

FILED: February 06, 2013

IN THE COURT OF APPEALS OF THE STATE OF OREGON

STATE OF OREGON,
Plaintiff-Respondent,

v.

FRANK MACE BEAUDREAU,
Defendant-Appellant.

Washington County Circuit Court
C102722CR

A148323

Donald R. Letourneau, Judge.

Submitted on December 07, 2012.

Peter Gartlan, Chief Defender, and Lindsey Burrows, Deputy Public Defender, Office of Public Defense Services, filed the brief for appellant.

Ellen Rosenblum, Attorney General, Anna M. Joyce, Solicitor General, and Douglas F. Zier, Senior Assistant Attorney General, filed the brief for respondent.

Before Schuman, Presiding Judge, and Wollheim, Judge, and Nakamoto, Judge.

PER CURIAM

Reversed and remanded.

1 PER CURIAM

2 Defendant was stopped because his vehicle displayed expired registration
3 tags. The officers who initiated the stop issued defendant a warning about the tags and
4 later asked for consent to look inside a sunglasses case in the vehicle's center console.
5 Defendant refused to consent to the search, at which point one of the officers implied that
6 he could cite defendant for additional, undisclosed traffic violations if defendant
7 continued to refuse consent. Defendant consented to the search, and the officers found a
8 pipe that, in turn, led to the discovery of evidence of methamphetamine. Based on that
9 evidence, defendant was charged with possession of methamphetamine, ORS 475.894.

10 Defendant moved to suppress the evidence discovered after his consent,
11 arguing, among other contentions, that the state had failed to prove that his consent was
12 voluntary. The court denied the motion, and defendant was convicted after a trial on
13 stipulated facts. He now appeals, reiterating his argument regarding his consent--*i.e.*, that
14 it was coerced by the threat to cite him for additional violations and the state failed to
15 prove that the officer lawfully could have carried out that threat. The state, for its part,
16 now concedes that there is no basis in the record to conclude that the officer had probable
17 cause to issue additional citations, and, consequently, that the court erred in denying the
18 motion to suppress. We agree with and accept the state's concession.

19 Reversed and remanded.