

FILED: April 2, 2014

IN THE COURT OF APPEALS OF THE STATE OF OREGON

STATE OF OREGON,
Plaintiff-Respondent,

v.

NATHANIEL DEAN URBAN,
Defendant-Appellant.

Douglas County Circuit Court
10CR1715FE

A151307

Ronald Poole, Judge.

Argued and submitted on February 26, 2014.

David O. Ferry, Senior Deputy Public Defender, argued the cause for appellant. With him on the brief was Peter Gartlan, Chief Defender, Office of Public Defense Services.

Tiffany Keast, Assistant Attorney General, argued the cause for respondent. With her on the brief were Ellen F. Rosenblum, Attorney General, and Anna M. Joyce, Solicitor General.

Before Duncan, Presiding Judge, and Haselton, Chief Judge.

PER CURIAM

Reversed and remanded for entry of a corrected judgment finding defendant guilty of attempted first-degree sexual abuse (Count 1), attempted first-degree unlawful sexual penetration (Count 2), and attempted first-degree sodomy (Count 3), and for merger of the guilty verdicts on Counts 1 and 2 into a single conviction of attempted first-degree unlawful sexual penetration; otherwise affirmed.

1 PER CURIAM

2 Defendant appeals from a judgment convicting him of three sexual
3 offenses, arguing that the trial court erred by denying his motions for judgment of
4 acquittal. We reject defendant's arguments without discussion. However, because--as
5 the state points out--there is an error in the judgment, we reverse and remand with
6 instructions to correct that error.

7 Following a bench trial, the trial court found defendant guilty of attempted
8 first-degree sexual abuse (as a lesser-included offense of the completed crime of first-
9 degree sexual abuse, which was charged in Count 1), attempted first-degree unlawful
10 sexual penetration (as a lesser-included offense of the completed crime of first-degree
11 unlawful sexual penetration, which was charged in Count 2), and attempted first-degree
12 sodomy (as charged in Count 3). The trial court correctly merged the guilty verdicts on
13 Counts 1 and 2 for attempted first-degree sexual abuse and attempted first-degree
14 unlawful sexual penetration, but the judgment of conviction erroneously reflects that the
15 guilty verdicts were merged into a conviction for the *completed* offense of first-degree
16 unlawful sexual penetration. We therefore remand for entry of a judgment finding
17 defendant guilty of attempted first-degree sexual abuse (Count 1), attempted first-degree
18 unlawful sexual penetration (Count 2), and attempted first-degree sodomy (Count 3), and
19 merger of the guilty verdicts on Counts 1 and 2 into a single conviction of *attempted* first-
20 degree unlawful sexual penetration.

21 Reversed and remanded for entry of a corrected judgment finding defendant

1 guilty of attempted first-degree sexual abuse (Count 1), attempted first-degree unlawful
2 sexual penetration (Count 2), and attempted first-degree sodomy (Count 3), and for
3 merger of the guilty verdicts on Counts 1 and 2 into a single conviction of attempted first-
4 degree unlawful sexual penetration; otherwise affirmed.