

238 Or.App. 338
Court of Appeals of Oregon.

STATE of Oregon, Plaintiff–Respondent,
v.
Joel Shane MILLER, Defendant–Appellant.

o8C48743; A142126. | Argued and Submitted Sept. 20, 2010. | Decided Oct. 27, 2010.

Marion County Circuit Court.
Albin W. Norblad, Judge.

Attorneys and Law Firms

Jason E. Thompson, Salem, argued the cause for appellant. With him on the brief was Ferder Casebeer French & Thompson, LLP.

Matthew J. Lysne, Assistant Attorney General, argued the cause for respondent. On the brief were John R. Kroger, Attorney General, Jerome Lidz, Solicitor General, and Anna M. Joyce, Assistant Attorney General.

Before BREWER, Chief Judge, and EDMONDS, Senior Judge.

Opinion

PER CURIAM.

*339 Defendant appeals from his convictions on two counts of first-degree sexual abuse, arguing that the trial court erred in admitting expert testimony by a pediatrician diagnosing sexual abuse in the absence of any physical evidence. Defendant did not preserve that argument in the trial court, however, admission of such evidence is plain error under *State v. Southard*, 347 Or. 127, 218 P.3d 104 (2009). For the reasons set forth in **690 *State v. Merrimon*, 234 Or.App. 515, 522, 228 P.3d 666 (2010), and *State v. Lovern*, 234 Or.App. 502, 513–14, 228 P.3d 688 (2010), we exercise our discretion to correct that error. Accordingly, we reverse and remand.

Reversed and remanded.

Parallel Citations

242 P.3d 689 (Mem)

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