

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

**[Cite as *State v. Crager*, 123 Ohio St.3d 1210, 2009-Ohio-4760.]**

(Nos. 2006-0294 and 2006-0298 — Submitted August 11, 2009 —  
Decided September 17, 2009.)

APPEAL from and CERTIFIED by the Court of Appeals for Marion County,  
No. 9-04-54, 164 Ohio App.3d 816, 2005-Ohio-6868.

ON REMAND FROM THE SUPREME COURT OF THE UNITED STATES

---

{¶ 1} This court issued its judgment in this cause on December 27, 2007.  
*State v. Crager*, 116 Ohio St.3d 369, 2007-Ohio-6840, 879 N.E.2d 745.

{¶ 2} On June 29, 2009, the Supreme Court of the United States vacated that judgment and remanded the cause to this court for further consideration in light of *Melendez-Diaz v. Massachusetts* (2009), 557 U.S. \_\_\_, 129 S.Ct. 2527, 174 L.Ed.2d 314. *Crager v. State*, \_\_\_ U.S. \_\_\_, 129 S.Ct. 2856, 174 L.Ed.2d 598.

{¶ 3} Because the trial court has not had an opportunity to address the admissibility of the DNA evidence admitted at the trial in light of the holding in *Melendez-Diaz v. Massachusetts*, we sua sponte vacate the judgment of the trial court and remand the cause to the trial court for a new trial consistent with *Melendez-Diaz v. Massachusetts*.

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

CUPP, J., not participating.

---

Brent Yager, Marion County Prosecuting Attorney, for appellant.

Collins & Lowther, L.P.A., and Kevin P. Collins, for appellee.

---