

**THE STATE OF OHIO, APPELLANT, v. DEMPSEY, APPELLEE.**

**[Cite as *State v. Dempsey*, 1998-Ohio-497.]**

*Court of appeals' judgment reversed on the authority of State v. Rush.*

(No. 98-7—Submitted August 19, 1998—Decided September 16, 1998.)

APPEAL from the Court of Appeals for Cuyahoga County, No. 71479.

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*Stephanie Tubbs Jones*, Cuyahoga County Prosecuting Attorney, *L. Christopher Frey* and *Arthur A. Elkins*, Assistant Prosecuting Attorneys, for appellant.

*Philip J. Korey*, for appellee.

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{¶ 1} The judgment of the court of appeals is reversed on the authority of *State v. Rush* (1998), 83 Ohio St.3d 53, 697 N.E.2d 634.

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

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