

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

[Cite as *State v. Haven*, 105 Ohio St.3d 418, 2005-Ohio-2286.]

Criminal law — Sexually-violent-predator specification — Certified question answered.

(Nos. 2004-1073 and 2004-1074 — Submitted April 13, 2005 — Decided May 25, 2005.)

APPEAL from and CERTIFIED by the Court of Appeals for Wayne County,
No. 02CA0069, 2004-Ohio-2512.

{¶ 1} The Court of Appeals for Wayne County certified the following question to this court: “Can an offender be convicted of a sexually violent predator specification without there being a separate, prior conviction for a sexually violent offense?”

{¶ 2} On the authority of *State v. Smith*, 104 Ohio St.3d 106, 2004-Ohio-6238, 818 N.E.2d 283, we answer the certified question in the negative. Therefore, the judgment of the court of appeals is reversed to the extent it is inconsistent with *State v. Smith*, appellant’s sexually-violent-predator specification conviction and sentence are vacated, and the cause is remanded to the trial court for resentencing consistent with *State v. Smith*.

MOYER, C.J., RESNICK, PFEIFER, LUNDBERG STRATTON, O’CONNOR and LANZINGER, JJ., concur.

O’DONNELL, J., dissents.

David H. Bodiker, Ohio Public Defender, and Craig M. Jaquith, Assistant State Public Defender, for appellant.
