

1 THE STATE OF OHIO, APPELLANT, V. ARBAUGH, APPELLEE.

2 [Cite as *State v. Arbaugh* (1997), ___ Ohio St.3d ____.]

3 *Criminal law -- Operating motor vehicle while under the influence of alcohol --*

4 *Evidence -- Chemical test to determine intoxication not rendered inadmissible by*

5 *failure to advise accused of statutory right to another test provided by R.C.*

6 *4511.19(D)(3).*

7 (No. 96-2736 -- Submitted March 4, 1997 -- Decided April 9, 1997.)

8 APPEAL from the Court of Appeals for Richland County, No. 96 CA 4.

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10 *Robert L. Konstam*, Mansfield Law Director, and *David L. Remy*, Assistant Law

11 Director, for appellant.

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13 The discretionary appeal is allowed.

1 The judgment of the court of appeals is reversed on the authority of *Hilliard v.*
2 *Elfrink* (1996), 77 Ohio St.3d 155, 672 N.E.2d 166. The cause is remanded to the
3 court of appeals for that court to address appellant's remaining assignment of error,
4 which was found to be moot.

5 MOYER, C.J., DOUGLAS, RESNICK, F.E. SWEENEY, PFEIFER, COOK and
6 LUNDBERG STRATTON, JJ., concur.