

**THE STATE OF OHIO, APPELLANT AND CROSS-APPELLEE, v. OWENS,
APPELLEE AND CROSS-APPELLANT.**

[Cite as *State v. Owens*, 121 Ohio St.3d 83, 2009-Ohio-505.]

*Discretionary appeal accepted, judgment of the court of appeals reversed, and
cause remanded to the trial court for further proceedings consistent with
State v. Colon.*

(No. 2008-1759 — Submitted January 13, 2009 — Decided February 11, 2009.)

APPEAL from the Court of Appeals for Cuyahoga County,

No. 89948, 2008-Ohio-3555.

{¶ 1} The discretionary appeal is accepted on Proposition of Law No. I.
The discretionary cross-appeal is not accepted.

{¶ 2} The judgment of the court of appeals is reversed as to the court of
appeals' holding of structural error on appellee and cross-appellant's second
assignment of error below on the authority of *State v. Colon*, 119 Ohio St.3d 204,
2008-Ohio-3749, 893 N.E.2d 169, and the cause is remanded to the trial court for
further proceedings consistent with *State v. Colon*.

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

PFEIFER and LANZINGER, JJ., dissent.

William D. Mason, Cuyahoga County Prosecuting Attorney, and Matthew
E. Meyer, Assistant Prosecuting Attorney, for appellant and cross-appellee.

Robert L. Tobik, Cuyahoga County Public Defender, and Cullen Sweeney,
Assistant Public Defender, for appellee and cross-appellant.
