Submitted April 3, reversed May 6, 2020

In the Matter of S. E. R.,
a Person Alleged to have Mental Illness.

STATE OF OREGON,
Respondent,

v.

S. E. R.,
Appellant.

Lane County Circuit Court
19CC06362; A172950

466 P3d 98

Maurice K. Merten, Judge.

Joseph R. DeBin and Multnomah Defenders, Inc., filed the brief for appellant.

Ellen F. Rosenblum, Attorney General, Benjamin Gutman, Solicitor General, and Joanna L. Jenkins, Assistant Attorney General, filed the brief for respondent.

Before Lagesen, Presiding Judge, and Powers, Judge, and Kamins, Judge.

PER CURIAM

Reversed.

PER CURIAM

Appellant seeks reversal of a judgment committing her to the Mental Health Division for a period not to exceed 180 days, based on a finding that she suffers from a mental disorder and is dangerous to herself. ORS 426.130. Appellant was detained and hospitalized based on a physician's hold on November 24, 2019. On November 28, 2019, the court, on its own motion, ordered the matter continued until December 4, 2019.

At the hearing, appellant did not raise any issue concerning the postponement. She argues on appeal, however, that the court plainly erred in postponing the hearing on its own motion and not holding a hearing within five days of her detention. The state concedes the error, and we agree. A court is required to hold a hearing such as this within five judicial days of the appellant's detention. *State v. L. O. W.*, 292 Or App 376, 381, 424 P3d 789 (2018) (stating same). A court may postpone such a hearing for an additional five days to allow a party to prepare for a hearing "[i]f requested," based on a finding of "good cause." ORS 426.095(2)(c). As we explained in *State v. J. O. B.*, 296 Or App 153, 154, 436 P3d 91 (2019), ORS 426.095(2)(c) does not authorize a court to postpone a hearing on its own motion. We conclude that the error is plain, and we exercise discretion to correct the error. *See State v. R. W. S.*, 292 Or App 405, 406, 419 P3d 804 (2018) (plain error merits correction because holding appellant two judicial days longer than permissible amounts to "grave error").

Reversed.