

THE STATE OF OHIO, APPELLANT, v. ARBAUGH, APPELLEE.

[Cite as *State v. Arbaugh*, 1997-Ohio-226.]

*Criminal law—Operating motor vehicle while under the influence of alcohol—
Evidence—Chemical test to determine intoxication not rendered
inadmissible by failure to advise accused of statutory right to another test
provided by R.C. 4511.19(D)(3).*

(No. 96-2736—Submitted March 4, 1997—Decided April 9, 1997.)

APPEAL from the Court of Appeals for Richland County, No. 96 CA 4.

Robert L. Konstam, Mansfield Law Director, and *David L. Remy*, Assistant
Law Director, for appellant.

{¶ 1} The discretionary appeal is allowed.

{¶ 2} The judgment of the court of appeals is reversed on the authority of *Hilliard v. Elfrink* (1996), 77 Ohio St.3d 155, 672 N.E.2d 166. The cause is remanded to the court of appeals for that court to address appellant's remaining assignment of error, which was found to be moot.

MOYER, C.J., DOUGLAS, RESNICK, F.E. SWEENEY, PFEIFER, COOK and
LUNDBERG STRATTON, JJ., concur.
