Submitted September 4; portions of judgment requiring defendant to pay attorney fees reversed, otherwise affirmed October 21, 2020

STATE OF OREGON,
Plaintiff-Respondent,

v.

JERAMIE ALAN KORUM,
Defendant-Appellant.

Washington County Circuit Court
18CR60837; A170908

475 P3d 138

Janelle F. Wipper, Judge.

Ernest G. Lannet, Chief Defender, Criminal Appellate Section, and Mark Kimbrell, Deputy Public Defender, Office of Public Defense Services, filed the brief for appellant.

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

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

PER CURIAM

Portions of judgment requiring defendant to pay attorney fees reversed; otherwise affirmed.

PER CURIAM

After defendant was convicted of felony driving under the influence of intoxicants, ORS 813.011, the trial court sentenced him to two years' supervised probation with a 90-day jail term as a condition of probation, as well as ordering defendant to pay a fine and $650 in attorney fees. On appeal, defendant argues that the trial court erred in imposing the attorney fees because nothing in the record indicates that the trial court considered his ability to pay the fees, nor does the record indicate that he has the ability to pay them. The state acknowledges that nothing in the record would support a conclusion that defendant "is or may be able" to pay attorney fees. *See generally State v. Coverstone*, 260 Or App 714, 715-16, 320 P3d 670 (2014) (where the record is silent as to a defendant's ability to pay, it is plain error to impose attorney fees). We accept the state's concession and, for the reasons stated in *State v. Harris*, 293 Or App 110, 111, 426 P3d 252 (2018), exercise our discretion to correct the erroneous attorney fees.

Portions of judgment requiring defendant to pay attorney fees reversed; otherwise affirmed.