

**FILED: August 31, 2011**

IN THE COURT OF APPEALS OF THE STATE OF OREGON

PAUL LLOYD TYREE,  
Petitioner-Appellant,

v.

MARK NOOTH,  
Superintendent, Snake River Correctional Institution,  
Defendant-Respondent.

Malheur County Circuit Court  
07106174P

A141977

Linda Louise Bergman, Senior Judge.

Submitted on July 26, 2011.

Erin Galli and Chilton & Galli, LLC filed the brief for appellant. Paul Lloyd Tyree filed the supplemental brief *pro se*.

John R. Kroger, Attorney General, Mary H. Williams, Solicitor General, and Pamela J. Walsh, Assistant Attorney General, filed the brief for respondent.

Before Ortega, Presiding Judge, and Sercombe, Judge, and Edmonds, Senior Judge.

PER CURIAM

Reversed and remanded.

1 PER CURIAM

2 Petitioner appeals from a judgment denying his petition for post-conviction  
3 relief. He raises several assignments of error, all but one of which we reject without  
4 discussion. We write only to address petitioner's contention that the judgment entered by  
5 the post-conviction court does not comply with ORS 138.640. Defendant concedes that  
6 the judgment in this case did not clearly state the "legal bases behind the court's denial of  
7 relief" and that the judgment likely "fell short of compliance with the statute."

8 Pursuant to ORS 138.640(1), a judgment granting or denying post-  
9 conviction relief "must clearly state the grounds on which the cause was determined, and  
10 whether a state or federal question was presented and decided." To comply with the  
11 statute,

12 "a judgment denying claims for post-conviction relief must, at a minimum:  
13 (1) identify the claims for relief that the court considered and make separate  
14 rulings on each claim; (2) declare, with regard to each claim, whether the  
15 denial is based on a petitioner's failure to utilize or follow available state  
16 procedures or a failure to establish the merits of the claim; and (3) make the  
17 legal bases for denial of relief apparent."

18 [Datt v. Hill](#), 347 Or 672, 685, 227 P3d 714 (2010). The post-conviction court's judgment  
19 in this case fails to comply with the mandate of ORS 138.640(1). Thus, the judgment  
20 must be reversed and the case must be remanded for the court to enter a judgment in  
21 compliance with the statute. *See Datt*, 347 Or at 686 (reversing and remanding a  
22 judgment that failed to meet the standard set by ORS 138.640(1)); *see also State ex rel*  
23 [Juv. Dept. v. J. F. B.](#), 230 Or App 106, 114-15, 214 P3d 827 (2009) (failure to include  
24 statutorily required findings in a judgment makes the judgment defective on its face and

1 requires reversal).

2 Reversed and remanded.