

IN THE COURT OF APPEALS OF THE
STATE OF OREGON

STATE OF OREGON,
Plaintiff-Respondent,

v.

DENNIS LEE HILDE,
Defendant-Appellant.

Jackson County Circuit Court
15CR08596; A160154

Kelly W. Ravassipour, Judge.

Submitted March 3, 2017.

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

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

PER CURIAM

Reversed and remanded.

PER CURIAM

Defendant appeals his judgment of conviction for two counts of criminal stalking, in violation of ORS 163.732. He challenges the trial court's failure to enter a judgment of acquittal following his contention during closing arguments¹ that the evidence was insufficient to conclude that the letters he sent to his former therapist were communications that a reasonable person could conclude were a "threat of imminent and serious personal violence," as required by *State v. Rangel*, 328 Or 294, 977 P2d 379 (1999). Thus, he argued, the letters were not "repeated, unwanted contacts that reasonably alarm or coerce the victim and that also create reasonable fear for personal safety." *State v. Ryan*, 350 Or 670, 679, 261 P3d 1189 (2011) (briefly stating the crime of stalking). The state concedes that the letters, which were relied upon for both counts, were insufficient under *Rangel* to constitute a contact as required under ORS 163.732. We agree and accept the state's concession. Accordingly, we reverse and remand.

Reversed and remanded.

¹ A defendant may preserve a challenge to the sufficiency of the evidence by raising that issue during closing argument. *State v. Baranovich*, 241 Or App 280, 284, 249 P3d 1284, *rev den*, 350 Or 571 (2011).