

OREGON COURT OF APPEALS

State v. Collin

350 Or. App. 243 (2026) · No. A184909 · Decided June 3, 2026

SUMMARY

The Oregon Court of Appeals affirmed Ricki Scott Collin’s convictions for second-degree disorderly conduct and second-degree criminal trespass. The court held that the evidence was legally sufficient to deny Collin’s motion for judgment of acquittal and that the trial court plainly erred by failing to instruct the jury that it had to agree on a theory of liability. The instructional error was harmless because there was little likelihood that it affected either verdict.

CASE DETAILS

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| COURT                 | Oregon Court of Appeals                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| WRITING FOR THE COURT | Joyce, J.; Ortega, Presiding Judge; Joyce, Judge; Hellman, Judge                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| JURISDICTION          | Oregon Court of Appeals                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| DECIDED               | June 3, 2026                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| DOCKET                | A184909                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| PROCEDURAL POSTURE    | Defendant appealed judgments of conviction for second-degree disorderly conduct and second-degree criminal trespass, challenging the denial of his motion for judgment of acquittal and the failure to give a jury-concurrence instruction concerning principal and aiding-and-abetting theories of liability.                                                                                                                                                                                                                       |
| STANDARD OF REVIEW    | The court reviewed the denial of the motion for judgment of acquittal by examining the evidence in the light most favorable to the state to determine whether a rational factfinder could find the essential elements beyond a reasonable doubt. Jury instructions were reviewed for errors of law, and the unpreserved instructional error was reviewed for plain error. The court reviewed whether the plain error was harmless by considering the instructions as a whole, the evidence, and the competing theories of liability. |
| PRECEDENTIAL VALUE    | Published and precedential                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| PARTIES               | Ricki Scott Collin v. State of Oregon                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |

## TOPICS

jury instructions

criminal procedure

harmless error

preservation of error

standard of review

## PRACTICE AREAS

criminal law

criminal procedure

appellate practice

## QUESTIONS PRESENTED

1. Whether the evidence was legally sufficient to support second-degree disorderly conduct and therefore whether the trial court properly denied defendant's motion for judgment of acquittal.
2. Whether the trial court plainly erred by failing to instruct the jury that it had to concur on a single theory of liability—principal or aiding and abetting—for the disorderly-conduct and criminal-trespass counts.
3. Whether the instructional error was harmless.

## HOLDINGS

1. The trial court properly denied defendant's motion for judgment of acquittal because, viewed in the light most favorable to the state, the evidence permitted a rational factfinder to conclude that defendant recklessly created a risk of public inconvenience, annoyance, or alarm and engaged in physical conduct immediately likely to produce physical force.
2. The trial court plainly erred by failing to instruct the jury that it had to agree on a single theory of liability for each count when the court's response to the jury's question presented both principal and aiding-and-abetting theories for all charges.
3. The plain instructional error was harmless as to both the disorderly-conduct and criminal-trespass convictions because there was little likelihood that the error affected the verdicts.

## KEY QUOTATIONS

*“Under Gaines, the absence of a jury concurrence instruction under such circumstances was plain error.”*  
(251)

*“Having found that the plain error was harmless with respect to both charges, we “have no discretion [to correct the error] and must affirm.””* (254)

## FACTUAL BACKGROUND

Defendant and his girlfriend went to a cookie shop in Eugene to confront the owner about Oregon's mask mandate. After the owner ordered them to leave, a physical altercation occurred involving the girlfriend, the owner, and a baseball bat; defendant recorded the incident, grabbed the owner's bat, and left the shop. The jury acquitted defendant of burglary, harassment, and assault but convicted him of second-degree disorderly conduct and second-degree criminal trespass.

## PROCEDURAL HISTORY

The Lane County Circuit Court denied defendant's motion for judgment of acquittal on the disorderly-conduct count and entered convictions for second-degree disorderly conduct and second-degree criminal trespass. Defendant did not preserve his jury-concurrence argument but sought plain-error review. The Oregon Court of Appeals held that the denial of the motion for judgment of acquittal was proper and that the missing concurrence instruction was plain error but harmless, and it affirmed.

#### DISPOSITION

affirmed

#### CASES CITED

- State v. Webb, 342 Or. App. 426, 445, 576 P.3d 995 (2025), opinion adhered to as modified on reconsideration, 344 Or. App. 365, 578 P.3d 1290 (2025)
- State v. Cunningham, 320 Or. 47, 63, 880 P.2d 431 (1994), cert. denied, 514 U.S. 1005 (1995)
- State v. Bivins, 191 Or. App. 460, 467, 83 P.3d 379 (2004)
- State v. Love, 271 Or. App. 545, 554, 351 P.3d 780 (2015)
- State v. Willy, 155 Or. App. 279, 283, 963 P.2d 739 (1998)
- State v. Hosley, 282 Or. App. 880, 883, 388 P.3d 387 (2016)
- State v. Cantwell, 66 Or. App. 848, 853, 676 P.2d 353, rev. denied, 297 Or. 124 (1984)
- Ailes v. Portland Meadows, Inc., 312 Or. 376, 381, 823 P.2d 956 (1991)
- State v. Lotches, 331 Or. 455, 472, 17 P.3d 1045 (2000), cert. denied, 534 U.S. 833 (2001)
- State v. Burris, 301 Or. App. 430, 432, 456 P.3d 684 (2019)
- State v. Pipkin, 354 Or. 513, 527, 316 P.3d 255 (2013)
- State v. Phillips, 354 Or. 598, 606, 608, 613, 317 P.3d 236 (2013)
- State v. Gaines, 275 Or. App. 736, 748, 365 P.3d 1103 (2015)
- State v. Miranda, 290 Or. App. 741, 487 P.3d 480 (2018)
- State v. Horton, 327 Or. App. 256, 262, 535 P.3d 338 (2023)