

IN THE COURT OF APPEALS OF THE
STATE OF OREGON

In the Matter of M. A. W.-S.,
a Youth.

STATE OF OREGON,
Respondent,

v.

M. A. W.-S.,
Appellant.

Washington County Circuit Court
19JU01517; A172208

Michele C. Rini, Judge pro tempore.

Argued and submitted May 5, 2021.

Lindsey Burrows argued the cause for appellant. Also on the briefs was O'Connor Weber LLC.

Patrick M. Ebbett, Assistant Attorney General, argued the cause for respondent. Also on the brief were Ellen F. Rosenblum, Attorney General, and Benjamin Gutman, Solicitor General.

Before Mooney, Presiding Judge, and Kamins, Judge, and DeVore, Senior Judge.*

PER CURIAM

Reversed and remanded.

* Kamins, J., *vice* DeHoog, J. pro tempore.

PER CURIAM

The juvenile court found youth within its jurisdiction for conduct that, if committed by an adult, would constitute riot. ORS 166.015 (“A person commits the crime of riot if while participating with five or more other persons the person engages in tumultuous and violent conduct and thereby intentionally or recklessly creates a grave risk of causing public alarm.”). Youth assigns error to the juvenile court’s determination that no culpable mental state applies to the element of “participating with five or more other persons.” In light of subsequent case law, the juvenile court erred. The element is material and necessarily requires a culpable mental state. *See State v. Owen*, 369 Or 288, 310, 505 P3d 953 (2022); *State v. Prophet*, 318 Or App 330, 342, ___ P3d ___ (2022).

Reversed and remanded.