

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

[Cite as *State v. Nickum*, 118 Ohio St.3d 198, 2008-Ohio-2198.]

Court of appeals' judgment affirmed on the authority of State v. Simpkins.

(No. 2007-1740 — Submitted May 6, 2008 — Decided May 14, 2008.)

APPEAL from the Court of Appeals for Stark County,

No. 2006CA00151, 2007-Ohio-4032.

{¶1} The judgment of the court of appeals is affirmed on the authority of *State v. Simpkins*, 117 Ohio St.3d 420, 2008-Ohio-1197, 884 N.E.2d 568.

MOYER, C.J., and PFEIFER, LUNDBERG STRATTON, O'CONNOR, O'DONNELL, and CUPP, JJ., concur.

LANZINGER, J., dissents.

John D. Ferrero, Stark County Prosecuting Attorney, and Ronald Mark Caldwell, Assistant Prosecuting Attorney, for appellee.

Timothy Young, State Public Defender, and Kenneth R. Spiert, Assistant State Public Defender, for appellant.
