

FILED: July 30, 2014

IN THE COURT OF APPEALS OF THE STATE OF OREGON

JUSTIN BARTHELL,
Petitioner,

v.

DEPARTMENT OF CORRECTIONS,
Respondent.

Department of Corrections

A155232

Submitted on June 06, 2014.

Justin Barthell filed the brief *pro se*.

Ellen F. Rosenblum, Attorney General, Anna M. Joyce, Solicitor General, and Jona J. Maukonen, Assistant Attorney General, filed the brief for respondent.

Before Ortega, Presiding Judge, and DeVore, Judge, and Garrett, Judge.

PER CURIAM

OAR 291-105-0005(3)(d), OAR 291-127-0320(2)(e), OAR 291-158-0005(3)(b), OAR 291-180-0252(2), and OAR 291-180-0262(2) held valid.

1 PER CURIAM

2 As allowed by ORS 183.400, petitioner seeks a judicial determination of
3 the validity of five administrative rules adopted by the Oregon Department of Corrections
4 (DOC): OAR 291-105-0005(3)(d), OAR 291-127-0320(2)(e), OAR 291-158-0005(3)(b),
5 OAR 291-180-0252(2), and OAR 291-180-0262(2). Petitioner contends that DOC
6 exceeded its rulemaking authority when it expressly provided in the rules that they could
7 be applied retroactively. Having reviewed petitioner's arguments, we conclude that DOC
8 did not exceed its statutory authority in promulgating the rules. For two of those
9 administrative rules for which he seeks review, OAR 291-180-0252(2) and OAR 291-
10 180-0262(2), petitioner also asserts that DOC's notice did not alert affected individuals
11 that the rules would apply retroactively and, therefore, the notice was legally insufficient.
12 We conclude that the notice was not insufficient.

13 OAR 291-105-0005(3)(d), OAR 291-127-0320(2)(e), OAR 291-158-
14 0005(3)(b), OAR 291-180-0252(2), and OAR 291-180-0262(2) held valid.