

**FILED: December 31, 2014**

IN THE COURT OF APPEALS OF THE STATE OF OREGON

In the Matter of R. J. B., Alleged to be a Mentally Ill Person.

STATE OF OREGON,  
Respondent,

v.

R. J. B.,  
Appellant.

Jackson County Circuit Court  
14CC01134

A157295

Mark S. Schiveley, Senior Judge.

Submitted on November 07, 2014.

Charles Kochlacs filed the brief for appellant.

Ellen F. Rosenblum, Attorney General, Anna M. Joyce, Solicitor General, and Jona J. Maukonen, Assistant Attorney General, filed the brief for respondent.

Before Sercombe, Presiding Judge, and Hadlock, Judge, and Tookey, Judge.

PER CURIAM

Reversed.

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**DESIGNATION OF PREVAILING PARTY AND AWARD OF COSTS**

Prevailing party: Appellant

- 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                   Appellant seeks reversal of an order committing him for a period not to  
3 exceed 180 days. ORS 426.130. He contends that the trial court committed plain error  
4 when it failed to advise him of his right to subpoena witnesses. *See* ORS 426.100(1)  
5 (providing that the court shall advise the person of, among other things, "[t]he right to  
6 subpoena witnesses"). The state concedes that the court's failure constitutes plain error  
7 and requires reversal. We agree, accept the state's concession, and conclude that it is  
8 appropriate to exercise our discretion to correct the plain error for the reasons stated in  
9 *State v. M. L. R.*, 256 Or App 566, 303 P3d 954 (2013). *See id.* at 570-72 (observing that  
10 "plain error review of violations of ORS 426.100(1) is justified by the nature of civil  
11 commitment proceedings, the relative interests of the parties in those proceedings, the  
12 gravity of the violation, and the ends of justice" and exercising discretion to correct the  
13 plain error (internal quotation marks omitted)). Because we reverse the judgment on that  
14 basis, we do not address appellant's second and third assignments of error.

15                   Reversed.