

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF WASHINGTON

FILED
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STATE OF OREGON,)
)
Plaintiff) No. C973456CR
)
v.) Supreme Court
) No. S45850
BILLY LEE OATNEY, JR.,)
)
Defendant) MOTION TO
) CORRECT JUDGMENT
)

Defendant, through his attorney, Deputy Public Defender
Ingrid MacFarlane, moves this court for an order correcting the
judgment in his case, to delete the assertion that he was
convicted of aggravated murder with a firearm in counts 1 through
8.


Defendant relies for his motion on ORS 138.083 which
provides:

"The sentencing court shall retain authority
irrespective of any notice of appeal after entry of
judgment of conviction to modify its judgment and
sentence to correct any arithmetic or clerical errors
or to delete or modify any erroneous term in the
judgment."

Defendant was charged by secret indictment in counts 1
through 8 with aggravated murder. A copy of the indictment is
attached as an exhibit. Defendant was convicted in counts 1
through 8, of aggravated murder. A copy of the verdict is also
attached as an exhibit. In neither the indictment nor the
verdict was there a firearm allegation. The judgment in the
case, however, asserts defendant was convicted in counts 1
through 8 of aggravated murder with a firearm. A copy of the
judgment is also attached as an exhibit. The judgment is in

error. For this reason defendant moves for a correction of the
judgment.

DATED this 23rd day of February, 1999.




INGRID A. MACFARLANE #86332
Deputy Public Defender
Attorney for Defendant

PROOF OF SERVICE

I hereby certify that I have served the foregoing
motion upon each of the following persons by mailing a true
copy this 23rd day of February, 1999.

MR. MICHAEL REYNOLDS #74269
SOLICITOR
JUSTICE BUILDING
SALEM, OR 97310
ATTORNEY FOR PLAINTIFF-RESPONDENT

DISTRICT ATTORNEY
WASHINGTON COUNTY COURTHOUSE
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