

IN THE COURT OF APPEALS OF THE  
STATE OF OREGON

STATE OF OREGON,  
*Plaintiff-Respondent,*

*v.*

SHAUN ALLEN DICK,  
*Defendant-Appellant.*

Umatilla County Circuit Court  
CF150130; A163648

Christopher R. Brauer, Judge.

Submitted June 8, 2020.

Ernest G. Lannet, Chief Defender, Criminal Appellate Section, and Morgen E. Daniels, Deputy Public Defender, Office of Public Defense Services, filed the brief for appellant.

Ellen F. Rosenblum, Attorney General, Benjamin Gutman, Solicitor General, and Lauren P. Robertson, Assistant Attorney General, appeared for respondent.

Before Lagesen, Presiding Judge, and James, Judge, and Kamins, Judge.

PER CURIAM

Reversed and remanded.

**PER CURIAM**

Defendant was convicted by nonunanimous jury verdicts on one count of sodomy in the first degree, ORS 163.405; two counts of unlawful sexual penetration in the first degree, ORS 163.411; one count of attempted rape in the first degree, ORS 163.375, ORS 161.405; two counts of sexual abuse in the first degree, ORS 163.427; one count of coercion, ORS 163.275; and one count of menacing, ORS 163.190. At trial, defendant requested the court to instruct the jury that it needed to reach unanimous verdicts, which the court declined to do. The jury returned nonunanimous verdicts on all counts. On appeal, defendant assigned error to the court's acceptance of nonunanimous verdicts, and we summarily affirmed based on then-existing precedent. After we issued the appellate judgment and the Oregon Supreme Court denied review, defendant petitioned for *certiorari* in the United States Supreme Court. The Court allowed *certiorari*, vacated this court's judgment, and remanded the case for further consideration in light of *Ramos v. Louisiana*, \_\_\_ US \_\_\_, 140 S Ct 1390, 206 L Ed 2d 583 (2020), stating:

“The motion of petitioner for leave to proceed *in forma pauperis* and the petition for a writ of certiorari is granted. The judgment is vacated, and the case is remanded to the Court of Appeals of Oregon for further consideration in light of *Ramos v. Louisiana*, 590 US \_\_ (2020). Justice Alito, concurring in the decision to grant, vacate, and remand: In this and in all other cases in which the Court grants, vacates, and remands in light of *Ramos v. Louisiana*, I concur in the judgment on the understanding that the Court is not deciding or expressing a view on whether the question was properly raised below but is instead leaving that question to be decided on remand.”

*Dick v. Oregon*, \_\_\_ US \_\_\_, \_\_\_ S Ct \_\_\_, \_\_\_ L Ed 2d \_\_\_, 2020 WL 1978927 (2020).

In *Ramos*, the Court concluded that nonunanimous jury verdicts such as those at issue in the present case violated the Sixth Amendment to the United States Constitution. Defendant argues that the trial court's instructions to the jury and acceptance of nonunanimous verdicts was error under *Ramos*. On remand, the state concedes that the trial court's acceptance of nonunanimous verdicts in

this case constitutes reversible error. We agree and accept that concession.

Reversed and remanded