

[Cite as *State v. Downing*, 124 Ohio St.3d 475, 2010-Ohio-716.]

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

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

(No. 2008-2009 — Submitted January 13, 2010 — Decided March 4, 2010.)

APPEAL from the Court of Appeals for Franklin County, No. 08AP-48,
2008-Ohio-4463.

{¶ 1} The judgment of the court of appeals is affirmed on the authority of *State v. Singleton*, 124 Ohio St.3d 173, 2009-Ohio-6434, 920 N.E.2d 958.

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

LUNDBERG STRATTON and LANZINGER, JJ., dissent for the reasons stated in the dissenting opinion of LANZINGER, J., in *State v. Singleton*.

Ron O'Brien, Franklin County Prosecuting Attorney, and Seth L. Gilbert and Sheryl L. Prichard, Assistant Prosecuting Attorneys, for appellant.

Shaw & Miller, Mark J. Miller, and Douglas W. Shaw, for appellee.
