

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

**[Cite as *State v. Koger*, 102 Ohio St.3d 263, 2004-Ohio-2824.]**

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

(No. 2003-0533 — Submitted May 26, 2004 — Decided June 16, 2004.)

APPEAL from the Court of Appeals for Lucas County, No. L-00-1033, 2003-Ohio-576.

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{¶1} The judgment of the court of appeals is affirmed on the authority of *State v. Harwell*, 102 Ohio St.3d 128, 2004-Ohio-2149, 807 N.E.2d 330.

MOYER, C.J., RESNICK, F.E. SWEENEY, PFEIFER, LUNDBERG STRATTON, O'CONNOR and O'DONNELL, JJ., concur.

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Julie R. Bates, Lucas County Prosecuting Attorney, and Eric A. Baum, Assistant Prosecuting Attorney, for appellant.

Spiros P. Cocoves, for appellee.

Jim Petro, Attorney General, Douglas R. Cole, State Solicitor, and Christopher D. Stock, Deputy Solicitor, urging reversal for amicus curiae Attorney General of Ohio.

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