

FILED: October 8, 2014

IN THE COURT OF APPEALS OF THE STATE OF OREGON

STATE OF OREGON,
Plaintiff-Respondent,

v.

ADAM V. BUCHALSKI,
Defendant-Appellant.

Washington County Circuit Court
C112214CR

A152126

Rick Knapp, Judge.

On respondent's petition for reconsideration filed July 16, 2014. Opinion filed July 2, 2014. 264 Or App 142, 331 P3d 1049.

Ellen F. Rosenblum, Attorney General, Anna M. Joyce, Solicitor General, and Matthew J. Lysne, Senior Assistant Attorney General, for petition.

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

PER CURIAM

Reconsideration allowed; former disposition withdrawn; affirmed.

DESIGNATION OF PREVAILING PARTY AND AWARD OF COSTS

Prevailing party: Respondent

- No costs allowed.
 Costs allowed, payable by
 Costs allowed, to abide the outcome on remand, payable by
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1 PER CURIAM

2 The state petitions for reconsideration of our decision in *State v. Buchalski*,
3 264 Or App 142, 331 P3d 1049. In part, we reversed based on an error in the original
4 judgment, which the state conceded, and remanded for the trial court to merge two guilty
5 verdicts into a single conviction for felony violation of a stalking order. While the appeal
6 was pending, however, the trial court corrected the error in an amended judgment through
7 an interlineation, which reads: "It further appears that Count 4 merges with Count 3 ~~for~~
8 ~~sentencing~~ * * * [.]" Defendant then filed an amended notice of appeal.

9 The petition is well-taken, because defendant's assignment of error
10 regarding merger is moot. And, a remand is no longer necessary to correct the error in
11 the original judgment. Accordingly, we now affirm the trial court's amended judgment.

12 Reconsideration allowed; former disposition withdrawn; affirmed.