

IN THE COURT OF APPEALS OF THE
STATE OF OREGON

STATE OF OREGON,
Plaintiff-Respondent,

v.

JULIE MARIE MERRILL,
Defendant-Appellant.

Douglas County Circuit Court
16CR15177; A167806

George William Ambrosini, Judge.

On respondent's petition for reconsideration filed June 10, 2021. Opinion filed May 19, 2021. 311 Or App 487, 492 P3d 722.

Ellen F. Rosenblum, Attorney General, Benjamin Gutman, Solicitor General, and Robert M. Wilsey, Assistant Attorney General, for petition.

Before Lagesen, Presiding Judge, and Powers, Judge, and Sercombe, Senior Judge.

PER CURIAM

Reconsideration allowed; former disposition withdrawn; opinion modified and adhered to as modified; affirmed.

PER CURIAM

The state has petitioned for reconsideration of our decision in *State v. Merrill*, 311 Or App 487, 492 P3d 722 (2021). The state argues that defendant’s second assignment of error, which challenged the trial court’s imposition of a \$490 state obligation was moot at the time we decided the appeal because the trial court, after the briefing and submission of this appeal, entered an amended judgment deleting that obligation. The state requests that we modify our decision

“by: (1) removing the discussion of the ‘state obligation’ at 311 Or App 496-97; (2) noting that defendant’s second assignment of error became moot upon entry of the amended judgment; and (3) changing this court’s disposition to ‘Affirmed.’”

Defendant has not opposed the petition, and we agree with the state’s proposed modification. Because the trial court had properly and helpfully fixed the problem identified in defendant’s second assignment of error by the time we rendered our decision, the second assignment of error is moot and provides no basis for reversal. *See State v. Porter*, 313 Or App 565, 568, ___ P3d ___ (2021) (noting that amended judgments can moot assignments of error by resolving issues raised by them). Accordingly, we allow reconsideration, withdraw our prior disposition, and modify our opinion in two ways.

First, we replace the final sentence of the first paragraph with the following: “Regarding the financial obligation, during the pendency of this appeal, the trial court issued an amended judgment deleting it, so that assignment of error is now moot.”

Second, we delete the final full paragraph of the opinion, addressing the state obligation.

Reconsideration allowed; former disposition withdrawn; opinion modified and adhered to as modified; affirmed.