

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

**[Cite as *State v. Evans*, 120 Ohio St.3d 1222, 2009-Ohio-253.]**

*Motion for reconsideration granted, discretionary appeal accepted, and judgment of the court of appeals reversed on the authority of State v. Davis.*

(No. 2008-1608 — Submitted December 16, 2008 — Decided January 28, 2009.)

APPEAL from the Court of Appeals for Hamilton County, No. C-060392.

ON MOTION FOR RECONSIDERATION

---

{¶ 1} Appellant has filed a motion for reconsideration of the court's denial of the discretionary appeal in this matter, reported at 119 Ohio St.3d 1506, 2008-Ohio-5467, 895 N.E.2d 567.

{¶ 2} The motion for reconsideration is granted. The discretionary appeal is accepted, the judgment of the court of appeals is reversed on the authority of *State v. Davis*, 119 Ohio St.3d 422, 2008-Ohio-4608, 894 N.E.2d 1221, and the cause is remanded to the court of appeals for further proceedings consistent with *State v. Davis*.

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

LANZINGER, J., dissents.

---

Timothy Young, Ohio Public Defender, and Stephen P. Hardwick, Assistant Public Defender, for appellant.

---