

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

[Cite as *State v. Pierce*, 118 Ohio St.3d 1212, 2008-Ohio-2699.]

Motion for reconsideration granted in part.

(No. 2007-1605 — Submitted May 6, 2008 — Decided June 11, 2008.)

APPEAL from the Court of Appeals for Cuyahoga County,

No. 88470, 2007-Ohio-3665.

ON MOTION FOR RECONSIDERATION

{¶ 1} Appellant has filed a motion for reconsideration of the court's order dismissing appellant's appeal as having been improvidently accepted.

{¶ 2} The motion for reconsideration is granted to the following extent: The order in this cause filed on April 2, 2008, dismissing the appeal as having been improvidently accepted, reported at 117 Ohio St.3d 1225, 2008-Ohio-1428, 884 N.E.2d 603, is vacated with respect to appellant's Proposition of Law No. III. Jurisdiction is retained over this cause as to Proposition of Law No. III, the cause is held for the decision in case No. 2007-1427, *State v. Ferguson*, Cuyahoga App. No. 88450, 2007-Ohio-2777, and the briefing schedule is stayed.

LUNDBERG STRATTON, O'CONNOR, O'DONNELL, LANZINGER, and CUPP, JJ., concur.

MOYER, C.J., and PFEIFER, J., dissent.

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

Robert L. Tobik, Cuyahoga County Public Defender, and Cullen Sweeney, Assistant Public Defender, for appellant.
