

IN THE COURT OF APPEALS OF THE  
STATE OF OREGON

STATE OF OREGON,  
*Plaintiff-Respondent,*

*v.*

BILL WAYNE SNYDER II,  
*Defendant-Appellant.*

Umatilla County Circuit Court  
19CR69159; A173694

Daniel J. Hill, Judge.

Submitted September 3, 2021.

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

Ellen F. Rosenblum, Attorney General, Benjamin Gutman, Solicitor General, and E. Nani Apo, Assistant Attorney General, filed the brief for respondent.

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

PER CURIAM

Convictions on Counts 2, 4, and 6 reversed; reversed and remanded for merger of verdicts on Counts 1 and 3; remanded for resentencing; otherwise affirmed.

**PER CURIAM**

Through a scheme that employed a Kool Aid packet and, later, a cigarette lighter in deceptive ways, defendant stole a total of three scientific calculators from Wal-Mart, two on one day and one on a different day. That led to convictions on three counts of second-degree forgery, ORS 165.007 (Counts 2, 4, and 6). It also led to convictions on three counts of second-degree theft, ORS 164.045 (Counts 1, 3, and 5). On appeal, defendant assigns error to the denial of his motion for judgment of acquittal on the three forgery counts, contending that there is no evidence that he engaged in any conduct that qualifies as forgery under ORS 165.007. Defendant also assigns as error the court's failure to merge the guilty verdicts on Counts 1 and 3, noting that there was no pause between the thefts of the calculators involved in those counts and that no other provision of ORS 161.067 operates to preclude merger on the facts of this case. The state concedes both errors. Having reviewed the record, we conclude that defendant's assignments of error are well made and the state's concessions are well taken.

Convictions on Counts 2, 4, and 6 reversed; reversed and remanded for merger of verdicts on Counts 1 and 3; remanded for resentencing; otherwise affirmed.