

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

[Cite as *State v. Wagner*, 101 Ohio St.3d 183, 2004-Ohio-706.]

Court of appeals' judgment reversed on authority of State v. Schmitt — Criminal procedure — Evidence — Driving under the influence — Law enforcement officer may testify at trial regarding observations made during a defendant's performance of nonscientific standardized field sobriety tests.

(No. 2002-1808 — Submitted January 21, 2004 — Decided March 3, 2004.)

APPEAL from the Court of Appeals for Paulding County, No. 11-02-03, 2002-Ohio-4883.

{¶1} The judgment of the court of appeals is reversed on the authority of *State v. Schmitt*, 101 Ohio St.3d 79, 2004-Ohio-37, 801 N.E.2d 446.

MOYER, C.J., RESNICK, O'CONNOR and O'DONNELL, JJ., concur.

F.E. SWEENEY, J., dissents and would affirm the court of appeals.

PFEIFER, J., dissents for the reasons stated in his dissenting opinion in *State v. Schmitt*, 101 Ohio St.3d 79, 2004-Ohio-37, 801 N.E.2d 446, at ¶ 20-22.

LUNDBERG STRATTON, J., dissents.

Joseph R. Burkard, Paulding County Prosecuting Attorney, and James B. Vanzant, Assistant Prosecuting Attorney, for appellant.
