., 2002-Ohio-2480.

Hamilton App. Nos. C-990729, C-990814 and C-990815. Judgment reversed and cause remanded.

Douglas, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

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

2001-0120 and 2001-0121. Lynch v. Yob, 2002-Ohio-2485.

Trumbull App. Nos. 99-T-0062 and 99-T-0065. Judgments reversed.

Douglas, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

Moyer, C.J., T. Bryant and Lundberg Stratton, JJ., dissent.

Thomas F. Bryant, J., of the Third Appellate District, sitting for Cook, J.

2001-0615. Internal. Periodical Distrib. v. Bizmart, Inc., 2002-Ohio-2488.

Cuyahoga App. No. 77787. Judgment affirmed.

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

Cook, J., concurs in judgment only.

Douglas, J., dissents.

2001-0741. Hartmann v. Duffey, 2002-Ohio-2486.

Stark App. No. 2000CA00239. Judgment reversed.

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

Cook and Lundberg Stratton, JJ., dissent.

2001-0948 and 2001-0949. Vandalia-Butler City School Dist. Bd. of Edn. v. Montgomery Cty. Bd. of Revision, 2002-Ohio-2489.

Board of Tax Appeals, Nos. 98-M-1013 and 98-M-1014. Decisions reversed.

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

Pfeifer, J., concurs in part and dissents in part.

2001-1631. Cleveland Bar Assn. v. Dixon, 2002-Ohio-2490.

On Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 00-85.

Debra J. Dixon is permanently disbarred.

Moyer, C.J., Pfeifer, Cook and Lundberg Stratton, JJ., concur.

Douglas, dissents.

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

2001-2059. State ex rel. Johnson v. Ohio Adult Parole Auth., 2002-Ohio-2481.

Scioto App. No. 00CA2743. Judgment affirmed.

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

2001-2195. Medina Cty. Bar Assn. v. Flickinger, 2002-Ohio-2483.

On Final Report by the Board of Commissioners on the Unauthorized Practice of Law, No. UPL012. The unauthorized practice of law is enjoined.

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

2001-2220. Disciplinary Counsel v. Richardson, 2002-Ohio-2484.

On Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 01-31.

Eric N. Richardson is indefinitely suspended from the practice of law.

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

2001-2227. Columbus Bar Assn. v. Patterson, 2002-Ohio-2487.

On Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 01-46.

Brent Paul Patterson is suspended from the practice of law for one year with credit for time served.

Resnick, F.E. Sweeney, Pfeifer and Cook, JJ., concur.

Moyer, C.J., concurs separately.

Douglas and Lundberg Stratton, JJ., dissent.

2002-0045. State ex rel. White v. Suster, 2002-Ohio-2482.

Cuyahoga App. No. 79986, 2001-Ohio-4158. Judgment affirmed.

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

MERIT DECISIONS WITHOUT OPINIONS

2002-0550. State v. Latham.

Coshocton App. No. 01CA1, 2001-Ohio-1556. The discretionary appeal is allowed. Sua sponte, this cause is remanded to the court of appeals to consider the App.R. 26(B) application for reopening pursuant to S.Ct.Prac.R. II(2)(D)(1).

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

2002-0566. State ex rel. Carter v. Ohio Adult Parole Auth.

In Mandamus. On motion to dismiss and motion for summary judgment. Motion to dismiss sustained. Cause dismissed.

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

2002-0604. State ex rel. Parma v. Eighth Appellate Dist.

In Prohibition. 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.

2002-0616. Killings v. Gorman.

In Procedendo. 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.

2002-0623. State ex rel. Jones v. Taubi.

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.

2002-0653. State ex rel. Martin v. Cox.

In Mandamus. On answer of respondent. 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.

2002-0665. State ex rel. Semenchuk v. Court of Claims of Ohio.

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.

2002-0745. Condon v. Edwards.

In Habeas Corpus. On petition for writ of habeas corpus of Thomas Condon. Sua sponte, cause dismissed.

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

2002-0779. State v. Griffin.

In Habeas Corpus. On petition for writ of habeas corpus of Antonio Griffin. Sua sponte, cause dismissed.

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

MOTION AND PROCEDURAL RULINGS

2001-0871. State v. Ahmed.

Belmont C.P. No. 99CR192. On motion for ruling on claimed conflict of interest. Motion stricken.

Cook, J., would deny the motion.

On pro se motion to disqualify and remove Public Defender's Office from representation of appellant and pro se motion for stay of proceedings. Motions denied.

2001-1912. In re Consol. Mtge. Satisfaction Cases.

Hamilton App. No. C-010137. On motion of Carey Allen for admission pro hac vice of Jan Chilton on behalf of Associates Financial Services et al., motion for admission pro hac vice of J. Preston Turner by Robert G. Cohen for First Union Home Equity Bank, N.A., motion for admission pro hac vice of Eric Berg by John C. Murdock, and motion for admission pro hac vice by Christopher L. Moore of Mark G. Schroeder for Capstead, Inc. Motions granted.

2001-1955. Panozzo v. Allstate Ins. Co.

Cuyahoga App. No. 79083. On motion for admission pro hac vice of Peter J. Valeta by Stanley S. Keller. Motion granted.

2001-2036. Ohio State Bldg. & Constr. Trades Council v. Cuyahoga Cty. Bd. of Commrs.

Cuyahoga App. Nos. 77242 and 77262, 2001-Ohio-4228. On motion for admission pro hac vice of William L. Messenger of National Right to Work by Susan Carson Rogers. Motion granted.

2001-2154. Rancman v. Interim Settlement Funding Corp.

Summit App. No. 20523, 2001-Ohio-1669. On amended motion for admission pro hac vice of A.T. Savage by R.M. Stefancin for Interim Settlement Funding Corp. Motion granted.

2002-0524. State ex rel. Commt. for the Referendum of Lorain Ord. No. 77-01 v. Lorain Cty. Bd. of Elections.

In Mandamus. On answer of respondent, motion for leave to intervene of Thomas Oster, and motion to dismiss of intervening respondent Thomas Oster. Motion for leave to intervene granted.

Motion to dismiss denied and alternative writ granted.

Pfeifer, J., dissents and would dismiss the cause.

2002-0736. State v. Pesci.

Cuyahoga App. No. 80132. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2002-0759. State v. Rogers.

Columbiana App. No. 01CO5, 2002-Ohio-1150. On motion for leave to file delayed appeal. Motion granted.

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

2002-0765. In re Hogan.

Allen App. No. 10-11-45, 2002-Ohio-1769. On motion for stay of court of appeals' judgment. Motion denied.

2002-0767. State v. York.

Seneca App. No. 13-01-19, 2002-Ohio-1398. On review of order certifying a conflict. The court determines that a conflict exists; sua sponte, cause held for the decision in 2002-0201, *State v. Fisher*, Franklin App. No. 01AP-614, 2001-Ohio-8772; briefing schedule stayed.

Douglas, J., concurs in part because he would consolidate this cause with 2002-0201.

2002-0771. Robinson v. Springfield Local School Dist. Bd. of Edn.

Summit App. No. 20606, 2002-Ohio-1382. On motion for stay of court of appeals' judgment. Motion denied.

Douglas and Lundberg Stratton, JJ., dissent.

2002-0814. Citicasters Co. v. Stop 26-Riverbend, Inc.

Mahoning App. Nos. 00CA149 and 00CA212, 2002-Ohio-2286. On motion for stay of court of appeals' judgment. Motion granted and bond continued.

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

2002-0815. State v. Patrick.

Cuyahoga App. No. 78605. On motion for leave to file delayed appeal. Motion denied.

2002-0856. Cleveland Clinic Found. v. Commerce Group Benefits, Inc.

Cuyahoga App. No. 79907, 2002-Ohio-1414. On application for continuation of supersedeas bond. Motion granted.

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

APPEALS ACCEPTED FOR REVIEW

2002-0442. Randolph v. Ohio Adult Parole Auth.

Miami App. No. 2001CA36, 2002-Ohio-547. Appeal allowed and cause held for the decision in 2001-1253 and 2001-1266, *Layne v. Ohio Adult Parole Auth.*, Marion App. No. 9-2001-06, 2001-Ohio-2222; briefing schedule stayed.

Moyer, C.J., and Cook, J., concur in part because they would allow only on Proposition of Law No. II.

APPEALS NOT ACCEPTED FOR REVIEW

2002-0354. In re Skinner.

Stark App. No. 2001CA00160, 2001-Ohio-1916.

2002-0365. State v. Torr.

Franklin App. No. 00AP-1418, 2002-Ohio-524. Appeal and cross-appeal not allowed.

Moyer, C.J., dissents.

2002-0395. State v. Upkins.

Shelby App. No. 17-01-15.

Lundberg Stratton, J., dissents.

2002-0455. State v. Oliver.

Hamilton App. No. C-000319.

2002-0461. State v. Brown.

Tuscarawas App. No. 2001AP070066, 2002-Ohio-724.

2002-0465. HER, Inc. v. Parenteau.

Franklin App. No. 01AP-755, 2002-Ohio-577.

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

2002-0472. Miller v. Delaney.

Greene App. No. 2001CA109, 2002-Ohio-546.

2002-0473. State v. Shepherd.

Summit App. No. 20364, 2002-Ohio-455.

2002-0478. State v. Smith.
Cuyahoga App. No. 80771.

2002-0479. State v. Nero.
Cuyahoga App. No. 79866, 2002-Ohio-656.

2002-0481. Zacchaeus v. Mt. Carmel Health Sys.
Franklin App. No. 01AP-683, 2002-Ohio-444.
F.E. Sweeney, J., dissents.

2002-0483. Mudrinich v. Knack.
Pickaway App. Nos. 00CA45 and 01CA4, 2002-Ohio-688.
Cook, J., dissents.

2002-0484. State v. Barbarotta.
Cuyahoga App. No. 79324, 2002-Ohio-334.

2002-0489. State v. Keenan.
Summit App. No. 20633, 2002-Ohio-218.

2002-0490. Mayfield v. Chubb Ins. Co.
Stark App. No. 2001CA00244, 2002-Ohio-767.
Resnick and F.E. Sweeney, JJ., dissent.

2002-0492. State v. Bell.
Preble App. No. CA2001-06-009, 2002-Ohio-561.
Pfeifer, J., dissents.

2002-0496. Culbertson v. Wigley Title Agency, Inc.
Summit App. No. 20659, 2002-Ohio-714.
F.E. Sweeney and Pfeifer, JJ., dissent.

2002-0502. State v. Coleman.
Franklin App. No. 01AP-734, 2002-Ohio-582.

2002-0503. Moton v. Carroll.
Franklin App. No. 01AP-772, 2002-Ohio-567.

2002-0507. State v. McIntosh.

Hamilton App. No. C-010310.

2002-0509. Resner v. Owners Ins. Co.

Allen App. No. CA2001-00-91.

Lundberg Stratton, J., dissents.

2002-0510. State v. Lovely.

Scioto App. No. 00CA2721, 2001-Ohio-2440.

2002-0511. State v. Mason.

Greene App. No. 2001CA113, 2002-Ohio-930.

Douglas, J., dissents.

2002-0515. State v. O'Hara.

Hamilton App. No. C-010391.

2002-0520. Snyder v. Ohio Dept. of Transp.

Franklin App. No. 01AP-704, 2002-Ohio-621.

F.E. Sweeney, J., dissents.

2002-0523. Walton v. Ohio State Bur. of Emp. Serv.

Franklin App. No. 01AP-779, 2002-Ohio-681.

Pfeifer, J., dissents.

2002-0527. State v. Dimmings.

Cuyahoga App. No. 80149, 2002-Ohio-803.

Douglas and Pfeifer, JJ., dissent.

2002-0528. State v. Rowland.

Franklin App. No. 01AP-368.

Pfeifer, J., dissents.

2002-0530. Domsitz v. Ohio Liquor Control Comm.

Franklin App. No. 01AP-810, 2002-Ohio-626.

2002-0531. State v. Robinson.

Cuyahoga App. No. 79825, 2002-Ohio-805.

2002-0533. State v. O’Hara.

Hamilton App. Nos. C-000314 and C-000318.

2002-0536. Morrison v. First Natl. Bank of Zanesville.

Franklin App. No. 01AP-555, 2002-Ohio-783.

2002-0539. State v. Kortum.

Warren App. No. CA2001-04-034, 2002-Ohio-613.

Pfeifer, J., dissents.

2002-0540. State v. Lewis.

Summit App. No. 14632.

2002-0541. Charter One Bank F.S.B. v. Hamburger.

Lucas App. No. L-01-1332, 2002-Ohio-745.

F.E. Sweeney, J., dissents.

Resnick, J., not participating.

2002-0542. State v. Hutton.

Lucas App. No. L-00-1285, 2002-Ohio-742.

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

Resnick, J., not participating.

2002-0543. DePalmo v. Schumacher Homes, Inc.

Stark App. No. 2001CA272, 2002-Ohio-770.

2002-0546. State v. Hills.

Cuyahoga App. No. 78546, 2002-Ohio-497.

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

2002-0547. State v. Byrd.

Cuyahoga App. No. 79661, 2002-Ohio-661.

2002-0553. In re Trust of Papuk.

Cuyahoga App. No. 80078, 2002-Ohio-964.

Pfeifer, J., dissents.

2002-0560. Haas v. Chagrin Falls.
Cuyahoga App. No. 79659, 2002-Ohio-585.
Douglas and F.E. Sweeney, JJ., dissent.

2002-0562, State v. Keenan.
Summit App. No. 20528, 2002-Ohio-754.
Pfeifer, J., dissents.

2002-0567. State v. Wright.
Columbiana App. No. 97CO35, 2002-Ohio-1548.

2002-0571. State v. Sanders.
Hamilton App. No. C-010256.

2002-0574. State v. Stallings.
Summit App. No. 20612, 2002-Ohio-826.

2002-0580. State v. Linscott.
Summit App. No. 20525, 2001-Ohio-1661.
Pfeifer, J., dissents.

2002-0581. State v. Phillips.
Summit App. No. 20692, 2002-Ohio-823.

2002-0582. State v. Villarreal.
Huron App. Nos. H-01-001 and H-01-002.
Resnick, J., not participating.

2002-0588. State v. Spatney.
Summit App. No. 20686, 2002-Ohio-825.

2002-0590. State v. Kobelka.
Lorain App. No. 01CA007808, 2001-Ohio-1723.

2002-0595. State v. Eden.
Lorain App. No. 00CA007569.

2002-0596. State v. Putnam.
Summit App. No. 20629, 2002-Ohio-824.

2002-0598. State v. Lefthandbull.

Franklin App. No. 00AP-584.

2002-0600. State v. Stockwell.

Cuyahoga App. No. 78501.

Pfeifer, J., dissents.

2002-0629. Metzenbaum v. Vitantonio.

Cuyahoga App. Nos. 79477, 79478, 79479, 79480 and 79481, 2002-Ohio-489.

2002-0664. State v. Murdock.

Portage App. No. 2001-P-0013, 2002-Ohio-1173.

RECONSIDERATION OF PRIOR DECISIONS

2002-0173. Brown v. Thomas Asphalt Paving Co.

Portage App. No. 2000-P-0098, 2001-Ohio-8721. Reported at 95 Ohio St.3d 1440, 2002-Ohio-2110, 767 N.E.2d 272. Motion denied.

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

2002-0198. Hannah v. Sibcy Cline Realtors.

Hamilton App. No. C-010084, 2001-Ohio-3912. Reported at 95 Ohio St.3d 1436, 2002-Ohio-2084, 766 N.E.2d 1002. On motion for reconsideration, amicus curiae motion for leave to file under S.Ct.Prac.R. XI of Housing Opportunities Made Equal (“HOME”), motion for admission pro hac vice of Mary Kate Brandon by Ted L. Willis, Esq. for The Buyer’s Agent, Inc., and amicus curiae motion for leave to file under S.Ct.Prac.R. XI of The Buyer’s Agent, Inc. Motions denied.

Pfeifer, J., dissents.

2002-0249. Stump v. Treasurer of State.

Franklin App. No. 01AP-558, 2001-Ohio-8867. Reported at 95 Ohio St.3d 1441, 2002-Ohio-2110, 767 N.E.2d 272. On motion for reconsideration. Motion denied.

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

2002-0252. Robinson v. Nationwide Mut. Ins. Co.

Lake App. No. 2000-L-119, 2001-Ohio-8793. Reported at 95 Ohio St.3d 1441, 2002-Ohio-2110, 767 N.E.2d 272. On motion for reconsideration. Motion granted and appeal allowed.

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

2002-0340. State v. Coldiron.

Auglaize App. No. 2-2000-31, 2001-Ohio-2250. Reported at 95 Ohio St.3d 1438, 2002-Ohio-2084, 766 N.E.2d 1003. On motion for reconsideration. Motion denied.

2002-0353. Potts v. DeWeese.

Richland App. No. 01CA66, 2002-Ohio-245. Reported at 95 Ohio St.3d 1438, 2002-Ohio-2084, 766 N.E.2d 1003. On motion for reconsideration. Motion denied.

2002-0369. Trussell v. United Ohio Ins. Co.

Perry App. No. 01CA15. Reported at 95 Ohio St.3d 1441, 2002-Ohio-2110, 767 N.E.2d 273. On motion for reconsideration. Motion granted, appeal allowed, and cause held for the decision in 2001-1474 and 2001-1867, *Hillyer v. State Farm Fire & Cas. Co.*, Cuyahoga App. No. 79176; briefing schedule stayed.

Lundberg Stratton, J., dissents.