

IN THE COURT OF APPEALS OF THE  
STATE OF OREGON

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

STATE OF OREGON,  
*Respondent,*

*v.*

H. D.,  
*Appellant.*

Deschutes County Circuit Court  
17CC03509; A165281

Kenneth L. Brinich, Judge pro tempore.

Submitted February 2, 2018.

Joseph R. 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 Lagesen, Presiding Judge, and DeVore, Judge, and James, Judge.

PER CURIAM

Reversed.

**PER CURIAM**

Appellant appeals an order committing her to the Oregon Health Authority for a period not to exceed 180 days pursuant to ORS 426.130(1)(a)(C), and an order prohibiting the purchase or possession of firearms under ORS 426.130(1)(a)(D). In her third assignment of error, appellant argues that the trial court committed plain error when it failed to fully advise her of her rights in accordance with the requirements of ORS 426.100(1). Specifically, appellant contends that the trial court plainly erred when it failed to advise her that the possible results of the proceeding included voluntary treatment or conditional release. *See* ORS 426.130(1), (2) (setting out possible results of proceeding). The state has conceded that, under *State v. M. M.*, 288 Or App 111, 405 P3d 192 (2017), and *State v. M. S. R.*, 288 Or App 156, 403 P3d 809 (2017), the trial court plainly erred, and the error requires reversal. For the reasons stated in those cases, we exercise our discretion to correct the error and, accordingly, reverse the orders.<sup>1</sup> Our disposition of appellant's third assignment of error obviates the need to address her first two assignments of error.

Reversed.

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<sup>1</sup> As in *State v. R. C. S.*, 291 Or App 489, 490, \_\_\_ P3d \_\_\_ (2018), also decided this date, we reverse both the commitment order and the order prohibiting appellant from purchasing and possessing firearms. *See State v. Z. A. B.*, 266 Or App 708, 709, 338 P3d 802 (2014) (“Finding that an individual “is a person with mental illness” is a condition precedent to the issuance of an order prohibiting the purchase or possession of a firearm, ORS 426.130(1)(a)(D).” (Quoting *State v. W. B.*, 264 Or App 777, 778, 333 P3d 1099 (2014).)); *see also State v. S. F.*, 291 Or App 261, 267 n 1, \_\_\_ P3d \_\_\_ (2018) (noting subsequent enactment of statutory scheme for extreme risk protection orders concerning deadly weapons, including firearms, now codified as ORS 166.525 to 166.543).