

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

**[Cite as *State v. Horton*, 105 Ohio St.3d 1209, 2005-Ohio-788.]**

*Appeal dismissed as improvidently accepted.*

(No. 2004-0523 — Submitted February 16, 2005 — Decided March 16, 2005.)

APPEAL from the Court of Appeals for Stark County,

No. 2003CA00097, 2004-Ohio-613.

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

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

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John D. Ferrero Jr., Stark County Prosecuting Attorney, and Kathleen O. Tatarsky, Assistant Prosecuting Attorney, for appellee.

David H. Bodiker, State Public Defender, and Stephen P. Hardwick, Assistant Public Defender, for appellant.

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