

IN THE COURT OF APPEALS OF THE
STATE OF OREGON

STATE OF OREGON,
Plaintiff-Respondent,

v.

ORRIN KAWIKI KEALOHI SOTO,
Defendant-Appellant.

Tillamook County Circuit Court
19CR82985; A174571

Mari Garric Trevino, Judge.

Submitted February 11, 2022.

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

Ellen F. Rosenblum, Attorney General, Benjamin Gutman, Solicitor General, and Michael A. Casper, Assistant Attorney General, filed the brief for respondent.

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

PER CURIAM

Affirmed.

PER CURIAM

Defendant appeals a judgment of conviction for third-degree sexual abuse, acknowledging that we have previously held that lack of consent in third-degree sexual abuse was a circumstance element that required only a mental state of criminal negligence. *State v. Wier*, 260 Or App 341, 353, 317 P3d 330 (2013). But, defendant argues, under the Oregon Supreme Court's recent decision in *State v. Haltom*, 366 Or 791, 824, 472 P3d 246 (2020), that interpretation of the statute is no longer viable. We adhere to our decision in *Weir*, but we note that the issue is currently before the Oregon Supreme Court in *State v. Carlisle* (S067880), and resolution of that case will likely affect this one.

Affirmed.