

IN THE SUPREME COURT OF THE
STATE OF OREGON

STATE OF OREGON,
Plaintiff-Respondent,

v.

SANTIAGO MAXIMO VALLIN,
aka Santiago Vallin,
Defendant-Appellant.

(CC 17CR35704) (SC S065957)

En Banc

On defendant-appellant's petition for reconsideration filed February 7, 2019; considered and under advisement February 26, 2019.*

Ernest G. Lannet, Chief Defender, Office of Public Defense Services, Salem, filed the petition for reconsideration for appellant.

No appearance *contra*.

WALTERS, C. J.

The petition for reconsideration is allowed. The former opinion is modified and adhered to as modified.

* 364 Or 295, 434 P3d 413 (2019).

WALTERS, C. J.

In *State v. Vallin*, 364 Or 295, 434 P3d 413 (2019), this court agreed with defendant that the trial court had erred in imposing a sentence under ORS 137.717(1)(b) (2015). We concluded that the 2017 version of that statute, Or Laws 2017, ch 673, § 5, governed defendant's sentence. Accordingly, the dispositional "tag line" of the opinion remanded the case for resentencing.

Although he prevailed on the merits, defendant has petitioned for reconsideration of our opinion. He specifically seeks modification of the tag line in light of his conditional plea below, which he is permitted to withdraw on remand. *See* 364 Or at 298-99 (setting out factual background); ORS 135.335(3) (effect of conditional plea is to reserve right to appeal specific adverse pretrial determination; defendant who prevails on appeal may withdraw earlier plea). The state has not filed a response in opposition to defendant's petition. We allow defendant's petition for reconsideration and modify our earlier tag line, to remand the case for further proceedings as follows:

"The judgment of the circuit court is affirmed in part and reversed in part, and the case is remanded to the circuit court for further proceedings."

The petition for reconsideration is allowed. The former opinion is modified and adhered to as modified.