

IN THE SUPREME COURT OF THE  
STATE OF OREGON

STATE OF OREGON,  
*Appellant,*

*v.*

RANDALL RICHARD KILBY,  
*Respondent.*

(CC 21CR13733) (SC S070698)

En Banc

On appeal from an order of the Deschutes County Circuit Court under ORS 138.045(2) and ORAP 12.07.\*

Argued and submitted June 20, 2024.

Paul L. Smith, Deputy Solicitor General, Salem, argued the cause and filed the briefs for appellant. Also on the briefs were Ellen F. Rosenblum, Attorney General, and Benjamin Gutman, Solicitor General.

Joshua B. Crowther, Deputy Public Defender, Oregon Public Defense Commission, Salem, argued the cause and filed the brief for respondent. Also on the brief was Ernest G. Lannet, Chief Defender, Criminal Appellate Section.

FLYNN, C.J.

The order of the circuit court is reversed, and the case is remanded to the circuit court for further proceedings.

James, J., concurred and filed an opinion.

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\* Annette C. Hillman, Judge.