

IN THE COURT OF APPEALS OF THE  
STATE OF OREGON

STATE OF OREGON,  
*Plaintiff-Respondent,*

*v.*

CORINA SHOCKEY,  
*Defendant-Appellant.*

Wasco County Circuit Court  
1400114M; A158354

Karen Ostrye, Judge. (Judgment)

Janet L. Stauffer, Judge. (Amended Judgment)

On appellant's petition for reconsideration filed June 7, 2017. Opinion filed May 24, 2017. 285 Or App 718, \_\_\_ P3d \_\_\_\_.

Ernest G. Lannet, Chief Defender, Criminal Appellate Section, and Erin J. Snyder Severe, Deputy Public Defender, Office of Public Defense Services, for petition.

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

PER CURIAM

Reconsideration allowed; former disposition withdrawn; former opinion modified and adhered to as modified; award of restitution reversed; remanded for entry of amended judgment omitting restitution award; otherwise affirmed.



**PER CURIAM**

Defendant petitions for reconsideration of our decision in *State v. Shockey*, 285 Or App 718, \_\_\_ P3d \_\_\_ (2017), in which we held that the statutory civil penalty for the unlawful taking of a raptor authorized by ORS 496.705 did not establish that the victim of defendant's crime, the Oregon Department of Fish and Wildlife (ODFW), had suffered economic damages so as to permit the award of restitution that the trial court ordered defendant to pay. We remanded for resentencing based on our determination that no other evidence supported the award of restitution to ODFW. Defendant points out that we concluded that there is no evidence to support a finding that ODFW suffered any economic damages as a result of defendant's conduct and argues that that determination forecloses the trial court from imposing either restitution or a compensatory fine on remand. Thus, in defendant's view, the proper disposition is to reverse the restitution award and remand for entry of an amended judgment omitting restitution. The state has not opposed the petition. Under those circumstances, we agree with defendants, allow reconsideration, and modify our opinion to provide for the following disposition: "Award of restitution reversed; remanded for entry of amended judgment omitting restitution award; otherwise affirmed." To the extent our opinion refers to a remand for resentencing in other places, we disavow those references.

Reconsideration allowed; former disposition withdrawn; former opinion modified and adhered to as modified; award of restitution reversed; remanded for entry of amended judgment omitting restitution award; otherwise affirmed.