

IN THE COURT OF APPEALS OF THE
STATE OF OREGON

STATE OF OREGON,
Plaintiff-Respondent,

v.

KRISTOPHER LEE MARCKS,
Defendant-Appellant.

Washington County Circuit Court
19CR78217; A173447

Ricardo J. Menchaca, Judge.

Submitted June 4, 2021.

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

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

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

PER CURIAM

Supplemental judgment reversed; remanded for resentencing; otherwise affirmed.

PER CURIAM

Defendant, who pleaded guilty to fourth-degree assault constituting domestic violence, appeals a supplemental judgment imposing restitution. He argues that the state failed to adduce sufficient evidence that certain hospital expenses incurred by the victim were necessary or reasonable. The state concedes that defendant is correct with respect to evidence of the reasonableness of the medical expenses under *State v. McClelland*, 278 Or App 138, 372 P3d 614, *rev den*, 360 Or 423 (2016). We accept that concession, and we do not reach defendant's remaining arguments.

Defendant also argues that the appropriate remedy in this circumstance is to vacate the portion of the supplemental judgment awarding the hospital expenses without remanding. We agree with the state that the appropriate remedy in this circumstance is to remand for resentencing. *See, e.g., State v. Boza*, 306 Or App 279, 280, 473 P3d 1161 (2020) (citing *State v. Moreno-Hernandez*, 365 Or 175, 189, 442 P3d 1092 (2019)).

Supplemental judgment reversed; remanded for resentencing; otherwise affirmed.