

FILED: March 6, 2013

IN THE COURT OF APPEALS OF THE STATE OF OREGON

STATE OF OREGON,
Plaintiff-Respondent,

v.

JASON DOUGLAS OLIVAREZ,
Defendant-Appellant.

Washington County Circuit Court
C081623CR

A149341

Rick Knapp, Judge.

Submitted on January 04, 2013.

Kenneth A. Kreuzscher and Portland Law Collective, LLP, filed the brief for appellant.

Ellen F. Rosenblum, Attorney General, Anna M. Joyce, Solicitor General, and Carson L. Whitehead, Assistant Attorney General, filed the brief for respondent.

Before Ortega, Presiding Judge, and Sercombe, Judge, and Hadlock, Judge.

PER CURIAM

Reversed and remanded for resentencing.

1 PER CURIAM

2 Defendant appeals from a judgment in which the trial court revoked his
3 probation and imposed a prison sentence. He asserts that the trial court erred in denying
4 him eligibility for sentence reduction programs under ORS 137.750.¹ The state concedes
5 "that the trial court's ruling that defendant was not eligible for sentence reduction
6 programs was error" and that, accordingly, the case must be reversed and remanded for
7 resentencing. We agree and accept the state's concession.

8 Reversed and remanded for resentencing.

¹ ORS 137.750 provides, in part:

"(1) When a court sentences a defendant to a term of incarceration upon conviction of a crime, the court shall order on the record in open court as part of the sentence imposed that the defendant may be considered by the executing or releasing authority for any form of temporary leave from custody, reduction in sentence, work release or program of conditional or supervised release authorized by law for which the defendant is otherwise eligible at the time of sentencing, unless the court finds on the record in open court substantial and compelling reasons to order that the defendant not be considered for such leave, release or program."