

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

**[Cite as *State v. Pierce*, 1999-Ohio-452.]**

*Appeal dismissed as improvidently allowed.*

(No. 98-526—Submitted February 24, 1999—Decided March 31, 1999.)

APPEAL from the Court of Appeals for Franklin County, No. 97APA06-810.

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*Ron O'Brien*, Franklin County Prosecuting Attorney, and *Amy H. Kulesa*, Assistant Prosecuting Attorney, for appellant.

*Judith M. Stevenson*, Franklin County Public Defender, *John W. Keeling* and *M. Catherine Kurila*, Assistant Public Defenders, for appellee.

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{¶ 1} The appeal is dismissed, *sua sponte*, as having been improvidently allowed.

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

COOK, J., dissents and would reverse the judgment of the court of appeals.

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