

COURT OF APPEALS OF OREGON

State v. McClintock-Perez

346 Or. App. 34 (2025) · No. A186122 · Decided December 24, 2025

SUMMARY

The Oregon Court of Appeals held that a defendant’s challenge to a statutory probation condition requiring compliance with state law when state and federal law conflict was not preserved because the condition was announced through the court’s reference to standard probation terms. The court further held that any alleged constitutional error under the Supremacy Clause was not plain error because the legal issue was reasonably in dispute and lacked controlling authority.

CASE DETAILS

COURT	Court of Appeals of Oregon
WRITING FOR THE COURT	Pagán, J.; Aoyagi, Presiding Judge; Egan, Judge; Pagán, Judge
JURISDICTION	Oregon Court of Appeals
DECIDED	December 24, 2025
DOCKET	A186122
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a judgment imposing probation after she pleaded no contest to violating a stalking protective order. She challenged a statutory probation condition requiring her to obey all laws and argued that preservation should be excused because the condition first appeared in the written judgment; alternatively, she requested plain-error review.
STANDARD OF REVIEW	Because defendant did not preserve the challenge, the court reviewed only for plain error under ORAP 5.45(1). Plain error requires an error of law that is obvious, not reasonably in dispute, and apparent on the record without choosing among competing inferences.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Carmen Elsa McClintock-Perez v. State of Oregon

TOPICS

- probation
- preservation of error
- appellate procedure
- supremacy clause
- criminal procedure

PRACTICE AREAS

criminal procedure

appellate procedure

constitutional law

probation

QUESTIONS PRESENTED

1. Whether preservation should be excused because the challenged probation condition appeared for the first time in the written judgment.
2. Whether imposing ORS 137.540(1)(h)'s general probation condition violated the Supremacy Clause.
3. Whether any error in imposing the condition was plain error warranting discretionary appellate correction.

HOLDINGS

1. Preservation was not excused because the trial court's announcement that it was imposing the standard terms and conditions of probation sufficiently referred to the generally applicable statutory conditions in ORS 137.540(1), including the challenged condition.
2. The alleged error was not plain because the asserted Supremacy Clause violation was reasonably in dispute and no direct Oregon appellate authority established that the probation condition was unconstitutional.

KEY QUOTATIONS

“The challenged condition did not, therefore, appear for the first time in the judgment and defendant had an opportunity to object to it at sentencing.” (36)

“In light of the parties’ competing arguments and lack of direct authority for the asserted error, the legal point is reasonably in dispute and is not obvious.” (37)

FACTUAL BACKGROUND

Defendant pleaded no contest to violating a court's stalking protective order. Under the plea agreement, she received three years of formal probation, along with conditions including anger-management and mental-health evaluation and treatment and no contact with the victim or the victim's family. At sentencing, the court announced that it was imposing the standard terms and conditions of probation, which included the statutory condition requiring obedience to state and federal law, with state law controlling when the two conflict. Defendant did not object.

PROCEDURAL HISTORY

Defendant pleaded no contest pursuant to a plea agreement providing for three years of formal probation and specified additional conditions. The trial court imposed the agreed sentence and announced that it was imposing the standard terms and conditions of probation, including the statutory condition in ORS 137.540(1)(h). Defendant did not object at sentencing. The Court of Appeals held that preservation was not excused, that the alleged error was not plain, and affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Priester, 325 Or. App. 574, 582-83, 530 P.3d 118 (2023), rev. denied, 381 Or. 332
- State v. Carmickle, 307 Or. 1, 12, 762 P.2d 290 (1988)
- State v. Wyatt, 331 Or. 335, 341, 15 P.3d 22 (2000)
- State v. Vanornum, 354 Or. 614, 629, 317 P.3d 889 (2013)
- State v. Reyes-Camarena, 330 Or. 431, 436, 7 P.3d 522 (2000)
- State v. Gallegos, 302 Or. App. 145, 152, 460 P.3d 529 (2020), rev. dismissed, 366 Or. 382 (2020)

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