

COURT OF APPEALS OF OREGON

State v. Debruyne

347 Or. App. 421 (2026) · No. A185609 · Decided February 25, 2026

SUMMARY

The Oregon Court of Appeals held that including per diem fees in the judgment, when the trial court had orally waived all fines and fees at sentencing, was reversible error. The court reversed and remanded solely for deletion of the provision requiring payment of per diem fees and otherwise affirmed the judgment.

CASE DETAILS

COURT	Court of Appeals of Oregon
WRITING FOR THE COURT	Lagesen, C. J.; Lagesen, Chief Judge; Egan, Judge
JURISDICTION	Oregon Court of Appeals
DECIDED	February 25, 2026
DOCKET	A185609
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendant appealed from a criminal judgment entered after he pleaded guilty, challenging the first-time inclusion in the judgment of a provision requiring payment of per diem fees.
PRECEDENTIAL VALUE	Published Oregon Court of Appeals opinion
PARTIES	Kenneth Michael Debruyne v. State of Oregon

TOPICS

- sentencing
- criminal procedure
- appellate procedure
- right to counsel
- constitutional law

PRACTICE AREAS

- criminal law
- criminal procedure
- sentencing
- appellate procedure

QUESTIONS PRESENTED

1. Whether inclusion in the written judgment of per diem fees that were not announced at sentencing constituted a substantive modification of the sentence and reversible error.

2. Whether resentencing was required when the trial court had expressly waived all fines and fees at sentencing.

HOLDINGS

1. Including per diem fees in the judgment when the fees were not announced at sentencing constitutes a substantive modification of the sentence and is reversible error.
2. Resentencing is not necessary when the trial court stated at sentencing that the defendant would not be obligated to pay any fines or fees; the appellate court may reverse and remand solely for deletion of the erroneous provision.

KEY QUOTATIONS

“We conclude that, when the trial court has stated at sentencing that defendant will not be obligated to pay a fee or a fine, it is reversible error to include that fee or fine in the judgment, but resentencing is not necessary.” (423)

“We therefore reverse the portion of the judgment relating to payment of per diem fees and remand to the trial court for entry of a judgment deleting “and the Defendant shall pay any required per diem fees” from the judgment.” (424)

FACTUAL BACKGROUND

Defendant pleaded guilty to felony felon in possession of a firearm and misdemeanor giving false information to a police officer. The trial court imposed concurrent imprisonment terms and expressly ordered waiver of any fines and fees, later confirming that waiver after defense counsel's inquiry. The written judgment nevertheless required defendant to pay any required per diem fees.

PROCEDURAL HISTORY

Defendant pleaded guilty in Multnomah County Circuit Court to felon in possession of a firearm and giving false information to a police officer. The trial court orally ordered waiver of all fines and fees but entered a judgment requiring payment of any required per diem fees. On appeal, the state conceded error, and the Court of Appeals reversed that portion of the judgment and remanded for deletion of the provision, otherwise affirming.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the portion of the judgment requiring payment of per diem fees and remand to the trial court for entry of a judgment deleting the provision stating that the defendant shall pay any required per diem fees. Otherwise affirm the judgment; no resentencing is required.

CASES CITED

- State v. DeCamp, 158 Or. App. 238, 242, 973 P.2d 922 (1999)
- State v. Barr, 331 Or. App. 242, 244-46, 545 P.3d 772 (2024)
- State v. Schay-Vivero, 333 Or. App. 168, 170-71, 552 P.3d 150 (2024)
- State v. Sankey, 289 Or. App. 846, 847, 409 P.3d 73 (2018)
- State v. Tison, 292 Or. App. 369, 374-75, 424 P.3d 823, rev. den., 363 Or. 744 (2018)
- State v. Edson, 329 Or. 127, 139, 985 P.2d 1253 (1999)
- State v. Martinez, 347 Or. App. 273, 280, ____ P.3d ____ (2026)
- State v. Avendano, 346 Or. App. 16, 20, ____ P.3d ____ (2025)

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