

**THE STATE OF OHIO, APPELLEE, v. OSBORNE, APPELLANT.**

**[Cite as *State v. Osborne*, 116 Ohio St.3d 1228, 2008-Ohio-261.]**

*Motion for reconsideration granted.*

(No. 2007-1597 — Submitted January 8, 2008 — Decided January 30, 2008.)

APPEAL from the Court of Appeals for Cuyahoga County,

No. 88453, 2007-Ohio-3267.

ON MOTION FOR RECONSIDERATION

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{¶ 1} Appellant has filed a motion for reconsideration of the court's denial of the discretionary appeal in this matter, reported at 116 Ohio St.3d 1413, 2007-Ohio-6140, 876 N.E.2d 970.

{¶ 2} The motion for reconsideration is granted. The discretionary appeal is accepted on Proposition of Law No. V, the judgment of the court of appeals is reversed on the authority of *State v. Bezak*, 114 Ohio St.3d 94, 2007-Ohio-3250, 868 N.E.2d 961, and the cause is remanded.

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

LANZINGER, J., dissents.

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William D. Mason, Cuyahoga County Prosecuting Attorney, and Mary H. McGrath, Assistant Prosecuting Attorney, for appellee.

James J. McDonnell, for appellant.

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