

TESTIMONY OF BRAD HOLBROOK

(Yamhill County, Oregon)

Committee: Senate Committee on Judiciary and Ballot Measure 110 Implementation

Legislation: SB 499

Date/Time: March 3, 2021 at 8:00 a.m.

Place: Remote A

RE: Public Hearing and Possible Work Session/Argument in support of SB 499

Dear Chair Senator Floyd Prozanski and Respective Members of the Senate Committee on Judiciary and Ballot Measure 110 Implementation:

My name is Brad Holbrook, and I am from Yamhill County, and the great state of Oregon.

It is my pleasure to provide testimony in support of SB 499. It is a long time coming.

Oregon has always prided itself on being a progressive state. However, Oregon was the last state to allow non-unanimous jury verdicts. In fact, the United States Supreme Court put a stop to them, rather than us. Why? Why was it so hard to do the right thing? The Ramos' decision proved how wrong Oregon's Constitutional provision was that allowed the practice of 10-2 jury verdicts. We need to stop listening to people who do not have fair agendas.

Right now, we have a chance to do the right thing in compensating wrongfully convicted people and not wait until we are the final state to do so. Time is running out because there are only 15 left. I am excited and very hopeful that Oregon will not pass up this opportunity.

My story can fill a box full of pages. I will not go into exhaustive detail. In 1999, I was an attorney in good standing in the state of California in a successful law practice when I came to Oregon for a four-day trip to say my last "Good-bye" to my dying niece. It was an incredibly sad and horrific time. On the last day of that trip, I was falsely accused of an inappropriate touching.

Despite no evidence against me other than the allegation, the state pressed on with the case. I endured two jury trials. In 2001, I went before a jury, which ended with a 9-3 verdict in my favor on the count that I ended up convicted of in 2002 by a jury verdict of 11-1, which we all now know was unconstitutional. That's not why I was exonerated.

By the time I faced two jury trials, each lasting around 3 weeks, and spent thousands of dollars in resources coming up to Oregon for hearings, etc., I was completely broke. In fact, I was blessed that my family and friends were able to scrap up enough money to pay my direct appeal attorney.

It was not a small sum. Fortunately, after 15 years, the Oregon Court of Appeals reversed my conviction and the District Attorney dismissed the indictment against me. My criminal record was expunged, and I became the 17th person from Oregon to be an exoneree. More recently, I won my reinstatement hearing before the California State Bar Court, and am awaiting the return of my law license very in the near future. It cost me over \$7,500.00 to regain my license.

As a result of being convicted by a jury verdict of 11-1, I spent 75 months in prison in the custody of the Department of Corrections, and 45 months on Post-Prison Supervision. I lost not only my liberty and freedom, but almost all that I had acquired in my lifetime, including, my good name and reputation. I wish prison on no one.

After I was released from prison, I had about \$300.00 from money people gave to me. I had no place to live—no savings left. I used all my resources to fight my conviction because I knew I was innocent and the system must eventually be opened to the truth. When I was released, I went to live with a former jury member and his wife for two years. This jury member sat through my first trial, then he sat through my second (as did his wife) as a member of the community. He

knew the injustice first-hand and did not ignore the chance to try and right the wrong.

I was unable to find employment for several months after I was released. I applied to many, many places. I was flatly discriminated against because of my criminal history. Being on Post Prison Supervision was almost as hard as being in prison. The time I spent on Post-Prison Supervision while on the registry was emotionally challenging. I was told not to shop between 7am and 7pm in stores. I was told not to go into fast food restaurants. Imagine a friend or colleague wants to take you to Wendy's and you have to tell him you can only go through the drive-thru or you are asked to run into Fred Meyers to pick up an ink cartridge for work, and you have to say "No". Well, I don't have to imagine it. I dreaded going into the police station to report myself for my annual report. I could not apply for housing, and I was often concerned about having people check my background. When my first son was born, I worried about having to go to the school to pick him up and about how that would affect him. It was painful, degrading, and humiliating. It was impossible to make a decent living. Most people with a felony on their record, especially being on the registry, face incredible odds to save money for their retirement or their kid's college education.

Why provide compensation for people wrongfully convicted? I look back at my life and wonder why, at my age, I am so far behind. I went to college, and went to graduate school, established a good business and now I am struggling to comprehend a future. I am not looking at the possibility of retirement. I am not looking at the possibility of being able to feel comfortable, but I was taken away from a career in which I was likely going to be extremely comfortable at

this point in my life. If I had the years back, then I could build a future. So, much more than money was taken away from me. Much more. Anyone who would deny giving token compensation (in form of money) to an innocent person who was incarcerated and/or improbably labeled while on Post-Prison Supervision is lacking the most basic skills of human decency and/or understanding. To anyone who would oppose this bill, I would ask, do you not have a heart? Passing SB 499 does not even require compassion and/or generosity.

Taking away a person's liberty—and their ability to pursue happiness—has always been at the forefront of the concerns of our country's founders. I think they knew a little about this. If you personally experience such a harm, you'd want to be fully compensated, and then some. There is not enough money to compensate someone fully for taking precious time from their life—not to mention placing them in a form of modern-day hell. The amount of money offered within this Bill will help exonerees bounce back and ease the pain, but it is not compensation from being wrongfully locked up. This Bill also includes money for the pain and embarrassment of being labeled on the registry. It is important because it is almost the exact type of confinement. I could not even freely travel or lease an apartment, and the potential of missing a registration date—and getting a felony—was high. The mere act of forgetting to register can be a felony—a serious criminal act—which would not need a criminal *mens rea*. Imagine constantly being in fear and having anxiety—daily—well after having been imprisoned. Oregonians must want to be on the right side of this now—rather than be the last to compensate their wrongly convicted.

I want to urge you to pass this Bill with everyone on board! EVERYONE. Who can be against doing the right thing? The Bill itself only provides the opportunity to get compensated—not compensation in and of itself. So, the concept should be an easy one to get on board with.

SB 499 is not a gift or a handout, it is what fair, just, and good people do.

Thank you for reading my statement, and I am grateful to those who are working to lift and aid those who, in this case (no fault of their own), were severely knocked down.