

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

**[Cite as *State v. Delgado*, 1998-Ohio-569.]**

*Discretionary appeal allowed and judgment reversed on authority of State v. Rush.*

(No. 98-982—Submitted August 19, 1998—Decided October 28, 1998.)

APPEAL from the Court of Appeals for Cuyahoga County, No. 71497.

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

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{¶ 1} The discretionary appeal is allowed.

{¶ 2} 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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