

IN THE COURT OF APPEALS OF THE  
STATE OF OREGON

STATE OF OREGON,  
*Plaintiff-Respondent,*

*v.*

ANTONIO LERON CABINE, JR.,  
aka Antonio L. Cabine, Jr.,  
*Defendant-Appellant.*

Multnomah County Circuit Court  
14CR29073; A160861

Thomas M. Ryan, Judge.

Argued and submitted September 12, 2017.

Kenneth A. Kreuzscher argued the cause and filed the brief for appellant.

Jacob Brown, Assistant Attorney General, argued the cause for respondent. With him on the brief were Ellen F. Rosenblum, Attorney General, and Benjamin Gutman, Solicitor General.

Before Egan, Presiding Judge, and DeHoog, Judge, and Aoyagi, Judge.

PER CURIAM

Convictions on Counts 1, 3, 7, 9, and 10 reversed and remanded; remanded for resentencing; otherwise affirmed.

**PER CURIAM**

Defendant appeals a judgment of conviction, following a jury trial, for first-degree robbery (Count 1), ORS 164.415, second-degree robbery (Count 3), ORS 164.405, felon in possession of a firearm (Count 5), ORS 166.270, unauthorized use of a vehicle (Count 7), ORS 164.135, attempted second-degree assault (Count 9), ORS 161.405; ORS 163.175, and attempted third-degree assault (Count 10), ORS 163.165. On appeal, he assigns error to the trial court's denial of his pretrial motion to suppress evidence. Specifically, defendant asserts that he was arrested without probable cause when a police officer placed him in handcuffs in a patrol car. Accordingly, in his view, the evidence discovered during the arrest and evidence that was derived from the arrest should have been suppressed. The state concedes that the officer "arrested defendant when he handcuffed him and placed him in a patrol car, and that the record does not establish that [the officer] had probable cause to do so." Accordingly, the state agrees that the trial court erred in denying defendant's suppression motion, and that defendant's convictions on Counts 1, 3, 7, 9, and 10 should be reversed and remanded. We agree, and accept the state's concession.

The state points out, however, that defendant's conviction for felon in possession was based on evidence that was neither the subject of the suppression motion nor derived from any illegality. The state asserts that the trial court's error in denying the suppression motion was harmless with respect to that conviction. In light of the record in this case, we agree with the state that there is little likelihood that the trial court's error in denying defendant's motion to suppress affected the verdict on the felon in possession charge. See *State v. Davis*, 336 Or 19, 32, 77 P3d 1111 (2003) (test for harmless error is whether there is "little likelihood that the particular error affected the verdict"). Accordingly, we affirm defendant's conviction on Count 5.

Convictions on Counts 1, 3, 7, 9, and 10 reversed and remanded; remanded for resentencing; otherwise affirmed.