

IN THE COURT OF APPEALS OF THE  
STATE OF OREGON

STATE OF OREGON,  
*Plaintiff-Respondent,*

*v.*

AUDREY BETH CANNON,  
*Defendant-Appellant.*

Multnomah County Circuit Court  
15CR51118; A162360

Henry Kantor, Judge.

Argued and submitted March 23, 2018.

Marc D. Brown, Deputy Defender, argued the cause for appellant. Also on the briefs was Ernest G. Lannet, Chief Defender, Criminal Appellate Section, Office of Public Defense Services.

Peenesh Shah, Assistant Attorney General, argued the cause for respondent. Also on the briefs were Ellen F. Rosenblum, Attorney General, and Benjamin Gutman, Solicitor General.

Janis C. Puracal, Steven T. Wax, and Brittney R. Plesser filed the briefs *amicus curiae* for Oregon Innocence Project.

Before Armstrong, Presiding Judge, and Tookey, Judge, and Shorr, Judge.

PER CURIAM

Reversed and remanded.

**PER CURIAM**

Defendant was convicted of first-degree burglary by nonunanimous jury verdict. ORS 164.225. Defendant contends that the trial court's acceptance of a nonunanimous verdict constitutes plain error under the Sixth Amendment to the United States Constitution. In *Ramos v. Louisiana*, \_\_\_ US \_\_\_, 140 S Ct 1390, \_\_\_ L Ed 2d \_\_\_ (2020), the Court concluded that nonunanimous jury verdicts violated the Sixth Amendment. In *State v. Ulery*, 366 Or 500, 504, \_\_\_ P3d \_\_\_ (June 4, 2020), the Oregon Supreme Court concluded that a trial court's acceptance of a nonunanimous verdict constituted plain error and exercised discretion to correct that error in light of the gravity of the error and because failure to raise the error in the trial court did not weigh heavily against correction of the error because the trial court would not have been able to correct it under controlling law.

The state concedes that the trial court's acceptance of a nonunanimous verdict in this case constitutes plain error. For the reasons set forth in *Ulery*, we exercise our discretion to correct the error in this case. Our disposition obviates the need to address defendant's remaining arguments.

Reversed and remanded.