

FILED: March 13, 2013

IN THE COURT OF APPEALS OF THE STATE OF OREGON

STATE OF OREGON,
Plaintiff-Respondent,

v.

DUSTIN ADAM LARK,
Defendant-Appellant.

Marion County Circuit Court
10C51364

A149079

Susan M. Tripp, Judge.

Submitted on January 04, 2013.

Peter Gartlan, Chief Defender, and Kristin A. Carveth, Deputy Public Defender, Office of Public Defense Services, filed the brief for appellant.

Ellen F. Rosenblum, Attorney General, Anna M. Joyce, Solicitor General, and David B. Thompson, Senior Assistant Attorney General, filed the brief for respondent.

Before Armstrong, Presiding Judge, and Nakamoto, Judge, and Egan, Judge.

PER CURIAM

Reversed and remanded.

1 PER CURIAM

2 Defendant appeals a judgment convicting him of one count of unlawful
3 delivery of methamphetamine within 1,000 feet of a school, ORS 475.892, assigning
4 error to the trial court's denial of his motion to suppress evidence discovered during a
5 traffic stop. Defendant argues that the officer unlawfully extended the duration of the
6 stop by asking questions unrelated to the traffic violation without independent reasonable
7 suspicion of criminal activity. The state concedes the error, and we agree. *See State v.*
8 *Bertsch*, 251 Or App 128, 133, 284 P3d 502 (2012) ("The extension of a traffic stop
9 beyond an investigation into a traffic violation is unlawful unless it is supported by
10 reasonable suspicion of criminal activity."). Accordingly, we reverse and remand.

11 Reversed and remanded.