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SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

1:00 P.M. WEDNESDAY
July 8, 1998

MERIT DOCKET

98-828. Wright v. Presiding Judge, Court of Appeals, First Dist.
In Procedendo. Sua sponte, cause dismissed.
Moyer, C.J., Douglas, Resnick, F.E. Sweeney, Pfeifer, Cook and Lundberg
Stratton, JJ., concur.

98-928. State ex rel. Ajamu v. Ghee.
In Mandamus. On answer of respondent. Answer treated as motion to dismiss.
Motion to dismiss sustained. Cause dismissed.
Moyer, C.J., Douglas, Resnick, F.E. Sweeney, Pfeifer, Cook and Lundberg
Stratton, JJ., concur.

98-963. State ex rel. Simms v. Sutula.
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.

98-1090. Moreland v. Anderson.

In Habeas Corpus. Sua sponte, cause dismissed.

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

98-1149. Lee v. Konteh.

In Habeas Corpus. Sua sponte, cause dismissed.

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

98-1153. Askew v. Anderson.

In Habeas Corpus. 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

98-793. State v. Jennings.

Clark App. No. 95-CA-35.

98-794. State v. Lutchey.

Fulton App. No. F-95-009.

98-796. State v. Slone.

Morrow App. No. CA-736. On motion to exceed page limitation. Motion denied.

98-958. State v. Carter.

Sandusky App. No. S-96-039.

98-1018. State v. Martin.

Hamilton App. No. C-960563.

MOTION DOCKET

95-2376. State ex rel. Parks v. Indus. Comm.
Franklin App. No. 95APD07-1096. On request for oral argument. Request granted.
Cook, J., dissents.

97-2039. E. Canton Edn. Assn. v. McIntosh.
Stark App. No. 96CA0293. On motion to supplement record. Motion granted.

97-2342. Wightman v. Consol. Rail Corp.
Erie App. No. E-97-001. On motion for admission pro hac vice of David E.
Neumeister. Motion granted.

97-2419. State ex rel. Ohio Academy of Trial Lawyers v. Sheward.
In Mandamus and Prohibition. On motion to expedite oral argument and decision
on motion to dismiss. Motion denied.
Lundberg Stratton, J., dissents.

97-2517. In re Fryerson.
Belmont App. No. 97-BA-38. On motion to strike. Motion denied.

98-28. AT&T Communications of Ohio, Inc. v. Pub. Util. Comm.
Public Utilities Commission, No. 96-336-TP-CSS. On motion to consolidate with
98-30, infra. Motion granted.
Resnick, J., not participating.

98-30. MCI Telecommunications Corp. v. Pub. Util. Comm.
Public Utilities Commission, No. 96-336-TP-CSS. On motion to consolidate with
98-28, supra. Motion granted.
Resnick, J., not participating.

98-84. Rice v. CertainTeed Corp.
Certified Question of State Law, No. 397CV7484. On motion to strike brief
amicus curiae. Motion denied.

98-513. State v. Grover.
Cuyahoga App. No. 72250. On request for findings of fact and conclusions of law. Request denied.

98-519. State ex rel. Commt. for Charter Amendment Petition v. Avon.
In Mandamus. On bill and documentation in support of request for attorney fees. Attorney fees granted in the amount of \$22,618.75 plus costs.

98-675. State ex rel. Haylett v. Ohio Bur. of Workers' Comp.
In Mandamus and Prohibition. On motions to dismiss. Motions to dismiss denied. Sua sponte, alternative writ granted.

Moyer, C.J., Cook and Lundberg Stratton, JJ., dissent and would grant the motions to dismiss.

98-748. Ferro Corp. v. Blaw-Knox Food & Chem. Equip. Co.
Cuyahoga App. Nos. 70804 and 70936. 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' order rendered on April 9, 1998, at page 3:

"Whether, in order to permit an immediate appeal from an otherwise non-final appealable order under Art. IV, Section 3(B)(2) of the Ohio Constitution, R.C. 2505.02 and Civ.R. 54(B), a party may voluntarily dismiss without prejudice, under Civ.R. 41(A)(1)(a), less than the entire 'action.'"

The conflict cases are Lee v. Gross Lumber Co. (1989), 57 Ohio App.3d 52, 566 N.E.2d 696; Slocum v. Gioffre Constr., Inc. (Nov. 17, 1994), Franklin App. No. 94APE04-588, unreported, 1994 WL 649940; and Reagan v. Ranger Transp., Inc. (1995), 104 Ohio App.3d 15, 660 N.E.2d 1234.

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

On motion for admission pro hac vice of P. Christian Hague. Motion granted.

98-886. State v. Condron.
Montgomery App. No. 16430. On review of order certifying a conflict. The court determines that a conflict exists; sua sponte, cause held for the decision in 97-1985, State v. Cook, Allen App. No. 1-97-21; briefing schedule stayed.

98-986. State v. Smotherman.
Franklin App. No. 97APA05-680. On motion for leave to file delayed appeal. Motion denied.
Pfeifer, J., dissents.

98-997. State v. James.
Richland App. No. 96CA17. On motion for leave to file delayed appeal. Motion denied.
Moyer, C.J., Pfeifer and Lundberg Stratton, JJ., dissent.

98-1003. State v. Stewart.
Washington App. No. 96CA18. On motion for leave to file delayed appeal. Motion denied.
Moyer, C.J., Pfeifer and Lundberg Stratton, JJ., dissent.

98-1006. State v. Steele.
Hamilton App. No. C-950019. On motion for leave to file delayed appeal. Motion denied.

98-1025. State v. Aqu-Simmons.
Cuyahoga App. No. 70035. On motion for leave to file delayed appeal. Motion denied.

98-1027. State v. Yeagley.
Holmes App. No. 96-558. On motion for leave to file delayed appeal. Motion denied.

98-1053. State v. Borden.
Hamilton App. Nos. C-960977 and C-961050. On motion for leave to file delayed appeal. Motion denied.
Pfeifer and Cook, JJ., dissent.

98-1075. State v. Prewitt.
Cuyahoga App. No. 71855. On motion for leave to file delayed appeal. Motion denied.

98-1160. Bedford v. Tolbert.
Cuyahoga App. No. 72439. On motion for stay. Motion denied.

DISCRETIONARY APPEALS ALLOWED

98-747. Ferro Corp. v. Blaw-Knox Food & Chem. Equip. Co.
Cuyahoga App. Nos. 70804 and 70936. On appeal of American Tank & Fabricating Company. Discretionary appeal denied.

Moyer, C.J., dissents and would allow on Proposition of Law No. I only.
Resnick and Lundberg Stratton, JJ., dissent.

On cross-appeal of Ferro Corporation. Discretionary cross-appeal allowed.

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

On cross-appeal of Blaw-Knox Food & Chemical Equipment Company.

Discretionary cross-appeal denied.

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

On motion for admission pro hac vice of P. Christian Hague. Motion granted.

98-884. State v. Condron.
Montgomery App. No. 16430. Discretionary appeal allowed on Proposition of Law No. I only.

Resnick, Pfeifer and Cook, JJ., dissent.

RECONSIDERATION DOCKET

96-2029. State v. White.
Ashland App. No. 96-CRI-07366. Reported at 82 Ohio St.3d 16, 693 N.E.2d 772.
On motion for reconsideration. Motion denied.

96-2350. Smith v. Granville Twp. Bd. of Trustees.
Licking App. No. 96-CA-98. Reported at 81 Ohio St.3d 608, 693 N.E.2d 219. On motion for reconsideration. Motion denied.

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

On amicus curiae motions for leave to file under S.Ct.Prac.R. XI of city of Columbus, Ohio Home Builders Association, Inc., Ohio Municipal League et al., and city of Toledo. Motions granted.

96-2509. State v. White.

Ashland App. No. 96-COA-01182. Reported at 82 Ohio St.3d 16, 693 N.E.2d 772. On motion for reconsideration. Motion denied.

97-797. State ex rel. Wilson-Simmons v. Lake Cty. Sheriff's Dept.

In Mandamus. Reported at 82 Ohio St.3d 37, 693 N.E.2d 789. On motion for reconsideration. Motion denied.

97-2182. Disciplinary Counsel v. Kurtz.

Reported at 82 Ohio St.3d 55, 693 N.E.2d 1080. On motion for reconsideration and on motion for stay. Motions denied.

98-524. State v. Ingram.

Montgomery App. No. 16783. Reported at 82 Ohio St.3d 1411, 694 N.E.2d 75. On motion for reconsideration. Motion denied.

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

98-540. Earley v. Cuyahoga Metro. Hous. Auth.

Cuyahoga App. No. 73003. Reported at 82 Ohio St.3d 1412, 694 N.E.2d 75. On motion for reconsideration. Motion denied.

98-585. Wellman Seeds, Inc. v. Delphos.

Van Wert App. No. 15982. Reported at 82 Ohio St.3d 1412, 694 N.E.2d 75. On motion for reconsideration. Motion denied.

98-612. Stevens v. Finley.

Montgomery App. No. 16856. Reported at 82 Ohio St.3d 1413, 694 N.E.2d 75. On motion for reconsideration. Motion denied.

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