

The Supreme Court of Ohio

CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

July 16, 2003

MERIT DECISIONS WITH OPINIONS

2001-1891 and 2002-0262. Penn Traffic Co. v. AIU Ins. Co., 2003-Ohio-3373.

Pike App. No. 00CA653, 2001-Ohio-2567. Judgment affirmed.

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

Resnick, J., concurs in judgment.

Pfeifer, J., concurs in part and dissents in part.

Lynn C. Slaby, J., of the Ninth Appellate District, sitting for Cook, J.

2002-0903. Cohara v. Consol. Rail Corp., 2003-Ohio-3390.

Cuyahoga App. Nos. 79459 and 79819, 148 Ohio App.3d 153, 2002-Ohio-1557.

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

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

Lazarus, J., dissents.

Cynthia A. Lazarus, J., of the Tenth Appellate District, sitting for Cook, J.

2002-1229. Std. Loan Office, Inc. v. Scottsdale Surplus Lines Co., 2003-Ohio-3391.

Lucas App. No. L-01-1435, 2002-Ohio-3051. The cause is dismissed, sua sponte, as having been improvidently allowed.

Moyer, C.J., Vukovich, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

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

Joseph J. Vukovich, J., of the Seventh Appellate District, sitting for Resnick, J.

2002-1324. Jones v. Norfolk S. Ry. Co., 2003-Ohio-3392.

Lucas App. No. L-01-1490, 2002-Ohio-3412. The cause is dismissed, sua sponte, as having been improvidently allowed.

Moyer, C.J., Vukovich, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

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

Joseph J. Vukovich, J., of the Seventh Appellate District, sitting for Resnick, J.

2002-1626. State ex rel. Blanton v. Indus. Comm., 2003-Ohio-3271.

Franklin App. No. 01AP-1197, 2002-Ohio-4037. Judgment affirmed.

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

O'Donnell, J., not participating.

2002-2058 and 2002-2082. Midwestern Indemn. Co. v. Savage, 2003-Ohio-3393.

Darke App. No. 02CA1584, 2002-Ohio-5593. Judgment affirmed on authority of *Penn Traffic Co. v. AIU Ins. Co.*, 99 Ohio St.3d 227, 2003-Ohio-3373, ___ N.E.2d ___, decided today.

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

O'Donnell, J., not participating.

2002-2182. Disciplinary Counsel v. Bowman, 2003-Ohio-3374.

On Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 02-04. Scott Bowman is suspended from the practice of law in Ohio for one year, with six months stayed on conditions.

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

Mike Fain, J., of the Second Appellate District, sitting for Cook, J.

2002-2224. Cuyahoga Cty. Bar Assn. v. McClain, 2003-Ohio-3394.

On Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 02-10. Mark A. McClain is indefinitely suspended from the practice of law in Ohio, with the suspension deemed to have commenced on June 5, 2002.

Moyer, C.J., Resnick, F.E. Sweeney, Wise and O'Connor, JJ., concur.

Pfeifer and Lundberg Stratton, JJ., dissent.

John W. Wise, J., of the Fifth Appellate District, sitting for Cook, J.

MERIT DECISIONS WITHOUT OPINIONS

2003-0831. State ex rel. Gamble v. Ohio Dept. of Rehab. & Corr.

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.

2003-0883. State ex rel. Whitmore v. O'Neill.

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.

2003-0939. Rexrode v. Zajkowski.

In Quo Warranto. 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.

2003-0988. State ex rel. Raymer v. Court of Common Pleas.

In Mandamus and 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.

2003-0992. Fairrow v. Saunders.

In Habeas Corpus. On petition for writ of habeas corpus of David E. Fairrow. Sua sponte, cause dismissed.

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

2003-0993. Filkins v. Ishee.

In Habeas Corpus. On petition for writ of habeas corpus of Allen W. Filkins. Sua sponte, cause dismissed.

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

2003-1104. Baumgartner v. Emahiser.

In Habeas Corpus. On petition for writ of habeas corpus of Elsebeth Baumgartner. 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

2003-0978. State v. Hill.

Franklin App. No. 01AP-987, 2002-Ohio-3065. On motion for leave to file delayed appeal. Motion denied.

2003-0994. State v. Rupert.

Lake App. No. 2001-L-151, 2002-Ohio-6911. On motion for leave to file delayed appeal. Motion granted.

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

2003-1001. State v. Scurlock.

Clark App. No. 2002CA34, 2003-Ohio-1052. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

2003-1002. State v. Smith.

Stark App. No. 2002CA306, 2003-Ohio-2033. On motion for stay of the trial court's entire community sanction and restitution order pending appeal. Motion denied.

2003-1012. State v. Feldhouse.

Trumbull App. No. 2002-T-0040, 2003-Ohio-2112. On motion for stay of court of appeals' judgment. Motion denied.

2003-1016. State v. White.

Butler App. No. CA2002-12-294. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2003-1023. State v. Brahler.

Cuyahoga App. No. 79710, 2002-Ohio-2252. On motion for leave to file delayed appeal. Motion denied.

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

2003-1033. In re Beasley.

Scioto App. No. 03CA2874, 2003-Ohio-2857. On motion for stay of court of appeals' judgment. Motion denied.

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

2003-1038. State v. Davis-Bey.

Cuyahoga App. No. 79524, 2002-Ohio-3437. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2003-1047. State v. Nelson.

Ashtabula App. No. 2001-A-0076, 2002-Ohio-6701. On motion for stay of court of appeals' judgment. Motion denied.

2003-1056. State v. Griggs.

Trumbull App. No. 2001-T-0064, 2003-Ohio-2365. On motion for stay of court of appeals' judgment. Motion denied.

Resnick and O'Connor, JJ., dissent.

APPEALS NOT ACCEPTED FOR REVIEW

2003-0336. State v. Dowd.

Cuyahoga App. No. 80990, 2002-Ohio-7061.

F.E. Sweeney, J., not participating.

2003-0361. State v. Brown.

Marion App. No. 9-02-02, 2002-Ohio-6765.

O'Donnell, J., dissents.

2003-0669. In re Adaranijo.

Hamilton App. Nos. C-020313 and C-020393.

2003-0716. In re Hammons.

Cuyahoga App. No. 80570, 2003-Ohio-992.

2003-0720. State v. Barker.

Coshocton App. No. 03CA2.

2003-0721. State v. Furniss.

Franklin App. No. 02AP-985, 2003-Ohio-1115.

2003-0733. Cimperman v. Cimperman.

Cuyahoga App. No. 80807, 2003-Ohio-869.

2003-0735. State v. Warren.

Athens App. No. 02CA29, 2003-Ohio-1196.

2003-0736. Lee v. Cleveland.

Cuyahoga App. Nos. 80740 and 81504, 2003-Ohio-742.

2003-0740. State v. Burkey.

Sandusky App. No. S-02-008, 2003-Ohio-1407.

2003-0742. Werden v. Bur. of Workers' Comp.

Mahoning App. No. 02CA102, 2003-Ohio-1222.

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

Summit App. Nos. 21055 and 21133, 2003-Ohio-1136.

2003-0746. In re Estate of Mercurio.

Mahoning App. No. 00CA108, 2003-Ohio-1437.

2003-0747. In re Estate of Hunter.

Mahoning App. No. 00CA107, 2003-Ohio-1435.

2003-0748. In re Estate of Lanning.

Mahoning App. No. 00CA110, 2003-Ohio-1438.

2003-0750. Thrower v. Akron Hous. Appeals Bd.

Summit App. No. 21153, 2003-Ohio-1307,

O'Connor, J., not participating.

2003-0752. State v. Nixon.

Lorain App. No. 02CA008148, 2003-Ohio-1476.

2003-0755. State v. Young.

Montgomery App. No. 19328, 2003-Ohio-1254.

2003-0758. Thibodeaux v. Thibodeaux.

Hamilton App. No. C-020103. On discretionary appeal and on motion of C. Richard Martin for admission pro hac vice of Richard L. Ducote. Appeal and motion denied.

Moyer, C.J., and O'Connor, J., would grant the motion for admission pro hac vice.

2003-0759. State v. Stanley.

Montgomery App. No. 19798.

2003-0761. Campbell v. Mount Vernon.

Knox App. No. 03CA9.

2003-0762. State v. Miles.

Defiance App. No. 40228, 2003-Ohio-1370.

2003-0763. State v. Samatar.

Franklin App. No. 02AP-180, 2003-Ohio-1639.

Moyer, C.J., dissents.

2003-0764. State v. Carter.

Stark App. No. 2002CA00125, 2003-Ohio-1313.

2003-0768. Glick v. Cleveland.

Cuyahoga App. No. 81239, 2003-Ohio-997.

2003-0771. State v. Schwarz.

Medina App. No. 02CA0042M, 2003-Ohio-1294.

O'Donnell, J., dissents.

2003-0772. Crow v. Fred Martin Motor Co.

Cuyahoga App. No. 21128.

2003-0773. State v. Smith.

Muskingum App. No. CT20020031, 2003-Ohio-1668.

2003-0774. State v. Townsend.

Franklin App. No. 02AP-510, 2003-Ohio-1327.

2003-0776. Pollard v. Hunt.

Montgomery App. Nos. 19320 and 19321, 2003-Ohio-1381.

O'Connor, J., dissents.

2003-0777. Moore v. CM Properties.

Montgomery App. No. 19388, 2003-Ohio-1379.

Lundberg Stratton, J., dissents.

2003-0781. Bragg v. Hatfield.

Vinton App. No. 02CA567, 2003-Ohio-1441.

Moyer, C.J., dissents.

2003-0787. Longstreth v. Bonetzky.

Allen App. No. 1-03-12.

F.E. Sweeney, J., dissents.

2003-0788. Duncan v. Capitol S. Community Urban Redev. Corp.

Franklin App. No. 02AP-653, 2003-Ohio-1273.

2003-0789. Milick v. Ciapala.

Mahoning App. No. 02CA53, 2003-Ohio-1427.

2003-0791. Hicks v. Velvet Grable Meadows.

Summit App. No. 21245, 2003-Ohio-1473.

2003-0792. Marik v. KB Compost Serv., Inc.

Summit App. No. 21249, 2003-Ohio-1297.

Moyer, C.J., dissents.

2003-0797. Misseldine v. Progressive Cas. Ins. Co.

Cuyahoga App. No. 81770, 2003-Ohio-1359.

Pfeifer, J., dissents.

2003-0799. State v. Clark.

Pike App. No. 02CA684, 2003-Ohio-1707.

2003-0800. Hanna v. Hanna.

Lucas App. No. L-01-1446, 2003-Ohio-1401.

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

2003-0801. Blake v. First Fin. Ins. Co.

Columbiana App. No. 2002CO20, 2003-Ohio-1433.

Pfeifer, J., dissents and would hold the cause for this court's decision in 2002-0579, *Burkhart v. CNA Ins. Co.*, Stark App. No. 2001CA00265, 2002-Ohio-903.

2003-0802. Smith v. Air-Ride, Inc.

Franklin App. No. 02AP-719, 2003-Ohio-1519.

Resnick, J., dissents.

2003-0803. State v. Elliott.

Columbiana App. No. 01CO24, 2003-Ohio-1426.

2003-0807. Heida v. R.M.S./Forest City Ent.

Cuyahoga App. No. 81717, 2003-Ohio-1357.

2003-0808. State v. Lozada.

Cuyahoga App. No. 81151, 2003-Ohio-1721.

2003-0812. State v. Sanders.

Cuyahoga App. No. 81450, 2003-Ohio-1163.

O'Connor, J., dissents.

O'Donnell, J., not participating.

2003-0813. OTR v. Cincinnati.

Hamilton App. No. C-010658, 2003-Ohio-1549.
Lundberg Stratton, J., dissents.

2003-0815. State v. Jackson.

Franklin App. No. 02AP-468, 2003-Ohio-1653.
Moyer, C.J., and Pfeifer, J., dissent.

2003-0821. Gore v. Ohio Dept. of Transp.

Franklin App. No. 02AP-996, 2003-Ohio-1648.
Pfeifer, J., dissents.

2003-0823. Hotel Innovations, Inc. v. Dayton.

Montgomery App. No. 19595, 2003-Ohio-1562.

2003-0824. O'Conner v. Patton.

Highland App. No. 02CA10, 2003-Ohio-2597.

2003-0826. Water Works Supplies, Inc. v. Grooms Constr. Co., Inc.

Highland App. No. 02CA18, 2003-Ohio-1527.
O'Connor, J., dissents and would allow on Propositions of Law I and II.

2003-0833. Pannozzo v. Anthem Blue Cross & Blue Shield.

Mahoning App. No. 02CA112, 2003-Ohio-1601. On discretionary appeal and on motion for admission pro hac vice of James M. Burns by Bruce Botista et al. Appeal and motion denied.

Moyer, C.J., and O'Connor, J., would grant the motion for admission pro hac vice.

2003-0835. Angerman v. Burick.

Wayne App. No. 02CA0028, 2003-Ohio-1469.

2003-0838. Hamilton v. Ohio Hosp. Ins. Co.

Darke App. No. 1592, 2003-Ohio-1762.

2003-0839. Hamilton v. CNA Ins.

Darke App. No. 1591, 2003-Ohio-1761.
Pfeifer, J., dissents.
O'Donnell, J., not participating.

2003-0842. Lewis v. Clark Equip. Co.
Hamilton App. No. C-020271, 2003-Ohio-1543.
Resnick, J., dissents.

2003-0848. State v. Moore.
Cuyahoga App. No. 80416, 2003-Ohio-1154.

2003-0849. State v. McCall.
Mahoning App. No. 99CA283, 2003-Ohio-1603.
Moyer, C.J., dissents.

2003-0866. State v. Krutowsky.
Cuyahoga App. No. 81545, 2003-Ohio-1731.

2003-0875. State v. Webb.
Cuyahoga App. No. 80206, 2003-Ohio-1718.

2003-0893. State v. Ivey.
Cuyahoga App. No. 80812, 2003-Ohio-1825.

2003-0905. State v. McCladdie.
Cuyahoga App. No. 81387, 2003-Ohio-1726.

2003-0909. State v. Green.
Cuyahoga App. No. 81232, 2003-Ohio-1722.

2003-0920. State v. Murrell.
Hamilton App. No. C-020333, 2003-Ohio-2068.

2003-0986. State v. Howard.
Butler App. No. CA2002-02-040, 2003-Ohio-2006.