

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

[Cite as *State v. Garretson* (2001), 91 Ohio St.3d 1267.]

Appeal dismissed as improvidently allowed because the issue is now moot.

(No. 00-1462 — Submitted April 3, 2001 — Decided May 23, 2001.)

APPEAL from the Court of Appeals for Warren County, No. CA99-10-123.

The cause is dismissed, *sua sponte*, as having been improvidently allowed because the issue is now moot.

MOYER, C.J., DOUGLAS, RESNICK, F.E. SWEENEY, PFEIFER and COOK, JJ., concur.

LUNDBERG STRATTON, J., dissents.

LUNDBERG STRATTON, J., dissenting. I respectfully dissent from the majority's decision to dismiss the cause as moot. Rather, I would find that pursuant to R.C. 2949.05, the trial court had jurisdiction to execute its sentence. Therefore, I would reverse the judgment of the court of appeals and reinstate the judgment of the trial court.

Timothy A. Oliver, Warren County Prosecuting Attorney, and *Kenneth A. Ewing*, Assistant Prosecuting Attorney, for appellant.

James N. Perry, for appellee.

Betty D. Montgomery, Attorney General, *David M. Gormley*, State Solicitor, and *Jonathan R. Fulkerson*, Assistant Attorney General, urging reversal for *amicus curiae*, Attorney General of Ohio.
