

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State v. Overton*, Slip Opinion No. 2011-Ohio-740.]

NOTICE

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SLIP OPINION NO. 2011-OHIO-740

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

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State v. Overton*, Slip Opinion No. 2011-Ohio-740.]

Discretionary appeal accepted on Proposition of Law No. II, judgment of the court of appeals vacated in part, and cause remanded to the court of appeals for application of State v. Johnson.

(No. 2010-2072 — Submitted February 1, 2011 — Decided February 22, 2011.)

APPEAL from the Court of Appeals for Franklin County, No. 09AP-858,
2010-Ohio-5256.

{¶ 1} The discretionary appeal is accepted on Proposition of Law No. II.

{¶ 2} The portion of the judgment of the court of appeals addressing appellant's eighth assignment of error below is vacated on the authority of *State v. Johnson*, ___ Ohio St.3d ___, 2010-Ohio-6314, ___ N.E.2d ___, and the cause is remanded to the court of appeals for application of our decision in *State v. Johnson*.

SUPREME COURT OF OHIO

O'CONNOR, C.J., and PFEIFER, LUNDBERG STRATTON, O'DONNELL,
LANZINGER, CUPP, and MCGEE BROWN, JJ., concur.

Ron O'Brien, Franklin County Prosecuting Attorney, and Seth L. Gilbert,
Assistant Prosecuting Attorney, for appellee.

Yeura R. Venters, Franklin County Public Defender, and Allen V. Adair,
Assistant Public Defender, for appellant.
