

**FILED: December 5, 2012**

IN THE COURT OF APPEALS OF THE STATE OF OREGON

STATE OF OREGON,  
Plaintiff-Respondent,

v.

MICHAEL RICHARD SPARKS,  
Defendant-Appellant.

Washington County Circuit Court  
D101860M

A146378

Suzanne Upton, Judge.

Submitted on October 31, 2012.

Peter Gartlan, Chief Defender, and Susan Fair Drake, Senior Deputy Public Defender, Office of Public Defense Services, filed the brief for appellant.

John R. Kroger, Attorney General, Anna M. Joyce, Solicitor General, and Matthew J. Lysne, Assistant Attorney in Charge, filed the brief for respondent.

Before Armstrong, Presiding Judge, and Brewer, Judge, and Duncan, Judge.

PER CURIAM

Reversed. *State v. Depeche* (A139293), 242 Or App 155, 255 P3d 502 (2011).