

FILED: September 26, 2012

IN THE COURT OF APPEALS OF THE STATE OF OREGON

STATE OF OREGON,
Plaintiff-Respondent,

v.

JASON CHARLES QUADE,
Defendant-Appellant.

Columbia County Circuit Court
086127

A146266

Steven B. Reed, Judge.

Submitted on August 29, 2012.

Peter Gartlan, Chief Defender, and Erik Blumenthal, Deputy Public Defender, Office of Public Defense Services, filed the brief for appellant.

John R. Kroger, Attorney General, Anna M. Joyce, Solicitor General, and Pamela J. Walsh, Assistant Attorney General, filed the brief for respondent.

Before Ortega, Presiding Judge, and Haselton, Chief Judge, and Sercombe, Judge.

PER CURIAM

Reversed and remanded for entry at judgment consistent with this opinion.

1 PER CURIAM

2 Defendant pleaded guilty on four counts of contempt and argues on appeal
3 that the trial court plainly erred in imposing six-month sentences on two of the counts and
4 also erred in making the sentences on each count consecutive. He also asserts that the
5 court erred in entering contempt convictions, and in imposing unitary assessments and
6 fees. The state concedes that the trial court plainly erred by entering misdemeanor
7 convictions on the counts of contempt. The state also concedes that, because the
8 contempt counts were not based on the commission of a crime or violation, the trial court
9 plainly erred by imposing unitary assessments. *See* ORAP 5.45; *Ailes v. Portland*
10 *Meadows, Inc.*, 312 Or 376, 382, 823 P2d 956 (1991) (court has discretion to review
11 unpreserved error of law apparent on the face of the record).

12 We agree and accept the state's concessions. *See State v. Reynolds*, 239 Or
13 App 313, 315-16, 243 P3d 496 (2010) (accepting state concession that criminal
14 conviction for contempt of court was error); ORS 137.290(1) (2009) (providing for
15 unitary assessments in "cases of conviction for the commission of a crime or violation").
16 Furthermore, in light of the interests of the parties and the ends of justice in this case, we
17 conclude that it is appropriate to exercise our discretion to correct the error. *See Ailes*,
18 312 Or at 382 n 6 (providing that the "gravity of the error" and the "competing interests
19 of the parties" are factors to be considered in deciding whether to exercise discretion to
20 consider plain error). Accordingly, we must reverse and remand, which obviates the need
21 to address defendant's other assignments of error, which the court may address on

1 remand.

2 Reversed and remanded for entry at judgment consistent with this opinion.