

[Cite as *State v. McClurkin*, 127 Ohio St.3d 121, 2010-Ohio-5268.]

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

[Cite as *State v. McClurkin*, 127 Ohio St.3d 121, 2010-Ohio-5268.]

Discretionary appeal accepted and cause remanded to the court of appeals for application of State v. Horner.

(No. 2010-1046 — Submitted September 14, 2010 — Decided
November 2, 2010.)

APPEAL from the Court of Appeals for Butler County, No. CA2007-03-071,
2010-Ohio-1938.

{¶ 1} The discretionary appeal is accepted, and the cause is remanded to the court of appeals for application of *State v. Horner*, 126 Ohio St.3d 466, 2010-Ohio-3830, 935 N.E.2d 26.

BROWN, C.J., and LUNDBERG STRATTON, O’CONNOR, O’DONNELL, and CUPP, JJ., concur.

PFEIFER and LANZINGER, JJ., dissent and would not accept the discretionary appeal.

LaShawn McClurkin, pro se.
