

[Cite as *State v. Johnson*, 127 Ohio St.3d 31, 2010-Ohio-4983.]

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

[Cite as *State v. Johnson*, 127 Ohio St.3d 31, 2010-Ohio-4983.]

Discretionary appeal accepted, judgment of the court of appeals reversed in part on the authority of State v. Evans, and cause remanded to the trial court for resentencing consistent with State v. Evans.

(No. 2010-1149 — Submitted September 28, 2010 — Decided October 19, 2010.)

APPEAL from the Court of Appeals for Cuyahoga County, No. 93605,
2010-Ohio-1986.

{¶ 1} The discretionary appeal is accepted.

{¶ 2} The judgment of the court of appeals is reversed on the authority of *State v. Evans*, 113 Ohio St.3d 100, 2007-Ohio-861, 863 N.E.2d 113, to the extent that the court of appeals held that the defendant was entitled to a de novo resentencing, and the cause is remanded to the trial court for resentencing, consistent with *State v. Evans*, on the portion of the sentence found to be imposed in error.

PFEIFER, LUNDBERG STRATTON, O’CONNOR, O’DONNELL, and CUPP, JJ.,
concur.

BROWN, C.J., and LANZINGER, J., dissent and would not accept the
discretionary appeal.

William D. Mason, Cuyahoga County Prosecuting Attorney, and T. Allan
Regas, Assistant Prosecuting Attorney, for appellant.
