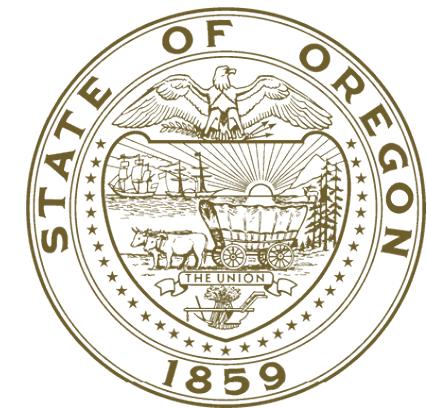


State v. Roberts

374 Or. 821 (2026)

Jessica Minifie

Senior Deputy Legislative Counsel



LEGISLATIVE COUNSEL

State v. Roberts

Factual background:

- ❖ August 2021: defendant arraigned on a felony information; he requested and was eligible for appointed counsel
- ❖ Appointed counsel could not take the case; after indictment in September 2021, and a failure to appear at arraignment, the case was in bench warrant status
- ❖ August 2022: arraignment on the indictment, no counsel was available; the case was dismissed October 2022
- ❖ Defendant was reindicted in April 2024 on the same charges; he again requested and was eligible for counsel
- ❖ Between June and September, several hearings to appoint counsel occurred, but no individual attorney was appointed
- ❖ In December 2024, the defendant filed a motion to dismiss, which was denied
- ❖ In January 2025, the defendant filed a petition for a writ of mandamus with the Oregon Supreme Court
- ❖ After other procedural steps, and during the briefing period on mandamus case, the defendant's case was again dismissed without prejudice in April 2025



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Court analysis:

- ❖ ORS 14.175 allows review of moot cases that are capable or repetition, yet likely to evade judicial review
- ❖ The case is decided under Article I, section 11, the Oregon Constitution's right to counsel
- ❖ The right exists "in circumstances where, without that assistance [of counsel], the defendant's legal interests would be at risk of prejudice"
- ❖ The court reviewed the assistance counsel would have provided during the pendency of the defendant's case
- ❖ The court reviewed how defendants are harmed by the failure to appoint counsel within a reasonable time:
 - ❖ Restraints on liberty without the ability to change them
 - ❖ Inability to move case forward (investigation, negotiation, etc.)
 - ❖ Can create a coercive effect (pressure to waive the right)
- ❖ Conclusion: the defendant's right to counsel was violated
- ❖ Appropriate remedy?



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Case holding:

- ❖ Strict time limits for dismissal of charges when counsel is not appointed after arraignment
- ❖ Time limits come from the Chief Justice's Time to Disposition Standards
- ❖ Time limits begin at arraignment and apply to **consecutive days**
- ❖ Misdemeanor cases = 60 days
- ❖ Felony cases = 90 days
- ❖ Time limits apply regardless of custody status
- ❖ Dismissal is without prejudice (the defendant can be recharged)
- ❖ Distinct from other reasons for dismissal, e.g. statutory speedy trial (for some charges, cannot recharge)
- ❖ Dismissal is not required if defendant fails to appear; possible good cause exception



Questions?

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