

[Cite as *State v. Petty*, 121 Ohio St.3d 607, 2009-Ohio-1906.]

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

[Cite as *State v. Petty*, 121 Ohio St.3d 607, 2009-Ohio-1906.]

*Discretionary appeal accepted, judgment of the court of appeals reversed in part, and cause remanded to the trial court for resentencing consistent with State v. Bezak.*

(No. 2009-0132 — Submitted March 24, 2009 — Decided April 29, 2009.)

APPEAL from the Court of Appeals for Richland County,

No. 2007CA00050, 2008-Ohio-5962.

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

{¶ 2} The judgment of the court of appeals is reversed as to its ruling on appellant's eleventh assignment of error below, and the cause is remanded to the trial court for resentencing consistent with *State v. Bezak*, 114 Ohio St.3d 94, 2007-Ohio-3250, 868 N.E.2d 961.

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

PFEIFER and LANZINGER, JJ., dissent and would not accept the appeal.

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James J. Mayer Jr., Richland County Prosecuting Attorney, and Kirsten Pscholka-Gartner, Assistant Prosecuting Attorney, for appellee.

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

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