

IN THE COURT OF APPEALS OF THE
STATE OF OREGON

STATE OF OREGON,
Plaintiff-Respondent,

v.

EVAN NOEL HAYES,
Defendant-Appellant.

Marion County Circuit Court
16VI151563; A163890

Daniel J. Wren, Judge pro tempore.

Submitted August 4, 2017.

Michael E. Rose and Creighton & Rose, P.C., filed the brief for appellant.

Ellen F. Rosenblum, Attorney General, Benjamin Gutman, Solicitor General, and Peenesh Shah, Assistant Attorney General, filed the brief for respondent.

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

PER CURIAM

Reversed.

PER CURIAM

Defendant appeals a judgment convicting him of operating a motor vehicle while using a mobile communication device, ORS 811.507 (2013).¹ He contends that there was no evidence in the record that he “used” his mobile communication device while driving in violation of ORS 811.507, and that the trial court should have entered a judgment of acquittal. See *State v. Rabanales-Ramos*, 273 Or App 228, 359 P3d 250 (2015). The state, for its part, concedes that the evidence was insufficient to convict defendant of violating ORS 811.507 and that defendant was entitled to a judgment of acquittal. We agree, accept the state’s concession, and reverse the judgment of conviction.

Reversed.

¹ ORS 811.507 was amended in 2017. See Or Laws 2017, ch 629, § 1. However, we apply the version of ORS 811.507 that was in effect when defendant was cited for the offense and all references to the statute in this opinion are to the 2013 version.