

IN THE COURT OF APPEALS OF THE  
STATE OF OREGON

In the Matter of J. D. P.,  
a Person Alleged to have Mental Illness.

STATE OF OREGON,  
*Respondent,*

*v.*

J. D. P.,  
*Appellant.*

Jackson County Circuit Court  
16CC06321; A163511

Ronald D. Grensky, Judge.

Submitted July 6, 2018.

Joseph DeBin and Multnomah Defenders, Inc., filed the brief for appellant.

Ellen F. Rosenblum, Attorney General, Benjamin Gutman, Solicitor General, and Jona J. Maukonen, Assistant Attorney General, filed the brief for respondent.

Before Hadlock, Presiding Judge, and DeHoog, Judge, and Aoyagi, Judge.

PER CURIAM

Reversed.

## PER CURIAM

Appellant seeks reversal of an order committing him to the custody of the Mental Health Division for a period not to exceed 180 days and an order prohibiting him from purchasing or possessing firearms. *See* ORS 426.130. In his first assignment of error, appellant contends that the trial court plainly erred when it failed to advise him of the information required by ORS 426.100(1).<sup>1</sup> Specifically, he asserts that the trial court plainly erred when it failed to advise him of his right to subpoena witnesses and of the possible results of the commitment hearing, including the possibilities of voluntary treatment or conditional release. In response, the state concedes that the trial court's failure to advise appellant of the information required by ORS 426.100(1) is plain error. *See State v. M. M.*, 288 Or App 111, 116, 405 P3d 192 (2017) (holding that "the trial court's failure to advise appellant of all of the possible results of the proceedings was plain error"); *State v. Z. A. B.*, 264 Or App 779, 780, 334 P3d 480, *adh'd to as modified on recons*, 266 Or App 708, 338 P3d 802 (2014) (failure to inform a person of the right to subpoena witnesses constitutes plain error). We agree that the error is plain and, for the reasons stated in *M. M.*, we conclude that it is appropriate to exercise our discretion to correct the error. 288 Or App at 116; *see also State v. S. J. F.*, 247 Or App 321, 325, 269 P3d 83 (2011) ("[P]lain error review of violations of ORS 426.100(1) is justified by the nature of civil commitment proceedings, the relative interests of the parties in those proceedings, the gravity of the violation, and the ends of justice."). Consequently, we reverse the orders. *See State v. R. C. S.*, 291 Or App 489, 490, 415 P3d 1164 (2018) (reversing both the order of commitment and the order prohibiting the appellant from purchasing and possessing firearms).

Reversed.

---

<sup>1</sup> Our disposition of appellant's first assignment of error obviates the need to address his second assignment of error.