

**FILED: November 9, 2011**

IN THE COURT OF APPEALS OF THE STATE OF OREGON

STATE OF OREGON,  
Plaintiff-Appellant,

v.

RALPH HERBERT PICKERING,  
Defendant-Respondent.

Clatsop County Circuit Court  
097040

A144706

Philip L. Nelson, Judge.

Argued and submitted on September 30, 2011.

Joanna L. Jenkins, Assistant Attorney General, argued the cause for appellant. With her on the brief were John R. Kroger, Attorney General, and Mary H. Williams, Solicitor General.

Ryan T. O'Connor, Senior Deputy Public Defender, argued the cause for respondent. With him on the brief was Peter Gartlan, Chief Defender, Office of Public Defense Services.

Before Schuman, Presiding Judge, and Wollheim, Judge, and Nakamoto, Judge.

PER CURIAM

Vacated and remanded for reconsideration. [State v. Machuca](#), 347 Or 644, 227 P3d 729 (2010); [State v. Martinez-Alvarez](#), 245 Or App 369, \_\_\_ P3d \_\_\_ (2011).