

FILED: May 16, 2012

IN THE COURT OF APPEALS OF THE STATE OF OREGON

STATE OF OREGON,
Plaintiff-Respondent,

v.

LADEL LAWRENCE STONE,
Defendant-Appellant.

Lane County Circuit Court
211015898

A147351

Charles M. Zennache', Judge.

Submitted on March 02, 2012.

Peter Gartlan, Chief Defender, and Kali Montague, Deputy Public Defender, Office of Public Defense Services, filed the brief for appellant.

John R. Kroger, Attorney General, Anna M. Joyce, Solicitor General, and Jamie K. Contreras, Assistant Attorney General, filed the brief for respondent.

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

PER CURIAM

Reversed and remanded.

1 PER CURIAM

2 After a trial on stipulated facts, defendant was convicted of driving under
3 the influence of intoxicants, ORS 813.010. On appeal, defendant argues that the court
4 erred by (1) denying his motion to suppress evidence and (2) conducting a bench trial
5 without obtaining a written waiver of his right to a trial by jury. We reject without
6 discussion defendant's argument that the court erred in denying his motion to suppress.
7 However, defendant's remaining assignment of error is well taken. The state concedes
8 that the record does not contain a valid waiver of jury trial and that defendant's conviction
9 must be reversed. We agree, accept the concession, and, for the reasons expressed in
10 [State v. Barber](#), 343 Or 525, 173 P3d 827 (2007), exercise our discretion to correct the
11 error.

12 Reversed and remanded.