

SUPREME COURT OF OREGON

State v. Ribas

374 Or. 750 (2026) · No. SC S071443 · Decided January 29, 2026

SUMMARY

The Oregon Supreme Court affirmed the defendant’s conviction for failing to report a change of residence as a sex offender. The court held that the state was bound by the factual theory it pursued at trial, but that the precise date alleged in the indictment was not a material element of the offense. The court concluded that sufficient evidence supported the conviction under the state’s trial theory.

CASE DETAILS

COURT	Supreme Court of Oregon
WRITING FOR THE COURT	Bushong, J.
JURISDICTION	Supreme Court of Oregon
DECIDED	January 29, 2026
DOCKET	SC S071443
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petition for review of a Court of Appeals decision affirming a conviction for failing to report a change of residence as a sex offender. The Supreme Court reviewed the denial of defendant's motion for judgment of acquittal.
STANDARD OF REVIEW	The court reviewed the denial of the motion for judgment of acquittal for whether the record contained evidence from which a reasonable trier of fact could find the material facts supporting the offense. Statutory interpretation was reviewed as a matter of law by examining text, context, and legislative history.
PRECEDENTIAL VALUE	Published, precedential Oregon Supreme Court decision; en banc.
PARTIES	Edwardo Luis Ribas v. State of Oregon

TOPICS

- criminal procedure
- statutory interpretation
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the state was bound on appeal by the factual theory it pursued in opposing defendant's motion to dismiss at trial.
2. Whether the state had to plead and prove the exact date alleged in the indictment for the offense of failing to report a change of residence within ten days.
3. Whether the evidence was sufficient to support the conviction under the state's trial theory and the indictment's allegation that the offense occurred on or about February 25, 2019.

HOLDINGS

1. The state is bound by the factual theory it pursued at trial and on appeal when it relied on that theory to oppose a defendant's motion and then seeks to uphold the conviction on a different factual theory.
2. For failure to report a change of residence as a sex offender, the passage of ten days after the change of residence is a material element, but the exact date of the residence change and the exact date on which the ten-day period ended are not material elements requiring pleading and proof.
3. The evidence was sufficient for a reasonable trier of fact to find that Ribas changed residences after February 15, 2019, failed to report within ten days, and committed the offense on or about the date alleged in the indictment.

KEY QUOTATIONS

"We further conclude from the text, context, and legislative history of ORS 163A.040(1) (d) that the passage of 10 days after a change of residence is material to establishing that defendant committed the offense, but the exact date that defendant committed the offense is not a material element." (at 752)

"As in Lonergan, the state "cannot have it both ways."" (at 765)

"The passage of 10 days after a sex offender changes residence is a material element of the offense of failing to report as a sex offender, but the exact date that an offender changes residence and the exact date that the 10-day reporting period ends are not material elements." (at 780)

FACTUAL BACKGROUND

Ribas, a registered sex offender, was required to report changes of residence within ten days. On February 15, 2019, he told Albany police that he was in the process of moving to Lebanon, but he reported the Albany address and did not file a separate change-of-residence form. He later acknowledged that he had not reported the move, and a form signed on May 26 stated that the Lebanon residence began on February 16. The state proceeded at trial on the theory that Ribas changed residences after February 15 and failed to report within ten days.

PROCEDURAL HISTORY

Ribas was indicted in Linn County Circuit Court for failing to report within ten days of changing his residence. The circuit court denied his motion to dismiss and motion for judgment of acquittal, and a jury found him guilty.

The Court of Appeals affirmed, concluding that the state had to prove the offense on the exact date alleged but finding sufficient evidence. The Supreme Court affirmed, relying on a different rationale in part.

DISPOSITION

affirmed

CASES CITED

- State v. Ribas, 333 Or. App. 789, 554 P.3d 280 (2024)
- State v. Gaines, 346 Or. 160, 206 P.3d 1042 (2009)
- State v. Ashkins, 357 Or. 642, 357 P.3d 490 (2015)
- State v. Burgess, 352 Or. 499, 287 P.3d 1093 (2012)
- State v. Lonergan, 344 Or. 15, 176 P.3d 374 (2008)
- State v. Hale, 335 Or. 612, 75 P.3d 448 (2003), cert. denied, 541 U.S. 942 (2004)
- State v. Wimber, 315 Or. 103, 843 P.2d 424 (1992)
- State v. Milbradt, 305 Or. 621, 756 P.2d 620 (1988)
- State v. Christy, 131 Or. 314, 282 P. 105 (1929)
- State v. Long, 320 Or. 361, 885 P.2d 696 (1994)
- State v. Howard, 214 Or. 611, 331 P.2d 1116 (1958)
- State v. Depeche, 242 Or. App. 155, 255 P.3d 502 (2011)
- State v. Schriber, 185 Or. 615, 205 P.2d 149 (1949)
- State v. Yielding, 238 Or. 419, 395 P.2d 172 (1964)
- State v. Shafer, 222 Or. 230, 351 P.2d 941 (1960)
- DeFazio v. WPPSS, 296 Or. 550, 679 P.2d 1316 (1984)
- PGE v. Bureau of Labor and Industries, 317 Or. 606, 859 P.2d 1143 (1993)
- SAIF v. Walker, 330 Or. 102, 996 P.2d 979 (2000)

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