

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

[Cite as *State v. Nicholas*, 120 Ohio St.3d 357, 2008-Ohio-6322.]

Cause remanded for further consideration in view of State v. Kalish.

(No. 2008-0627 — Submitted October 14, 2008 — Decided December 11, 2008.)

APPEAL from the Court of Appeals for Butler County,

No. CA2006-10-260, 2008-Ohio-628.

{¶ 1} The cause is remanded to the court of appeals for further consideration in view of our opinion in *State v. Kalish*, 120 Ohio St.3d 23, 2008-Ohio-4912, 896 N.E.2d 124.

MOYER, C.J., and O’CONNOR, O’DONNELL, LANZINGER, and CUPP, JJ.,
concur.

PFEIFER and LUNDBERG STRATTON, JJ., dissent.

Robin N. Piper, Butler County Prosecuting Attorney, and Michael A. Oster Jr., Assistant Prosecuting Attorney, for appellee.

Timothy Young, State Public Defender, and Jeremy J. Masters, Assistant State Public Defender, for appellant.
