

IN THE COURT OF APPEALS OF THE
STATE OF OREGON

STATE OF OREGON,
Plaintiff-Respondent,

v.

JAMES DANIEL WORLEY,
Defendant-Appellant.

Deschutes County Circuit Court
14FE1644; A167772

Beth M. Bagley, Judge.

Submitted May 8, 2020.

Ryan Scott filed the briefs for appellant.

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

Before Lagesen, Presiding Judge, and Kamins, Judge, and Landau, Senior Judge.

PER CURIAM

Reversed and remanded.

PER CURIAM

Defendant was found guilty by a nonunanimous jury of six counts of first-degree sexual abuse (the six guilty verdicts merged for a total of three convictions), ORS 163.427, and one count of attempted first-degree sodomy, ORS 163.405. Defendant argues that the trial court's acceptance of nonunanimous verdicts 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 ___ (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 issue in the trial court did not weigh heavily against correction as the trial court would not have been able to correct the error under controlling law.

The state concedes that the trial court's acceptance of nonunanimous verdicts 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.