

[Cite as *Noe v. Smith* , 93 Ohio St.3d 1217, 2001-Ohio-1594]

NOE, APPELLANT, v. SMITH, APPELLEE.

[Cite as *Noe v. Smith* (2001), 93 Ohio St.3d 1217.]

Appeal dismissed as improvidently allowed.

(No. 00-1917 — Submitted September 19, 2001 — Decided October 31, 2001.)

APPEAL from the Court of Appeals for Athens County, No. 00CA004.

The cause is dismissed, *sua sponte*, as having been improvidently allowed.

MOYER, C.J., PFEIFER, COOK and LUNDBERG STRATTON, JJ., concur.

DOUGLAS and RESNICK, JJ., dissent.

F.E. SWEENEY, J., dissents and would reverse the judgment of the court of appeals.

Allen Schulman & Associates Co., L.P.A., Allen Schulman, Jr., and Christopher J. Van Blargan, for appellant.

Mollica, Gall, Sloan & Sillery Co., L.P.A., Gerald A. Mollica, Robert J. Gall and Larry D. Wines, for appellee.
