



**Testimony of Aliza Kaplan, Professor & Director of the Criminal Justice Reform Clinic,
Lewis & Clark Law School, in Support of SB 1511**

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Chair Prozanski, Vice Chair Thatcher, and members of the Committee—thank you for the opportunity to testify in support of Senate Bill 1511, an important and historic bill.

My name is Aliza Kaplan. I am a law professor and the director of the Criminal Justice Reform Clinic at Lewis & Clark Law School. For many years, I have researched non-unanimous juries in Oregon and advocated to abolish our non-unanimous jury verdict system.

As my research uncovered and has been widely acknowledged, Oregon's non-unanimous jury rule was rooted in racism and xenophobia. Acknowledging this history, in 2020, the United States Supreme Court ruled in *Ramos v. Louisiana* that convictions by non-unanimous juries were unconstitutional, striking down Oregon's law. Today I am here to encourage the Legislature to do its part in repairing the harm caused by this shameful rule and pass SB 1511.

The *Ramos* ruling from 2020 requiring jury unanimity to convict automatically applied going forward to criminal defendants who had yet to be tried and to people already convicted non-unanimously but whose cases were still pending on direct appeal before the Oregon appellate courts. *Ramos*, however, did not automatically apply to people convicted by non-unanimous jury whose judgments of conviction were final. There are people currently incarcerated in Oregon who were convicted by a law that has been deemed unconstitutional. In no other state (besides Louisiana, where the law was changed in 2018) would they have even been convicted. They and their families deserve a fair shot at justice.

SB 1511 finishes the work of the Supreme Court, allowing a one-year window for people convicted by non-unanimous jury verdicts to be retried or released through our post-conviction relief process. This bill applies to people who can prove they were convicted by a non-unanimous verdict; it allows them to file a post-conviction claim to vacate their original unconstitutional conviction; their case will get sent back to the county of conviction for prosecutors to determine whether justice is served by retrial. It is straightforward and simple.

Before it was deemed unconstitutional, Oregon's non-unanimous jury rule worked as intended, disproportionately impacting Black and brown Oregonians. Though the full impact will never be known, research by the Ramos Project, a project out of the Criminal Justice Reform Clinic at Lewis & Clark Law School, looking at a snapshot of 244 of Oregon's post-conviction cases reveals vast racial disparities in the conviction rate by non-unanimous juries. Black people,

who represent just 2.2 percent of the state population, make up 18 percent of the cases; Latinx/Hispanic people represent 13.4 percent of the state population but make up 16.4 percent of the cases; and Native Americans represent just 1.8 percent of the state population but make up 2.9 percent of the cases. The injustice of non-unanimous juries impacted outcomes as well as jurors, whose dissenting voices were silenced.

Less than 48 hours prior to this hearing, the Oregon District Attorneys Association sent a six-page memorandum to Chair Prozanski outlining their “technical concerns” with this bill. First, I want to say, there has been active discussion about *Ramos*’ retroactivity for those who can prove they were convicted by non-unanimous juries for months. We all (including ODAA) testified back in November about the issue to this Committee, so it is especially disappointing to hear from ODAA just hours before the first official hearing on SB 1511. Second, this bill was created with both sides of the PCR bar, including the full involvement of the Oregon Department of Justice. This was crucial because we all wanted to create a process that was as simple as possible, and that is what we did with SB 1511. All but one of the ODAA’s purported technical concerns shows their lack of knowledge about the PCR process. For example, there is no speedy trial issue when a case gets reversed in PCR. This is common knowledge for anyone who does PCR litigation. Finally, this bill provides the best way to handle these cases because most people with non-unanimous jury convictions have already filed their *Ramos* claims through the PCR process, and the circuit court judges are waiting to be told how to handle the claims. SB 1511 will provide that information to the courts and move the cases quickly through the PCR process. Any attempt to create a different or new process to address these cases would create unnecessary work for the courts, cost a lot of money, and waste everyone’s time.

ODAA has also raised concerns about the potential impact on crime victims and expense of relitigating old cases. I recognize the validity of those concerns; at the same time, I believe affording people fair trials that ensure reaching the correct result is in the best interests of defendants, victims, and the State. Providing a constitutional process not tainted by discrimination and injustice is the only way to undo the harm caused by Oregon’s non-unanimous jury system—and a way to make sure all people have faith in our justice system going forward.

SB 1511 presents an opportunity to right a historic wrong in our state. For so many Oregonians, irreversible harm has already been done—years spent behind bars, away from their families, that they will never get back. And for those who have already been released, they continue to bear the stigma of a criminal conviction now known to be unconstitutionally obtained that prevents them from getting jobs and housing, among other consequences. The Legislature should pass SB 1511 immediately so we can put Oregon’s history of discriminating against jurors and defendants of color in the past where it belongs.

Chair Prozanski, Vice Chair Thatcher, and members of the Committee, I am available if you have any questions. Thank you again for the opportunity to testify in support of this historic bill.