

IN THE COURT OF APPEALS OF THE
STATE OF OREGON

STATE OF OREGON,
Plaintiff-Respondent,

v.

ALEX MAGANA AVILA,
Defendant-Appellant.

Washington County Circuit Court
19CR47798; A173239

Patricia Crain, Senior Judge.

Submitted June 4, 2021.

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

Ellen F. Rosenblum, Attorney General, Benjamin Gutman, Solicitor General, and Jonathan N. Schildt, Assistant Attorney General, filed the brief for respondent.

Before Lagesen, Presiding Judge, and James, Judge, and Kamins, Judge.

PER CURIAM

Reversed and remanded.

PER CURIAM

Defendant appeals a judgment of conviction for unlawful possession of methamphetamine based on evidence found in defendant's backpack after police stopped a vehicle in which he was riding. Defendant argues that the trial court erred in denying his motion to suppress the evidence found in the backpack because the police seized the backpack without a lawful basis, thereby violating Article I, section 9, of the Oregon Constitution. The state concedes that the trial court erred in denying the motion, because the police did not have a lawful justification for seizing the backpack, which was not connected to the investigation that was being conducted and that defendant had tried to leave in the vehicle. We agree with and accept the state's concession, and we therefore reverse and remand.

Reversed and remanded.