

FILED: December 30, 2015

IN THE COURT OF APPEALS OF THE STATE OF OREGON

STATE OF OREGON,
Plaintiff-Respondent,

v.

KABLE LEVI JONES,
Defendant-Appellant.

Douglas County Circuit Court
12CR2546FE

A156414

Ann Marie Simmons, Judge.

Submitted on November 17, 2015.

Peter Gartlan, Chief Defender, and Emily P. Seltzer, 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, Assistant Attorney General, filed the brief for respondent.

Before Armstrong, Presiding Judge, and Hadlock, Judge, and Allen, Judge pro tempore.

PER CURIAM

Reversed and remanded.

1 PER CURIAM

2 Defendant appeals a judgment of conviction for one count of unlawful
3 possession of methamphetamine, ORS 475.894. He contends that the trial court erred in
4 denying his motion to suppress evidence of the methamphetamine, which the police
5 discovered and seized, during a traffic stop, in a warrantless search of a cigarette pack
6 belonging to defendant. The state concedes that the trial court erred "because, contrary to
7 the trial court's conclusions, neither the warrantless search of defendant's pockets (which
8 revealed the cigarette pack) nor the subsequent warrantless search of the cigarette pack
9 was justified under any exception to the warrant requirement" of Article I, section 9, of
10 the Oregon Constitution.¹ We agree with the state that the record does not support the
11 trial court's finding that defendant consented to the search of the cigarette pack; we also
12 agree that the evidence therefore should have been suppressed. Accordingly, we reverse
13 and remand.

14 Reversed and remanded.

¹ Article I, section 9, provides, in part:

"No law shall violate the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable search, or seizure[.]"