

[Cite as *State v. Hamilton*, 127 Ohio St.3d 120, 2010-Ohio-5269.]

**THE STATE OF OHIO, APPELLANT, v. HAMILTON, APPELLEE.**

**[Cite as *State v. Hamilton*, 127 Ohio St.3d 120, 2010-Ohio-5269.]**

*Certified question answered in the affirmative and judgment of the court of appeals reversed on the authority of State v. Horner.*

(Nos. 2009-1878 and 2009-1958 — Submitted June 8, 2010 — Decided  
November 2, 2010.)

APPEAL from and CERTIFIED by the Court of Appeals for Montgomery County,  
No. 22895, 183 Ohio App.3d 819, 2009-Ohio-4602.

---

{¶ 1} The certified question is answered in the affirmative and the judgment of the court of appeals is reversed on the authority of *State v. Horner*, 126 Ohio St.3d 466, 2010-Ohio-3830, 935 N.E.2d 26.

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

LANZINGER, J., dissents.

---

Mathias H. Heck Jr., Montgomery County Prosecuting Attorney, and Kirsten A. Brandt, Assistant Prosecuting Attorney, for appellant.

Timothy Young, Ohio Public Defender, and Craig M. Jaquith, Assistant Public Defender, for appellee.

---