

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State v. Sutton*, Slip Opinion No. 2011-Ohio-736.]

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**SLIP OPINION NO. 2011-OHIO-736**

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

**[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State v. Sutton*, Slip Opinion No. 2011-Ohio-736.]**

*Cause remanded to the court of appeals for consideration of State v. Johnson.*

(No. 2008-1996 — Submitted February 16, 2011 — Decided February 22, 2011.)

APPEAL from the Court of Appeals for Cuyahoga County, No. 90172,  
2008-Ohio-3677.

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{¶ 1} Sua sponte, this cause is no longer held for the decision in 2009-0232 and 2009-0328, *State v. Lanier*.

{¶ 2} This cause is remanded to the court of appeals for further consideration in view of our decision in *State v. Johnson*, \_\_\_ Ohio St.3d \_\_\_, 2010-Ohio-6314, \_\_\_ N.E.2d \_\_\_.

O’CONNOR, C.J., and PFEIFER, LUNDBERG STRATTON, O’DONNELL, LANZINGER, CUPP, and MCGEE BROWN, JJ., concur.

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SUPREME COURT OF OHIO

William D. Mason, Cuyahoga County Prosecuting Attorney, and Kristen L. Sobieski, Assistant Prosecuting Attorney, for cross-appellant.

Paul Mancino Jr., for cross-appellee.

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