

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

[Cite as *State v. Rosenberg*, 107 Ohio St.3d 1209, 2005-Ohio-6510.]

Appeal dismissed as improvidently accepted.

(No. 2005-0459 — Submitted October 12, 2005 — Decided December 28, 2005.)

APPEAL from the Court of Appeals for Cuyahoga County,

No. 84457, 2005-Ohio-101.

{¶ 1} The cause is dismissed, sua sponte, as having been improvidently accepted.

MOYER, C.J., RESNICK, PFEIFER, O’CONNOR, O’DONNELL and LANZINGER, JJ., concur.

LUNDBERG STRATTON, J., dissents.

LUNDBERG STRATTON, J., dissenting.

{¶ 2} For the reasons set forth in my dissenting opinion in *State v. Cummings*, 107 Ohio St.3d 1206, 2005-Ohio-6506, ___ N.E.2d ___, I respectfully dissent.

William D. Mason, Cuyahoga County Prosecuting Attorney, and Mark J. Mahoney, Assistant Prosecuting Attorney, for appellant.

Thomas Rein, for appellee.
