

FILED: November 23, 2011

IN THE COURT OF APPEALS OF THE STATE OF OREGON

STATE OF OREGON,
Plaintiff-Respondent,

v.

DOUGLAS MICHAEL CAMPBELL,
Defendant-Appellant.

Linn County Circuit Court
10030469D

A146974

Gerald R. Tipton, Judge pro tempore.

Submitted on October 07, 2011.

Paul B. Meadowbrook filed the brief for appellant.

John R. Kroger, Attorney General, Mary H. Williams, Solicitor General, and Justice J. Rillera, Assistant Attorney General, filed the brief for respondent.

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

PER CURIAM

Reversed and remanded with instructions to enter a judgment finding defendant in contempt of court.

1 PER CURIAM

2 Defendant appeals a misdemeanor conviction for contempt based on a
3 violation of a pretrial release agreement. Defendant argues that because contempt is not a
4 crime, *see State v. Reynolds*, 239 Or App 313, 243 P3d 496 (2010), the trial court erred,
5 initially, in denying his motion to dismiss the charging instrument and, later, in
6 convicting him of a misdemeanor. The state, for its part, concedes that contempt is not a
7 crime but argues that the appropriate remedy was not dismissal of the indictment but
8 rather "entry of a judgment that does not characterize contempt of court as a criminal
9 conviction." We agree with the state's concession and its proposed disposition. *See id.* at
10 316 (reversing the defendant's conviction for contempt and remanding "for entry of a
11 judgment in that case finding defendant in contempt of court"); *see also* ORS 33.065(5)
12 (contempt proceeding for punitive sanctions may be initiated by a charging instrument
13 "subject to the same requirements and laws applicable to an accusatory instrument in a
14 criminal proceeding, and all proceedings on the accusatory instrument shall be in the
15 manner prescribed for criminal proceedings").

16 Reversed and remanded with instructions to enter a judgment finding
17 defendant in contempt of court.