

The Supreme Court of Ohio

March 20, 2002

CASE ANNOUNCEMENTS

MERIT DECISIONS WITHOUT OPINIONS

02-103. State ex rel. Martin v. State Med. Bd.

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

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

02-113. State ex rel. Creasey v. Corrigan.

In Mandamus. On motion to dismiss of Judge Daniel O. Corrigan and Judge William E. Mahon. Motion to dismiss sustained. Cause dismissed.

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

02-127. State ex rel. Jackson v. Crush.

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.

02-241. Walker v. Ganshiemer.

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

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

MOTION AND PROCEDURAL RULINGS

98-1475. State v. Hartman.

Summit C.P. No. CR97091987. On application for reopening under S.Ct.Prac.R. XI(5). Application denied.

01-1009. Cleveland Elec. Illum. Co. v. Lake Cty. Bd. of Revision.

Board of Tax Appeals, Nos. 00-K-1751, 00-K-1752, 00-K-1753, 00-K-1754, 00-K-1755, 00-K-1756, 00-K-1757 and 00-K-1758. *Sua sponte*, cause consolidated with 01-1872, *S. Broad Co., Ltd. v. Montgomery Cty. Bd. of Revision*, Board of Tax Appeals, No. 00-M-2065.

Cook, J., not participating.

01-1132. New Par v. Pub. Util. Comm.

Public Utilities Commission, No. 93-1758-RC-CSS. On motion for leave to intervene as appellee of Westside Cellular, Inc., d.b.a. Cellnet. Motion granted.

Resnick, J., not participating.

On motion to dismiss of Westside Cellular, Inc., d.b.a. Cellnet. Motion denied.

Resnick, J., not participating.

01-1158. Cincinnati SMSA L.P. v. Pub. Util. Comm.

Public Utilities Commission, No. 93-1758-RC-CSS. On motion for leave to intervene as appellee of Westside Cellular, Inc., d.b.a. Cellnet. Motion granted.

Resnick, J., not participating.

On motion to dismiss of Westside Cellular, Inc., d.b.a. Cellnet. Motion denied.

Resnick, J., not participating.

01-1165. Frenchtown Square Partnership v. Lemstone, Inc.

Mahoning App. No. 99CA300. On motion to consolidate case with 01-2259, *Frenchtown Square Partnership v. Lemstone, Inc.*, Mahoning App. No. 99CA300. Motion granted.

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

01-1678. Luckenbill v. Midwestern Indemn. Co.

Darke App. No. 01CA1536. On motion to dismiss based on mootness of conflict. Motion denied.

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

Moyer, C.J., Pfeifer and Cook, JJ., concur but would hold this cause for the decision in 01-1474 and 01-1867, *Hillyer v. State Farm Fire & Cas. Co.*, Cuyahoga App. No. 79176.

Lundberg Stratton, J., dissents and would grant the motion.

01-1872. S. Broad Co., Ltd. v. Montgomery Cty. Bd. of Revision.

Board of Tax Appeals, No. 00-M-2065. *Sua sponte*, cause consolidated with 01-1009, *Cleveland Elec. Illum. Co. v. Lake Cty. Bd. of Revision*, Board of Tax Appeals, Nos. 00-K-1751, 00-K-1752, 00-K-1753, 00-K-1754, 00-K-1755, 00-K-1756, 00-K-1757 and 00-K-1758.

Cook, J., not participating.

02-228. State v. James.

Franklin App. Nos. 00AP-1174 and 00AP-1175. On motion for leave to file delayed appeal. Motion granted.

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

02-244. State v. Shackelford.

Montgomery App. No. 18297. On motion for leave to file delayed appeal. Motion denied.

Lundberg Stratton, J., dissents.

02-248. Cincinnati Ins. Co. v. Anders.

Greene App. No. 2001CA42. 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 January 11, 2002:

“Whether insurance policies covering personal injuries arising out of property damage provide coverage to homeowners who are sued for their negligent failure to disclose to purchasers damage to the property that occurred during the sellers' occupancy.”

Douglas and Lundberg Stratton, JJ., dissent.

Cook, J., not participating.

The conflict case is *Spalding v. Aetna Cas. & Sur. Co.* (Oct. 11, 1994), Stark App. No. 9429, unreported, 1994 WL 590438.

02-282. State v. Williams.

Summit App. No. 20672. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

02-299. Gordon v. Gordon.

Warren App. No. CA2001-04-033. 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 Granting Motion to Certify dated January 17, 2002:

“Where objections to a magistrate’s decision are filed in advance of the filing of the magistrate’s decision to which the objections apply, does the trial court err as a matter of law or abuse its discretion by overruling the objections as untimely?”

Douglas and Resnick, JJ., dissent.

The conflict case is *Koss v. Koss* (June 29, 1982), Mahoning App. No. 81-C.A.-47, unreported, 1982 WL 6152.

APPEALS ALLOWED FOR REVIEW

01-2155. Bergstrom v. State Farm Fire & Cas. Co.

Cuyahoga App. No. 79775. Appeal allowed and cause held for the decision in 01-1474 and 01-1867, *Hillyer v. State Farm Fire & Cas. Co.*, Cuyahoga App. No. 79176; briefing schedule stayed.

Lundberg Stratton, J., dissents.

01-2166. Atkins v. Chudowsky.

Lorain App. No. 01CA007834.

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

01-2192. Ruth v. Moncrief.

Montgomery App. No. 18479. Appeal allowed.

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

Cross-appeal denied.

Douglas and Pfeifer, JJ., dissent.

01-2251. Shampton v. Springboro.

Warren App. Nos. CA2000-08-080 and CA2000-09-081.

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

01-2257. Haberley v. Nationwide Mut. Fire Ins. Co.

Cuyahoga App. No. 80006. Appeal allowed and cause held for the decision in 01-1474 and 01-1867, *Hillyer v. State Farm Fire & Cas. Co.*, Cuyahoga App. No. 79176; briefing schedule stayed.

Lundberg Stratton, J., dissents.

01-2259. Frenchtown Square Partnership v. Lemstone, Inc.

Mahoning App. No. 99CA300. On motion to consolidate case with 01-1165, *Frenchtown Square Partnership v. Lemstone, Inc.*, Mahoning App. No. 99CA300. Appeal allowed and motion granted.

Resnick, J., dissents.

APPEALS NOT ALLOWED FOR REVIEW

01-2228. State v. Eley.

Mahoning App. No. 99CA109. On discretionary appeal and motion requesting a competency evaluation of John J. Eley. Appeal and motion denied.

Pfeifer, J., dissents.

01-2267. State v. Penny.

Hamilton App. No. C-010038.

Lundberg Stratton, J., dissents.

01-2281. Breeding v. German Twp. Bd. of Trustees.

Montgomery App. No. 18760.

01-2282. McDonald v. Dayton.

Montgomery App. No. 18721.

Moyer, C.J., dissents.

01-2283. Talbot v. Talbot.

Greene App. No. 2001CA17.

02-3. Alliance v. Warfel.

Stark App. No. 2001CA134.

02-4. Moore v. Lighthizer.

Muskingum App. No. 01CA8.

02-5. State v. Martin.

Washington App. No. 00CA28.

02-6. Sharma v. Sahota.

Geauga App. No. 2000-G-2290.

Douglas, J., dissents.

02-7. Featherstone v. Ohio State Univ. College of Dentistry.

Franklin App. No. 01AP-693.

02-8. Tackett v. Columbia Energy Group Serv. Corp.

Franklin App. No. 01AP-89.

02-10. State v. Waldron.

Cuyahoga App. No. 80207.

Lundberg Stratton, J., dissents.

02-17. State v. Hall.

Montgomery App. No. 18724.

02-18. Kenney v. Kenney.

Warren App. No. CA2001-04-036.

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

02-19. Delong v. S. Point Local School Dist. Bd. of Edn.

Lawrence App. No. 01CA11.

02-21. State v. White.

Cuyahoga App. No. 78190.

02-22. State v. Sinkfield.

Montgomery App. No. 18663.

02-24. State v. Ridgeway.

Washington App. No. 00CA19.

02-25. State v. Woods.

Cuyahoga App. No. 79352.

Lundberg Stratton, J., dissents.

02-26. Middletown v. McIntosh.
Butler App. No. CA2001-09-212.

02-31. State v. Riley.
Hamilton App. No. C-010221.

02-33. State v. Eberhard.
Franklin App. Nos. 01AP-546, 01AP-547, 01AP-548 and 01AP-550.

02-35. State v. Watson.
Ashtabula App. No. 2000-A-0082.

02-36. State v. Armstead.
Franklin App. No. 01AP-44.

02-37. Hart v. Clow Water Sys./McWayne, Inc.
Coshocton App. Nos. 01CA004 and 01CA005.

02-38. State v. Pruhs.
Clermont App. No. CA2001-03-037.

02-40. Ross v. Kinkela.
Cuyahoga App. No. 79411.
Pfeifer, J., dissents.

02-41. Regional Imaging Consultants Corp. v. Computer Billing Serv., Inc.
Mahoning App. No. 00CA79.

02-42. State v. Roeder.
Allen App. No. 1-01-119.

02-47. State v. White.
Cuyahoga App. No. 79135.

02-54. State v. Daniels.
Hamilton App. No. C-010070.

02-55. Ward v. Graydon, Head & Ritchey.
Clermont App. No. CA2001-03-038.
Moyer, C.J., and Resnick, J., dissent.

02-56. State v. Strong.
Lawrence App. No. 00CA35.

02-58. State v. Bryant.
Mahoning App. No. 99CA135.

02-81. State v. Williams.
Hamilton App. No. C-010088.

02-88. Jeranek v. Cornwell.
Hamilton App. No. C-010099.
Resnick and Pfeifer, JJ., dissent.

02-125. State v. Pickett.
Hamilton App. No. C-000424.
Moyer, C.J., dissents and would allow Propositions of Law Nos. I through IV.

02-126. Canterbury v. Skulina.
Portage App. No. 2000-P-0060.

RECONSIDERATION OF PRIOR DECISIONS

00-1572. Wallace v. Balint.
Cuyahoga App. No. 75953. Reported at 94 Ohio St.3d 182, 761 N.E.2d 598. On motion for reconsideration. Motion denied.
Resnick, J., dissents.
F.E. Sweeney, J., not participating.

01-1394. State ex rel. Howard v. Seaway Foodtown, Inc.
Franklin App. No. 00AP-1097. Reported at 94 Ohio St.3d 171, 761 N.E.2d 37. On motion for reconsideration. Motion denied.

01-1424. State ex rel. Akbar-El v. Cuyahoga Cty. Court of Common Pleas.
Cuyahoga App. No. 79692. Reported at 94 Ohio St.3d 210, 761 N.E.2d 624. On motion for reconsideration. Motion denied.

01-1576. Disciplinary Counsel v. Longo.

Reported at 94 Ohio St.3d 219, 761 N.E.2d 1042. On motion for reconsideration. Motion denied.

F.E. Sweeney, J., dissents.

01-1579. Cleveland Bar Assn. v. Johnson.

Reported at 94 Ohio St.3d 220, 761 N.E.2d 1043. On motion for reconsideration. Motion denied.

01-2007. Alexander v. Urban Communications Television, Inc.

Montgomery App. No. 18696. Reported at 94 Ohio St.3d 1452, 762 N.E.2d 370. On motion for reconsideration. Motion denied.

01-2018. State v. Reed.

Clark App. No. 01CA0028. Reported at 94 Ohio St.3d 1452, 762 N.E.2d 370. On motion for reconsideration. Motion denied.

01-2019. State v. Ahart.

Mahoning App. No. 93CA211. Reported at 94 Ohio St.3d 1452, 762 N.E.2d 370. On motion for reconsideration. Motion denied.

Lundberg Stratton, J., dissents, would allow on Proposition of Law No. I, and would hold this cause for the decision in 01-733 and 01-957, *State v. Parker*, Cuyahoga App. No. 76395.

Cook, J., dissents, would allow on Propositions of Law Nos. I, IV, and V, and would hold this cause for the decision in 01-733 and 01-957.

Moyer, C.J., dissents and would allow on all propositions of law.

01-2032. Pengov v. White.

Lorain App. Nos. 01CA007794 and 01CA007830. Reported at 94 Ohio St.3d 1452, 762 N.E.2d 1452. On motion for reconsideration. Motion denied.

01-2035. Calvary Investments, L.L.C. v. Vonderheide.

Hamilton App. No. C-010359. Reported at 94 Ohio St.3d 1470, 762 N.E.2d 1017. On motion for reconsideration. Motion denied.

01-2060. Metzenbaum v. Hedervary.

Cuyahoga App. Nos. 80064 and 80153. Reported at 94 Ohio St.3d 1453, 762 N.E.2d 370. On motion for reconsideration via an en banc hearing. Motion denied.