

[Cite as *State v. Brooks*, 124 Ohio St.3d 99, 2009-Ohio-6409.]

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

[Cite as *State v. Brooks*, 124 Ohio St.3d 99, 2009-Ohio-6409.]

Discretionary appeal accepted, judgment of the court of appeals reversed, and cause remanded to the court of appeals to apply State v. Brewer.

(No. 2009-1516 — Submitted November 17, 2009 — Decided
December 10, 2009.)

APPEAL from the Court of Appeals for Cuyahoga County, No. 91730,
2009-Ohio-3286.

{¶ 1} The discretionary appeal is accepted.

{¶ 2} The judgment of the court of appeals is reversed, and the cause is remanded to the court of appeals to apply *State v. Brewer*, 121 Ohio St.3d 202, 2009-Ohio-593, 903 N.E.2d 284.

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

PFEIFER and LANZINGER, JJ., dissent.

William D. Mason, Cuyahoga County Prosecuting Attorney, and Mary H. McGrath and Brian M. McDonough, Assistant Prosecuting Attorneys, for appellant.
