IN THE COURT OF APPEALS OF THE STATE OF OREGON

STATE OF OREGON,
Plaintiff-Respondent,

v.

ROGER SALAZAR-CASTILLO,
aka Roger Salazarcastillo,
aka Roger J. Salazar-Castillo,
Defendant-Appellant.

Multnomah County Circuit Court
101234793

A148883

Karin Johana Immergut, Judge.

Submitted on September 27, 2013.

Peter Gartlan, Chief Defender, and Jedediah Peterson, Deputy Public Defender, Office of Public Defense Services, filed the brief for appellant.

Ellen F. Rosenblum, Attorney General, Anna M. Joyce, Solicitor General, and Susan G. Howe, Senior Assistant Attorney General, filed the brief for respondent.

Before Armstrong, Presiding Judge, and Nakamoto, Judge, and Egan, Judge.

PER CURIAM

Convictions for first-degree kidnapping in Counts 1 through 4 reversed and remanded with instructions to enter a judgment of conviction for one count of first-degree kidnapping, reflecting that defendant was found guilty on four theories; convictions for first-degree kidnapping in Counts 8 through 11 reversed and remanded with instructions to enter a judgment of conviction for one count of first-degree kidnapping, reflecting that defendant was found guilty on four theories; remanded for resentencing; otherwise affirmed.

1 PER CURIAM

2 Defendant appeals a judgment of conviction for eight counts of first-degree

3 kidnapping, ORS 163.235, and two counts each of menacing, ORS 163.190,

4 strangulation, ORS 163.187, and unlawful use of a weapon, ORS 166.220. He raises 17

5 assignments of error. With the exception of his contentions relating to merger of the

6 guilty verdicts for first-degree kidnapping, we reject defendant's arguments without

7 discussion.

8 With respect to kidnapping, the state charged, and the jury found defendant

9 guilty of, four counts of first-degree kidnapping for each of two victims: Counts 1

10 through 4 pertained to victim NH, with each count representing an alternative theory of

11 kidnapping; Counts 8 through 11 pertained to victim RS, again with each count

12 representing a different theory of the crime. Over defendant's objection, the court entered

13 eight separate convictions for first-degree kidnapping. On appeal, defendant contends

14 that the court erred in failing to merge the verdicts in Counts 1 to 4 into a single

15 conviction for first-degree kidnapping and, similarly, in failing to merge the verdicts in

16 Counts 8 to 11 into a single conviction for first-degree kidnapping. The state concedes

17 the error, and we accept that concession as well founded. *State v. Roberts*, 239 Or App

18 37, 43, 243 P3d 155 (2010), *rev den*, 351 Or 217 (2011); *State v. Hylton*, 210 Or App

19 104, 105-106, 150 P3d 47 (2006), *rev den*, 342 Or 473 (2007).

20 Convictions for first-degree kidnapping in Counts 1 through 4 reversed and

21 remanded with instructions to enter a judgment of conviction for one count of first-degree

1   kidnapping, reflecting that defendant was found guilty on four theories; convictions for

2   first-degree kidnapping in Counts 8 through 11 reversed and remanded with instructions

3   to enter a judgment of conviction for one count of first-degree kidnapping, reflecting that

4   defendant was found guilty on four theories; remanded for resentencing; otherwise

5   affirmed.