

IN THE COURT OF APPEALS OF THE
STATE OF OREGON

STATE OF OREGON,
Plaintiff-Respondent,

v.

BRENT MICHAEL CALDWELL,
Defendant-Appellant.

Coos County Circuit Court
14CR2465; A159303

Martin E. Stone, Judge.

Submitted September 28, 2016.

Ernest G. Lannet, Chief Defender, Criminal Appellate Section, and Matthew Blythe, Deputy Public Defender, Office of Public Defense Services, filed the brief for appellant.

Ellen F. Rosenblum, Attorney General, Benjamin Gutman, Solicitor General, and Keith L. Kutler, Assistant Attorney General, filed the brief for respondent.

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

PER CURIAM

Portion of judgment requiring defendant to pay attorney fees reversed; otherwise affirmed.

PER CURIAM

Defendant was convicted of felony driving under the influence of intoxicants (Count 1) and driving while suspended or revoked (Count 2). On Count 1, the court sentenced defendant to eight months in jail and two years of post-prison supervision, revoked defendant's driver's license, and imposed a \$2,000 fine; on Count 2, the court imposed an additional \$2,000 fine. The court also ordered defendant to pay \$200 in court-appointed attorney fees.

On appeal, defendant challenges the denial of his motion to suppress evidence and the court's imposition of court-appointed attorney fees. We reject without discussion defendant's assignments of error regarding the motion to suppress. However, we agree with defendant—and the state's concession—that the trial court plainly erred by imposing court-appointed attorney fees when the record is silent regarding defendant's ability to pay those fees. We exercise our discretion to correct that error, for reasons similar to those expressed in *State v. Ramirez-Hernandez*, 264 Or App 346, 349, 332 P3d 338 (2014) (exercising discretion to correct erroneous imposition of \$400 in court-appointed attorney fees because the amount was “substantial” in light of defendant's circumstances).

Portion of judgment requiring defendant to pay attorney fees reversed; otherwise affirmed.