

ATTENTION

DIRECT ANY QUESTIONS ABOUT THE ANNOUNCEMENT TO WALTER S. KOBALKA,
REPORTER OF DECISIONS, AND DEBORAH J. BARRETT AT (614) 466-4961 OR
1-800-826-9010.

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

1:00 P.M.

WEDNESDAY
May 17, 1995

MERIT DOCKET

93-2350. State ex rel. Pepsi-Cola Bottling Co. v. Morse.
Franklin County. Appeal from the Court of Appeals for Franklin
County, No. 92AP-1506. Judgment reversed.

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

94-319. State ex rel. Montgomery v. R & D Chem. Co.
Morrow County. Appeal from the Court of Appeals for Morrow County,
No. CA-792. Judgment reversed and cause remanded.

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

94-484. Warman v. Tracy.
Appeal from the Board of Tax Appeals, No. 91-B-1272. Decision
affirmed.

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

94-827. Kruse v. Voyager Insurance Cos.
Lucas County. Certified by the Court of Appeals for Lucas County, No.
L-93-169. Judgment reversed and cause remanded.

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

Douglas, J., dissents.

94-1119. Spartan Chem. Co. v. Tracy.

Appeal from the Board of Tax Appeals, No. 91-Z-1578. Decision affirmed.

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

94-1133. State ex rel. Nichols v. Cuyahoga Cty. Bd. of Mental Retardation & Dev. Disabilities.

Cuyahoga County. Appeal from the Court of Appeals for Cuyahoga County, No. 66315. Judgment affirmed.

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

94-1399. Cleveland Hts./Univ. Hts. Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision.

Appeal from the Board of Tax Appeals, No. 92-A-32 and 92-A-33. Decision affirmed.

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

94-2378. Cleveland City School Dist. Bd. of Edn. v. URS Co.

Cuyahoga County. Appeal from the Court of Appeals for Cuyahoga County, No. 64496. The discretionary appeal is allowed, and the judgment is affirmed in part and reversed in part.

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

Wright, J., dissents.

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

1:00 P.M.

WEDNESDAY
May 17, 1995

MERIT DOCKET

94-2508. State ex rel. Cuyahoga Cty. Dept. of Children & Family Serv.

v. Ferreri.

Cuyahoga County, No. 68023. Sua sponte, cause dismissed as moot.

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

94-2561. Walton v. Edwards.

In Habeas Corpus. Sua sponte, cause dismissed.

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

95-37. Mechel v. Ghee.

In Habeas Corpus. Sua sponte, cause dismissed.

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

95-55. Barnett v. Ohio Adult Parole Auth.

In Habeas Corpus. Sua sponte, cause dismissed.

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

95-71. Self v. Ghee.

In Habeas Corpus. Sua sponte, cause dismissed.

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

95-195. Thompson v. Ghee.

In Habeas Corpus. Sua sponte, cause dismissed.

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

95-218. Donaldson v. State.

In Habeas Corpus. Sua sponte, cause dismissed.

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

95-289. Sullen v. Ohio Adult Parole Auth.

In Habeas Corpus. Sua sponte, cause dismissed.

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

95-369. Tillman v. Lyons.

In Habeas Corpus. Sua sponte, cause dismissed.

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

95-486. Wilmont v. Ghee.

In Habeas Corpus. Sua sponte, cause dismissed.

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

95-494. State ex rel. Hill v. O'Grady.

In Prohibition. On answer of respondent. Answer treated as motion to dismiss. Motion to dismiss sustained. Cause dismissed.

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

95-614. Bailey v. Borchert.

In Mandamus. On motion to dismiss of Daniel L. Borchert. Motion to dismiss sustained. Cause dismissed.

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

95-618. State ex rel. Hasan v. Cartolano.

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

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

95-645. State ex rel. Edmonds v. Indus. Comm.

In Mandamus. Sua sponte, cause dismissed.

Moyer, C.J., Wright, Resnick, F.E. Sweeney and Cook, J.J., concur.
Douglas and Pfeifer, J.J., dissent and would grant an alternative writ.

95-699. State ex rel. McElya v. McGough.

In Procedendo. On answer of respondent. Answer treated as motion to dismiss. Motion to dismiss sustained. Cause dismissed.

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

DISMISSALS, SUA SPONTE, NO SUBSTANTIAL CONSTITUTIONAL
QUESTION AND DISCRETIONARY APPEALS, IF APPLICABLE, NOT ALLOWED

95-34. Patterson v. Zdrilich.

Mahoning County, No. 93 C.A. 62. Discretionary appeal and cross-appeal denied.

Resnick, J., dissents.

Wright, J., not participating.

95-140. Dynes Corp. v. Seikel, Koly & Co., Inc.

Cuyahoga County, Nos. 66171, 66632 and 66776.

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

Peggy Bryant, J., of the Tenth District, sitting for Cook, J.

95-224. State v. James.

Hamilton County, No. C-930618.

95-261. Siemientkowski v. Bank One of Columbus, N.A.

Cuyahoga County, No. 66531.

Wright, J., not participating.

95-264. Thomas v. Superior Marketing Co.

Knox County, No. 94CA09.

Pfeifer, J., dissents.

95-279. State v. Gabriel.

Mahoning County, No. 92 C.A. 114.

95-281. State v. Gabriel.

Mahoning County, No. 93 C.A. 5.

95-283. State v. Cookingham.

Ashtabula County, No. 93-A-1836.

95-292. State v. Combs.
Lawrence County, No. 94CA13.
Pfeifer, J., dissents.

95-293. State v. Adams.
Lucas County, No. L-93-248.

95-297. State v. Daniels.
Trumbull County, No. 92-T-4730.

95-298. State v. Melendez.
Ashtabula County, No. 93-A-1795.
Wright, J., dissents.

95-303. State v. Raszick.
Stark County, No. 1994CA00114.
Wright, J., dissents and would allow on Proposition of Law No. II
only.

95-304. Osborne v. Tracy.
Lake County, No. 93-L-200.
Pfeifer, J., dissents.

95-305. RACC Industries, Inc. v. Stun-Tech, Inc.
Cuyahoga County, No. 66802.

95-306. Wilson v. Lynch & Lynch Co., L.P.A.
Geauga County, No. 93-G-1804.
Douglas, J., dissents.

95-308. Spaulding v. Aetna Cas. & Sur. Co.
Stark County, No. 1994CA00054.
Pfeifer, J., dissents.

95-310. State v. Shuster.
Franklin County, No. 94 CA 0074.
Wright, J., dissents.

95-311. State v. Schlee.
Lake County, No. 93-L-082.

95-317. Rudolph v. Rudolph.
Wayne County, No. 2880. Discretionary appeal and cross-appeal denied.
Resnick, J., dissents.
Cook, J., not participating.

95-319. State v. Flauto.
Portage County, No. 93-P-0073.

95-325. State v. Day.
Clermont County, No. CA94-04-026.
Wright, J., dissents.

95-332. State v. Wright.
Crawford County, No. 3-92-24.

95-334. State v. Esposito.
Medina County, No. 2337-M.
Cook, J., not participating.

95-336. State v. Bilder.
Summit County, No. 16754.
Moyer, C.J., dissents.
Cook, J., not participating.

95-338. Connor v. Renz.
Athens County, Nos. 94CA1605 and 94CA1606. (Appeal by Jean Renz,
Frances Wile, and John Wile; second appeal by Joseph Renz.)
Pfeifer, J., dissents.

95-339. State v. Gauntt.
Cuyahoga County, No. 66791.

95-340. FOE AERIE 0995 Bridgeport v. Ohio Liquor Control Comm.
Belmont County, 94-B-12.
Wright and Cook, JJ., dissent.

95-343. State v. DeVoise.
Montgomery County, No. 14701.
Moyer, C.J., Wright and Pfeifer, JJ., dissent.

95-346. State v. Archuletta.
Wood County, No. 94WD032.
Moyer, C.J., and Pfeifer, J., dissent.
Resnick, J., not participating.

95-390. State v. Koren.
Lake County, No. 93-L-092.

MOTION DOCKET

94-2198. State ex rel. Rogers v. Cleveland City School Dist. Bd. of
Edn.
Cuyahoga County, No. 67420. On request for oral argument. Request
denied.

95-112. State v. Benge.
Butler County, No. CA93-06-116. On motion to supplement the record.
Motion granted.
F.E. Sweeney, J., dissents.

95-249. Duncan v. Chippewa Twp. Trustees.
Wayne County, No. CA-2833. On motion to supplement the record.
Motion granted.
F.E. Sweeney, J., dissents.
Cook, J., not participating.

95-425. State ex rel. S.E. Johnson Cos. v. Indus. Comm.
In Mandamus. On motion to dismiss by Industrial Commission of Ohio.
Motion denied.
Resnick, J., not participating.

95-639. State ex rel. Jackson v. Indus. Comm.
In Mandamus. On answer of respondent. Sua sponte, alternative writ granted.

Moyer, C.J., Wright and Resnick, JJ., dissent and would dismiss the cause.

95-659. State ex rel. Buoscio v. Seventh Dist. Court of Appeals for Mahoning Cty.

In Mandamus. Sua sponte, alternative writ granted.

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

95-663. State v. Nathan.

Allen County, No. 1-94-44. On motion for leave to file delayed appeal. Motion granted.

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

95-670. State v. Azizhakim.

Cuyahoga County, No. 68350. On motion for leave to file delayed appeal. Motion denied.

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

95-673. State v. White.

Hamilton County, No. C-930711. On motion for leave to file delayed appeal. Motion granted.

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

95-678. State ex rel. Buoscio v. Seventh Dist. Court of Appeals for Mahoning Cty.

In Mandamus. Sua sponte, alternative writ granted.

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

95-702. State v. Niehaus.

Hamilton County, No. C-930491. On motion for leave to file delayed appeal. Motion denied.

95-708. State v. Gause.

Lorain County, No. 92CA005444. On motion for leave to file delayed appeal. Motion denied.

95-710. State v. Blackburn.

Franklin County, No. 94APA05-654. On motion for leave to file delayed appeal. Motion granted.

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

95-718. In re Caldwell.

Franklin County, Nos. 94APF07-996 and 94APF07-997. On review of order certifying a conflict. The court determines that a conflict exists; the parties are to brief the following issue stated in the court of appeals' Journal Entry, filed March 28, 1995: "For the reasons in the memorandum decision of this court rendered herein on March 23, 1995, it is the order of this court that the motion to certify the judgment of this court as being in conflict with the judgments of the Court of Appeals for Cuyahoga County in In re Samkas (1992), 80 Ohio App.3d 240, 608 N.E.2d 1172, and In re Bremmer (Apr. 1, 1993), Cuyahoga App. No. 62088, unreported, is sustained, and, pursuant to Section 3(B)(4), Article IV, Ohio Constitution, the record of this case is certified to the Supreme Court of Ohio for review and final determination upon the

following issue in conflict: On the question of whether or not juvenile courts have jurisdiction to impose consecutive commitment orders to the Ohio Department of Youth Services."

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

95-732. State v. Mason.
Hamilton County, No. C-75433. On motion for leave to file delayed appeal. Motion denied.

95-738. State v. Smith.
Miami County, No. 93CA39. On motion for leave to file delayed appeal. Motion denied.
Moyer, C.J., dissents.

95-744. State v. Ferguson.
Sandusky County, No. S-93-49. On motion for leave to file delayed appeal. Motion denied.
Moyer, C.J., dissents.

95-745. State v. Harris.
Hamilton County, No. C-930745. On motion for leave to file delayed appeal. Motion denied.

DISCRETIONARY APPEALS ALLOWED

95-109. Motorists Mut. Ins. Co. v. Nussbaum.
Stark County, No. 1994CA00104. Discretionary appeal and cross-appeal allowed.
Moyer, C.J., Wright and Cook, JJ., dissent.

95-135. Ramsey v. Auto-Owners Ins. Co.
Lucas County, No. L-94-156. Discretionary appeal allowed. Sua sponte, cause held for the decision in 94-2765, Girgis v. State Farm Mut. Auto. Ins. Co., Cuyahoga County, No. 66970; briefing schedule stayed.
Moyer, C.J., Wright and Cook, JJ., dissent.
Peggy Bryant, J., of the Tenth Appellate District, sitting for Resnick, J.

95-269. Schaefer v. Allstate Ins. Co.
Franklin County, No. 94APE04-507.
Moyer, C.J., Wright and Cook, JJ., dissent.

95-301. Mauzy v. Kelly Serv., Inc.
Lake County, No. 94-L-029.
Moyer, C.J., Wright and Cook, JJ., dissent.

95-313. Graham v. Drydock Coal Co.
Athens County, No. 93CA1599.
Resnick and F.E. Sweeney, JJ., dissent.

95-387. Ohio Civ. Rights Comm. v. Case W. Res. Univ.
Cuyahoga County, No. 66721. (Appeal by Ohio Civil Rights Commission; second appeal by Cheryl A. Fischer; and motion for leave to exceed page limit.) Motions granted.
Resnick, J., would deny the motion for leave to exceed page limit.

95-574. In re Caldwell.
Franklin County, Nos. 94APF07-996 and 94APF07-997. Discretionary
appeal allowed; sua sponte, cause consolidated with 95-718, supra.
Wright and Pfeifer, JJ., dissent.

DISCRETIONARY APPEALS NOT ALLOWED

95-125. Rossman & Co. v. Donaldson.
Franklin County, Nos. 94APE03-388, 94APE03-389 and 94APE05-695.
Discretionary appeal and cross-appeal denied.
Douglas, Wright and Pfeifer, JJ., dissent.

95-230. Rockwell v. State Ins. Agency.
Ashtabula County, No. 94-A-0033.
Wright, J., dissents.

95-232. Hastings Mut. Ins. Co. v. Massaro.
Wayne County, No. 2886.
Cook, J., not participating.

95-237. Globe Am. Cas. Co. v. Cleveland.
Cuyahoga County, No. 66613.
Moyer, C.J., and Douglas, J., dissent.

95-238. Moore v. Positive Safety Mfg. Co.
Cuyahoga County, No. 66518.
Douglas, Resnick and F.E. Sweeney, JJ., dissent.

95-266. State v. Wigginton.
Montgomery County, No. 14435.
Douglas, J., dissents.

95-268. In re Petition for Annexation of 941.3 Acres.
Delaware County, No. 94CAH07018.

95-280. Gilliam v. Mid-American Sec. Serv., Inc.
Trumbull County, No. 94-T-5079.

95-282. Preferred Risk Mut. Ins. Co. v. Reece.
Montgomery County, No. 14664.
Pfeifer, J., dissents.

95-291. Internatl. Sec. & Detective Agency, Inc. v. Estate of
Buchanan.
Warren County, No. CA94-06-052.
Wright, J., dissents.

95-295. Luke v. Ohio Dept. of Adm. Serv.
Franklin County, No. 94APE07-1026.

95-296. State v. Block.
Cuyahoga County, No. 67530.

95-307. Thorman v. Jump.
Montgomery County, No. 14336.

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

95-312. Detweiler v. Slavic.
Cuyahoga County, No. 66718.

95-315. Cupp v. Zoz.
Butler County, No. CA94-06-122.

95-316. Bentle v. Worthington Custom Plastics.
Warren County, No. CA94-08-069.
F.E. Sweeney, J., dissents.

95-318. State v. Galbreath.
Columbiana County, No. 93C60.

95-323. Moore v. Columbus.
Franklin County, No. 94APE04-559.
Pfeifer, J., dissents.

95-324. Peake v. Dieter.
Trumbull County, No. 93-T-4942.

95-326. Jenkins v. Bazzoli.
Franklin County, No. 94APE03-294. (Appeal by James Bazzoli, M.D., et al.; second appeal by Larry Mellick, M.D., et al.)
Douglas, J., dissents.

95-330. Klosterman v. Fussner.
Montgomery County, No. 14464.

95-331. Buczek v. Trimble.
Belmont County, No. 94-B-9.

95-337. Clarke v. Magas.
Hamilton County, No. C-940122. Discretionary appeal denied. On motion for admission pro hac vice by Aaron Levin, Esq. Motion denied.
Douglas, J., dissents.

95-364. Danville Feed & Supply, Inc. v. Knox Cty. Bd. of Commrs.
Knox County, No. 94CA12.
Douglas, J., dissents.
Wright, J., not participating.

95-386. Turner v. Cleveland City School Dist. Bd. of Edn.
Cuyahoga County, No. 66994.

RECONSIDERATION DOCKET

90-291. State v. Durr.
Cuyahoga County, No. 57140. Reported at 72 Ohio St.3d 1404, N.E.2d . On motion for reconsideration. Motion denied.
Wright, J., dissents.

93-2331. Canton Storage & Transfer Co. v. Pub. Util. Comm.
Public Utilities Commission, Nos. 90506TRACE, 90507TRACE, 90508TRACE and 90509TRACE. Reported at 72 Ohio St.3d 1, N.E.2d . On

motion for reconsideration. Motion denied.

Wright, J., dissents.

93-2332. Advance Transfer Co. v. Pub. Util. Comm.

Public Utilities Commission, Nos. 90506TRACE, 90507TRACE, 90508TRACE and 90509TRACE. Reported at 72 Ohio St.3d 1, N.E.2d . On motion for reconsideration. Motion denied.

Wright, J., dissents.

93-2449. Carr's Moving & Storage Co. v. Pub. Util. Comm.

Public Utilities Commission, Nos. 90506TRACE, 90507TRACE, 90508TRACE and 90509TRACE. Reported at 72 Ohio St.3d 1, N.E.2d . On motion for reconsideration. Motion denied.

Wright, J., dissents.

93-2476. Pitts v. Mobile Tank Car Serv., Inc.

Cuyahoga County, Nos. 62927, 62928 and 62929. Reported at 72 Ohio St.3d 49, N.E.2d . On motion for reconsideration. Motion denied.

Pfeifer, J., dissents.

94-2173. State Farm Mut. Auto. Ins. Co. v. Reinhart.

Seneca County, Nos. 13-93-37 and 13-93-38. Reported at 71 Ohio St.3d 654, N.E.2d . On motion for reconsideration. Motion denied.

Wright, J., dissents.

94-2254. Cincinnati Bar Assn. v. Sullivan.

Reported at 71 Ohio St.3d 647, N.E.2d . On motion for reconsideration. Motion denied.

94-2309. State ex rel. Smith v. O'Connor.

Hamilton County, No. C-940141. Reported at 71 Ohio St.3d 660, N.E.2d . On motion for reconsideration. Motion denied.

94-2376. Hammond v. Grange Mut. Cas. Co.

Franklin County, No. 93APE11-1620. Reported at 71 Ohio St.3d 651, N.E.2d . On motion for reconsideration. Motion denied.

Wright, J., dissents.

95-29. Nozik v. McDonald.

Lake County, No. 93-L-183. Reported at 72 Ohio St.3d 1405, N.E.2d . On motion for reconsideration. Motion denied.

95-82. May v. Bowland.

Hamilton County, Nos. C-940107 and C-940153. Reported at 72 Ohio St.3d 1406, N.E.2d . On motion for reconsideration. Motion denied.