

IN THE COURT OF APPEALS OF THE
STATE OF OREGON

STATE OF OREGON,
Plaintiff-Respondent,

v.

FREDDY AYALA,
Defendant-Appellant.

Jefferson County Circuit Court
18CR14163; A168986

Daniel Joseph Ahern, Judge.

Submitted November 1, 2019.

Ernest G. Lannet, Chief Defender, Criminal Appellate Section, and Ingrid A. MacFarlane, Deputy Public Defender, Office of Public Defense Services, filed the brief for appellant.

Ellen F. Rosenblum, Attorney General, Benjamin Gutman, Solicitor General, and Michael A. Casper, Assistant Attorney General, filed the brief for respondent.

Before Lagesen, Presiding Judge, and Egan, Chief Judge, and Powers, Judge.

PER CURIAM

Reversed and remanded for entry of judgment of conviction for one count of unauthorized use of a vehicle; remanded for resentencing; otherwise affirmed.

PER CURIAM

Defendant pleaded guilty to one count of possession of a stolen vehicle, ORS 819.300, and one count of unauthorized use of a vehicle, ORS 164.135. On appeal, defendant argues that the trial court plainly erred by failing to merge the verdicts on these counts. The state concedes that, under *State v. Noe*, 242 Or App 530, 256 P3d 166 (2011), the verdicts on these offenses should merge. We accept the state's concession on that point. The state also agrees with defendant that the court's failure to merge regarding these counts constitutes plain error. See *State v. Trickel*, 270 Or App 250, 347 P3d 344 (2015); *State v. Brown*, 263 Or App 751, 752, 330 P3d 1249 (2014). Again, we agree. We therefore exercise our discretion to review for the reasons set forth in *State v. Camacho-Alvarez*, 225 Or App 215, 216-17, 200 P3d 613 (2009).

Reversed and remanded for entry of judgment of conviction for one count of unauthorized use of a vehicle; remanded for resentencing; otherwise affirmed.