

IN THE COURT OF APPEALS OF THE  
STATE OF OREGON

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

STATE OF OREGON,  
*Respondent,*

*v.*

J. S.,  
*Appellant.*

Washington County Circuit Court  
17CC04885; A165973

Eric Butterfield, Judge.

Submitted May 4, 2018.

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

Ellen F. Rosenblum, Attorney General, Benjamin Gutman, Solicitor General, and Keith L. Kutler, 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 a judgment 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 a firearm. *See* ORS 426.130. In his only assignment of error, appellant contends that the trial court erred in failing to dismiss the case because he was involuntarily held for more than five judicial days before the commitment hearing. *See* ORS 426.232(2). Although appellant did not preserve his claim of error, he requests that we review it as plain error. ORAP 5.45(1). In response, the state concedes that the trial court plainly erred when it did not dismiss appellant's case, and we accept the concession. We also exercise our discretion to correct the error because holding appellant for more than five judicial days was a grave error. *See State v. E. R.*, 283 Or App 282, 283, 387 P3d 497 (2016) (holding the appellant for eight judicial days longer than what was permissible was grave error). Consequently, we reverse the judgment and order. *See State v. L. O. W.*, 292 Or App 376, \_\_\_ P3d \_\_\_ (2018) (reversing order of commitment when the appellant was involuntarily hospitalized for more than five days without a hearing); *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.