

**FILED: October 29, 2014**

IN THE COURT OF APPEALS OF THE STATE OF OREGON

In the Matter of Z. A. B., Alleged to be a Mentally Ill Person.

STATE OF OREGON,  
Respondent,

v.

Z. A. B.,  
Appellant.

Deschutes County Circuit Court  
14MH0001

A156148

Steven M. Kurzer, Judge.

On appellant's petition for reconsideration filed August 21, 2014. Opinion filed August 13, 2014. 264 Or App 779, 334 P3d 480.

Garrett A. Richardson and Multnomah Defenders, Inc., for appellant's petition.

Before Lagesen, Presiding Judge, and Tookey, Judge, and Edmonds, Senior Judge.

PER CURIAM

Reconsideration allowed; former opinion modified and adhered to as modified.

1 PER CURIAM

2 Appellant has petitioned for reconsideration of our opinion in *State v.*  
3 *Z. A. B.*, 264 Or App 779, 334 P3d 480 (2014). In that case, we accepted the state's  
4 concession of error, and exercised our discretion to reverse the trial court's decision to  
5 commit appellant to the Addiction and Mental Health Division of the Oregon Health  
6 Authority for a period not to exceed 180 days pursuant to ORS 426.130(1)(a)(C). In his  
7 petition for reconsideration, appellant points out that we did not address a second order  
8 that was also the subject of the appeal: an order prohibiting appellant from purchasing or  
9 possessing firearms pursuant to ORS 426.130(1)(a)(D). He argues that our reversal of  
10 the commitment decision necessarily requires reversal of the firearms order, because the  
11 statutory authority to prohibit the purchase or possession of firearms under ORS  
12 426.130(1)(a)(D) requires a determination that a person is a "person with mental illness"  
13 under ORS 426.005(1)(e)--just as is required for an order of commitment under ORS  
14 426.130(1)(a)(C).

15 We agree with appellant. *See State v. W. B.*, 264 Or App 777, 778, 333 P3d  
16 1099 (2014) ("Finding that an individual 'is a person with mental illness' is a condition  
17 precedent to the issuance of an order prohibiting the purchase or possession of a firearm,  
18 ORS 426.130(1)(a)(D)."). Accordingly, we allow reconsideration and modify our  
19 opinion as follows:

20 We delete the following sentence, which appears at 264 Or App at 780:  
21 "Appellant seeks reversal of a judgment committing him for a period not to exceed 180

1 days pursuant to ORS 426.130."

2 In its place, we substitute:

3 "Appellant seeks reversal of an order committing him for a period not to  
4 exceed 180 days pursuant to ORS 426.130(1)(a)(C) and an order prohibiting him from  
5 purchasing or possessing firearms pursuant to ORS 426.130(1)(a)(D)."

6 Reconsideration allowed; former opinion modified and adhered to as  
7 modified.