

IN THE COURT OF APPEALS OF THE  
STATE OF OREGON

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

STATE OF OREGON,  
*Respondent,*

*v.*

D. M. B.,  
*Appellant.*

Marion County Circuit Court  
16CC07164; A163698

Rafael A. Caso, Judge pro tempore.

Submitted June 1, 2018.

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

Ellen F. Rosenblum, Attorney General, Benjamin Gutman, Solicitor General, and

E. Nani Apo, Assistant Attorney General, filed the brief for respondent.

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

PER CURIAM

Reversed.

**PER CURIAM**

Appellant seeks reversal of an order committing her to the Mental Health Division for a period not to exceed 180 days, ORS 426.130, and prohibiting her from purchasing or possessing a firearm based upon a finding that she has a mental illness, ORS 426.130(1)(a)(D). Appellant's commitment hearing was held six judicial days after she was taken into custody for involuntary treatment. She argues that the trial court erred in failing to dismiss the case because the commitment hearing was not held within five judicial days after she was taken into custody for involuntary treatment. *See State v. E. R.*, 283 Or App 282, 283, 387 P3d 497 (2016) (same) (citing ORS 426.232(2), ORS 426.233(1), and ORS 426.095(2)(a) in reversing a commitment order because the hearing was held more than five days after the appellant was taken involuntarily into custody for mental health treatment); *State v. J. N.*, 279 Or App 607, 377 P3d 695 (2016). The state concedes the error, and we agree that the trial court erred in holding the hearing more than five judicial days after appellant was taken into custody for involuntary treatment.

Reversed.