

FILED: February 1, 2012

IN THE COURT OF APPEALS OF THE STATE OF OREGON

STATE OF OREGON,
Plaintiff-Respondent,

v.

CHRISTIAN JOSEPH BRAMEL,
Defendant-Appellant.

Clackamas County Circuit Court
CR0913788

A146355

Kathie F. Steele, Judge.

Submitted on December 02, 2011.

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

John R. Kroger, Attorney General, Anna M. Joyce, Solicitor General, and Douglas F. Zier, Assistant Attorney General, filed the brief for respondent.

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

PER CURIAM

Reversed and remanded for entry of a judgment reflecting a single conviction for strangulation and enumerating the two alternate theories of conviction, and for resentencing; otherwise affirmed.

1 PER CURIAM

2 Defendant appeals a judgment of conviction for two counts of
3 strangulation, ORS 163.187, and one count of harassment, ORS 166.065. He contends
4 that the trial court committed plain error in failing to merge the two guilty verdicts on the
5 strangulation charges into a single strangulation conviction. *See* ORAP 5.45; *Ailes v.*
6 *Portland Meadows, Inc.*, 312 Or 376, 382, 823 P2d 956 (1991) (the court has discretion
7 to review an unpreserved error of law apparent on the face of the record). The state
8 concedes that the trial court erred and that the case should be remanded for the trial court
9 to "enter a single conviction of strangulation (noting on its face that defendant was
10 convicted of alternate theories)." We agree, accept the state's concession, and conclude
11 that it is appropriate to exercise our discretion to correct the error in this case. *See* [State](#)
12 [v. Camacho-Alvarez](#), 225 Or App 215, 216, 200 P3d 613 (2009) ("[I]n the past, we have
13 held that 'failure to merge' errors are apparent on the face of the record and have chosen
14 to exercise our discretion to review and correct those errors[.]").

15 Reversed and remanded for entry of a judgment reflecting a single
16 conviction for strangulation and enumerating the two alternate theories of conviction, and
17 for resentencing; otherwise affirmed.