

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

**[Cite as *State v. Griffin*, 127 Ohio St.3d 266, 2010-Ohio-5948.]**

*Discretionary appeal accepted, judgment of the court of appeals vacated, and cause remanded to the court of appeals for application of State v. Ketterer.*

(No. 2010-1434 — Submitted November 16, 2010 — Decided  
December 9, 2010.)

APPEAL from the Court of Appeals for Coshocton County, No. 09CA21,  
2010-Ohio-3517.

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{¶ 1} The discretionary appeal is accepted.

{¶ 2} The judgment of the court of appeals is vacated, and the cause is remanded to the court of appeals for application of *State v. Ketterer*, 126 Ohio St.3d 448, 2010-Ohio-3831, 935 N.E.2d 9.

LUNDBERG STRATTON, O’CONNOR, O’DONNELL, LANZINGER, and CUPP,  
JJ., concur.

BROWN, C.J., and PFEIFER, J., dissent and would not accept the discretionary appeal.

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Robert J. Batchelor, Coshocton County Prosecuting Attorney, for appellant.

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

Mathias H. Heck Jr., Montgomery County Prosecuting Attorney, and Carley J. Ingram, Assistant Prosecuting Attorney, in support of appellant for amicus curiae, Ohio Prosecuting Attorneys Association.

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