

FILED

NOV 02 2010

CLERK OF COURT
SUPREME COURT OF OHIO

The Supreme Court of Ohio

State of Ohio

Case No. 2009-1958

v.

JUDGMENT ENTRY

Frank Robert Hamilton, III

CERTIFIED CONFLICT FROM
THE COURT OF APPEALS

This cause, here on a certification of a conflict by the Court of Appeals for Montgomery County, was considered in the manner prescribed by law. On consideration thereof, the certified question is answered in the affirmative and the judgment of the court of appeals is reversed on the authority of *State v. Horner*, 126 Ohio St.3d 466, 2010-Ohio-3830, 935 N.E.2d 26.

It is further ordered that a mandate be sent to the Court of Appeals for Montgomery County by certifying a copy of this judgment entry and filing it with the Clerk of the Court of Appeals for Montgomery County.

(Montgomery County Court of Appeals; No. 22895)



ERIC BROWN
Chief Justice