

IN THE COURT OF APPEALS OF THE
STATE OF OREGON

STATE OF OREGON,
Plaintiff-Respondent,

v.

DANIEL PAUL STICKA,
Defendant-Appellant.

Wallowa County Circuit Court
16042410, 17CR09185;
A169975 (Control), A169976

Eva J. Temple, Judge.

Submitted January 26, 2021.

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

Ellen F. Rosenblum, Attorney General, Benjamin Gutman, Solicitor General, and Jonathan N. Schildt, Assistant Attorney General, filed the brief for respondent.

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

PER CURIAM

In Case No. 16042410, reversed and remanded. In Case No. 17CR09185, affirmed.

PER CURIAM

In each of these cases consolidated for purposes of appeal, defendant was convicted on one count of violation of a stalking protective order. In both cases, defendant asked the trial court to instruct the juries that it needed to reach unanimous verdicts, but the court instructed the juries that they need not do so. In Case No. 16042410, the jury returned a nonunanimous verdict for violation of a stalking protective order. In Case No. 17CR09185, defendant was convicted by unanimous jury on two counts of violation of a stalking protective order, which the court merged into a single verdict. Defendant argues that he is entitled to reversal of his convictions in both cases because the nonunanimous jury instructions were erroneous. *Ramos v. Louisiana*, 590 US ___, 140 S Ct 1390, 206 L Ed 2d 583 (2020). We agree with defendant that the nonunanimous verdict in Case No. 16042410 requires reversal. As for Case No. 17CR09185, defendant argues that the instructional error is structural and he is therefore entitled to reversal of the unanimous verdicts as well as the nonunanimous verdict. We reject that argument for the reasons set forth in *State v. Flores Ramos*, 367 Or 292, 478 P3d 515 (2020), in which the Supreme Court concluded that the erroneous nonunanimous jury instruction was harmless with respect to unanimous verdicts. In Case No. 16042410, defendant makes an additional argument concerning other jury instructions; our reversal of the conviction in that case obviates the need to address that issue. In Case No. 17CR09185, defendant makes an additional argument that the trial court erred in excluding certain evidence. We reject that assignment of error without written discussion.

In Case No. 16042410, reversed and remanded. In Case No. 17CR09185, affirmed.