

IN THE COURT OF APPEALS OF THE
STATE OF OREGON

STATE OF OREGON,
Plaintiff-Respondent,

v.

MICHAEL ANTHONY JAMES,
Defendant-Appellant.

Columbia County Circuit Court
15CN03692; A164862

Ted E. Grove, Judge.

Argued and submitted July 31, 2018.

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

Timothy A. Sylwester, Assistant Attorney General, argued the cause for respondent. Also on the brief were Ellen F. Rosenblum, Attorney General, and Benjamin Gutman, Solicitor General.

Before Ortega, Presiding Judge, and Egan, Chief Judge, and Powers, Judge.*

PER CURIAM

Reversed and remanded with instructions to enter judgment finding defendant in contempt of court.

* Egan, C. J., *vice* Garrett, J. pro tempore.

PER CURIAM

Defendant admitted to contempt of court, ORS 33.065, for failure to pay child support. The court entered a form judgment that is captioned “Judgment (Misdemeanor/Violation).” On appeal from that judgment, defendant argues that the judgment caption erroneously indicates that he was convicted of a crime or violation, when he was not. See *Johnson/State v. Jung*, 255 Or App 507, 508, 296 P3d 1287 (2013) (reversing judgment that “convicted” a defendant of contempt and remanding for entry of a judgment that makes clear the defendant was found in contempt of court); *State v. Litscher*, 207 Or App 565, 568-69, 142 P3d 549 (2006) (contempt of court is neither a crime nor a violation). Although it is true that we generally treat the body of a judgment as controlling over a conflicting caption, see *State v. Larrance*, 256 Or App 850, 851, 302 P3d 481 (2013), we agree with defendant that the judgment caption erroneously states that defendant has a judgment of a misdemeanor or violation entered against him and the body of the judgment does not correct that error. We thus reverse and remand for the trial court to enter a corrected judgment that makes clear it is a judgment finding defendant in contempt of court.

Reversed and remanded with instructions to enter judgment finding defendant in contempt of court.