

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

[Cite as *State v. Noland*, 99 Ohio St.3d 474, 2003-Ohio-4167.]

Criminal law — Penalties and sentencing — Discretionary appeal allowed — Court of appeals’ judgment reversed and cause remanded for resentencing on authority of State v. Comer.

(Nos. 2003-0679 and 2003-0731 — Submitted July 8, 2003 — Decided August 27, 2003.)

CERTIFIED by and APPEAL from the Court of Appeals for Washington County, No. 02CA28, 2003-Ohio-1386.

{¶1} The judgment of the court of appeals is reversed, and the cause is remanded for resentencing on the authority of *State v. Comer*, 99 Ohio St.3d 463, 2003-Ohio-4165, 793 N.E.2d 473.

MOYER, C.J., RESNICK, F.E. SWEENEY, PFEIFER and O’DONNELL, JJ., concur.

O’CONNOR, J., concurs in judgment based only on *stare decisis*.

LUNDBERG STRATTON, J., dissents for the reasons stated in Judge Grady’s dissenting opinion in *State v. Comer*, 99 Ohio St.3d 463, 2003-Ohio-4165, 793 N.E.2d 473.

David H. Bodiker, State Public Defender, and Molly J. McAnespie, Assistant Public Defender, for appellant.
