

**R E L E A S E**

**FEBRUARY 22, 2002**

**LAKE**

2001-L-075 STATE OF OHIO, Plaintiff-Appellee v. MICHAEL P. DWYER,  
Defendant-Appellant.

Judgment affirmed. See Opinion and Judgment Entry. [CHRISTLEY] (FORD)  
(GRENDALL)

**CRIMINAL LAW/EVIDENCE:**

Evidence necessary to convict a defendant of violating R.C. 4511.19(A)(1) is exclusive of the evidence needed to convict under R.C. 4511.19(A)(3).

**CRIMINAL LAW/SEARCH & SEIZURE:**

A driver committing only a *de minimis* marked lanes violation, without other evidence of impairment, does not justify an officer stopping a vehicle. Rather, there must be some indicia of erratic driving to warrant an investigative stop beyond some incident of modest or minimal weaving in one's lane.

**PORTAGE**

2000-P-0048 STATE OF OHIO, Plaintiff-Appellee v. BAKUR GEGIA, Defendant-  
Appellant.

Judgment affirmed. See Opinion and Judgment Entry. [GRENDALL] (O'NEILL)  
(NADER)

**CRIMINAL LAW:**

Record reflects trial court did hold a plea hearing pursuant to Crim.R. 11(C) prior to accepting appellant's plea of guilty. Appellant's argument on appeal, that he was denied a plea hearing, is belied by the record.

2001-P-0063 STATE OF OHIO, Plaintiff-Appellee v. JEFFREY D. SCARNATI,  
Defendant-Appellant.

Judgment affirmed. See Opinion and Judgment Entry. [GRENDALL] (FORD) (CHRISTLEY)

**CRIMINAL LAW/PLEAS:**

Pursuant to Crim.R. 32.1, to withdraw a guilty plea after the imposition of sentence, a defendant bears the burden of demonstrating that such a withdrawal is necessary to correct a manifest injustice. Although there is no time limit for filing a Crim.R. 32.1 motion, an undue delay between the occurrence of the alleged cause for the withdrawal of a guilty plea and the filing of a Crim.R. 32.1 motion is a factor that affects the credibility of the defendant and weighs against allowing a defendant's plea to be withdrawn.

2001-P-0085 STATE OF OHIO *ex rel.* RONALD YOBE, Relator v. RAVENNA CITY SCHOOL DISTRICT BOARD OF EDUCATION, Respondent.

Writ granted. See *Per Curiam* Opinion and Judgment Entry. (O'NEILL) (FORD) (GRENDALL)

**SCHOOLS:**

When a condition of a teacher's employment is governed by a specific section in the Ohio Revised Code, a conflicting provision in a collective bargaining agreement must specifically state that the provision is intended to be controlling over the statute. If the agreement does not indicate that it is controlling, the statute will govern the teacher's right to a continuing contract under R.C. 3319.11.

2002-P-0007 STATE *ex rel.* JAMES MARTIN, Relator v. CITY OF STREETSBORO, et al., Respondents.

Upon the request of Relator, the Petition for Writ of Mandamus is hereby dismissed. See Judgment Entry.

**TRUMBULL**

2001-T-0029 VICTOR KRUPPA, Plaintiff-Appellant v. ALL SOULS CEMETERY OF THE DIOCESE OF YOUNGSTOWN, Defendant-Appellee.

Judgment reversed and remanded. See Opinion and Judgment Entry. [CHRISTLEY] (O'NEILL) (GRENDALL)

**CONTRACTS:**

Relief for a unilateral mistake of material fact will not be provided where such a mistake is the result of the negligence of the party seeking relief.

