

[Cite as *Dayton v. State*, 122 Ohio St.3d 544, 2009-Ohio-4119.]

**THE CITY OF DAYTON, APPELLANT, v. THE STATE OF OHIO ET AL., APPELLEES.**

**[Cite as *Dayton v. State*, 122 Ohio St.3d 544, 2009-Ohio-4119.]**

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

(No. 2008-1252 — Submitted July 14, 2009 — Decided August 20, 2009.)

APPEAL from the Court of Appeals for Montgomery County, No. 22221,  
176 Ohio App.3d 469, 2008-Ohio-2589.

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{¶ 1} The judgment of the court of appeals is affirmed on the authority of *Lima v. State*, 122 Ohio St.3d 155, 2009-Ohio-2597, 909 N.E.2d 616.

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

LANZINGER, J., dissents.

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Green & Green, Thomas M. Green, Jane M. Lynch, and Jared A. Wagner,  
for appellant.

Richard Cordray, Attorney General, Benjamin C. Mizer, Solicitor General,  
Michael L. Stokes, Assistant Solicitor, and Pearl M. Chin and Sharon A. Jennings,  
Assistant Attorneys General, for appellee state of Ohio.

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