

FILED: November 20, 2013

IN THE COURT OF APPEALS OF THE STATE OF OREGON

S. K. C.,
Petitioner below,

v.

RODRIGUEZ MCAUTHOR PITTS,
Respondent below.

STATE OF OREGON,
Plaintiff-Respondent,

v.

RODRIGUEZ MCAUTHOR PITTS,
Defendant-Appellant.

Washington County Circuit Court
C111200RO

A149549

Gayle Ann Nachtigal, Judge.

On appellant's petition for reconsideration filed October 8, 2013. Opinion filed September 25, 2013. 258 Or App 676, 310 P3d 1162.

Peter Gartlan, Chief Defender, and Elizabeth Daily, Deputy Public Defender, Office of Public Defense Services, for petition.

Before Sercombe, Presiding Judge, and Haselton, Chief Judge, and Hadlock, Judge.

PER CURIAM

Petition for reconsideration allowed; former opinion withdrawn; affirmed.

1 PER CURIAM

2 Defendant seeks reconsideration of our decision in *Chriswisser v. Pitts*, 258
3 Or App 676, 310 P3d 1162 (2013), in which we rejected his first assignment of error
4 without discussion, reversed and remanded for entry of a judgment omitting a unitary
5 assessment and offense surcharge as to his second and third assignments of error, and
6 otherwise affirmed.

7 Defendant asserts that we should reconsider our decision in this case
8 because, although defendant "failed to inform the court that he was withdrawing his
9 second and third assignments of error," after briefing was complete "the trial court
10 entered an 'amended judgment' omitting the erroneous monetary obligations." Under the
11 circumstances, defendant contends that his second and third assignments of error were
12 moot when this court issued its decision and, because the court rejected without
13 discussion the only other issue raised by defendant on appeal, "the correct disposition in
14 this case is to affirm."

15 We agree with defendant. On April 12, 2013, the trial court entered an
16 amended judgment omitting the unitary assessment and offense surcharge that we
17 addressed in our original decision in this case. Accordingly, defendant's second and third
18 assignments of error are moot. *See State v. Balogh*, 209 Or App 162, 163-64, 146 P3d
19 335 (2006) (granting reconsideration because the defendant's assignment of error had
20 "become moot by the time we decided it"). We therefore allow defendant's petition for
21 reconsideration, withdraw our former opinion, and affirm.

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Petition for reconsideration allowed; former opinion withdrawn; affirmed.