

Filed: February 27, 2014

IN THE SUPREME COURT OF THE STATE OF OREGON

STATE OF OREGON,

Petitioner on Review,

v.

JESSE JAMES MOORE,

Respondent on Review.

(CC 091131; CA A145081; SC S60134)

En Banc

On respondent on review's petition for reconsideration filed January 2, 2014;
considered and under advisement on February 19, 2014.

Peter Gartlan, Chief Defender, Office of Public Defense Services, Salem, filed the
petition for reconsideration.

No appearance *contra*.

PER CURIAM

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

*Appeal from an order of the Tillamook County Circuit Court, Mari Garric
Trevino, Judge. 247 Or App 39, 269 P3d 72 (2011).

1 PER CURIAM

2 Defendant has petitioned for reconsideration of our decision in *State v.*
3 *Moore*, 354 Or 493, __ P3d __ (2013), which reversed the decision of the Court of
4 Appeals and the order of the circuit court and remanded the case to the circuit court for
5 further proceedings. Defendant raises a number of arguments for reconsideration of our
6 opinion on the merits, which we reject without discussion. However, defendant correctly
7 notes that the Court of Appeals declined to address two alternative bases for affirmance
8 that defendant had advanced in that court. *State v. Moore*, 247 Or App 39, 47 n 4, 269
9 P3d 72 (2011). Defendant now asks this court to remand the case to the Court of Appeals
10 for consideration of those issues in the first instance. We agree that we should do so. We
11 accordingly allow the petition for reconsideration and modify our disposition of this case
12 as follows: The decision of the Court of Appeals is reversed, and the case is remanded to
13 the Court of Appeals to consider defendant's alternative grounds for affirmance.

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