

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

[Cite as *State v. Fulton*, 99 Ohio St.3d 475, 2003-Ohio-4169.]

Criminal law — Penalties and sentencing — Discretionary appeal allowed — Court of appeals’ judgment reversed and cause remanded for resentencing on authority of State v. Comer.

(No. 2003-0953 — Submitted July 8, 2003 — Decided August 27, 2003.)

CERTIFIED by the Court of Appeals for Clark County, No. 2002CA62, 2003-Ohio-1556.

{¶1} The certified conflict is accepted, the judgment of the court of appeals is reversed, and the cause is remanded for resentencing on the authority of *State v. Comer*, 99 Ohio St.3d 463, 2003-Ohio-4165, 793 N.E.2d 473.

MOYER, C.J., RESNICK, F.E. SWEENEY, PFEIFER and O’DONNELL, JJ., concur.

O’CONNOR, J., concurs in judgment based only on stare decisis.

LUNDBERG STRATTON, J., dissents for the reasons stated in Judge Grady’s dissenting opinion in *State v. Comer*, 99 Ohio St.3d 463, 2003-Ohio-4165, 793 N.E.2d 473.

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