

IN RE OHIO CRIMINAL SENTENCING STATUTES CASES.

[Cite as *In re Ohio Criminal Sentencing Statutes Cases*,
109 Ohio St.3d 313, 2006-Ohio-2109.]

*Criminal law — Felonies — Sentencing — Disposition of cases accepted and held
for the decision in State v. Foster.*

(Submitted April 25, 2006 — Decided May 3, 2006.)

{¶ 1} The following dispositions of currently pending appeals and certified conflicts are hereby entered based on our decision in *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856, 845 N.E.2d 470.

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

I

{¶ 2} The judgments of the courts of appeals in the following cases are reversed, and the causes are remanded to the trial courts for resentencing. If propositions of law are noted, such reversals shall apply only to those portions of the judgments of the courts of appeals that are implicated by the applicable propositions of law:

{¶ 3} 2004-1259. *State v. Taylor*, Madison App. No. CA2003-07-025, 2004-Ohio-3171.

{¶ 4} 2004-1561. *State v. Blade*, Cuyahoga App. No. 83796, 2004-Ohio-4486. Proposition of Law No. II.

{¶ 5} 2004-1635. *State v. Lett*, Cuyahoga App. Nos. 83821 and 83822, 2004-Ohio-4094. Proposition of Law No. VI of the appeal and Proposition of Law No. II of the cross-appeal.

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{¶ 6} 2004-2074. *State v. Sanders*, Lake App. No. 2003-L-144, 2004-Ohio-5937. Proposition of Law No. II.

{¶ 7} 2005-0046. *State v. Wheeler*, Washington App. No. 04CA1, 2004-Ohio-6598. Proposition of Law No. II.

{¶ 8} 2005-0065. *State v. Garrett*, Clark App. No. 2003 CA 40, 2004-Ohio-6876.

{¶ 9} 2005-0158. *State v. Parsons*, Ashtabula App. No. 2003-A-0030, 2004-Ohio-7237. Proposition of Law No. I.

{¶ 10} 2005-0185. *State v. Chewning*, Clermont App. No. CA2004-01-002, 2004-Ohio-6661. Proposition of Law No. III.

{¶ 11} 2005-0202. *State v. Hartsock*, Lucas App. No. L-03-1215, 2004-Ohio-6905. Proposition of Law No. III. Lanzinger, J., not participating.

{¶ 12} 2005-0234. *State v. Barnette*, Mahoning App. No. 02 CA 65, 2004-Ohio-7211 and 2005-Ohio-477. Proposition of Law III of the appeal.

{¶ 13} 2005-0241. *State v. Love*, Mahoning App. No. 03 MA 19, 2004-Ohio-7062. Proposition of Law No. II.

{¶ 14} 2005-0257. *State v. Morris*, Guernsey App. No. 03 CA 29, 2004-Ohio-6988.

{¶ 15} 2005-0258. *State v. Hardie*, Washington App. No. 04CA21, 2004-Ohio-7278. Proposition of Law No. I.

{¶ 16} 2005-0284. *State v. Hardie*, Washington App. No. 04CA24, 2004-Ohio-7277.

{¶ 17} 2005-0296. *State v. Morales*, Lake App. No. 2003-L-025, 2004-Ohio-7239. Proposition of Law No. III.

{¶ 18} 2005-0316. *State v. Curd*, Lake App. No. 2003-L-030, 2004-Ohio-7222. Proposition of Law No. I.

{¶ 19} 2005-0339. *State v. Ferguson*, Hamilton App. No. C-040114, 2004-Ohio-7132. Proposition of Law No. II.

{¶ 20} 2005-0371. *State v. Rowles*, Summit App. No. 22007, 2005-Ohio-14. Proposition of Law No. I.

{¶ 21} 2005-0374. *State v. Walker*, Hamilton App. No. C-040202.

{¶ 22} 2005-0380. *State v. Jenkins*, Summit App. No. 22008, 2005-Ohio-11. Proposition of Law No. II.

{¶ 23} 2005-0500. *State v. Hall*, Franklin App. No. 04AP-17, 2005-Ohio-335. Proposition of Law No. I.

{¶ 24} 2005-0535. *State v. Murphy*, Lake App. No. 2003-L-049, 2005-Ohio-412.

{¶ 25} 2005-0542. *State v. Abdul-Mumin*, Franklin App. Nos. 04AP-485 and 04AP-486, 2005-Ohio-522.

{¶ 26} 2005-0576. *State v. Wilson*, Washington App. No. 04CA18, 2005-Ohio-830. Proposition of Law No. I.

{¶ 27} 2005-0587. *State v. Dinapoli*, Lake App. No. 2003-L-169, 2005-Ohio-824. Proposition of Law No. I.

{¶ 28} 2005-0613. *State v. Carson*, Hamilton App. No. C-040042, 2005-Ohio-902. Proposition of Law No. II.

{¶ 29} 2005-0614. *State v. Bell*, Hamilton App. No. C-040488. Proposition of Law No. II.

{¶ 30} 2005-0619. *State v. Schaub*, Lake App. No. 2003-L-091, 2005-Ohio-703.

{¶ 31} 2005-0622. *State v. Battle*, Franklin App. No. 03AP-1269, 2005-Ohio-707.

{¶ 32} 2005-0628. *State v. Ashbrook*, Stark App. No. 2004-CA-00109, 2005-Ohio-740. Proposition of Law No. III.

{¶ 33} 2005-0632. *State v. Billingsley*, Putnam App. No. 12-04-14.

{¶ 34} 2005-0633. *State v. Billingsley*, Putnam App. No. 11-04-21.

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{¶ 35} 2005-0637. *State v. Cockroft*, Franklin App. No. 04AP-608, 2005-Ohio-748. Proposition of Law No. II.

{¶ 36} 2005-0643. *State v. Moore*, Allen App. No. 1-04-09, 2005-Ohio-676.

{¶ 37} 2005-0666. *State v. Clifford*, Paulding App. No. 11-04-06, 2005-Ohio-958.

{¶ 38} 2005-0688. *State v. Sieng*, Franklin App. No. 04AP-556, 2005-Ohio-1003. Proposition of Law No. VI.

{¶ 39} 2005-0709. *State v. Le*, Cuyahoga App. No. 84429, 2005-Ohio-881.

{¶ 40} 2005-0713. *State v. Austin*, Montgomery App. No. 20445, 2005-Ohio-1035. Proposition of Law No. II.

{¶ 41} 2005-0723. *State v. Malloy*, Allen App. No. 1-04-64, 2005-Ohio-961.

{¶ 42} 2005-0732. *State v. Newsome*, Ashtabula App. No. 2003-A-0069, 2005-Ohio-1104.

{¶ 43} 2005-0737. *State v. Rupert*, Lake App. No. 2003-L-154, 2005-Ohio-1098. Proposition of Law No. I.

{¶ 44} 2005-0745. *State v. Black*, Allen App. No. 1-04-83, 2005-Ohio-1253.

{¶ 45} 2005-0769. *State v. Curlis*, Wood App. No. WD-04-032, 2005-Ohio-1217.

{¶ 46} 2005-0772. *State v. John*, Lucas App. No. L-03-1261, 2005-Ohio-1218. Proposition of Law No. II of the cross-appeal.

{¶ 47} 2005-0789. *State v. Scott*, Cuyahoga App. No. 84844, 2005-Ohio-1192. Proposition of Law No. II.

{¶ 48} 2005-0809. *State v. Goins*, Mahoning App. No. 02CA68, 2005-Ohio-1439. Proposition of Law No. I.

{¶ 49} 2005-0826. *State v. Ward*, Washington App. No. 04CA25, 2005-Ohio-1580.

{¶ 50} 2005-0848. *State v. Andrews*, Cuyahoga App. No. 84137, 2005-Ohio-1161. Proposition of Law No. IV.

{¶ 51} 2005-0868. *State v. Scarberry*, Logan App. No. 8-04-32, 2005-Ohio-1425.

{¶ 52} 2005-0875. *State v. Colvin*, Franklin App. No. 04AP-421, 2005-Ohio-1448.

{¶ 53} 2005-0876. *State v. Allen*, Lake App. No. 2004-L-038, 2005-Ohio-1415.

{¶ 54} 2005-0890. *State v. Hill*, Cuyahoga App. No. 84683, 2005-Ohio-1311. Proposition of Law No. III.

{¶ 55} 2005-0903. *State v. Burns*, Summit App. No. 22198, 2005-Ohio-1459. Proposition of Law No. I.

{¶ 56} 2005-0906. *State v. Worrell*, Franklin App. No. 04AP-410, 2005-Ohio-1521. Proposition of Law No. II.

{¶ 57} 2005-0909. *State v. Holt*, Erie App. No. E-04-004, 2005-Ohio-1554. Proposition of Law No. I.

{¶ 58} 2005-0910. *State v. Hyslop*, Lucas App. No. L-03-1298, 2005-Ohio-1556.

{¶ 59} 2005-0917. *State v. Rorie*, Stark App. No. 2002CA00187, 2005-Ohio-1726.

{¶ 60} 2005-0954. *State v. Whited*, Washington App. No. 04CA31, 2005-Ohio-2224.

{¶ 61} 2005-0966. *State v. Wymer*, Lucas App. No. L-03-1125, 2005-Ohio-1775.

{¶ 62} 2005-0983. *State v. Harris*, Fulton App. No. F-04-005, 2005-1779. Proposition of Law No. III. The discretionary appeal as to Proposition of

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Law Nos. V and VI (previously held for the decision in 2004-1279 and 2004-1696, *State v. Threatt*) is dismissed as having been improvidently accepted.

{¶ 63} 2005-1020. *State v. Daniels*, Putnam App. No. 12-04-07, 2005-Ohio-1920. Proposition of Law No. II.

{¶ 64} 2005-1042. *State v. Spellman*, Geauga App. No. 2004-G-2565, 160 Ohio App.3d 718, 2005-Ohio-2065, 828 N.E.2d 695. Proposition of Law No. III.

{¶ 65} 2005-1051. *State v. Beltowski*, Lake App. Nos. 2003-L-126 and 2003-L-150, 2005-Ohio-2075. Proposition of Law No. III.

{¶ 66} 2005-1056. *State v. Bradford*, Lake App. No. 2003-L-168, 2005-Ohio-2070. Proposition of Law No. II.

{¶ 67} 2005-1117. *State v. Todd*, Butler App. No. CA2004-06-123, 2005-Ohio-2270.

{¶ 68} 2005-1134. *State v. Howard*, Clark App. No. 2004CA29, 2005-Ohio-2237. Proposition of Law No. IV.

{¶ 69} 2005-1139. *State v. Clifford*, Paulding App. No. 11-04-18, 2005-Ohio-2357. Proposition of Law No. I.

{¶ 70} 2005-1161. *State v. Watkins*, Allen App. No. 1-04-17, 2005-Ohio-2359. Proposition of Law No. I.

{¶ 71} 2005-1164. *State v. Farley*, Butler App. No. CA2004-04-085, 2005-Ohio-2367.

{¶ 72} 2005-1175. *State v. Montgomery*, Clermont App. No. CA2004-06-047, 2005-Ohio-2371.

{¶ 73} 2005-1200. *State v. Sebring*, Butler App. No. CA2004-08-195.

{¶ 74} 2005-1207. *State v. Krois*, Hamilton App. No. C-040543.

{¶ 75} 2005-1242. *State v. Calhoun*, Butler App. No. CA2004-08-192.

{¶ 76} 2005-1249. *State v. Fiedler*, Lake App. No. 2003-L-190, 2005-Ohio-3388.

{¶ 77} 2005-1250. *State v. Semala*, Lake App. No. 2003-L-128, 2005-Ohio-2653.

{¶ 78} 2005-1303. *State v. Mason*, Butler App. Nos. CA2004-06-154 and CA2004-06-164, 2005-Ohio-2918. Proposition of Law No. VII.

{¶ 79} 2005-1319. *State v. Paynter*, Muskingum App. No. CT2004-0015, 2005-Ohio-2911. Proposition of Law Nos. III and IV.

{¶ 80} 2005-1321. *State v. Coffeen*, Butler App. No. CA2004-08-211.

{¶ 81} 2005-1324. *State v. Langlois*, Ashtabula App. No. 2003-A-0080, 2005-Ohio-2795. Proposition of Law No. III.

{¶ 82} 2005-1343. *State v. Satterwhite*, Franklin App. Nos. 04AP-964 and 04AP-965, 2005-Ohio-2823.

{¶ 83} 2005-1345. *State v. Morris*, Highland App. No. 04CA20, 2005-Ohio-2980.

{¶ 84} 2005-1353. *State v. Atkins-Boozer*, Cuyahoga App. No. 84151, 2005-Ohio-2666. Proposition of Law No. III.

{¶ 85} 2005-1366. *State v. Jenkins*, Cuyahoga App. No. 84644, 2005-Ohio-2824. Proposition of Law No. III.

{¶ 86} 2005-1393. *State v. Kisseberth*, Montgomery App. No. 20500, 2005-Ohio-3059. Proposition of Law No. I.

{¶ 87} 2005-1412. *State v. McClanahan*, Summit App. No. 22277, 2005-Ohio-2975. Proposition of Law No. I.

{¶ 88} 2005-1421. *State v. Lett*, Cuyahoga App. Nos. 84707 and 84729, 161 Ohio App.3d 274, 2005-Ohio-2665, 829 N.E.2d 1281.

{¶ 89} 2005-1431. *State v. Frazier*, Hancock App. No. 5-04-57, 2005-Ohio-3515.

{¶ 90} 2005-1447. *State v. Fout*, Franklin App. No. 04AP-1139, 2005-Ohio-3151.

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{¶ 91} 2005-1449. *State v. Hall*, Cuyahoga App. Nos. 84793 and 85364, 2005-Ohio-3421. Proposition of Law No. III.

{¶ 92} 2005-1467. *State v. Bunch*, Mahoning App. No. 02 CA 196, 2005-Ohio-3309. Proposition of Law No. I of the appeal.

{¶ 93} 2005-1471. *State v. Linville*, Franklin App. No. 04AP-917, 2005-Ohio-3150. Proposition of Law No. I.

{¶ 94} 2005-1476. *State v. Perkins*, Cuyahoga App. No. 84037.

{¶ 95} 2005-1477. *State v. Cooper*, Cuyahoga App. No. 84645, 2005-Ohio-3424. Proposition of Law No. I.

{¶ 96} 2005-1482. *State v. Valasquez*, Cuyahoga App. Nos. 85135 and 85136, 2005-Ohio-3021.

{¶ 97} 2005-1488. *State v. Abdelshahid*, Cuyahoga App. Nos. 84579 and 84580, 2005-Ohio-3001. Proposition of Law No. I.

{¶ 98} 2005-1489. *State v. Pridgen*, Stark App. No. 2004 CA 00313, 2005-Ohio-3291. Proposition of Law No. I.

{¶ 99} 2005-1508. *State v. West*, Washington App. No. 04CA37, 2005-Ohio-3485.

{¶ 100} 2005-1523. *State v. Head*, Lake App. No. 2001-L-228, 2005-Ohio-3407. Proposition of Law No. I.

{¶ 101} 2005-1541. *State v. Kravochuck*, Cuyahoga App. No. 85261, 2005-Ohio-3161.

{¶ 102} 2005-1550. *State v. Whitt*, Cuyahoga App. No. 84895, 2005-Ohio-3162.

{¶ 103} 2005-1555. *State v. Attaway*, Cuyahoga App. No. 85036, 2005-Ohio-3420.

{¶ 104} 2005-1572. *State v. Bigsby*, Cuyahoga App. No. 83370, 162 Ohio App.3d 251, 2005-Ohio-3590, 833 N.E.2d 322. Proposition of Law No. I.

{¶ 105} 2005-1583. *State v. Harris*, Hamilton App. No. C-040598. Proposition of Law Nos. II and III.

{¶ 106} 2005-1628. *State v. Taylor*, Athens App. No. 04CA32, 2005-Ohio-3721. Proposition of Law No. I.

{¶ 107} 2005-1632. *State v. Collins*, Montgomery App. No. 20287, 2005-Ohio-3875. Proposition of Law No. III.

{¶ 108} 2005-1651. *State v. Terry*, Hamilton App. No. C-040261, 2005-Ohio-4140. Proposition of Law Nos. I and II.

{¶ 109} 2005-1670. *State v. Wagner*, Licking App. No. 04CA79, 2005-Ohio-3821.

{¶ 110} 2005-1671. *State v. Brooks*, Cuyahoga App. No. 83668, 2005-Ohio-3567. Proposition of Law No. I.

{¶ 111} 2005-1673. *State v. Dunn*, Logan App. No. 8-05-03, 2005-Ohio-3762. Proposition of Law No. II.

{¶ 112} 2005-1686. *State v. Sanchez*, Franklin App. No. 04AP-1320, 2005-Ohio-3783.

{¶ 113} 2005-1705. *State v. Johnson*, Washington App. No. 04CA23, 2005-Ohio-3943.

{¶ 114} 2005-1722. *State v. Wright*, Clermont App. No. CA2004-08-061, 2005-Ohio-3907.

{¶ 115} 2005-1738. *State v. Williams*, Cuyahoga App. No. 85327, 2005-Ohio-3715. Proposition of Law Nos. I and II.

{¶ 116} 2005-1752. *State v. Deters*, Hamilton App. No. C-010645, 163 Ohio App.3d 157, 2005-Ohio-4049, 837 N.E.2d 381. Proposition of Law No. II.

{¶ 117} 2005-1753. *State v. Thompson*, Fairfield App. No. 04CA25, 2005-Ohio-4111.

{¶ 118} 2005-1772. *State v. Greitzer*, Portage App. No. 2003-P-0110, 2005-Ohio-4037. Proposition of Law No. II.

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- {¶ 119} 2005-1778. *State v. Bailey*, Clermont App. No. CA2005-04-024.
- {¶ 120} 2005-1819. *State v. Jefferson*, Montgomery App. No. 20698, 2005-Ohio-4201. Proposition of Law No. III.
- {¶ 121} 2005-1823. *State v. Martin*, Montgomery App. No. 20516, 2005-Ohio-4602. Proposition of Law No. II.
- {¶ 122} 2005-1840. *State v. Covington*, Hamilton App. No. C-040429. Proposition of Law No. III.
- {¶ 123} 2005-1844. *State v. Houston*, Franklin App. No. 04AP-875, 2005-Ohio-4249. Proposition of Law No. IV.
- {¶ 124} 2005-1913. *State v. Stonestreet*, Hamilton App. No. C-040264, 2005-Ohio-4416. Proposition of Law No. III.
- {¶ 125} 2005-1918. *State v. Orwick*, Hancock App. No. 5-04-42, 2005-Ohio-4444. Proposition of Law No. I.
- {¶ 126} 2005-1931. *State v. Jones*, Summit App. No. 22483, 2005-Ohio-4664.
- {¶ 127} 2005-1950. *State v. Baker*, Franklin App. No. 05AP-177, 2005-Ohio-4680.
- {¶ 128} 2005-1951. *State v. Macon*, Franklin App. No. 05AP-155, 2005-Ohio-4929.
- {¶ 129} 2005-1952. *State v. Perry*, Trumbull App. No. 2004-T-0113, 2005-Ohio-4653.
- {¶ 130} 2005-1959. *State v. Clagg*, Washington App. No. 04CA30, 2005-Ohio-4992.
- {¶ 131} 2005-1970. *State v. Harris*, Marion App. No. 9-04-11, 2005-Ohio-4618. Proposition of Law No. II.
- {¶ 132} 2005-1975. *State v. Mullens*, Summit App. Nos. 22482 and 22504, 2005-Ohio-4665.

{¶ 133} 2005-1983. *State v. Gonzales*, Defiance App. No. 4-05-03, 2005-Ohio-4912.

{¶ 134} 2005-2004. *State v. Anderson*, Lake App. No. 2004-L-157, 2005-Ohio-4896.

{¶ 135} 2005-2011. *State v. Hogan*, Mahoning App. Nos. 03-MA-224 and 04-MA-3, 2005-Ohio-4889.

{¶ 136} 2005-2023. *State v. Taylor*, Franklin App. Nos. 05AP-98 and 05AP-99, 2005-Ohio-5168.

{¶ 137} 2005-2059. *State v. Rogers*, Stark App. No. 2005CA00055, 2005-Ohio-4958. Proposition of Law No. III.

{¶ 138} 2005-2063. *State v. Smith*, Lucas App. No. L-05-1004, 2005-Ohio-5020.

{¶ 139} 2005-2071. *State v. Keller*, Summit App. No. 22514, 2005-Ohio-5108. Proposition of Law No. III.

{¶ 140} 2005-2074. *State v. Henderson*, Franklin App. No. 04AP-1212, 2005-Ohio-4970. Proposition of Law No. I.

{¶ 141} 2005-2083. *State v. Sheaffer*, Summit App. No. 22451, 2005-Ohio-5112.

{¶ 142} 2005-2101. *State v. Miller*, Cuyahoga App. No. 85564, 2005-Ohio-4583. Proposition of Law Nos. II and III.

{¶ 143} 2005-2112. *State v. Eye*, Washington App. No. 05CA13, 2005-Ohio-5317.

{¶ 144} 2005-2115. *State v. Ali*, Cuyahoga App. No. 85234, 2005-Ohio-4815.

{¶ 145} 2005-2127. *State v. Garvin*, Cuyahoga App. No. 85517, 2005-Ohio-4811.

{¶ 146} 2005-2136. *State v. Ross*, Summit App. Nos. 22447 and 22598, 2005-Ohio-5189. Proposition of Law Nos. V and VI.

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{¶ 147} 2005-2218. *State v. Galloway*, Cuyahoga App. No. 85685, 2005-Ohio-6013. Proposition of Law No. I.

{¶ 148} 2005-2335. *State v. Piesciuk*, Butler App. No. CA2004-03-055, 2005-Ohio-5767. Proposition of Law No. IV.

II

{¶ 149} The judgments of the courts of appeals in the following cases are affirmed:

{¶ 150} 2004-1777. *State v. Glass*, Cuyahoga App. No. 83950, 2004-Ohio-4495.

{¶ 151} 2004-1888. *State v. Glass*, Cuyahoga App. No. 84035, 2004-Ohio-4912.

{¶ 152} 2004-1971. *State v. Washatka*, Cuyahoga App. No. 83679, 2004-Ohio-5384.

{¶ 153} 2004-2002. *State v. Mason*, Cuyahoga App. No. 84061, 2004-Ohio-5388.

{¶ 154} 2004-2003. *State v. Moore*, Cuyahoga App. No. 83653, 2004-Ohio-5383.

{¶ 155} 2005-0107. *State v. Murrin*, Cuyahoga App. No. 83482, 2004-Ohio-6301.

{¶ 156} 2005-0585. *State v. Straughn*, Hamilton App. No. C-040093.

{¶ 157} 2005-0687. *State v. Young*, Hamilton App. No. C-030345.

{¶ 158} 2005-0784. *State v. Miller*, Cuyahoga App. No. 84431, 2005-Ohio-771.

{¶ 159} 2005-1026. *State v. Taylor*, Athens App. No. 04CA13, 2005-Ohio-2223.

{¶ 160} 2005-1236. *State v. Lee*, Hamilton App. No. C-040540, 162 Ohio App.3d 648, 2005-Ohio-3395, 834 N.E.2d 825.

{¶ 161} 2005-1423. *State v. Baccus*, Hamilton App. No. C-040028, 2005-Ohio-3704.

{¶ 162} 2005-2073. *State v. Ashipa*, Hamilton App. Nos. C-040867, C-040868 and C-040890.

III

{¶ 163} The portion of the judgment of the court of appeals in the following case that is related to the proposition of law noted is reversed, and the judgment of the trial court is reinstated:

{¶ 164} 2005-1874. *State v. Brown*, Lucas App. No. L-04-1148, 2005-Ohio-4348. Proposition of Law No. I.

IV

{¶ 165} The judgments of the courts of appeals in the following cases are affirmed in part and reversed in part, and the causes are remanded to the trial courts for resentencing:

{¶ 166} 2005-0391. *State v. Bruce*, Hamilton App. No. C-040421, 159 Ohio App.3d 562, 2005-Ohio-373, 824 N.E.2d 609. Affirmed as to the holding regarding maximum sentences and reversed and remanded on the portion of the opinion that modified the defendant's sentence.

{¶ 167} 2005-0498. *State v. Montgomery*, Hamilton App. No. C-040190, 159 Ohio App.3d 752, 2005-Ohio-1018, 825 N.E.2d 250. Affirmed as to the holding regarding more than minimum sentences and reversed and remanded on the portion of the opinion regarding consecutive sentences.

{¶ 168} 2005-1766. *State v. Roberts*, Hamilton App. Nos. C-040575 and C-050005, 2005-Ohio-4848.

V

{¶ 169} The discretionary appeal is accepted in the following case on the proposition of law noted, and the judgment of the court of appeals is affirmed:

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{¶ 170} 2005-2176. *State v. Short*, Cuyahoga App. No. 83804, 2005-Ohio-4578. Proposition of Law No. I of the appeal.

VI

{¶ 171} The portions of the judgments of the courts of appeals related to the propositions of law noted in the following cases are reversed, and the appeals are dismissed in part as having been improvidently accepted pursuant to the rule relating to ineffective assistance of counsel announced in *Strickland v. Washington* (1984), 466 U.S. 668, 104 S.Ct.2052, 80 L.Ed.2d 674:

{¶ 172} 2005-0583. *State v. Sharp*, Cuyahoga App. No. 84346, 2005-Ohio-390. Proposition of Law No. I. Discretionary appeal as to Proposition of Law No. II is dismissed as having been improvidently accepted.

{¶ 173} 2005-2220. *State v. Hobbs*, Hamilton App. No. C-030915. Proposition of Law No. III. Discretionary appeal as to Proposition of Law No. II is dismissed as having been improvidently accepted.

VII

{¶ 174} The following appeals are dismissed as having been improvidently accepted pursuant to the rule relating to ineffective assistance of counsel announced in *Strickland v. Washington* (1984), 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674:

{¶ 175} 2004-2121. *State v. Keith*, Cuyahoga App. No. 83686, 2004-Ohio-5731.

{¶ 176} 2005-0621. *State v. Burley*, Delaware App. No. 2004-CAA-04031, 2004-Ohio-6204.

{¶ 177} 2005-0938. *State v. Prince*, Stark App. No. 2004CA00197, 2005-Ohio-277.

{¶ 178} 2005-0941. *State v. Suttles*, Hamilton App. No. C-030908.

{¶ 179} 2005-1178. *State v. Bolling*, Montgomery App. No. 20225, 2005-Ohio-2509.

{¶ 180} 2005-1323. *State v. Coran*, Clark App. No. 2003-CA-80, 2004-Ohio-6874.

{¶ 181} 2005-1434. *State v. Connell*, Huron App. No. H-03-026, 2005-Ohio-3202.

{¶ 182} 2005-1522. *State v. Thomas*, Wayne App. No. 04CA0073, 2005-Ohio-3307.

{¶ 183} 2005-1558. *State v. Dellinger*, Huron App. No. H-04-016, 2005-Ohio-663.

{¶ 184} 2005-1852. *State v. Skinner*, Stark App. No. 2004-CA-00283, 2005-Ohio-4273.

{¶ 185} 2005-1937. *State v. Worthington*, Richland App. No. 2004-CA-0083, 2005-Ohio-4719.

{¶ 186} 2005-2010. *State v. Evans*, Cuyahoga App. No. 85583, 2005-Ohio-4584.

{¶ 187} 2005-2275. *State v. Preston*, Carroll App. No. 04 CA 811, 2005-Ohio-5657.

{¶ 188} 2005-2342. *State v. Gaines*, Hamilton App. No. C-040123.

VIII

{¶ 189} The following certified conflicts previously recognized are answered by the opinion:

{¶ 190} 2005-0499. *State v. Bruce*, Hamilton App. No. C-040421, 159 Ohio App.3d 562, 2005-Ohio-373, 824 N.E.2d 609.

{¶ 191} 2005-0586. *State v. Montgomery*, Hamilton App. No. C-040190, 159 Ohio App.3d 752, 2005-Ohio-1018, 825 N.E.2d 250.

{¶ 192} 2005-1014. *State v. Curlis*, Wood App. No. WD-04-032, 2005-Ohio-1217.

{¶ 193} 2005-1046. *State v. Colvin*, Franklin App. No. 04AP-421, 2005-Ohio-1448.

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{¶ 194} 2005-1267. *State v. Farley*, Butler App. No. CA2004-04-085, 2005-Ohio-2367.

{¶ 195} 2005-1268. *State v. Todd*, Butler App. No. CA2004-06-123, 2005-Ohio-2270.

{¶ 196} 2005-1301. *State v. Combs*, Butler App. No. CA2000-03-047, 2005-Ohio-1923.

{¶ 197} 2005-1551. *State v. Maracz*, Cuyahoga App. No. 85131, 2005-Ohio-3419.

{¶ 198} 2005-1676. *State v. Fout*, Franklin App. No. 04AP-1139, 2005-Ohio-3151.

{¶ 199} 2005-1745. *State v. Scarberry*, Logan App. No. 8-04-32, 2005-Ohio-1425.

{¶ 200} 2005-1790. *State v. West*, Washington App. No. 04CA37, 2005-Ohio-3485.

{¶ 201} 2005-2215. *State v. Garza*, Wood App. No. WD-04-090, 2005-Ohio-5255.

{¶ 202} 2005-2421. *State v. Gonzales*, Defiance App. No. 4-05-03, 2005-Ohio-4912.

{¶ 203} 2006-0065. *State v. Piesciuk*, Butler App. No. CA2004-03-055, 2005-Ohio-5767.

IX

{¶ 204} The following certified conflict is recognized and answered by the opinion:

{¶ 205} 2006-0140. *State v. Molina-Almaguer*, Franklin App. No. 04AP-1295, 2005-Ohio-5798.

X

{¶ 206} Discretionary appeals are accepted in the following cases, the judgments of the courts of appeals are reversed, and the causes are remanded to

the trial courts for resentencing. If propositions of law are noted, such reversals apply only to those portions of the judgments of the courts of appeals that are implicated by the applicable propositions of law:

{¶ 207} 2005-1749. *State v. Freeman*, Cuyahoga App. No. 85137, 2005-Ohio-3480. Accepted on Proposition of Law No. I.

{¶ 208} 2005-1750. *State v. Beard*, Cuyahoga App. Nos. 84779 and 84780, 2005-Ohio-3417. Accepted on Proposition of Law Nos. I and II.

{¶ 209} 2005-1769. *State v. Gipson*, Allen App. No. 1-04-84, 2005-Ohio-3886. Accepted on Proposition of Law No. III.

{¶ 210} 2005-1829. *State v. Smith*. Accepted on Proposition of Law No. III.

{¶ 211} 2005-2031. *State v. Ostenkamp*, Hamilton App. No. C-040371. Accepted on the appeal and on Proposition of Law No. I of the cross-appeal.

{¶ 212} 2005-2144. *State v. Johnson*, Lucas App. Nos. L-04-1239 and L-04-1258, 2005-Ohio-5459.

{¶ 213} 2005-2145. *State v. Reed*, Lorain App. No. 04CA008608, 2005-Ohio-5111. Accepted on Proposition of Law No. VI.

{¶ 214} 2005-2177. *State v. Slabaugh*, Stark App. No. 2005 CA 00006, 2005-Ohio-5307. Accepted on Proposition of Law Nos. I and II.

{¶ 215} 2005-2193. *State v. Smith*, Licking App. No. 04 CA 11, 2005-Ohio-5473. Accepted on Proposition of Law No. II.

{¶ 216} 2005-2197. *State v. Gideons*, Cuyahoga App. No. 85654, 2005-Ohio-5149.

{¶ 217} 2005-2206. *State v. Schmoll*, Delaware App. No. 05CAA02005, 163 Ohio App.3d 677, 2005-Ohio-5379, 839 N.E.2d 995. Accepted on Proposition of Law No. II.

{¶ 218} 2005-2216. *State v. Abboud*, Cuyahoga App. No. 85750, 2005-Ohio-5847. Accepted on Proposition of Law No. VI.

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{¶ 219} 2005-2217. *State v. Serrano*, Portage App. No. 2005-P-0003, 164 Ohio App.3d 103, 2005-Ohio-5606, 841 N.E.2d 368. Accepted on Proposition of Law No. IV.

{¶ 220} 2005-2221. *State v. Arthur*, Clermont App. No. CA2005-04-028.

{¶ 221} 2005-2248, *State v. Schweitzer*, Auglaize App. No. 2-05-03, 2005-Ohio-5611. Accepted on Proposition of Law Nos. I and II.

{¶ 222} 2005-2253. *State v. Quivey*, Meigs App. No. 04CA8, 2005-Ohio-5540. Accepted on Proposition of Law No. I.

{¶ 223} 2005-2269. *State v. Wright*, Summit App. No. 22599, 2005-Ohio-5496.

{¶ 224} 2005-2270. *State v. Yander*, Franklin App. No. 05AP-38, 2005-Ohio-5538. Accepted on Proposition of Law Nos. II and III.

{¶ 225} 2005-2272. *State v. Huff*, Franklin App. No. 04AP-1179, 2005-Ohio-5533.

{¶ 226} 2005-2285. *State v. Sullivan*, Hamilton App. No. C-040186. Accepted on Proposition of Law No. II.

{¶ 227} 2005-2297. *State v. Dickens*, Hamilton App. Nos. C-040768 and C-040774. Accepted on Proposition of Law Nos. I and II.

{¶ 228} 2005-2313. *State v. Bailum*, Clark App. No. 2004 CA 53, 2005-Ohio-5777. Accepted on Proposition of Law No. I.

{¶ 229} 2005-2326. *State v. Lariva*, Franklin App. No. 05AP-5, 2005-Ohio-5928.

{¶ 230} 2005-2339. *State v. Molina-Almaguer*, Franklin App. No. 04AP-1295, 2005-Ohio-5798.

{¶ 231} 2005-2347. *State v. Davis*, Cuyahoga App. No. 85477, 2005-Ohio-5544. Accepted on Proposition of Law Nos. III and IV.

{¶ 232} 2005-2383. *State v. Martin*, Cuyahoga App. No. 85933, 2005-Ohio-5970.

{¶ 233} 2005-2408. *State v. Bennett*, Brown App. No. CA2004-09-028, 2005-Ohio-5898. Accepted on Proposition of Law No. VI.

{¶ 234} 2005-2410. *State v. Mansfield*, Putnam App. No. 12-05-09, 2005-Ohio-5895.

{¶ 235} 2005-2428. *State v. Wilson*, Perry App. No. 05-CA-5, 2005-Ohio-6201.

{¶ 236} 2005-2432. *State v. Pena*, Franklin App. No. 05AP-41, 2005-Ohio-6103. Accepted on Proposition of Law Nos. I and II.

{¶ 237} 2006-0020. *State v. Brooks*, Cuyahoga App. No. 85652, 2005-Ohio-6015. Accepted on Proposition of Law No. II.

{¶ 238} 2006-0025. *State v. Campbell*, Lake App. No. 2004-L-126, 2005-Ohio-6147.

{¶ 239} 2006-0090. *State v. Taylor*, Fayette App. Nos. CA2005-01-001 and CA2005-01-004, 2005-Ohio-6426. Accepted on Proposition of Law Nos. I, II, and III.

{¶ 240} 2006-0108. *State v. Roper*, Summit App. No. 22566, 2005-Ohio-6327.

{¶ 241} 2006-0117. *State v. Torok*, Ashtabula App. Nos. 2004-A-0082 and 2004-A-0083, 2005-Ohio-6423.

{¶ 242} 2006-0128. *State v. Gilmore*, Franklin App. No. 05AP-309, 2005-Ohio-6472.

{¶ 243} 2006-0131. *State v. Dudley*, Franklin App. No. 05AP-144, 2005-Ohio-6503. Accepted on Proposition of Law Nos. I and II.

{¶ 244} 2006-0133. *State v. Roberts*, Ashtabula App. No. 2004-A-0041, 2005-Ohio-6716.

{¶ 245} 2006-0145. *State v. Ward*, Franklin App. Nos. 05AP-189 and 05AP-190, 2005-Ohio-6501.

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{¶ 246} 2006-0171. *State v. Pace*, Medina App. No. 05CA0054-M, 2005-Ohio-6609.

{¶ 247} 2006-0172. *State v. Ankrom*, Lake App. No. 2004-L-125, 2005-Ohio-6568.

{¶ 248} 2006-0209. *State v. Velotta*, Lake App. No. 2004-L-166, 2005-Ohio-6707.

{¶ 249} 2006-0215. *State v. Royals*, Hamilton App. No. C-050309.

{¶ 250} 2006-0226. *State v. Perkins*, Butler App. No. CA2005-02-036.

{¶ 251} 2006-0251. *State v. Herbert*, Wyandot App. No. 16-05-08, 2005-Ohio-6869.

{¶ 252} 2006-0307. *State v. Hampton*, Franklin App. No. 04AP-806, 2005-Ohio-7023. Accepted on Proposition of Law No. III.
