

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

[Cite as *State v. Newman*, 100 Ohio St.3d 24, 2003-Ohio-4754.]

Criminal law — Penalties and sentencing — Court of appeals’ judgment reversed and cause remanded to trial court for resentencing on authority of State v. Comer.

(Nos. 2002-1722 and 2002-1723 — Submitted August 26, 2003 — Decided September 24, 2003.)

APPEAL from and CERTIFIED by the Court of Appeals for Summit County, No. 20981, 2002-Ohio-4250.

{¶1} The judgment of the court of appeals is reversed, and the cause is remanded to the trial court 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 and PFEIFER, JJ., concur.

O’CONNOR, J., concurs separately.

LUNDBERG STRATTON, J., dissents.

O’DONNELL, J., not participating.

O’CONNOR, J., concurring.

{¶2} Although I dissented in *State v. Comer*, 99 Ohio St.3d 463, 2003-Ohio-4165, 793 N.E.2d 473, I recognize that *Comer* is now the law. As such, the sentencing procedure for ordering a consecutive sentence should be the same as for ordering a maximum sentence. Thus, I concur here.

LUNDBERG STRATTON, J., dissenting.

SUPREME COURT OF OHIO

{¶3} For the reasons expressed in Judge Grady's dissent in *State v. Comer*, 99 Ohio St.3d 463, 2003-Ohio-4165, 793 N.E.2d 473, I respectfully dissent.

Sherri Bevan Walsh, Summit County Prosecuting Attorney, and Richard S. Kasay, Assistant Prosecuting Attorney, for appellee.

David H. Bodiker, State Public Defender, and Stephen P. Hardwick, Assistant Public Defender, for appellant.
