

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State v. Cole*, Slip Opinion No. 2009-Ohio-6411.]

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SLIP OPINION NO. 2009-OHIO-6411

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

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Certified question answered by State v. Cargile — Cause remanded to the court of appeals for consideration of State v. Cargile.

(Nos. 2009-0030 and 2009-0315 — Submitted November 18, 2009 — Decided December 10, 2009.)

APPEAL from and CERTIFIED by the Court of Appeals for Cuyahoga County,
No. 91305, 2008-Ohio-6647.

{¶ 1} The certified question in case No. 2009-0315 is answered by our opinion in *State v. Cargile*, 123 Ohio St.3d 343, 2009-Ohio-4939, 916 N.E.2d 775.

{¶ 2} There is no indication in the court of appeals' opinion below whether the defendant was warned that bringing illegal contraband into the detention facility would result in additional charges or whether the defendant affirmatively denied possessing any such material. However, whether a warning

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by an officer and a denial of possession of contraband by the defendant are required prior to a conviction for illegal conveyance was not a consideration before this court in *State v. Cargile*. Accordingly, in order to give the parties the opportunity to consider these factors, case No. 2009-0030 is remanded to the court of appeals for consideration of *State v. Cargile* and consideration of whether the absence of both an officer's warning and the defendant's denial of possession of contraband, if applicable, would alter the result below.

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

O'DONNELL, J., dissents and would affirm the judgment of the court of appeals.

William D. Mason, Cuyahoga County Prosecuting Attorney, and Thorin Freeman, Assistant Prosecuting Attorney, for appellant.

Timothy Young, Ohio Public Defender, and Andrew J. King, Assistant Public Defender, for appellee.
