

[Cite as *State v. McAlmont*, 133 Ohio St.3d 162, 2012-Ohio-4327.]

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

[Cite as *State v. McAlmont*, 133 Ohio St.3d 162, 2012-Ohio-4327.]

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

(No. 2011-0065—Submitted September 12, 2012—Decided September 27, 2012.)

APPEAL from the Court of Appeals for Clark County,

No. 09-CA-21, 2010-Ohio-5879.

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{¶ 1} The judgment of the court of appeals is affirmed on the authority of *State v. Gunnell*, 132 Ohio St.3d 442, 2012-Ohio-3236, 973 N.E.2d 243.

O'CONNOR, C.J., and PFEIFER, LANZINGER, and MCGEE BROWN, JJ., concur.

LUNDBERG STRATTON, O'DONNELL, and CUPP, JJ., dissent for the reasons stated in the dissenting opinion in *State v. Gunnell*, 132 Ohio St.3d 442, 2012-Ohio-3236, 973 N.E.2d 243.

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D. Andrew Wilson, Clark County Prosecuting Attorney, and Andrew Picek, Assistant Prosecuting Attorney, for appellant.

Murr, Compton, Claypool & Macbeth and Charles M. Blue, for appellee.

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