

IN THE COURT OF APPEALS OF THE  
STATE OF OREGON

In the Matter of S. M.,  
a Person Alleged to have a Mental Illness.

STATE OF OREGON,  
*Respondent,*

*v.*

S. M.,  
*Appellant.*

Douglas County Circuit Court  
15CC06890; A160972

Frances Elaine Burge, Judge.

Submitted July 1, 2016.

Jed Peterson and O'Connor Weber LLP filed the brief for appellant.

Ellen F. Rosenblum, Attorney General, Benjamin Gutman, Solicitor General, and Carson L. Whitehead, Assistant Attorney General, filed the brief for respondent.

Before Ortega, Presiding Judge, and Lagesen, Judge, and Garrett, Judge.

PER CURIAM

Reversed.

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**PER CURIAM**

In this civil commitment case, appellant seeks reversal of a judgment that committed her for a period not to exceed 180 days based on the court's finding that, because of a mental disorder, she was unable to provide for her basic needs. ORS 426.005(1)(e)(B) (2013), *amended by* Or Laws 2015, ch 433, § 1; Or Laws 2015, ch 461, § 1 (“‘Person with mental illness’ means a person who, because of a mental disorder, is \*\*\* [u]nable to provide for basic personal needs and [was] not receiving such care as is necessary for health or safety.”)<sup>1</sup> Appellant contends that the evidence was insufficient to support the court's determination. The state concedes that the evidence did not support a determination that appellant was unable to meet her basic needs in a way that would result in an imminent, nonspeculative threat to her survival. See *State v. S. R.*, 267 Or App 618, 619, 341 P3d 160 (2014) (“[T]o support a basic-needs commitment, the state's evidence must demonstrate that a person's inability to meet his or her own basic needs as a result of a mental disorder makes it likely that the person will not survive in the near term.”). We agree, accept the state's concession, and reverse.

Reversed.

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<sup>1</sup> The subsection that corresponds to ORS 426.005(1)(e)(B) (2013) is now numbered as ORS 426.005(1)(f)(B). Or Laws 2015, ch 461, § 1. All references to the statute are to the 2013 version.