

IN THE COURT OF APPEALS OF THE  
STATE OF OREGON

STATE OF OREGON,  
*Plaintiff-Respondent,*

*v.*

FRANK LEUCK,  
*Defendant-Appellant.*

Harney County Circuit Court  
18CR69525, 19CN00797;  
A170900 (Control), A170901

Alta Jean Brady, Senior Judge.

Submitted November 19, 2020.

Ernest G. Lannet, Chief Defender, Criminal Appellate Section, and Kyle Krohn, 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 Ortega, Presiding Judge, and Shorr, Judge, and Powers, Judge.

PER CURIAM

Affirmed.

**PER CURIAM**

A jury found defendant guilty of attempted assault of a public safety officer, ORS 161.405 and ORS 163.208, and resisting arrest, ORS 162.315, arising out of a fracas when a Burns police officer arrested him for violating a restraining order. On appeal, defendant raises two assignments of error that challenge the trial court's instructions to the jury. We reject his first assignment of error without discussion. Defendant's second assignment of error is foreclosed by our recent decision in *State v. Prophet*, 318 Or App 330, \_\_\_ P3d \_\_\_ (2022) (concluding that the trial court did not err in refusing to give the defendant's proposed instruction because ORS 162.315 does not require that a defendant intentionally create a substantial risk of harm).

Affirmed.