

[Cite as *State v. Borders*, 118 Ohio St.3d 199, 2008-Ohio-2197.]

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

[Cite as *State v. Borders*, 118 Ohio St.3d 199, 2008-Ohio-2197.]

Court of appeals' judgment affirmed on the authority of State v. Simpkins.

(No. 2007-2326 — Submitted May 6, 2008 — Decided May 14, 2008.)

APPEAL from the Court of Appeals for Franklin County,

No. 07AP-17, 2007-Ohio-5800.

{¶ 1} The discretionary appeal is accepted.

{¶ 2} The judgment of the court of appeals is affirmed on the authority of *State v. Simpkins*, 117 Ohio St.3d 420, 2008-Ohio-1197, 884 N.E.2d 568.

MOYER, C.J., and PFEIFER, LUNDBERG STRATTON, O'CONNOR, O'DONNELL, and CUPP, JJ., concur.

LANZINGER, J., dissents.

Ron O'Brien, Franklin County Prosecuting Attorney, and Richard A. Termuhlen, Assistant Prosecuting Attorney, for appellee.

Shaw & Miller and Mark J. Miller, for appellant.
