

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

September 10, 2003

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### MERIT DECISIONS WITHOUT OPINIONS

**2003-0798. Tacohio Dev. L.L.C. v. Franklin Cty. Bd. of Revision.**

Board of Tax Appeals, Nos. 2003-T-211, 2003-T-213, 2003-T-215 and 2003-T-217. On motion to remand to the Ohio Board of Tax Appeals. Motion granted.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

**2003-0964. Ballard v. Lazaroff.**

In Habeas Corpus. On motion to dismiss. Motion to dismiss sustained. Cause dismissed.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

**2003-1071. State ex rel. Archie v. Sixth Dist. Court of Appeals.**

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

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

**2003-1188. State ex rel. Cruse v. Ohio Dept. of Rehab. & Corr.**

In Mandamus and Prohibition. On motion to dismiss and motion to request that the case be referred to a master commissioner. Motion to dismiss sustained. Cause dismissed. Motion for referral denied.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

**2003-1234. State ex rel. Gelinis v. Grisby.**

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

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

**2003-1297. McCalister v. Warden, Allen Correctional Inst.**

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

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

**MOTION AND PROCEDURAL RULINGS**

**2003-0048. Wilson v. Brush Wellman, Inc.**

Cuyahoga App. No. 80985, 2002-Ohio-5566. On motion for admission pro hac vice of Daniel Popeo and Richard Samp by Brian Sheldon of Washington Legal Foundation, and amended motion for admission pro hac vice of John H. Beisner and Jonathan D. Hacker by Brian Selden for Product Liability. Motions granted.

**2003-0053. State v. Leach.**

Hamilton App. No. C-020106, 2002-Ohio-6654. On motion to strike propositions of law contained in appellant's merit brief. Motion granted.

Resnick, Pfeifer and O'Donnell, JJ., dissent.

**2003-0405. Dull v. Lane.**

In Habeas Corpus. On motion pursuant to Civ.R. 60(B). Motion denied.

**2003-0407. Dull v. Lane.**

Marion App. No. 9-02-67. On motion pursuant to Civ.R. 60(B). Motion denied.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

**2003-0532. Pilo v. Liberty Mut. Fire Ins. Co.**

Ashland App. No. 02COA038, 2003-Ohio-662. On motion to modify order allowing appeal. Motion denied.

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

**2003-1019. Wyser-Pratte Mgt. Co. v. Telxon Corp.**

Certified State Law Question, No. 5:02CV1105. On preliminary memoranda pursuant to S.Ct.Prac.R. XVIII(6). The court will answer the two questions certified by the United States District Court for the Northern District of Ohio:

“1. Does Ohio recognize a cause of action, under either fraud or negligent misrepresentation, for inducing a shareholder to hold onto (*i.e.*, not sell on the open market) a previously purchased security?

“2. If so, what measure of proof is required to establish the loss or damages attributable to this fraud or negligent misrepresentation?”

F.E. Sweeney and Lundberg Stratton, JJ., dissent.

On motion for admission pro hac vice of E. Lobenfeld, M. Kornfeld, and M. Anderson by J. Pinney for Telxon Corp. Motion granted.

F.E. Sweeney, J., dissents.

**2003-1065. Kohntopp v. Hamilton Mut. Ins. Co.**

Wood App. No. WD-02-033, 2003-Ohio-2793. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause held for the decision in 2002-1956, *Tucker v. Wilson*, Clermont App. No. CA2002-01-002, 2002-Ohio-5142; briefing schedule stayed.

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

**2003-1068. Archer v. ACE, USA.**

Franklin App. No. 02AP-882, 152 Ohio App.3d 455, 2003-Ohio-1790. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause consolidated with 2003-0923, *Archer v. ACE, USA*, Franklin App. No. 02AP-882, 2003-Ohio-1790, causes held for the decision in 2002-1956, *Tucker v. Wilson*, Clermont App. No. CA2002-01-002, 2002-Ohio-5142, and briefing schedule stayed.

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

**2003-1131. State v. Griggs.**

Trumbull App. No. 2001-T-0064, 2003-Ohio-2365. 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' Judgment Entry filed June 9, 2003:

“Whether a trial court breaches its mandatory duty pursuant to Crim.R. 11(C)(2) to inform a criminal defendant of the effect of his or her guilty plea, prior to accepting the plea, if the trial court does not inform the defendant that the plea is a complete admission of guilt pursuant to Crim.R. 11(B)(1).”

F.E. Sweeney, Pfeifer and O'Connor, JJ., dissent.

The conflict case is *State v. Roberson* (June 20, 1997), 2d Dist. No. 16052, 1997 WL 335137.

**2003-1153. State v. Beech.**

Summit App. No. 21141, 2002-Ohio-7327. On motion for leave to file delayed appeal. Motion denied.

**2003-1160. State v. Ingels.**

Hamilton App. Nos. C-980673 and C-980674. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

**2003-1171. State v. Bryant.**

Lucas App. No. L-02-1029, 2003-Ohio-1398. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

**2003-1182. Walker v. Hartford Fire Ins. Co.**

Butler App. No. CA2002-09-219, 2003-Ohio-2545. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause held for the decision in 2002-0932, *Westfield Ins. Co. v. Galatis*, Summit App. No. 20784, 2002-Ohio-1502; briefing schedule stayed.

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

**2003-1185. State v. Evans.**

Cuyahoga App. No. 81472, 2003-Ohio-1347. On motion for leave to file delayed appeal. Motion denied.

Moyer, C.J., Pfeifer and O'Donnell, JJ., dissent.

**2003-1193. State v. Scruggs.**

Franklin App. No. 02AP-621, 2003-Ohio-2019. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

**2003-1200. State v. Richardson.**

Defiance App. Nos. 4-02-16 and 4-02-17. On motion for leave to file delayed appeal. Motion denied.

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

**2003-1207. Cincinnati Gas & Elec. Co. v. Pub. Util. Comm.**

Public Utilities Commission, No. 03-1145-EL-GAG. On motion for stay of the entry and entry on rehearing of the Public Utilities Commission of Ohio, motion for leave to intervene of the village of Indian Hill, and motion to dismiss appeal of Cincinnati Gas & Electric Company by the village of Indian Hill. Motion for leave to intervene granted, motion to dismiss appeal denied, and motion for stay denied.

**2003-1211. State v. Walker.**

Lawrence App. No. 01CA34, 2002-Ohio-7372. On motion for leave to file delayed appeal. Motion denied.

**2003-1220. State v. Millender.**

Fairfield App. No. 03CA03, 2003-Ohio-1691. On motion for leave to file delayed appeal. Motion granted.

Resnick, F.E. Sweeney and O'Connor, JJ., dissent.

**2003-1223. State v. Sawyer.**

Cuyahoga App. No. 79197, 2002-Ohio-1095. On motion for leave to file delayed appeal. Motion denied.

**2003-1224. Wynn v. Stone.**

Franklin App. Nos. 02AP-432 and 02AP-795. On motion for stay of court of appeals' judgment. Motion denied.

**2003-1267. Koukjos v. Ganson.**

Hamilton App. Nos. C-010659, C-010735 and C-020091. On motion for stay of court of appeals' judgment. Motion denied.

**2003-1285. State v. Wilder.**

Lucas App. No. L-01-1401, 2003-Ohio-1033. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

**2003-1294. State v. Elam.**

Hancock App. No. 5-02-57, 2003-Ohio-1577. On motion for leave to file delayed appeal. Motion denied.

Moyer, C.J., Pfeifer and O'Donnell, JJ., dissent.

**2003-1304. State v. McCoy.**

Hamilton App. No. C-030354. On motion for leave to file delayed appeal. Motion denied.

Moyer, C.J., Pfeifer and O'Connor, JJ., dissent.

**2003-1341. In re Conservatorship of Ahmed.**

Belmont App. Nos. 01BA13 and 01BA48, 2003-Ohio-3272. On motion for stay of court of appeals' judgment. Motion denied.

**2003-1357. State v. Jackson.**

Franklin App. No. 02AP-915, 2003-Ohio-2665. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, Lundberg Stratton and O'Connor, JJ., dissent.

On motion for stay of court of appeals' judgment. Motion denied.

Lundberg Stratton, J., dissents.

**2003-1361. Petrilla v. Ohio State Bd. of Pharmacy.**

Mahoning App. No. 02CA151, \_\_\_ Ohio App.3d \_\_\_, 2003-Ohio-3276. On motion for stay of court of appeals' judgment. Motion denied.

**2003-1362. Donofrio v. Winebrenner.**

Summit App. No. 21356, 2003-Ohio-3317. On motion for stay of execution of court of appeals' judgment. Motion denied.

**2003-1458. State v. Dalton.**

Franklin App. No. 01AP-1313, 153 Ohio App.3d 286, 2003-Ohio-3813. On motion for stay of court of appeals' judgment. Motion denied.

Resnick and Lundberg Stratton, JJ., dissent.

**2003-1466. In re Williams.**

Geauga App. Nos. 2003-G-2498 and 2003-G-2499, 2003-Ohio-3550. 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' Judgment Entry:

“Whether children who are the subject of a motion to terminate parental rights are ‘parties’ to that proceeding for the purposes of Juv.R. 4(A) and R.C. 2151.352, requiring the appointment of counsel.”

F.E. Sweeney, J., dissents.

The conflict case is *In re Alfrey*, 2d Dist. No. 01CA0083, 2003-Ohio-608, 2003 WL 262587.

## APPEALS ACCEPTED FOR REVIEW

### **2003-0825. Edgell v. Monroe Guar. Ins. Co.**

Muskingum App. No. CT20020008, 2003-Ohio-1666. Discretionary appeal allowed and cause held for the decision in 2002-1126 and 2002-1433, *Allen v. Johnson*, Wayne App. Nos. 01CA0046 and 01CA0047, 2002-Ohio-3404; briefing schedule stayed.

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

### **2003-0845. Grubb v. Michigan Mut. Ins. Co.**

Montgomery App. No. 19575, 2003-Ohio-1558. Discretionary appeal allowed and cause held for the decision in 2002-1956, *Tucker v. Wilson*, Clermont App. No. CA2002-01-002, 2002-Ohio-5142; briefing schedule stayed.

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

### **2003-0860. State ex rel. Petro v. R.J. Reynolds Tobacco Co.**

Franklin App. No. 02AP-591, 152 Ohio App.3d 345, 2003-Ohio-1654. Discretionary appeal allowed and motion for admission pro hac vice of Donald Ayer, Daniel Bromberg, and Jack Campbell by Jeffrey Jones granted.

Pfeifer, J., would grant the motion for admission pro hac vice but deny the discretionary appeal.

### **2003-0861. Ohio Dept. of Job & Family Serv. v. Tultz.**

Summit App. No. 21241, 152 Ohio App.3d 405, 2003-Ohio-1597.

F.E. Sweeney, Pfeifer and O'Connor, JJ., dissent.

### **2003-0873. State v. Rowan.**

Cuyahoga App. No. 80540, 2003-Ohio-2458. Discretionary appeal allowed and cause held for the decision in 2003-0252 and 2003-0283, *State v. Thompson*, Cuyahoga App. No. 78919, 2002-Ohio-6478; briefing schedule stayed.

Resnick and Pfeifer, JJ., dissent.

### **2003-0882. Riggs v. Motorists Mut. Ins. Co.**

Franklin App. No. 02AP-876, 2003-Ohio-1657. Discretionary appeal allowed and cause held for the decision in 2002-0610, *Geren v. Westfield Ins. Co.*, Lucas App. No. L-01-1398, 2002-Ohio-1230; briefing schedule stayed.

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

### **2003-0886. Franklin v. Am. Mfrs. Mut. Ins. Co.**

Cuyahoga App. No. 81197, 2003-Ohio-1340. Discretionary appeal allowed on Propositions of Law Nos. I, III, and IV.

Moyer, C.J., and O'Connor, J., concur but would allow Propositions of Law No. I and II and hold for the decision in 2002-1245 and 2002-1271, *Estate of Houser v. Motorists Ins. Co.*, Auglaize App. No. 2-02-02, 2002-Ohio-2845; would allow Proposition of Law No. III and hold for the decision in 2002-0932, *Westfield Ins. Co. v. Galatis*, Summit App. No. 20784, 2002-Ohio-1502; and would allow Proposition of Law No. IV and hold for the decision in 2002-1956, *Tucker v. Wilson*, Clermont App. No. CA2002-01-002, 2002-Ohio-5142.

Lundberg Stratton, J., concurs but would allow all propositions of law without holding.

O'Donnell, J., concurs but would allow Propositions of Law Nos. I and III and hold for the decision in *Galatis*; and would allow Proposition of Law No. IV and hold for the decision in *Tucker*.

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

**2003-0888. Baker v. White.**

Clermont App. No. CA2002-08-065, 2003-Ohio-1614.

Pfeifer and Lundberg Stratton, JJ., dissent.

**2003-0896. Wilson v. Haimerl.**

Madison App. No. CA2002-08-017, 2003-Ohio-1774. Discretionary appeal allowed on Proposition of Law No. I.

O'Connor, J., concurs but would also hold for the decision in 2002-1126 and 2002-1433, *Allen v. Johnson*, Wayne App. Nos. 01CA0046 and 01CA0047, 2002-Ohio-3404.

Moyer, C.J., concurs but would allow Proposition of Law No. I and hold for the decision in *Allen*; and would allow Proposition of Law No. II and hold for the decision in 2002-0932, *Westfield Ins. Co. v. Galatis*, Summit App. No. 20784, 2002-Ohio-1502.

Lundberg Stratton and O'Donnell, JJ., concur but would allow all propositions of law without holding.

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

**2003-0923. Archer v. ACE, USA.**

Franklin App. No. 02AP-882, 152 Ohio App.3d 455, 2003-Ohio-1790. Discretionary appeal allowed, cause consolidated with 2003-1068, *Archer v. ACE, USA*, Franklin App. No. 02AP-882, 2003-Ohio-1790, causes held for the decision in 2002-1956, *Tucker v. Wilson*, Clermont App. No. CA2002-01-002, 2002-Ohio-5142, and briefing schedule stayed.

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

**2003-0929. State v. Martin.**

Cuyahoga App. No. 80198, 2003-Ohio-1499.

Pfeifer, Lundberg Stratton and O'Connor, JJ., dissent.

**APPEALS NOT ACCEPTED FOR REVIEW**

**2003-0853. Am. Home Products Corp. v. Zaino.**

Franklin App. No. 02AP-759, 2003-Ohio-1521. On discretionary appeal and motion for admission pro hac vice of Jeffrey T. Ferriell and Kevin H. Giordano by Edward J. Bernert. Appeal and motion denied.

Pfeifer and O'Connor, JJ., dissent.

Resnick, J., not participating.

**2003-0908. Luft v. Perry Cty. Lumber & Supply Co.**

Franklin App. No. 02AP-559, 2003-Ohio-2305.

**2003-0910. State v. McGee.**

Cuyahoga App. No. 82092, 2003-Ohio-1966.

**2003-0912. In re Walker.**

Franklin App. No. 02AP-421, 2003-Ohio-2137.

**2003-0913. Jones v. Cleveland.**

Cuyahoga App. No. 81837, 2003-Ohio-1534.

**2003-0915. Rickett v. Univ. Hosp. of Cleveland.**

Cuyahoga App. No. 81325, 2003-Ohio-1725.

**2003-0917. State v. Glynn.**

Medina App. No. 02CA0090M, 2003-Ohio-1799.

**2003-0918. State v. Cook.**

Putnam App. No. 12-02-12, 2003-Ohio-1794.

**2003-0919. State v. Kenney.**

Cuyahoga App. No. 80653, 2003-Ohio-1501.

**2003-0921. State v. Bealer.**

Butler App. No. CA2002-03-056, 2003-Ohio-2114.

**2003-0926. State v. Petralia.**

Lake App. No. 2001-L-101, 2003-Ohio-1745.

**2003-0927. State v. Bryant.**

Cuyahoga App. No. 81535, 2003-Ohio-1518.  
O'Donnell, J., not participating.

**2003-0928. State v. Franklin.**

Butler App. No. CA2002-07-183, 2003-Ohio-1770.

**2003-0930. State v. Holdcroft.**

Wyandot App. No. 16-99-04, 2000-Ohio-1691.

**2003-0933. Kessler v. Warner.**

Cuyahoga App. No. 81532, 2003-Ohio-1515.

**2003-0937. Cutlip v. Norfolk S. Corp.**

Lucas App. No. L-02-1051, 2003-Ohio-1862.  
Lundberg Stratton, J., dissents.

**2003-0940. State v. Bassett.**

Lucas App. No. L-01-1493, 2002-Ohio-6689.

**2003-0946. Mechanical Contrs. Assn. of Cincinnati, Inc. v. Univ. of Cincinnati.**

Franklin App. No. 02AP-689, 152 Ohio App.3d 466, 2003-Ohio-1837.  
Pfeifer, J., dissents.  
O'Donnell, J., not participating.

**2003-0949. Clark v. Ohio Bur. of Workers' Comp.**

Franklin App. No. 02AP-743, 2003-Ohio-2193.

O'Donnell, J., dissents, would allow, and would hold this cause for the decision in 2003-0664, *Modzelewski v. Yellow Freight, Inc.*, Summit App. No. 21205, 2003-Ohio-827.

**2003-0950. Ringel v. Case W. Res. Univ.**

Cuyahoga App. No. 82109, 2003-Ohio-1967.

**2003-0951. State v. Kelm.**

Union App. No. 14-02-20, 2003-Ohio-1817.

**2003-0955. Davis v. Taylor & Bogus Foundry.**

Cuyahoga App. No. 81324, 2003-Ohio-1832.

**2003-0956. Johnson v. State Farm Mut. Auto. Ins. Co.**

Lucas App. No. L-02-1251, 2003-Ohio-1864.

Lundberg Stratton, J., dissents and would allow.

O'Donnell, J., dissents, would allow, and would hold this cause for the decision in 2003-0302 and 2003-0362, *Taylor v. Kemper Ins. Co.*, Cuyahoga App. No. 81360, 2003-Ohio-177; and *Ferrando v. Auto-Owners Mut. Ins. Co.*, 98 Ohio St.3d 186, 2002-Ohio-7217, 781 N.E.2d 927.

**2003-0958. Thompson v. Aeroquip Inoac Co.**

Sandusky App. No. S-02-022, 2003-Ohio-1859.

Lundberg Stratton and O'Donnell, JJ., dissent.

**2003-0959. Peoples Sav. Bank v. Jenkins.**

Champaign App. No. 02CA39.

**2003-0961. Haller v. Daily.**

Montgomery App. No. 19420, 2003-Ohio-1941.

**2003-0965. State v. DiNozzi.**

Clermont App. No. CA2002-02-014, 2003-Ohio-2012.

**2003-0968. State v. Seldon.**

Cuyahoga App. Nos. 80129 and 80130, 2003-Ohio-1947.

**2003-0971. State v. Cox.**

Adams App. No. 02CA751, 2003-Ohio-1935.

Lundberg Stratton, J., dissents.

**2003-0973. State v. Wamsley.**

Butler App. No. CA2002-05-109, 2003-Ohio-1872.

**2003-0975. Washington v. Spitzer Mgt., Inc.**

Cuyahoga App. No. 81612, 2003-Ohio-1735.

Lundberg Stratton, J., dissents.

**2003-0976. State v. Benson.**

Hamilton App. No. C-020460, 2003-Ohio-1944.

**2003-0980. Valentino v. Ohio Liquor Control Comm.**

Franklin App. No. 02AP-586, 2003-Ohio-1937.

O'Connor, J., not participating.

**2003-0989. McGuckin v. McGuckin.**

Huron App. No. H-02-035, 2003-Ohio-1998.

**2003-0990. State v. Warren.**

Hamilton App. No. C-020457.

**2003-0997. Westfall v. Granitsas.**

Guernsey App. No. 02CA19, 2003-Ohio-2122.

**2003-0998. State v. Barnett.**

Fayette App. No. CA2002-06-011, 2003-Ohio-2014.

**2003-0999. State v. Aliane.**

Franklin App. No. 02AP-986, 2003-Ohio-2022.

Pfeifer, J., dissents.

**2003-1002. State v. Smith.**

Stark App. No. 2002CA306, 2003-Ohio-2033.

**2003-1004. State v. Stevens.**

Montgomery App. No. 19070, 2002-Ohio-3570.

**2003-1005. Hampton v. St. Michael Hosp.**

Cuyahoga App. No. 81009, 2003-Ohio-1828.

F.E. Sweeney, J., dissents.

**2003-1006. Disbennet v. Utica Natl. Ins. Group.**

Fayette App. No. CA2002-04-009, 2003-Ohio-2013.

Moyer, C.J., Lundberg Stratton and O'Donnell, JJ., dissent.

**2003-1007. State v. Theis.**

Cuyahoga App. No. 82161, 2003-Ohio-1968.

**2003-1008. Streetsboro v. Encore Homes.**

Portage App. No. 2002-P-0018, 2003-Ohio-2109.

Pfeifer, J., dissents.

**2003-1011. State v. Taylor.**

Summit App. No. 21307, 2003-Ohio-2025.

Pfeifer, J., dissents.

**2003-1012. State v. Feldhouse.**

Trumbull App. No. 2002-T-0040, 2003-Ohio-2112.

**2003-1013. Info. Leasing Corp. v. Honker Enterprises, Inc.**

Hamilton App. No. C-030260.

Lundberg Stratton, J., dissents.

**2003-1014. Levchack v. Am. Spring Wire Corp.**

Cuyahoga App. No. 81417, 2003-Ohio-435.

O'Donnell, J., not participating.

**2003-1015. Hassan v. Sh-Almashaqbeh.**

Franklin App. No. 02AP-1026.

**2003-1021. State v. Rand.**

Franklin App. No. 02AP-1044.

Pfeifer, J., dissents.

**2003-1022. Moore v. Union Twp. Bd. of Trustees.**

Miami App. No. 2002CA69, 2003-Ohio-2085.

Pfeifer, J., dissents.

**2003-1027. State v. Ramos.**

Montgomery App. No. 19429, 2003-Ohio-2086.

**2003-1029. Postiy v. Postiy.**

Stark App. No. 2002CA263, 2003-Ohio-2146.

O'Donnell, J., dissents.

**2003-1030. State v. Hayes.**

Franklin App. No. 02AP-938, 2003-Ohio-2194.

**2003-1031. Youngstown v. Ortiz.**

Mahoning App. No. 01CA239, 153 Ohio App.3d 271, 2003-Ohio-2238.

**2003-1032. State v. Gardner.**

Cuyahoga App. No. 82769.

**2003-1034. State v. Siller.**

Cuyahoga App. No. 80219, 2003-Ohio-1948.

**2003-1035. Exit C & D Landfill, Inc. v. Stark Cty. Bd. of Health.**

Stark App. No. 2002CA00311, 2003-Ohio-2143.

**2003-1036. Margulies v. Guardian Life Ins. Co. of Am.**

Cuyahoga App. No. 81737, 2003-Ohio-1959.

O'Donnell, J., dissents.

**2003-1041. Hionis v. Nationwide Ins. Co.**

Cuyahoga App. No. 80516, 2003-Ohio-1333.

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

**2003-1042. State v. Tolbert.**

Summit App. No. 21203, 2003-Ohio-2160.

**2003-1044. Cincinnati ex rel. Cosgrove v. Grogan.**

Hamilton App. No. C-020626.

**2003-1045. State v. Thomas.**

Franklin App. No. 02AP-778, 2003-Ohio-2199.

**2003-1046. Arnott v. Arnott.**

Summit App. No. 21291, 2003-Ohio-2152.

**2003-1047. State v. Nelson.**

Ashtabula App. No. 2001-A-0076, 2002-Ohio-6701.

**2003-1050. Hamilton v. Assicurazioni Generali, S.p.A.**

Muskingum App. No. CT20020034, 2003-Ohio-2291.

Lundberg Stratton and O'Donnell, JJ., dissent.

**2003-1051. Risley v. Comm Line, Inc.**

Miami App. No. 02CA42, 2003-Ohio-2211. On motion for admission pro hac vice of Bradley A. Schutjer by Roger E. Luring for Comm Line, Inc., etc., et al. Motion denied.

Resnick, J., dissents.

Discretionary appeal denied.

**2003-1052. State v. Brooks.**

Franklin App. No. 02AP-925, 2003-Ohio-2192.

**2003-1053. Waters v. Allied Machine & Engineering Corp.**

Tuscarawas App. Nos. 02AP040032 and 02AP040034, 2003-Ohio-2293.  
Discretionary appeal and cross-appeal denied.

**2003-1056. State v. Griggs.**

Trumbull App. No. 2001-T-0064, 2003-Ohio-2365.

Resnick, J., dissents.

**2003-1058. State v. Taylor.**

Cuyahoga App. No. 79274, 2003-Ohio-2295.

**2003-1059. Byrd v. Supreme Court of Ohio.**

Franklin App. No. 03AP-379.

**2003-1062. Haghghi v. Moody.**

Hamilton App. No. C-020465, 2003-Ohio-2203.

Lundberg Stratton, J., dissents.

**2003-1063. State v. Blackman.**

Lucas App. No. L-01-1349, 2003-Ohio-2216.

Moyer, C.J., and O'Connor, J., dissent, would allow, and would reverse and remand this cause on authority of *State v. Comer*, 99 Ohio St.3d 463, 2003-Ohio-4165, 793 N.E.2d 473.

**2003-1069. Vohsing v. Fed. Ins. Co.**

Licking App. No. 2002CA00101, 2003-Ohio-2511.

Lundberg Stratton, J., dissents.

**2003-1077. Taylor v. Ohio Dept. of Rehab. & Corr.**

Trumbull App. No. 2002-T-0024, 2003-Ohio-2235.

F.E. Sweeney, J., dissents.

**2003-1079. State v. Walker.**

Lawrence App. No. 01CA34, 2002-Ohio-7372.

**2003-1082. White v. Mack.**

Allen App. No. 1-03-07, 2003-Ohio-2283.

**2003-1083. State v. Archer.**

Portage App. No. 2002-P-0053, 2003-Ohio-2233.

**2003-1087. State v. Vinzant.**

Montgomery App. No. 19295, 2003-Ohio-2522.

**2003-1088. State v. Barrett.**

Summit App. No. 21538.

**2003-1089. State v. Condon.**

Hamilton App. No. C-020262, 152 Ohio App.3d 629, 2003-Ohio-2335.

F.E. Sweeney, J., dissents.

**2003-1094. Whitt v. Hayes.**

Scioto App. No. 02CA2856, 2003-Ohio-2337.

F.E. Sweeney, J., dissents.

**2003-1097. State v. Cioffi.**

Trumbull App. Nos. 2002-T-0037 and 2002-T-0039, 2003-Ohio-2374.

**2003-1098. State v. Andrukat.**

Stark App. No. 2002CA00352, 2003-Ohio-2643.

O'Donnell, J., dissents, would allow, and would reverse and remand the cause on the authority of *State v. Comer*, 99 Ohio St.3d 463, 2003-Ohio-4165, 793 N.E.2d 473.

**2003-1103. State v. Kenney.**

Cuyahoga App. Nos. 81752 and 81879, 2003-Ohio-2046.

Pfeifer, J., dissents.

**2003-1112. State v. Wade.**

Medina App. No. 02CA0076M, 2003-Ohio-2351 and 2003-Ohio-2447.

**2003-1126. Hutton v. Bagley.**  
Richland App. No. 03CA7.

**2003-1135. State v. Conner.**  
Summit App. No. 20466.

**2003-1142. In re Testamentary Trusteeship of Cheek.**  
Montgomery App. No. 19513, 2003-Ohio-2515.

**2003-1147. Non-Employees of Chateau Estate Resident Assn. v. Chateau Estates, Ltd.**  
Clark App. No. 2002CA68, 2003-Ohio-2514. Discretionary appeal denied and motion to expedite denied.  
Resnick, J., dissents.

**2003-1166. State v. Bird.**  
Butler App. No. CA2002-05-106, 2003-Ohio-2541.

**2003-1169. State v. Logan.**  
Summit App. No. 12904.

**2003-1178. State v. Johnson.**  
Butler App. No. CA2002-04-100, 2003-Ohio-2540.

**2003-1186. Homecomings Fin. Network, Inc. v. Oliver.**  
Hamilton App. No. C-020625, 2003-Ohio-2668.

**2003-1198. State v. Diederich.**  
Hamilton App. No. C-020042.

**2003-1208. State v. Cunningham.**  
Miami App. No. 2002CA19, 2003-Ohio-1044.

**2003-1258. In re B.G.**  
Cuyahoga App. No. 81982, 2003-Ohio-3256.

**2003-1298. In re Williams.**  
Geauga App. Nos. 2003-G-2498 and 2003-G-2499, 2003-Ohio-3550.  
O'Connor, J., dissents and would allow on Propositions of Law Nos. I and IV.

Moyer, C.J., dissents and would allow on Propositions of Law Nos. I, III, and IV.

O'Donnell, J., dissents and would allow.

**2003-1321. In re Frenz.**

Tuscarawas App. Nos. 2003AP030025 and 2003AP040027, 2003-Ohio-3653.

Resnick, J., dissents.

**RECONSIDERATION OF PRIOR DECISIONS**

**2002-0101. Colbert v. Cleveland.**

Cuyahoga App. No. 77635. Reported at 99 Ohio St.3d 215, 2003-Ohio-3319, 790 N.E.2d 781. On motion for reconsideration. Motion denied.

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

O'Donnell, J., not participating.

**2002-0248. Cincinnati Ins. Co. v. Anders.**

Greene App. No. 2001CA42, 2001-Ohio-1920. Reported at 99 Ohio St.3d 156, 2003-Ohio-3048, 789 N.E.2d 1094. On motion for reconsideration. Motion denied.

O'Donnell, J., not participating.

**2002-1030. GuideOne Mut. Ins. Co. v. Reno.**

Greene App. No. 01CA68, 2002-Ohio-2057. Reported at 99 Ohio St.3d 156, 2003-Ohio-3048, 789 N.E.2d 1094. On motion for reconsideration. Motion denied.

O'Donnell, J., not participating.

**2002-1229. Std. Loan Office, Inc. v. Scottsdale Surplus Lines, Inc.**

Lucas App. No. L-01-1435, 2002-Ohio-3051. Reported at 99 Ohio St.3d 237, 2003-Ohio-3391, 790 N.E.2d 1208. On motion for reconsideration. Motion denied.

Resnick, J., not participating.

**2002-1324. Jones v. Norfolk S. Ry. Co.**

Lucas App. No. L-01-1490, 2002-Ohio-3412. Reported at 99 Ohio St.3d 238, 2003-Ohio-3392, 790 N.E.2d 1208. On motion for reconsideration. Motion denied.

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

Resnick, J., not participating.

**2002-1627. State ex rel. Ignatious v. Indus. Comm.**

Franklin App. No. 01AP-982, 2002-Ohio-4014. Reported at 99 Ohio St.3d 285, 2003-Ohio-3627, 791 N.E.2d 443. On motion for reconsideration of Transdigm, Inc. and Aero Products. Motion denied.

Lundberg Stratton, J., dissents.

O'Donnell, J., not participating.

**2002-1775. Toledo Bar Assn. v. Neller.**

Reported at 98 Ohio St.3d 314, 2003-Ohio-774, 784 N.E.2d 689. On motion for reconsideration filed pro se. Motion denied.

O'Donnell, J., not participating.

**2002-2175. Sherred v. Estate of Koon.**

Franklin App. No. 02AP-325, 2002-Ohio-6562. Reported at 99 Ohio St.3d 211, 2003-Ohio-3140, 790 N.E.2d 329. On motion for reconsideration. Motion denied.

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

O'Donnell, J., not participating.

**2003-0234. Sifco Industries, Inc. v. Safety Natl. Cas. Corp.**

Cuyahoga App. No. 81202, 2002-Ohio-6511. Reported at 99 Ohio St.3d 302, 2003-Ohio-3630, 791 N.E.2d 458. On motion for reconsideration. Motion denied.

O'Donnell, J., not participating.

**2003-0455. Bonacorsi v. Wheeling & Lake Erie Ry. Co.**

Stark App. No. 2003CA00038. Reported at 99 Ohio St.3d 1452, 2003-Ohio-3396, 790 N.E.2d 1217. On motion for reconsideration. Motion denied.

O'Donnell, J., not participating.

**2003-0619. Long v. Rhein.**

Clermont App. Nos. CA2002-02-007 and CA2002-02-008, 2003-Ohio-711. Reported at 99 Ohio St.3d 1453, 2003-Ohio-3396, 790 N.E.2d 1217. On motion for reconsideration. Motion denied.

O'Donnell, J., dissents.

**2003-0681. Panta v. Cincinnati Ins. Co.**

Cuyahoga App. No. 81563, 2003-Ohio-762. Reported at 99 Ohio St.3d 1454, 2003-Ohio-3396, 790 N.E.2d 1218. On motion for reconsideration. Motion denied.

Lundberg Stratton, J., dissents.

**2003-0743. Holiday Properties Acquisition Corp. v. Lowrie.**

Summit App. Nos. 21055 and 21133, 2003-Ohio-1136. Reported at 99 Ohio St.3d 1467, 2003-Ohio-3669, 791 N.E.2d 983. On motion for reconsideration. Motion denied.

Lundberg Stratton, J., dissents.

**2003-0761. Campbell v. Mt. Vernon.**

Knox App. No. 03CA9. Reported at 99 Ohio St.3d 1468, 2003-Ohio-3669, 791 N.E.2d 983. On motion for reconsideration. Motion denied.

**2003-0849. State v. McCall.**

Mahoning App. No. 99CA283, 2003-Ohio-1603. Reported at 99 Ohio St.3d 1470, 2003-Ohio-3669, 791 N.E.2d 984. On motion for reconsideration. Motion denied.

**2003-0905. State v. McCladdie.**

Cuyahoga App. No. 81387, 2003-Ohio-1726. Reported at 99 Ohio St.3d 1470, 2003-Ohio-3669, 791 N.E.2d 984. On motion for reconsideration. Motion denied.

**2003-0920. State v. Murrell.**

Hamilton App. No. C-020333, 2003-Ohio-2068. Reported at 99 Ohio St.3d 1470, 2003-Ohio-3669, 791 N.E.2d 984. On motion for reconsideration. Motion denied.

**2003-1104. Baumgartner v. Emahiser.**

In Habeas Corpus. Reported at 99 Ohio St.3d 1466, 2003-Ohio-3669, 791 N.E.2d 982. On motion for reconsideration. Motion denied.