

IN THE COURT OF APPEALS OF THE
STATE OF OREGON

In the Matter of J. N.,
A Person Alleged to have a Mental Illness.

STATE OF OREGON,
Respondent,

v.

J. N.,
Appellant.

Wasco County Circuit Court
1500003MC; A158883

Janet L. Stauffer, Judge.

Submitted June 3, 2016.

Victoria K. Moffet filed the brief for appellant.

Ellen F. Rosenblum, Attorney General, Benjamin Gutman, Solicitor General, and Peenesh H. Shah, Assistant Attorney General, filed the brief for respondent.

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

PER CURIAM

Reversed.

PER CURIAM

Appellant seeks reversal of an order committing him to the Oregon Health Authority for a period not to exceed 180 days pursuant to ORS 426.130. He argues that the trial court should have granted his motion to dismiss the case because the commitment hearing was not held within five days after he was taken into custody for involuntary treatment. See ORS 426.233(1) (providing that a community mental health program director or its designee may authorize involuntary removal of a person to a hospital or nonhospital facility for mental health treatment); ORS 426.232(2) (when approving a person for emergency care or treatment at a nonhospital facility, “under no circumstances may the person be held for longer than five judicial days”); ORS 426.095(2)(a) (except for postponements by the court for good cause, “if a person is detained by a warrant of detention” initiated by the director or its designee, “a hearing shall be held within five judicial days of the commencement of detention”). In response, the state “concedes that the ‘trial court erred in failing to dismiss the case when appellant was not released after the expiration of five days on the initial hold.’” (Quoting *State v. J. D.*, 208 Or App 751, 752, 145 P3d 336 (2006).) We agree with the state’s concession and reverse the order of commitment. *Id.*

Reversed.