

IN THE COURT OF APPEALS OF THE
STATE OF OREGON

In the Matter of J. E.,
a Person Alleged to have Intellectual Disabilities.

STATE OF OREGON,
Respondent,

v.

J. E.,
Appellant.

Lane County Circuit Court
16CC07330; A163773

Maurice K. Merten, Judge.

Submitted August 4, 2017.

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

Ellen F. Rosenblum, Attorney General, Benjamin Gutman, Solicitor General, and Rebecca M. Auten, Assistant Attorney General, filed the brief for respondent.

Before Lagesen, Presiding Judge, and DeVore, Judge, and James, Judge.

PER CURIAM

Reversed.

PER CURIAM

Appellant appeals from a judgment committing him, pursuant to ORS 427.290,¹ to the Oregon Department of Human Services for a period not to exceed one year, after the court determined that he has an intellectual disability and that he is both unable to provide for his personal needs and dangerous to others. Appellant argues that the trial court erred because the record lacks sufficient evidence of an inability to provide for his personal needs, and lacks sufficient evidence of a causal relationship between his intellectual disability and the evidence of danger to others. *See* ORS 427.290 (“[T]he court shall determine whether the person has an intellectual disability and *because of* the intellectual disability is *** dangerous to *** others.” (Emphasis added.)); *accord State v. Grandy*, 50 Or App 239, 247, 623 P2d 666 (1981) (holding that ORS 427.290 requires both the concurrence of an intellectual disability and an inability to care for personal needs, and that the “inability to provide for one’s personal needs must arise out of the” intellectual disability). The state concedes the error, acknowledging that “the record does not support the court’s findings that appellant’s intellectual disability caused his dangerousness or that he is unable to meet his personal needs.” Having reviewed the record, we agree, accept the state’s concession, and reverse the trial court’s judgment.

Reversed.

¹ ORS 427.290 provides, in part:

“After hearing all of the evidence, and reviewing the findings of the investigation and other examiners, the court shall determine whether the person has an intellectual disability and because of the intellectual disability is either dangerous to self or others or is unable to provide for the personal needs of the person and is not receiving care as is necessary for the health, safety or habilitation of the person. If in the opinion of the court the person is not in need of commitment for residential care, treatment and training, the person shall be discharged. If in the opinion of the court the person has, by clear and convincing evidence, an intellectual disability and is in need of commitment for residential care, treatment and training, the court may order as follows:

“* * * * *

“(3) If in the opinion of the court voluntary treatment and training or conditional release is not in the best interest of the person, the court may order the commitment of the person to the department for care, treatment or training. The commitment shall be for a period not to exceed one year with provisions for continuing commitment pursuant to ORS 427.235 to 427.290.”