

Filed: October 17, 2013

IN THE SUPREME COURT OF THE STATE OF OREGON

STATE OF OREGON,

Respondent on Review,

v.

JUSTIN DEWAIN DALBY,

Petitioner on Review.

(CC 090748295; CA A143586; SC S059743)

On review from the Court of Appeals.*

Under advisement September 4, 2013.

Tiffany Keast, Assistant Attorney General, filed the petition for Petitioner on Review.

No appearance contra.

Before Balmer, Chief Justice, and Kistler, Walters, Linder, Landau and Baldwin, Justices.**

PER CURIAM

The decision of the Court of Appeals is reversed and the judgment of the circuit court is affirmed.

*Appeal from Multnomah County Circuit Court, Eric J. Bloch, Judge. 244 Or App 329, 258 P3d 1292 (2011).

**Brewer, J., did not participate in the consideration or decision of this case.

1 PER CURIAM

2 The petition for review is allowed. The decision of the Court of Appeals,
3 *State v. Dalby*, 244 Or App 329, 258 P3d 1292 (2011), is reversed. *State v. Rainoldi*, 351
4 Or 486, 268 P3d 568 (2011). The judgment of the Circuit Court is affirmed.