

IN THE COURT OF APPEALS OF THE
STATE OF OREGON

STATE OF OREGON,
Plaintiff-Respondent,

v.

KRISTIAN HELMER SKJERVEM,
Defendant-Appellant.

Clackamas County Circuit Court
17CR79641; A168288

Katherine E. Weber, Judge.

Submitted February 28, 2020.

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

Ellen F. Rosenblum, Attorney General, Benjamin Gutman, Solicitor General, and Dashiell L. Farewell, Assistant Attorney General, filed the brief for respondent.

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

PER CURIAM

Portion of judgment requiring defendant to pay attorney fees reversed; otherwise affirmed.

PER CURIAM

Defendant was convicted of first-degree burglary, ORS 164.225, fourth-degree assault constituting domestic violence, ORS 163.160, interference with making a report, ORS 165.572, and harassment, ORS 166.065. On appeal, he argues that the trial court plainly erred with respect to its sentence on the burglary conviction because it failed to make findings under ORS 137.750, and plainly erred in imposing \$455 in attorney fees without determining whether defendant is or may be able to pay such fees. We reject defendant's argument concerning ORS 137.750 without discussion. As to the attorney fee issue, the state concedes that, on this record, the trial court's imposition of attorney fees constituted plain error under our case law. We agree and accept that concession. For the reasons stated in *State v. Harris*, 293 Or App 110, 111, 426 P3d 252 (2018), we exercise our discretion to correct that error.

Portion of judgment requiring defendant to pay attorney fees reversed; otherwise affirmed.