

IN THE COURT OF APPEALS OF THE  
STATE OF OREGON

STATE OF OREGON,  
*Plaintiff-Respondent,*

*v.*

TRAVIS GARY KELLY,  
*Defendant-Appellant.*

Lane County Circuit Court  
18CR40441; A170223

Charles M. Zennaché, Judge.

Submitted October 8, 2020.

Kenneth A. Kreuzscher filed the brief for appellant.

Ellen F. Rosenblum, Attorney General, Benjamin Gutman, Solicitor General, and Jennifer S. Lloyd, Assistant Attorney General, filed the brief for respondent.

Before DeVore, Presiding Judge, and DeHoog, Judge, and Mooney, Judge.

PER CURIAM

Conviction on Count 1 reversed and remanded; remanded for resentencing; otherwise affirmed.

**PER CURIAM**

Defendant was convicted by nonunanimous jury verdict of unauthorized use of a vehicle, ORS 164.135 (Count 1), and by unanimous jury verdict of unlawful possession of methamphetamine, ORS 475.894 (Count 3). Defendant appeals the judgment of conviction regarding Count 1, contending that the trial court erred under the Sixth Amendment to the United States Constitution when it instructed the jury that it could determine guilt with a nonunanimous verdict and in accepting a nonunanimous verdict. Defendant does not challenge his conviction on Count 3.

In *Ramos v. Louisiana*, \_\_\_ US \_\_\_, 140 S Ct 1390, 206 L Ed 2d 583 (2020), the United States Supreme Court concluded that nonunanimous jury verdicts violated the Sixth Amendment. The state concedes that the trial court's acceptance of a nonunanimous verdict in this case constitutes reversible error as to Count 1. We agree and accept the state's concession.

Conviction on Count 1 reversed and remanded; remanded for resentencing; otherwise affirmed.