

IN THE COURT OF APPEALS OF THE
STATE OF OREGON

STATE OF OREGON,
Plaintiff-Respondent,

v.

GLENDA MAE HILL,
Defendant-Appellant.

Deschutes County Circuit Court
MI150184; A160981

Stephen P. Forte, Judge.

On respondent's amended motion to dismiss nonappellant/
nonpetitioner filed March 10, 2017, and respondent's response
filed March 15, 2017.

Ellen F. Rosenblum, Attorney General, Benjamin
Gutman, Solicitor General, and Timothy A. Sylwester,
Assistant Attorney General, for motion.

Ernest G. Lannet, Chief Defender, Criminal Appellate
Section, and Sarah Laidlaw, Deputy Public Defender, Office
of Public Defense Services, for response.

Before Egan, Presiding Judge, and Garrett, Judge.

PER CURIAM

Motion to dismiss granted; appeal dismissed.

PER CURIAM

The state moves to dismiss defendant's appeal from a judgment of conviction for a misdemeanor following revocation of a diversion agreement. We grant the state's motion and dismiss the appeal. See *State v. Jairl*, 229 Or 533, 541-42, 368 P2d 323 (1962) (holding that a defendant who pleads guilty may not appeal under ORS 138.040); *State v. Clevenger*, 297 Or 234, 244, 683 P2d 1360 (1984) (adhering to the holding in *Jairl* and upholding the dismissal of an appeal where the defendant, who had pleaded guilty, assigned error only to the validity of the trial court's acceptance of the plea); *State v. Cloutier*, 351 Or 68, 79-80, 84, 261 P3d 1234 (2011) (citing *Jairl* and *Clevenger* for the proposition that, where a defendant has pleaded guilty or no contest to a misdemeanor, the defendant may not appeal under ORS 138.040); see also *State v. Landahl*, 254 Or App 46, 51-52, 292 P3d 646 (2012), *rev den*, 353 Or 787 (2013) (rejecting contention that a defendant who pleads guilty to a misdemeanor as part of a diversion agreement may appeal under ORS 138.040 a judgment of conviction entered following the trial court's revocation of that agreement).

Motion to dismiss granted; appeal dismissed.