

IN THE COURT OF APPEALS OF THE
STATE OF OREGON

STATE OF OREGON,
Plaintiff-Respondent,

v.

TYSON PETERSON,
Defendant-Appellant.

Harney County Circuit Court
130280CR; A157561

W. D. Cramer, Jr., Judge.

Argued and submitted April 28, 2016.

Brett Allin, Deputy Public Defender, argued the cause for appellant. With him on the briefs was Ernest G. Lannet, Chief Defender, Criminal Appellate Section, Office of Public Defense Services.

David B. Thompson, Assistant Attorney General, argued the cause for respondent. With him on the brief were Ellen F. Rosenblum, Attorney General, and Paul L. Smith, Deputy Solicitor General.

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

PER CURIAM

Reversed and remanded.

PER CURIAM

This case is a companion case to [State v. Tapp](#), 284 Or App 583, ___ P3d ___ (2017), decided today. Defendant was a codefendant with the defendant in *Tapp* and joined in the motion to suppress filed by the defendant in *Tapp*. The trial court denied the motion and, in a bench trial, convicted defendant (as well as the defendant in *Tapp*) of one count of unlawful delivery of marijuana for consideration, ORS 475.860, and one count of unlawful possession of marijuana, ORS 475.864. On appeal, defendant assigns error to the trial court's denial of the motion to suppress, which, as noted, was the same motion filed by the defendant in *Tapp*.¹ In *Tapp*, we reversed and remanded, holding that the trial court erred by denying the motion to suppress, and that the error was not harmless. 284 Or App at 591. The same result necessarily obtains here.

Reversed and remanded.

¹ Apart from a preservation challenge, which we reject without discussion, the state does not dispute defendant's ability to raise the same issues as the defendant in *Tapp*.