

**FILED: February 29, 2012**

IN THE COURT OF APPEALS OF THE STATE OF OREGON

STATE OF OREGON,  
Plaintiff-Respondent,

v.

CHRISTOPHER ALAN SCHMIDT,  
Defendant-Appellant.

Washington County Circuit Court  
D101082M, C090423CR

A145747

D. Charles Bailey, Jr, Judge.

Submitted on January 06, 2012.

Peter Gartlan, Chief Defender, and David Sherbo-Huggins, Deputy Public Defender, Office of Public Defense Services, filed the brief for appellant.

John R. Kroger, Attorney General, Mary H. Williams, Solicitor General, and Janet A. Klapstein, Senior Assistant Attorney General, filed the brief for respondent.

Before Schuman, Presiding Judge, and Wollheim, Judge, and Nakamoto, Judge.

PER CURIAM

Reversed.

1                   PER CURIAM

2                   Defendant was convicted of two counts of violating a stalking protective  
3 order based on two emails that defendant sent to his former girlfriend. ORS 163.750. On  
4 appeal, the state concedes that the evidence was insufficient to prove that defendant's  
5 contacts "created reasonable apprehension regarding the personal safety of a person  
6 protected by the order," ORS 163.750(1)(c), a required element of the offense where the  
7 contact is "[s]ending or making written or electronic communications in any form to the  
8 other person," ORS 163.730(3)(d). We agree, accept the state's concession, and reverse  
9 the convictions.

10                   Reversed.