

IN THE COURT OF APPEALS OF THE  
STATE OF OREGON

STATE OF OREGON,  
*Plaintiff-Respondent,*

*v.*

GERALDO HARRY LOPEZ,  
*Defendant-Appellant.*

Washington County Circuit Court  
19CR34962; A171912

Danielle J Hunsaker, Judge.

Submitted June 4, 2021.

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

Ellen F. Rosenblum, Attorney General, Benjamin Gutman, Solicitor General, and Jeff J. Payne, Assistant Attorney General, filed the brief for respondent.

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

PER CURIAM

Reversed.

**PER CURIAM**

Defendant appeals his conviction for failure to report as a sex offender, ORS 163A.040(3)(b). He argues that the trial court plainly erred in failing to acquit him of that charge because, under our case law, a release from a correctional facility does not qualify as a “change of residence” for purposes of ORS 163A.040(3). The state concedes the error and agrees that we should exercise discretion to correct the error. We agree and accept the state’s concession. See *State v. Lafountain*, 299 Or App 311, 330, 451 P3d 246 (2019) (correctional facility is not an inmate’s “residence” for the purposes of the crime of failing to report as a sex offender); *State v. Hoseclaw*, 299 Or App 334, 342, 450 P3d 1005 (2019) (treating issue as plain error and exercising discretion to correct error “in light of the gravity of the error and the ends of justice”). For the reasons set forth in *Hoseclaw*, we exercise our discretion to correct the error.

Reversed.