

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

[Cite as *State v. Shondrick*, 100 Ohio St.3d 1260, 2003-Ohio-6464.]

Appeal dismissed as improvidently accepted and certified.

(Nos. 2002-1147 and 2002-1231 — Submitted June 3, 2003 — Decided
December 24, 2003.)

APPEAL from and Certified by the Court of Appeals for Medina County, No.
3216-M, 2002-Ohio-2439.

Per Curiam.

{¶1} This consolidated appeal came before this court upon (1) this court’s grant of jurisdiction of the state’s discretionary appeal and (2) the certification of the Ninth District that its judgment in this case conflicted with the judgment of the Tenth District Court of Appeals in *State v. Astley* (1987), 36 Ohio App.3d 247, 523 N.E.2d 322. We now dismiss this consolidated appeal.

{¶2} 1. In case No. 2002-1147, this court granted discretionary review to determine whether the trial court abused its discretion in excluding evidence of potential witness bias. This cause is dismissed, as having been improvidently accepted.

{¶3} 2. In case No. 2002-1231, the Ninth District certified the following question:

{¶4} “Whether only physical stimulation, and not actual contact or touching, of the penis by the mouth of another person is required to prove ‘fellatio,’ which is not statutorily defined under the Ohio Revised Code.”

{¶5} Upon a careful review of this cause, this court determines that the certified case is not in conflict with *Astley*. Since no genuine conflict exists, this cause is dismissed, as having been improvidently certified.

SUPREME COURT OF OHIO

Appeal dismissed.

MOYER, C.J., RESNICK, F.E. SWEENEY, PFEIFER, LUNDBERG STRATTON,
O'CONNOR and O'DONNELL, JJ., concur.

Dean Holman, Medina County Prosecuting Attorney, James R. Bennett II
and Scott G. Salisbury, Assistant Prosecuting Attorneys, for appellant.

Gary W. Eisner, for appellee.

David H. Bodiker, State Public Defender, and John Fenlon, Assistant
Public Defender, urging affirmance for amicus curiae Ohio Public Defender in
case No. 2002-1231.
