

[Cite as *State v. Foster*, 134 Ohio St.3d 590, 2012-Ohio-5765.]

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

[Cite as *State v. Foster*, 134 Ohio St.3d 590, 2012-Ohio-5765.]

*Court of appeals' judgment reversed on the authority of State v. Howard.*

(No. 2012-0843—Submitted December 4, 2012—Decided December 7, 2012.)

APPEAL from the Court of Appeals for Montgomery County,

No. 24637, 2012-Ohio-1431.

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{¶ 1} The judgment of the court of appeals is reversed on the authority of *State v. Howard*, 134 Ohio St.3d 467, 2012-Ohio-5738, 983 N.E.2d 341, and the cause is remanded to the trial court for resentencing.

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

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Mathias H. Heck Jr., Montgomery County Prosecuting Attorney, and Johnna M. Shia, Assistant Prosecuting Attorney, for appellant.

Cicero Law Office and Anthony Cicero, for appellee.

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