

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

[Cite as *State v. Gilbert*, 124 Ohio St.3d 119, 2009-Ohio-6543.]

Court of appeals' judgment affirmed on the authority of State v. Lester, and cause remanded.

(No. 2009-0610 — Submitted September 30, 2009 — Decided
December 17, 2009.)

APPEAL from the Court of Appeals for Cuyahoga County, No. 90615,
2009-Ohio-463.

{¶ 1} The judgment of the court of appeals is affirmed as to appellant's first assignment of error below (Proposition of Law No. I accepted for review in this court) on the authority of *State v. Lester*, 123 Ohio St.3d 396, 2009-Ohio-4225, 916 N.E.2d 1038. The cause is remanded to the court of appeals for further proceedings not inconsistent with *State v. Lester*.

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

William D. Mason, Cuyahoga County Prosecuting Attorney, and Lisa Reitz Williamson and Kristen L. Sobieski, Assistant Prosecuting Attorneys, for appellee.

Robert L. Tobik, Cuyahoga County Public Defender, and John T. Martin, Assistant Public Defender, for appellant.
