

IN THE COURT OF APPEALS OF THE
STATE OF OREGON

STATE OF OREGON,
Plaintiff-Respondent,

v.

JASON JOHN TRICKEL,
Defendant-Appellant.

Umatilla County Circuit Court
CF130048; A155557

Lynn W. Hampton, Judge.

Submitted February 6, 2015.

Peter Gartlan, Chief Defender, and Neil F. Byl, Deputy Public Defender, Office of Public Defense Services, filed the brief for appellant.

Ellen F. Rosenblum, Attorney General, Anna M. Joyce, Solicitor General, and Michael A. Casper, Senior Assistant Attorney General, filed the brief for respondent.

Before Duncan, Presiding Judge, and Lagesen, Judge, and Flynn, Judge.

PER CURIAM

Reversed and remanded with instructions to merge the guilty verdicts for possession of a stolen vehicle and unauthorized use of a vehicle into a single conviction for unauthorized use of a vehicle and for resentencing; otherwise affirmed.

PER CURIAM

In this criminal case, defendant was charged by indictment with one count of possession of a stolen vehicle (PSV), ORS 819.300, and one count of unauthorized use of a vehicle (UUV), ORS 164.135. A jury found defendant guilty of both counts, and the trial court entered a judgment of conviction and sentence.

Defendant appeals the judgment, asserting that the trial court plainly erred by failing to merge the verdicts on the PSV and UUV counts. *See* ORS 161.067 (governing merger). Defendant contends that (1) a guilty verdict on a PSV count merges with a guilty verdict on a UUV count when the counts are based on the same conduct or criminal episode, (2) the trial court's failure to merge the PSV and UUV verdicts in this case constitutes plain error, and (3) it is appropriate for us to exercise our discretion to review the plain error and remand the case for resentencing. The state agrees, and so do we. *See* [State v. Noe](#), 242 Or App 530, 532-33, 256 P3d 166 (2011) (holding that guilty verdicts on PSV and UUV counts merge when the counts are based on the same conduct or criminal episode); *see also* [State v. Brown](#), 263 Or App 751, 752, 330 P3d 1249 (2014) (holding that a trial court's failure to merge PSV and UUV verdicts was plain error, exercising discretion to review the error for the reasons stated in [State v. Camacho-Alvarez](#), 225 Or App 215, 216-17, 200 P3d 613 (2009), and remanding for resentencing).

Reversed and remanded with instructions to merge the guilty verdicts for possession of a stolen vehicle and unauthorized use of a vehicle into a single conviction for unauthorized use of a vehicle and for resentencing; otherwise affirmed.