

**FILED: June 26, 2013**

IN THE COURT OF APPEALS OF THE STATE OF OREGON

MATTHEW CALVINO ELLETT,  
Petitioner-Appellant,

v.

RICK COURSEY,  
Superintendent,  
Eastern Oregon Correctional Institution,  
Defendant-Respondent.

Umatilla County Circuit Court  
CV110921

A150832

Christopher R. Brauer, Judge.

Submitted on May 03, 2013.

James N. Varner filed the brief for appellant.

Ellen F. Rosenblum, Attorney General, Anna M. Joyce, Solicitor General, and Jeff J. Payne, 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                   Petitioner appeals a judgment dismissing his petition for post-conviction  
3 relief for failing to attach "[a]ffidavits, records or other documentary evidence supporting  
4 the allegations of the petition," as required by ORS 138.580. Petitioner contends that he  
5 attached sufficient supporting documentation to his petition. The state concedes that the  
6 petition and supporting documentation satisfied the requirements of ORS 138.580 as  
7 explained in *Ogle v. Nooth*, 254 Or App 665, \_\_\_ P3d \_\_\_ (2013). Having reviewed the  
8 petition and supporting documentation, we agree with the state and accept its concession  
9 that the petition should not have been dismissed.

10                   Reversed and remanded.