

IN THE COURT OF APPEALS OF THE
STATE OF OREGON

STATE OF OREGON,
Plaintiff-Respondent,

v.

BILAL ABDUL SHAMSUD-DIN,
aka Bilal A. Shamsud-Din,
aka Bilal Abdul Shamsuddin,
Defendant-Appellant.

Multnomah County Circuit Court
16CR16227, 16CN04179;
A164400 (Control), A164019

Cheryl A. Albrecht, Judge.

Submitted November 5, 2018.

Ernest G. Lannet, Chief Defender, Criminal Appellate Section, and Daniel C. Bennett, Deputy Public Defender, Office of Public Defense Services, filed the brief for appellant.

Ellen F. Rosenblum, Attorney General, Benjamin Gutman, Solicitor General, and Adam Holbrook, Assistant Attorney General, filed the brief for respondent.

Before Lagesen, Presiding Judge, and James, Judge, and Haselton, Senior Judge.

PER CURIAM

In Case No. 16CN04179, reversed and remanded for entry of a judgment finding defendant in contempt of court. In Case No. 16CR16227, affirmed.

PER CURIAM

Defendant appeals from two judgments in this consolidated appeal. In Case No. 16CR16227, he appeals a judgment of conviction for three criminal counts. He raises a single assignment of error in that case, which we reject without written discussion. In Case No. 16CN04179, defendant appeals the judgment on 10 counts of punitive contempt. ORS 33.065. Defendant assigns error to the trial court entering “a judgment labelling contempt as a misdemeanor and stating that defendant was ‘convicted.’”¹ In that case, we reverse and remand.

Contempt is not a crime, and it is error for a judgment to refer to findings of contempt as convictions or misdemeanors. *State v. Clardy*, 292 Or App 890, 891, 422 P3d 434 (2018) (reversing and remanding judgment that reflected conviction rather than finding of contempt); *State v. Campbell*, 246 Or App 683, 684, 267 P3d 205 (2011) (reversing and remanding judgment imposing misdemeanor conviction for contempt). The state “concedes that the trial court erred by entering a contempt judgment that referenced a ‘convict[ion]’ and included the notation ‘MISDEMEANOR’ at the top of each page.” (Capitalization in original.) We agree and accept the state’s concession. We reverse and remand for entry of a judgment omitting those terms.

In Case No. 16CN04179, reversed and remanded for entry of a judgment finding defendant in contempt of court. In Case No. 16CR16227, affirmed.

¹ Defendant was not required to preserve this claim of error because the terms appeared for the first time in the judgment. *State v. Lewis*, 236 Or App 49, 52, 234 P3d 152, *rev den*, 349 Or 172 (2010) (holding that “preservation was not required” when the error appeared for the first time on the face of the judgment).