

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
FULTON COUNTY

State of Ohio

Court of Appeals No. F-06-024

Appellant

Trial Court No. 06CR000117

v.

William Whitten

DECISION AND JUDGMENT ENTRY

Appellee

Decided: June 22, 2007

* * * * *

Roger D. Nagel, Fulton County Prosecuting Attorney, and
Paul H. Kennedy, Assistant Prosecuting Attorney, for appellant.

Amber L. VanGunten, for appellee.

* * * * *

SINGER, J.

{¶ 1} This is a state's appeal of an order of the Fulton County Court of Common Pleas which suppressed prior OMVI convictions which supported enhancement specifications. Appellee is William Whitten.

{¶ 2} Pursuant to 6th Dist.Loc.App.R. 12, we sua sponte transfer this matter to our accelerated docket and, hereby, render our decision.

{¶ 3} These are identical convictions and a party considered by us in *State v. Hill*, 6th Dist. No. F-06-013, 2007-Ohio-2832. On authority of that case, we affirm the trial court with respect to the Sylvania Municipal Court convictions in case Nos. 91TRC4874, 91TRC5461B and 91TRC6505B. *Hill* at ¶ 17. With respect to the June 24, 1998 conviction from the Fulton County Court, Eastern District (98 TRC 1834), we reverse. *Hill* at ¶ 15.

{¶ 4} Accordingly, the state's single assignment of error is found well-taken in part and not well-taken in part.

{¶ 5} On consideration, the judgment of the Fulton County Court of Common Pleas is affirmed, in part, and reversed, in part. This matter is remanded to said court for further proceedings consistent with this decision and *State v. Hill*. Appellant and appellee are ordered to equally share the costs of this appeal, pursuant to App.R. 24. Judgment for the clerk's expense incurred in preparation of the record, fees allowed by law, and the fee for filing the appeal is awarded to Fulton County.

JUDGMENT AFFIRMED, IN PART,
AND REVERSED, IN PART.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. See, also, 6th Dist.Loc.App.R. 4.

State v. Whitten
C.A. No. F-06-024

Mark L. Pietrykowski, P.J.

JUDGE

Arlene Singer, J.

JUDGE

William J. Skow, J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:
<http://www.sconet.state.oh.us/rod/newpdf/?source=6>.