

**THE STATE OF OHIO, APPELLANT, v. BACCUS, APPELLEE.**

**[Cite as *State v. Baccus*, 105 Ohio St.3d 288, 2005-Ohio-1652.]**

*Criminal law — Court of appeals’ judgment reversed and cause remanded for application of State v. Fraley.*

(No. 2004-2036 — Submitted March 8, 2005 — Decided April 20, 2005.)

APPEAL from the Court of Appeals for Hamilton County,

No. C-040028, 2004-Ohio-5725.

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{¶ 1} The discretionary appeal is accepted.

{¶ 2} The judgment of the court of appeals is reversed, and the cause is remanded to the court of appeals for application of *State v. Fraley*, 105 Ohio St.3d 13, 2004-Ohio-7110, 821 N.E.2d 995, and consideration of appellee’s remaining assignments of error.

MOYER, C.J., RESNICK, PFEIFER, LUNDBERG STRATTON, O’CONNOR and O’DONNELL, JJ., concur.

LANZINGER, J., dissents.

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Joseph T. Deters, Hamilton County Prosecuting Attorney, and Thomas J. Boychan Jr., Assistant Prosecuting Attorney, for appellant.

Benjamin, Yocum & Heather, L.L.C., and Brian A. Lee, for appellee.

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