

Update on Ohio Judicial Reporting

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The most comprehensive discussion on judicial reporting in Ohio appeared in an article by Pollack and Leach published in 1950.¹ The intervening years have produced some important changes in the reporting of Ohio cases, and the present generation of Ohio law students and attorneys may benefit from an overview of the current methods of reporting Ohio judicial opinions. At the present time, there are three reporter systems in Ohio reporting decisions of the Ohio courts. These are the official reporters, the Anderson Publishing Company's *Ohio Opinions*, and the West Publishing Company's *North Eastern Reporter*. In addition, various publications today provide summaries of many unreported appellate decisions, further facilitating the researcher's access to Ohio case law.

I. THE OFFICIAL REPORTER SYSTEM

Only decisions of the Ohio Supreme Court are required by law to be reported. Decisions of the Ohio courts of appeals are reported when furnished to the reporter of the supreme court, and only those trial court decisions that are selected by the reporter and approved by the chief justice are reported.² In all, there are four publications in the official system. Unfortunately, there is no combined index to the official reporters; hence, the indexing of cases in each of the official reporters is of very limited value in doing legal research.

A. *Ohio BAR*

The Ohio State Bar Association publishes a weekly journal called *Ohio BAR*, which includes the Ohio Official Reports Advance Sheets. The advance sheets contain the official text and pagination for all three of the official reporter series, *Ohio State Reports*, *Ohio Appellate Reports*, and *Ohio Miscellaneous Reports*. *Ohio BAR* also contains syllabi of Ohio attorney general opinions; opinions of the Legal Ethics and Professional Conduct Committee; court rule changes; Ohio Supreme Court announcements, including merit docket decisions, dismissals, motion docket decisions, rehearings, and disciplinary dockets; an index to court rules published in *Ohio State Reports*; Ohio courts of appeals opinion summaries; news of interest to the bar; a subject index with an index line for each court opinion published; and the actual opinions of the Ohio

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1. Pollack & Leach, *Ohio's Reported Decisions—An Integrated Survey*, 11 OHIO ST. L.J. 413 (1950).

2. OHIO REV. CODE ANN. § 2503.20 (Page 1954 & Supp. 1979).

Supreme Court, courts of appeals, and selected lower courts. *Ohio BAR* is published five to six weeks in advance of the comparable issue of the West Publishing Company's Ohio edition of the *North Eastern Reporter* advance sheets.

B. *Ohio State Reports*

Ohio State Reports is the official reporter of the Ohio Supreme Court and is now in its second series. It is issued in bound form after a sufficient number of decisions appear in *Ohio BAR* to warrant binding. Since 1965, when the second series began, two volumes have been bound together but this is subject to change depending on the number of pages in each volume.³ The reporter contains a current listing of the justices of the Ohio Supreme Court and other court officials, and a list of the members of the Board of Bar Examiners, the Board of Commissioners on Grievances and Discipline, the Board of Commissioners on Character and Fitness, the Board of Commissioners on the Unauthorized Practice of Law, and the Traffic Rules Review Commission. A useful feature is an index to court rules, indicating where the various rules for the courts of Ohio and amendments to those rules appear in *Ohio State Reports*.⁴ Also included are a list of judges by whom the opinions in the volume were written; a table of cases decided; and a table of statutes cited, construed, and determined. Finally, court rules and amendments that were issued during the period covered by the volume are published.

The bulk of the reporter is devoted to the text of the opinions of the supreme court. Each opinion includes the names of the parties, a suggested citation form, an index line for the case, an official synopsis, the docket number, the date of the decision, the court or board from which the case came, the facts of the case, the counsel for the parties, the justice writing the opinion, the official opinion, the court order, and the justices taking part in the decision. At the end of each volume is an index that consists of the index lines and synopses from the beginnings of all the opinions in the volume, including the case names and the pages where they are found. The case synopses or syllabi in the index will be dropped starting in volume 61.⁵ The index also has entries under Words and Phrases.

C. *Ohio Appellate Reports*

The opinions of the Ohio courts of appeals are selectively reported in this official reporter, which is now in its second series. Since 1967, *Ohio Appellate Reports* has been frequently issued with two or three volumes bound together. A serious deficiency is its lack of comprehensiveness. In

3. Letter from William W. Docter, Ohio Supreme Court Reporter, to the author (May 15, 1980).

4. The index to court rules contains references to Rules of Civil Procedure, the Code of Professional Responsibility, Rules of the Court of Claims, Rules of Criminal Procedure, Rules for the Government of the Bar, the Judicial Code, Juvenile Rules, Rules of Practice, Rules of Superintendence, Rules of Municipal and County Courts, and Traffic Rules.

5. Letter from William W. Docter, Ohio Supreme Court Reporter, to the author (May 15, 1980).

accordance with the statute, it reports only those decisions selected to be published by the courts;⁶ consequently, at least three hundred and seventy-five decisions are handed down each month that do not appear in its pages. A very few of the courts of appeals decisions that are not officially reported appear in *Ohio Opinions*.⁷ The remaining unreported decisions are synopsisized in *Ohio BAR*, in *Ohio Criminal Summaries*, and in *State Defender's Report*.⁸

Ohio Appellate Reports contains a list of the judges of the courts of appeals, a table of judges who wrote the opinions, a table of cases, a table of statutes construed, and an index to rules of appellate procedure appearing in various volumes of the series. The opinions have the same format as those appearing in *Ohio State Reports*, except that there is no separate section setting out the facts of the case or the origin of the appeal. Again, an index at the end of each volume denotes the index line and synopsis of each decision, with the case name and page citation.

D. *Ohio Miscellaneous Reports*

The trial courts of Ohio, including courts of common pleas and municipal courts, have decisions reported in *Ohio Miscellaneous Reports*. The opinions are selected by the supreme court reporter with the approval of the chief justice.⁹ Each volume has very few decisions, usually about ten; one to four volumes are bound together, making exceedingly thin books. In addition to the case opinions, the volumes contain a table of judges who wrote the opinions, a table of cases, and a table of statutes construed. In format, this reporter is similar to *Ohio Appellate Reports*.

Since trial level decisions are of little value as precedent, it is not surprising that few decisions are reported. Continuation of *Ohio Miscellaneous Reports* makes little sense. If well-reasoned trial opinions on important issues are to be reported, they could easily be published in one of the other official reporters. The lack of justification for the continued existence of this reporter is shown by its recent reprinting of *Bates v. State Bar of Arizona*,¹⁰ a 1977 decision of the United States Supreme Court, which occupies nearly half of a volume.¹¹ It perhaps would make sense to report this decision in *Ohio BAR* for the convenience of all Ohio lawyers, but to include it in an official series of Ohio court decisions was certainly unnecessary.

E. *Ohio Official Reports*

The three official reporters in Ohio are also bound in one set of books called *Ohio Official Reports*. When the same volume number of each

6. OHIO REV. CODE ANN. § 2503.20 (Page 1954 & Supp. 1979).

7. See the discussion in Part II(A) *infra*.

8. See the discussion in Part III(A) *infra*.

9. OHIO REV. CODE ANN. § 2503.20 (Page 1954 & Supp. 1979).

10. 433 U.S. 350 (1977).

11. 51 Ohio Misc. I (1977).

official series is complete, they are bound together. This saves shelf space and eliminates the necessity of waiting until enough *Ohio Miscellaneous Reports* volumes are published to constitute even a thin book. The features of *Ohio Official Reports* are the same as those in the bound volumes of each official reporter.

II. THE UNOFFICIAL REPORTER SYSTEM

A. *Ohio Opinions*

Advance sheets and permanent, bound volumes are the two publications that comprise this unofficial reporter system, which is published by the Anderson Publishing Company. Advance sheets for *Ohio Opinions* are published weekly and include all of the opinions found in the official reporter system, plus some unofficial appellate court decisions and some federal cases construing Ohio law. They appear one to two weeks after the corresponding issues of *Ohio BAR*. Both the advance sheets and the bound volumes of *Ohio Opinions* carry the same pagination, which varies from the official pagination. The bound volumes, however, do have star pagination showing the official pagination.

The advance sheets have a number of useful features, some of which appear weekly, and others less frequently during the year. Some of the periodic features are an index to recent legislation; a Cumulative Current Ohio Case Finder; a table of annotations in *Ohio Jurisprudence* affected by new opinions; an index to *American Law Reports* annotations; syllabi of Ohio attorney general opinions; syllabi of Ohio Supreme Court decisions; and Ohio Supreme Court merit, motion, rehearing and disciplinary dockets. The three features appearing each week are a cumulative table of statutes construed, a table of Ohio rules construed, and, on the yellow cover, a one-sentence synopsis of each decision. The major part of the advance sheets is devoted to the court opinions. The official citation, names of parties, court, docket number, date of decision, source of the appeal, counsel for the parties, official opinion, court order, and judges taking part in the decision are given in each opinion. Also included for each decision are headnotes keyed to the Ohio legal encyclopedia, *Ohio Jurisprudence*, and a one-sentence synopsis of the case.

When a sufficient number of cases have appeared in the official series to make a volume of each, *Ohio Opinions* cumulates the same volume number of each official series in one book. For example, volume 12 of *Ohio Opinions 3d* contains volume 58 of *Ohio State Reports 2d*, volume 58 of *Ohio Appellate Reports 2d*, and volume 58 of *Ohio Miscellaneous Reports*. The bound volumes of *Ohio Opinions* have parallel citation tables to the official reporters and to the *North Eastern Reporter*. Additional features are a list of supreme court and courts of appeals judges in Ohio, a table of cases, a table of statutes construed, a table of Ohio rules construed, and the text of the opinions. At the end of each volume is the

Current Ohio Case Finder, which is a subject index to the cases in the volume with one-sentence synopses of the decisions. In the bound volume of *Ohio Opinions* following the close of each year are cumulative features covering attorney general opinion syllabi for the past year, a table of cases for the past year, and a table of reported federal cases.

This reporter series is very useful because it is almost as timely as *Ohio BAR*, has some courts of appeals opinions that are not officially reported, and has additional editorial features that many Ohio lawyers find desirable. One need retain only one bound reporter series that, incidentally, has print of higher quality than that found in the official series. Its references to the state legal encyclopedia further enhance its value.

B. *North Eastern Reporter*

West Publishing Company's regional reporters blanket the nation. The opinions in the official reporters for Ohio are found in the *North Eastern Reporter* with the usual West reporter features. A few significant trial court opinions appear in the *North Eastern Reporter* which never appear in *Ohio Miscellaneous*. Each week, the advance sheet of the *North Eastern Reporter* has a brief subject table of contents and descriptions of Ohio cases in the issue. On pink paper are parallel citation tables to the official reporters. A table of Ohio case history lists cases that have subsequent histories by their *North Eastern Reporter* citations, and updates the case history information in West's *Ohio Digest* pocket parts.

Standard features include a table of cumulative cases reported, a table of cumulative statutes construed, a table of American Bar Association Standards for Criminal Justice, a cumulative Words and Phrases table, the West key number digest, court rule changes, and the text of opinions. A new fortnightly synopsis of recent federal cases, immediately following the key number digest, gives synopses and federal reporter citations of federal cases arranged by state. The monthly *Judicial Highlights* on green paper carries summaries of significant decisions from federal and other state courts. The advance sheets carry opinions from Illinois, Indiana, Massachusetts, and New York, in addition to Ohio. The pagination of advance sheets and the bound volumes are identical, although differing from that of the official reporters.

The features of each decision include the official citation; the names of the parties; the docket number; the date; a West synopsis and court order; West topics, key numbers, and headnotes; any syllabus provided by the court; a statement of the facts; the counsel for the parties; the judge who wrote the opinion and those who took part; the court order; and the actual text of the opinion. Opinions appear in *Ohio BAR* and in *Ohio Opinions* well in advance of their appearance in the *North Eastern Reporter*. The unique topic and key number system and other tables, however, still make this reporter useful for locating other cases on the relevant points of law.

The bound volumes of the *North Eastern Reporter*, now in its second

series, also include cases from four other states and are printed when enough advance sheets have been issued. These volumes have a list of judges for each state, a combined table of cases, a table of cases for each state, a table of statutes construed, Words and Phrases, and the text of the opinions. The digest is placed at the back of the bound volumes to function as a subject index for the volume. For the Ohio lawyer who does not want his shelves permanently cluttered with opinions from the four sister states, West publishes the *North Eastern Reporter Ohio Cases* edition, which appears only in bound form and typically covers five volumes of the *North Eastern Reporter*, or one to two volumes of the official reporters. It contains, on blue paper, parallel citation tables to the official reporters, and has the same features as the *North Eastern Reporter* although containing the opinions of Ohio courts only. In addition, it publishes court rule changes in Ohio that are omitted from the bound *North Eastern Reporter*.

III. UNREPORTED CASES IN OHIO

A. *Ohio Courts of Appeals*

Since July 1978, *Ohio BAR* has carried a feature entitled *Ohio Courts of Appeals Opinion Summaries*, which summarizes "all reasonably available opinions in civil cases from the eleven district Courts of Appeals in Ohio."¹² Over two hundred decision summaries appear each month. Due to the large volume of decisions, *Ohio BAR* will, in the future, only selectively summarize these cases. Cases chiefly affirmed on their facts will be dropped from the feature.

The summary paragraphs are arranged by district and by date. Included are the names of the parties, the county, the date of decision, the docket number, the counsel and their cities, and a single-paragraph summary of the decision.¹³ Advocate's Research, Inc. of Columbus, Ohio prepares this material. A quarterly index, also appearing in *Ohio BAR*, has forty-one broad subject headings with subtopics. Under each subtopic are index lines with case names and citations to the pages in *Ohio BAR* where the summaries can be found. Although certainly useful to Ohio lawyers, summaries and limited indexing are never entirely satisfactory when one is attempting to find relevant cases.¹⁴

Unreported criminal cases can be found in *Ohio Criminal Summaries*,

12. 51 OHIO BAR 789 (1978).

13. Letter from William C. Moore, Director of Publication of the Ohio State Bar Association to the author (May 28, 1980); Conversation with Will Kuhlman, President, Advocate's Research, Inc. and the author (May 19, 1980).

14. In May 1977 the Ohio Academy of Trial Lawyers launched a new publication, *Unreported Case Digest of Courts of Appeals Decisions*, but only one issue was produced. From July 1977 to May 1978, Advocate's Research, Inc. published *Ohio Unreported Case Service*, which was superseded by the summaries published in *Ohio BAR*. *Ohio Unreported Case Service* did include a cumulative subject index.

published fortnightly by the Ohio Public Defenders Association, and in *Public Defender's Report*, published monthly by the state public defenders office. *Ohio Criminal Summaries* began publishing summaries of all appellate criminal cases sent to the Ohio Supreme Court library since July 1, 1979. Each summary includes an index line, the case name, the docket number, the county, the date, and a summary of the decision. Since January 1, 1980, certain opinions, including "affirmances, dismissals of appeals, denials of writs, and other similar dispositions,"¹⁵ are not summarized, but are carried with index lines under the heading "Other Decisions." Each month at least fifty cases are summarized, and approximately one hundred and twenty-five more are briefly indexed. No index has yet been published, but the publisher is planning to prepare a quarterly index.¹⁶

State Defender's Report also contains summaries of selected unreported court of appeals decisions in criminal cases. These summaries are prepared by Advocate's Research, Inc. and are similar to the civil case summaries published in *Ohio BAR*. About thirty-five cases are summarized each month and arranged by district. Each summary contains the case name, the county, the docket number, the counsels and their addresses, and a brief synopsis of the opinion. An index for the first volume is to be available in late 1980 prepared by Advocate's Research, Inc.¹⁷

B. *Federal District Courts in Ohio*

Ohio Opinions usually reports about six federal district court and court of appeals opinions in each volume. Advocate's Research, Inc. began publication in January 1980 of a new periodical, *Ohio District Court Review Summaries of Unreported Ohio Federal District Court Decisions*. This publication includes a table of index topics, a monthly subject index of cases, and case summaries. Each issue has carried approximately forty-five case summaries that contain index lines, case names, districts and divisions, docket numbers, dates, judges, and brief summaries of each decision.

IV. CONCLUSION

Ohio attorneys benefit from the combination of official and unofficial reporters because of their varying publication schedules, coverage, and editorial features. The development of publications noting unreported courts of appeals decisions is especially beneficial to the lawyer looking for precedent that cannot be found in the reported cases. The need for better

15. 1 OHIO CRIM. SUMMARIES 273 (1980).

16. Letter from Margaret H. Teaford, Director of the Ohio Public Defender's Ass'n, to the author (May 15, 1980).

17. 2 *State Defender's Report* 1 (1980).

indexing, however, will become apparent as these publications continue; after several years, even annual subject indexes will be very time consuming to check. The unreported decisions may be unprofitable to publish in hard copy and properly index, but they might economically be put into machine-readable data bases where natural language searching provides a method of retrieval. Indeed, the refinement of the computer-assisted legal research data bases, LEXIS and WESTLAW, may reshape judicial reporting in Ohio during the next decade.¹⁸ If an attorney could have ready and inexpensive access to a computer terminal and data bank, the need for three printed reporter systems and a scattered selection of case summaries might disappear.

18. LEXIS presently adds to its data bank only the Ohio opinions that appear in *Ohio BAR*; similarly, WESTLAW stores only the cases reported in the *North Eastern Reporter*.