

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *Dayton v. State*, Slip Opinion No. 2022-Ohio-2073.]

NOTICE

This slip opinion is subject to formal revision before it is published in an advance sheet of the Ohio Official Reports. Readers are requested to promptly notify the Reporter of Decisions, Supreme Court of Ohio, 65 South Front Street, Columbus, Ohio 43215, of any typographical or other formal errors in the opinion, in order that corrections may be made before the opinion is published.

**SLIP OPINION NO. 2022-OHIO-2073**

**THE CITY OF DAYTON, APPELLEE, v. THE STATE OF OHIO, APPELLANT.**

**[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *Dayton v. State*, Slip Opinion No. 2022-Ohio-2073.]**

*Court of appeals' judgment vacated, and cause remanded for application of Newburgh Hts. v. State.*

(No. 2021-0592—Submitted June 14, 2022—Decided June 22, 2022.)

APPEAL from the Court of Appeals for Montgomery County,

No. 28818, 2021-Ohio-967.

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{¶ 1} The judgment of the court of appeals is vacated, and the cause is remanded to that court for application of *Newburgh Hts. v. State*, \_\_ Ohio St.3d \_\_, 2022-Ohio-1642, \_\_ N.E.3d \_\_.

KENNEDY, FISCHER, DEWINE, DONNELLY, STEWART, and BRUNNER, JJ., concur.

O'CONNOR, C.J., would reverse the court of appeals' judgment only as to the home-rule issues.

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SUPREME COURT OF OHIO

Barbara J. Doseck, Dayton City Attorney, and John C. Musto, Dayton Chief Trial Counsel, for appellee.

Dave Yost, Attorney General, Benjamin M. Flowers, Solicitor General, Stephen P. Carney, Deputy Solicitor General, and Caitlyn Nestleroth Johnson and Iris Jin, Assistant Attorneys General, for appellant.

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