

FILED: September 5, 2013

IN THE COURT OF APPEALS OF THE STATE OF OREGON

STATE OF OREGON,
Plaintiff-Respondent,

v.

JOSE AURELIO OIDOR,
Defendant-Appellant.

Multnomah County Circuit Court
090833172

A145040

Jerome E. LaBarre, Judge.

On respondent's petition for reconsideration filed January 23, 2013, appellant's response to petition for reconsideration filed February 26, 2013, and respondent's reply to appellant's response to petition for reconsideration filed March 4, 2013. Opinion filed December 12, 2012. 254 Or App 12, 292 P3d 629.

Ellen F. Rosenblum, Attorney General, Anna M. Joyce, Solicitor General, and Rolf C. Moan, Assistant Attorney General, for petition.

Peter Gartlan, Chief Defender, and Erik Blumenthal, Deputy Public Defender, Office of Public Defense Services, for response.

Before Armstrong, Presiding Judge, and Haselton, Chief Judge, and Duncan, Judge.

PER CURIAM

Reconsideration allowed; former opinion modified and adhered to as modified.

1 PER CURIAM

2 The state has petitioned for reconsideration of our decision in this case,
3 seeking clarification of our holding about the preemptive effect of section 301 of the
4 federal Copyright Act, 17 USC § 301, on ORS 164.865(1)(b). The clarification that it
5 seeks is confirmation that section 301 preempts the Oregon statute only for sound
6 recordings that were fixed on or after February 15, 1972. We grant reconsideration and
7 modify our opinion by adding the following footnote to the last full sentence at 254 Or
8 App at 20:

9 "The Copyright Act does not preempt state laws with respect to
10 sound recordings fixed before February 15, 1972. 17 USC § 301(c). In the
11 present case, the state did not contend that the sound recordings at issue fell
12 within that exception."

13 Reconsideration allowed; former opinion modified and adhered to as
14 modified.