

IN THE COURT OF APPEALS OF THE  
STATE OF OREGON

STATE OF OREGON,  
*Plaintiff-Respondent,*

*v.*

PENNY E. HOLLAMON,  
aka Penny Elaine Patterson,  
*Defendant-Appellant.*

Coos County Circuit Court  
14CR0825; A157960

Richard L. Barron, Judge.

Submitted June 17, 2016.

Ernest G. Lannet, Chief Defender, Criminal Appellate Section, and Sarah Laidlaw, Deputy Public Defender, Office of Public Defense Services, filed the brief for appellant.

Ellen F. Rosenblum, Attorney General, Paul L. Smith, Deputy Solicitor General, and Joanna L. Jenkins, Assistant Attorney General, filed the brief for respondent.

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

PER CURIAM

Portion of judgment requiring defendant to pay court-appointed attorney fees reversed; otherwise affirmed.

## PER CURIAM

Defendant appeals a judgment of conviction for driving under the influence of intoxicants, ORS 813.010, and reckless driving, ORS 811.140. She was sentenced to 24 months of probation. We write to address only defendant's assignment of error regarding the imposition of \$460 in court-appointed attorney fees. We reject defendant's remaining assignments of error without written discussion.

As to the attorney fees, defendant argues that the trial court committed plain error when it ordered her to pay those fees because the record contains no evidence of her ability to pay them. The state concedes that the trial court's imposition of attorney fees constitutes plain error under our case law. We agree that the trial court committed plain error, accept the state's concession, and conclude that it is appropriate to exercise our discretion to correct the error in this case because the amount is not so small that it would not present a significant burden to a person without means, particularly in light of the \$1,500 in fines also imposed by the judgment, and the record does not contain any evidence of defendant's ability to pay the fees. *See, e.g., State v. Williams*, 271 Or App 693, 352 P3d 742, *rev den*, 358 Or 249 (2015) (exercising discretion to correct as plain error imposition of \$550 in court-appointed attorney fees because the defendant was sentenced to five years in prison, the amount was not so small that it would not present a significant burden, and the record was devoid of evidence of the defendant's ability to pay).

Portion of judgment requiring defendant to pay court-appointed attorney fees reversed; otherwise affirmed.