

IN THE COURT OF APPEALS OF THE  
STATE OF OREGON

STATE OF OREGON,  
*Plaintiff-Respondent,*

*v.*

KEVIN WAYNE O'DONNELL,  
*Defendant-Appellant.*

Marion County Circuit Court  
17CR51967; A168050

Jennifer K. Gardiner, Judge pro tempore.

Submitted November 26, 2019.

Ernest G. Lannet, Chief Defender, Criminal Appellate Section, and Andrew D. Robinson, Deputy Public Defender, Office of Public Defense Services, filed the brief for appellant.

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

Before Tookey, Presiding Judge, and Aoyagi, Judge, and Sercombe, Senior Judge.

PER CURIAM

Remanded for resentencing; otherwise affirmed.

**PER CURIAM**

Defendant, who was convicted of attempted first-degree assault, ORS 161.405; ORS 163.185, and second-degree assault, ORS 163.175, asserts on appeal that the trial court erred in ordering him to pay restitution in the amount of \$2,572. The charges arose from an incident in which defendant assaulted one victim, T, with a baseball bat and attempted to assault another victim, L, with a baseball bat. On appeal, defendant argues that the state presented insufficient evidence of T's lost wages, and also that the state failed to prove that the charges T incurred for ambulance services after the assault were reasonable. We reject defendant's argument concerning lost wages without discussion. As for the ambulance service charge, the state concedes that it failed to adduce evidence that the ambulance charge of \$452 was "reasonable," as required by *State v. McClelland*, 278 Or App 138, 144, 372 P3d 614, *rev den*, 360 Or 423 (2016) (submission of a bill, without more, is insufficient proof for recovery of "'reasonable' \*\*\* medical services"). We agree and accept the state's concession.

Remanded for resentencing; otherwise affirmed.