

# The Supreme Court of Ohio

FILED

SEP 30 2009

CLERK OF COURT  
SUPREME COURT OF OHIO

Oliver Lucien Garr

Case No. 2009-1323

v.

ENTRY

Warden, Madison Correctional Institution

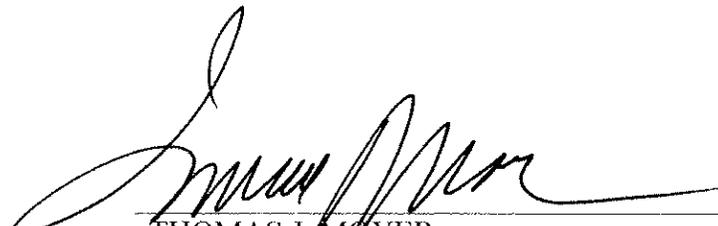
This came before the Court on the certification of a state law question from the United States District Court for the Southern District of Ohio, Western Division. Upon review of the preliminary memoranda pursuant to S.Ct.Prac.R. XVIII(6),

It is determined that the Court will answer the following question:

“Whether the Supreme Court of Ohio’s decision in *State v. Chandler*, 109 Ohio St.3d 223, 2006-Ohio-2285, as described in the syllabus of the court, to wit: [a] substance offered for sale must contain some detectable amount of the relevant controlled substance before a person can be sentenced as a major drug offender under Ohio Revised Code § 2925.03(C)(4)(g), extends to cases where the substance offered for sale was never observed, tested, or recovered to ascertain whether it contained a detectable amount of the controlled substance, but no affirmative evidence was presented to call into question the defendant’s representation in his offer to sell, or to refute the jury’s factual finding, that the substance was in fact a controlled substance in an amount that equaled or exceeded 1000 grams.”

It is ordered by the Court that the petitioner shall file his merit brief within 40 days of the date of this entry and the parties shall otherwise proceed in accordance with S.Ct.Prac.R. VI, and S.Ct.Prac.R. XVIII(7).

(U.S. Southern District of Ohio Western Division; No. 108CV293)



THOMAS J. MOYER  
Chief Justice