

[Cite as *State v. Pierce*, 120 Ohio St.3d 321, 2008-Ohio-6248.]

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

**[Cite as *State v. Pierce*, 120 Ohio St.3d 321, 2008-Ohio-6248.]**

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

(No. 2007-1605 — Submitted October 14, 2008 — Decided December 9, 2008.)

APPEAL from the Court of Appeals for Cuyahoga County,

No. 88470, 2007-Ohio-3665.

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{¶ 1} The judgment of the court of appeals is affirmed on the authority of *State v. Ferguson*, 120 Ohio St.3d 7, 2008-Ohio-4824, 896 N.E.2d 110.

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

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

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William D. Mason, Cuyahoga County Prosecuting Attorney, and Mary H. McGrath, Assistant Prosecuting Attorney, for appellee.

Robert L. Tobik, Cuyahoga County Public Defender, and Cullen Sweeney, Assistant Public Defender, for appellant.

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