

IN THE COURT OF APPEALS OF THE  
STATE OF OREGON

STATE OF OREGON,  
*Plaintiff-Respondent,*

*v.*

LORRAINE JEAN COLTON,  
*Defendant-Appellant.*

Linn County Circuit Court  
18CR81552; A172439

Rachel Kittson-MaQatish, Judge.

Submitted April 6, 2021.

Ernest G. Lannet, Chief Defender, Criminal Appellate Section, and Peter G. Klym, Deputy Public Defender, Office of Public Defense Services, filed the brief for appellant.

Ellen F. Rosenblum, Attorney General, Benjamin Gutman, Solicitor General, and Jennifer S. Lloyd, Assistant Attorney General, filed the brief for respondent.

Before DeVore, Presiding Judge, and DeHoog, Judge, and Mooney, Judge.

PER CURIAM

Portion of judgment requiring defendant to pay \$255 conviction fee vacated; remanded for resentencing; otherwise affirmed.

---

**PER CURIAM**

Defendant, who was convicted of driving under the influence of intoxicants (DUII), ORS 813.010, reckless driving, ORS 811.140, and possession of methamphetamine, ORS 475,894(2), argues that the trial court erred in imposing a \$255 conviction fee on the DUII conviction because that fee was not announced in open court at sentencing. The state concedes the error. Defendant argues that the proper remedy is to reverse the DUII conviction fee; the state contends that the proper remedy is instead to remand for resentencing. We agree with the state as to the remedy. *See State v. Toombs*, 302 Or App 173, 460 P3d 533 (2019) (explaining why imposition of DUII fee outside defendant's presence was error that required resentencing).

Portion of judgment requiring defendant to pay \$255 conviction fee vacated; remanded for resentencing; otherwise affirmed.