

The Supreme Court of Ohio

CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

December 15, 2004

MERIT DECISIONS WITH OPINIONS

2001-1518. State v. Gapen, 2004-Ohio-6548.

Montgomery C.P. No. 2000 CR 02945. Judgment affirmed in part and reversed in part.

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

2003-1010. State ex rel. Ohio Civ. Serv. Employees Assn., AFSCME, Local 11, AFL-CIO v. State Emp. Relations Bd., 2004-Ohio-6363.

Franklin App. No. 02AP-1007, 152 Ohio App.3d 551, 2003-Ohio-2021. Judgment affirmed.

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

Pfeifer, J., concurs in Parts III and IV of the opinion and in judgment.

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

2003-1055 and 2003-1145. Weaver v. Edwin Shaw Hosp., 2004-Ohio-6549.

Tuscarawas App. No. 2001 AP 07 0070, 2003-Ohio-2488. Judgment affirmed.

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

O'Connor, J., concurs in judgment only.

2003-1161. State v. Crotts, 2004-Ohio-6550.

Cuyahoga App. No. 81477, 2003-Ohio-2473. Judgment reversed.

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

Pfeifer, J., concurs in judgment only.

F.E. Sweeney, J., dissents and would dismiss the appeal as improvidently allowed.

2003-1202. Bellecourt v. Cleveland, 2004-Ohio-6551.

Cuyahoga App. No. 80193, 152 Ohio App.3d 687, 2003-Ohio-2468. Judgment reversed.

Resnick, F.E. Sweeney, Lundberg Stratton and O'Connor, JJ., concur.

O'Donnell, J., concurs in judgment only.

Moyer, C.J., dissents.

Pfeifer, J., dissents.

2003-1447. Layne v. Progressive Preferred Ins. Co., 2004-Ohio-6597.

Stark App. Nos. 2002CA00327 and 2002CA00335, 2003-Ohio-3575. Judgment affirmed.

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

Pfeifer, J., concurs with separate opinion.

Resnick, J., concurs in judgment only.

F.E. Sweeney, J., dissents.

2003-1538. Howland v. Purdue Pharma L.P., 2004-Ohio-6552.

Butler App. Nos. CA2002-09-220, CA2002-09-223 and CA2002-09-227, 2003-Ohio-3699. Judgment reversed.

Christley, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

Moyer, C.J., dissents.

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

Judith A. Christley, J., of the Eleventh Appellate District, sitting for Resnick, J.

2003-1637. State v. Cooper, 2004-Ohio-6553.

Crawford App. No. 3-02-02, 2003-Ohio-4236. Judgment reversed and cause remanded.

Resnick, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

Moyer, C.J., dissents.

F.E. Sweeney and Pfeifer, JJ., dissent and would dismiss the appeal as improvidently allowed.

2003-2102. Cincinnati Metro. Hous. Auth. v. Morgan, 2004-Ohio-6554.

Hamilton App. No. C-030078, 2003-Ohio-5671. Judgment reversed.

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

2004-0290. State ex rel. Dayton Foods Ltd. Partnership v. Unger, 2004-Ohio-6556.

Franklin App. No. 02AP-1076, 2003-Ohio-7228. Judgment affirmed.

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

Lundberg Stratton, J., concurs in judgment only.

2004-0432. Disciplinary Counsel v. Johnson, 2004-Ohio-6555.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 03-070. Jacqueline L. Tullos Johnson, Attorney Registration No. 0029249, is permanently disbarred from the practice of law in Ohio.

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

2004-0665. State ex rel. Beacon Journal Publishing Co. v. Akron, 2004-Ohio-6557.

Summit App. No. 21116. Judgment affirmed in part and reversed in part.

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

2004-0817. Cleveland Bar Assn. v. CompManagement, Inc., 2004-Ohio-6506.

On Certified Report by the Board of Commissioners on the Unauthorized Practice of Law, No. UPL 02-04. The board's recommendation is rejected and the cause is remanded.

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

O'Donnell, J., concurs in judgment only.

F.E. Sweeney, J., dissents.

Pfeifer, J., dissents with opinion.

2004-0973. State v. Sutton, 2004-Ohio-6558.

Lucas App. No. L-03-1104, 2004-Ohio-2679. Judgment affirmed.

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

2004-1008. Stark Cty. Bar Assn. v. Arkow, 2004-Ohio-6512.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 03-080. Seth W. Arkow, Attorney Registration No. 0069103, is suspended from the practice of law in Ohio for one year, stayed on conditions.

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

2004-1010. Cincinnati Bar Assn. v. Rothermel, 2004-Ohio-6559.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 03-088. Christian Dean Rothermel, Attorney Registration No. 0043140, is indefinitely suspended from the practice of law in Ohio.

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

2004-1030. State ex rel. Lecklider v. School Emp. Retirement Sys., 2004-Ohio-6586.

Franklin App. No. 03AP-535, 2004-Ohio-2526. Judgment affirmed.

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

Pfeifer, J., concurs in judgment only.

2004-1060. Dayton Bar Assn. v. Sebree, 2004-Ohio-6560.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 02-40. Cause remanded.

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

2004-1062. Disciplinary Counsel v. Gideon, 2004-Ohio-6587.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 03-013. John Joseph Gideon, Attorney Registration No. 0008151, is suspended from the practice of law in Ohio for two years, stayed on conditions.

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

2004-1067. Akron Bar Assn. v. Williams, 2004-Ohio-6588.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 03-006. Douglas R. Williams, Attorney Registration No. 0070716, is suspended from the practice of law in Ohio for two years, with 18 months stayed on conditions.

Resnick, F.E. Sweeney, Pfeifer and O'Donnell, JJ., concur.

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

O'Connor, J., dissents and would suspend respondent for two years.

2004-1083. State ex rel. Call v. Fragale, 2004-Ohio-6589.

Marion App. No. 9-04-19. Judgment affirmed.

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

Pfeifer, J., concurs in judgment only.

2004-1102. State ex rel. Johnson v. Ohio Adult Parole Auth., 2004-Ohio-6590.

Franklin App. No. 03AP-466, 2004-Ohio-2648. Judgment affirmed.

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

2004-1184. State ex rel. Vaughn v. Money, 2004-Ohio-6561.

Franklin App. No. 03AP-953. Judgment affirmed.

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

Pfeifer, J., concurs in judgment only.

2004-1192. In re Application of Mefford, 2004-Ohio-6591.

On Report of the Board of Commissioners on Character and Fitness, No. 251. The application of Jackie L. Mefford to register as a candidate for admission to the practice of law in Ohio is denied.

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

2004-1238. State ex rel. Indiana Ins. Co. v. Reinbold, 2004-Ohio-6507.

In Mandamus. On motion to intervene, motion to strike, and motions to dismiss. Motion to intervene granted, motion to strike denied, and motions to dismiss granted. Cause dismissed.

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

Lundberg Stratton, J., concurs separately.

2004-1291. Ali v. State, 2004-Ohio-6592.

Summit App. No. 21824. Judgment affirmed.

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

2004-1374. Disciplinary Counsel v. Blaszak, 2004-Ohio-6593.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 02-59. James L. Blaszak, Attorney Registration No. 0018800, is suspended from the practice of law in Ohio for two years, with credit for his interim suspension.

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

2004-1375. Disciplinary Counsel v. Treneff, 2004-Ohio-6562.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 04-009. Randall Charles Treneff, Attorney Registration No. 0042588, is indefinitely suspended from the practice of law in Ohio.

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

2004-1394. Disciplinary Counsel v. Muhlbach, 2004-Ohio-6563.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 03-058. Peter Michael Muhlbach, Attorney Registration No. 0058412, is permanently disbarred from the practice of law in Ohio.

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

2004-1412. Disciplinary Counsel v. Insley, 2004-Ohio-6564.

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 03-093. Heather Renee Insley, Attorney Registration No. 0074162, is indefinitely suspended from the practice of law in Ohio.

Moyer, C.J., Resnick, O'Connor and O'Donnell, JJ., concur.

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

2004-1452. State ex rel. Qualls v. Story, 2004-Ohio-6565.

Meigs App. No. 04CA4. Judgment affirmed.

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

2004-1497. State ex rel. Maxwell v. Spicer, 2004-Ohio-6594.

Summit App. No. 22160. Judgment affirmed.

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

2004-1664. State ex rel. Rodak v. Betleski, 2004-Ohio-6567.

In Procedendo. Writ granted.

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

MERIT DECISIONS WITHOUT OPINIONS

2004-1629. State ex rel. Pruitt v. Court of Appeals, Sixth Appellate District.

In Mandamus. On S.Ct.Prac.R. X(5) determination and consideration of respondent's answer and motion for judgment on the pleadings. Cause dismissed.

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

2004-1646. State ex rel. New World Communication of Ohio, Inc. v. Mason.

In Mandamus. On consideration of the motion of the Cleveland Catholic Diocese and the various parishes/entities to intervene and the motion of the Catholic Conference of Ohio for leave to file an amicus curiae memorandum. Motions granted.

On S.Ct.Prac.R. X(5) determination and consideration of the motions for judgment on the pleadings of respondent, the Cleveland Catholic Diocese, and the parishes/entities. Cause dismissed.

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

2004-1662. State ex rel. Hawley v. Ohio Adult Parole Auth.

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

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

O'Donnell, J., not participating.

2004-1720. State ex rel. Van Auken v. Blackwell.

Franklin App. No. 04AP-952, 2004-Ohio-5355. This appeal of right concerns appellants' claim for a writ of mandamus to compel the placement of candidates for President and Vice-President of the United States on the November 2, 2004 election ballot.

Upon consideration, because the November 2, 2004 election has now passed, IT IS HEREBY ORDERED that this appeal be, and hereby is, dismissed as moot. See *State ex rel. Hills Communities, Inc. v. Clermont Cty. Bd. of Elections*, 91 Ohio St.3d 465, 2001-Ohio-101, 746 N.E.2d 1115; *State ex rel. Bona v. Orange*, 85 Ohio St.3d 18, 1999-Ohio-431, 706 N.E.2d 771.

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

2004-1750. Israfil v. Court of Appeals, First Appellate District.

In Prohibition. On answers of respondents, motion to dismiss, and motion for summary judgment. Motion to dismiss sustained. Cause dismissed.

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

2004-1805. State ex rel. Harris v. Martinez.

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

Resnick, F.E. Sweeney, Pfeifer, O'Connor and O'Donnell, JJ., concur.

Moyer, C.J., and Lundberg Stratton, J., would deny the motion to dismiss and grant an alternative writ.

MOTION AND PROCEDURAL RULINGS

2003-2168. Berea City School Dist. Bd. of Edn. v. Cuyahoga Cty. Auditor.

Board of Tax Appeals, Nos. 2003-J-143, 2003-J-144 and 2003-J-150. On request for oral argument. Request granted.

O'Donnell, J., dissents.

2004-1804. State v. Walker.

Lawrence App. No. 04 C.A. 23. On motion for leave to file delayed appeal. Motion denied.

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

2004-1806. State v. Tucker.

Stark App. No. 2002CA00389, 2003-Ohio-5421. On motion for leave to file delayed appeal. Motion denied.

2004-1809. State v. Sims.

Hamilton App. Nos. C-030722 and C-030751. On motion for leave to file delayed appeal. Motion denied.

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

2004-1810. State v. Williams.

Franklin App. No. 03AP-4, 2003-Ohio-7160. On motion for leave to file delayed appeal. Motion denied.

2004-1821. State v. White.

Cuyahoga App. No. 82915, 2004-Ohio-1247. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

2004-1830. State v. Jesus.

Hamilton App. No. C-030824. On motion for leave to file delayed appeal. Motion denied.

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

2004-1843. State v. Miller.

Cuyahoga App. Nos. 83362 and 83363, 2004-Ohio-4097. On motion for leave to file delayed appeal. Motion granted.

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

2004-1845. State v. Hayes.

Hamilton App. No. C-030257. On motion for leave to file delayed appeal. Motion granted.

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

2004-1877. State v. Saxon.

Cuyahoga App. No. 83889, 2004-Ohio-5017. On motion for stay of court of appeals' judgment. Motion denied.

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

2004-1888. State v. Glass.

Cuyahoga App. No. 84035, 2004-Ohio-4912. On motion for stay of court of appeals' judgment. Motion denied.

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

2004-1917. In re McBride.

Hamilton App. No. C-040456, 2004-Ohio-5269. On motion for stay of court of appeals' judgment. Motion denied.

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

APPEALS ACCEPTED FOR REVIEW

2004-1436. Slone v. Allstate Ins. Co.

Richland App. No. 2004CA0021, 2004-Ohio-3990. Discretionary appeal accepted; cause held for the decision in 2004-0403, *Young v. Cincinnati Ins. Co.*, Cuyahoga App. No. 82395, 2004-Ohio-54; and briefing schedule stayed.

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

2004-1465. State ex rel. Lloyd v. Lovelady.

Cuyahoga App. No. 83090, 2004-Ohio-3617.
F.E. Sweeney and Pfeifer, JJ., dissent.

2004-1466. MP Star Financial, Inc. v. Cleveland State Univ.

Franklin App. No. 03AP-1156, 2004-Ohio-3840.

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

On motion for admission pro hac vice of Steven Kurtz, Esq., by David Cuppage, Esq. Motion granted.

2004-1495. Motorists Mut. Ins. Co. v. Hohman.

Shelby App. No. 17-04-03, 2004-Ohio-3899. Discretionary appeal accepted; cause held for the decision in 2003-2079, Hollon v. Clary, Montgomery App. No. 19826, 2003-Ohio-5734; and briefing schedule stayed.

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

2004-1509. Wenner v. Midland Title Security.

Richland App. No. 03CA107, 2004-Ohio-3989.

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

On motion for admission pro hac vice of Charles A. Newman, Douglas W. King and Elizabeth A. Teutenberg by William T. McIntyre. Motion granted.

2004-1522. State v. Diaz.

Cuyahoga App. No. 81857, 2004-Ohio-3954.

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

APPEALS NOT ACCEPTED FOR REVIEW

2004-1300. Long v. Noah's Lost Ark, Inc.

Mahoning App. No. 04-MA-88, 2004-Ohio-4155.

F.E. Sweeney, J., dissents.

2004-1359. Sharp v. Leiendecker.

Cuyahoga App. No. 82949, 2004-Ohio-3467.

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

2004-1393. State v. McSwain.

Cuyahoga App. No. 83394, 2004-Ohio-3292.

Moyer, C.J., Lundberg Stratton and O'Donnell, JJ., dissent and would accept on Proposition of Law No. V.

Pfeifer, J., dissents and would reverse the judgment of the court of appeals on the authority of *State v. Jordan*, 104 Ohio St.3d 21, 2004-Ohio-6085, 817 N.E.2d 864.

2004-1401. State v. Yeager.

Carroll App. No. 03 CA 786, 2004-Ohio-3640.

2004-1411. State v. Briscoe.

Cuyahoga App. No. 83471, 2004-Ohio-4096.

2004-1419. Becker v. Bradshaw.

Richland App. No. 2003-CA-0117, 2004-Ohio-3712.

2004-1423. Ontko v. Ontko.

Erie App. No. E-03-050, 2004-Ohio-3805.

Resnick, J., dissents.

2004-1427. Spraggins v. Edwards.

Licking App. No. 04CA54.

2004-1432. State v. Fuller.

Cuyahoga App. No. 84668.

2004-1440. State v. Gonzalez.

Defiance App. No. 4-04-16.

2004-1443. State v. Tucker.

Franklin App. No. 03AP-837.

2004-1446. Estate of Strang v. Strang.

Ashland App. No. 03-COA-071, 2004-Ohio-3677.

2004-1450. Strain v. Strain.

Lucas App. No. L-03-1332, 2004-Ohio-3792.

2004-1451. Jeffries v. Toledo Area Regional Transit Auth.

Lucas App. No. L-03-1318, 2004-Ohio-3797.

2004-1468. In re McClanahan.

Tuscarawas App. No. 2004AP010004, 2004-Ohio-4113.

Pfeifer, J., dissents.

2004-1482. Cramer v. Archdiocese of Cincinnati.

Hamilton App. Nos. C-030827 and C-040061, 2004-Ohio-3891.

Pfeifer, J., dissents.

2004-1483. Dahl v. Battelle Mem. Inst.

Franklin App. No. 03AP-1028, 2004-Ohio-3884.

2004-1485. Emerson v. Med. Mut. of Ohio.

Hamilton App. No. C-030074, 2004-Ohio-3892.

Resnick and Pfeifer, JJ., dissent.

2004-1489. Thayer v. W. Carrollton Bd. of Edn.

Montgomery App. No. 20063, 2004-Ohio-3921.

Pfeifer, J., dissents.

2004-1494. State v. Hutton.

Cuyahoga App. No. 76348, 2004-Ohio-3731.

2004-1499. Bebout v. Tindall.

Franklin App. No. 03AP-1031, 2004-Ohio-3936.

Pfeifer, J., dissents.

2004-1505. Kraus v. Hanna.

Portage App. No. 2002-P-0093, 2004-Ohio-3928.

Pfeifer, J., dissents.

2004-1508. State v. Wagner.

Licking App. No. 03 CA 82, 2004-Ohio-3941.

2004-1510. State v. Cobbins.

Cuyahoga App. No. 82510, 2004-Ohio-3736.

2004-1513. State v. Elswick.

Medina App. No. 03CA0134-M, 2004-Ohio-4324.

2004-1515. State v. Smith.

Stark App. No. 2004CA00089.

2004-1516. Schrader v. Schrader.

Hocking App. No. 03CA20, 2004-Ohio-4104.

2004-1517. State v. Martin.

Brown App. No. CA2003-09-011, 2004-Ohio-4309.

2004-1520. State v. Wade.

Franklin App. No. 03AP-774, 2004-Ohio-3974.

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

2004-1531. Heida v. R.M.S./Forest City Ent., Inc.

Cuyahoga App. No. 83908, 2004-Ohio-3875.

2004-1532. Weber v. Walker.

Clermont App. No. CA2003-10-084.

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

2004-1537. Wannemacher v. Cavalier.

Hardin App. No. 6-03-12, 2004-Ohio-4020.

2004-1538. Marshall v. Henry Fisher Builders, Inc.

Butler App. No. CA2003-09-230.

2004-1539. State v. Phipps.

Auglaize App. No. 2-03-39, 2004-Ohio-4400.

2004-1540. State v. Fox.

Lorain App. No. 04CA008529.

2004-1541. Johnson v. Cassens Transport Co.

Allen App. No. 1-03-93, 2004-Ohio-4011.

Resnick, J., dissents.

2004-1555. State v. Sims.

Cuyahoga App. No. 83618, 2004-Ohio-4089.

O'Connor, J., dissents.

2004-1556. Perry v. Univ. Hosp. of Cleveland.

Cuyahoga App. No. 83034, 2004-Ohio-4098.

Resnick and O'Donnell, JJ., dissent.

2004-1567. Westmoreland v. Cincinnati.

Hamilton App. No. C-030929.

2004-1599. State v. Altalla.

Franklin App. No. 03AP-1127, 2004-Ohio-4226.

2004-1600. Kennerly v. Montgomery Cty. Bd. of Commrs.

Montgomery App. No. 20280, 2004-Ohio-4258.

2004-1612. Black v. Pheils.

Wood App. No. WD-03-045, 2004-Ohio-4270.

2004-1613. State v. McConnell.

Montgomery App. No. 19993, 2004-Ohio-4263.

2004-1617. Humbert v. Borkowski.

Fulton App. No. F-04-022, 2004-Ohio-4275.

2004-1639. Fallang v. Fallang.

Butler App. No. CA2004-06-146.

2004-1659. State v. Loch.

Franklin App. No. 02AP-1065, 2003-Ohio-4701.

2004-1674. State v. Gibson.

Highland App. No. 03CA1, 2003-Ohio-4910.

2004-1682. State v. Foti.

Lake App. No. 2001-L-020, 2003-Ohio-796.

2004-1709. State v. Madsen.

Cuyahoga App. No. 82399, 2003-Ohio-5822.

RECONSIDERATION OF PRIOR DECISIONS

2003-0230. Consolo v. Cleveland.

Cuyahoga App. No. 81117, 2002-Ohio-7065. Reported at 103 Ohio St.3d 362, 2004-Ohio-5389, 815 N.E.2d 1114. On motion for reconsideration. Motion denied.

Moyer, C.J., and O'Donnell, J., not participating.

2004-0831. State v. Simmons.

Montgomery App. No. 19609, 2004-Ohio-1174. Reported at 103 Ohio St.3d 1492, 2004-Ohio-5605, 816 N.E.2d 1079. On motion for reconsideration. Motion denied.

2004-1034. He v. Zeng.

Licking App. No. 2003CA00056, 2004-Ohio-2434. Reported at 103 Ohio St.3d 1478, 2004-Ohio-5405, 816 N.E.2d 254. On motion for reconsideration. Motion denied.

2004-1049. State v. Haynie.

Marion App. No. 9-03-52, 2004-Ohio-2452. Reported at 103 Ohio St.3d 1477, 2004-Ohio-5405, 816 N.E.2d 253. On motion for reconsideration. Motion denied.

2004-1193. State v. Fairrow.

Ross App. Nos. 02CA2668 and 02CA2680, 2004-Ohio-3145. Reported at 103 Ohio St.3d 1493, 2004-Ohio-5605, 816 N.E.2d 1080. On motion for reconsideration. Motion denied.

2004-1218. Koerber v. Levey & Gruhin.

Summit App. No. 21730, 2004-Ohio-3085. Reported at 103 Ohio St.3d 1493, 2004-Ohio-5605, 816 N.E.2d 1080. On motion for reconsideration. Motion denied.

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

2004-1222. Maynard v. Eaton Corp.

Marion App. No. 9-03-48, 2004-Ohio-3025. Reported at 103 Ohio St.3d 1493, 2004-Ohio-5605, 816 N.E.2d 1080. On motion for reconsideration. Motion denied.

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

2004-1250. Huntsman v. State Bd. of Edn.

Stark App. No. 2003CA00249, 2004-Ohio-3258. Reported at 103 Ohio St.3d 1494, 2004-Ohio-5605, 816 N.E.2d 1080. On motion for reconsideration. Motion denied.

2004-1400. Poulos v. State Auto Ins. Co.

Hamilton App. No. C-040303. Reported at 103 Ohio St.3d 1495, 2004-Ohio-5605, 816 N.E.2d 1081. On motion for reconsideration. Motion denied.

2004-1705. State v. Woodward.

Franklin App. No. 03AP-398, 2004-Ohio-4418. Reported at 103 Ohio St.3d 1489, 2004-Ohio-5606, 816 N.E.2d 1077. On motion for reconsideration. Motion denied.

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