

COURT OF APPEALS OF OREGON

Decker v. Sundquist

350 Or. App. 620 (2026) · No. A185148 · Decided June 17, 2026

SUMMARY

The Oregon Court of Appeals held that the post-conviction court erred in finding that the petitioner had not proved that his convictions were based on nonunanimous jury verdicts. The record established that at least nine of the fifteen guilty verdicts were nonunanimous, constituting a substantial denial of constitutional rights. The court reversed and remanded for the post-conviction court to fashion a proper and just remedy.

CASE DETAILS

COURT	Court of Appeals of Oregon
WRITING FOR THE COURT	Kamins, J.; Lagesen, C.J.; Ortega, J.; Egan, J.; Tookey, J.; Shorr, J.; Aoyagi, J.; Powers, J.; Pagán, J.; Joyce, J.; Hellman, J.; Jacquot, J.
JURISDICTION	Oregon Court of Appeals
DECIDED	June 17, 2026
DOCKET	A185148
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Petitioner appealed the Jefferson County Circuit Court judgment denying post-conviction relief based on convictions entered following nonunanimous jury verdicts.
STANDARD OF REVIEW	The court reviewed for legal error and accepted constitutionally supported findings of fact. A post-conviction petitioner bears the burden of proving the constitutional violation by a preponderance of the evidence.
PRECEDENTIAL VALUE	Published en banc opinion; precedential
PARTIES	Steven Jay Decker v. Amber Sundquist, Superintendent, Deer Ridge Correctional Institution

TOPICS

- state post-conviction relief
- post-conviction relief
- sixth amendment
- criminal procedure
- remedies

PRACTICE AREAS

state post-conviction relief

criminal procedure

constitutional law

post-conviction remedies

QUESTIONS PRESENTED

1. Whether the post-conviction court erred in finding that petitioner failed to prove that his convictions were based on nonunanimous jury verdicts.
2. Whether evidence from the jury poll established by a preponderance of the evidence that at least nine convictions resulted from nonunanimous verdicts.
3. What remedy should be fashioned on remand for convictions shown to have resulted from nonunanimous verdicts.

HOLDINGS

1. The post-conviction court erred in finding that petitioner failed to meet his burden of proving nonunanimous verdicts. The record compelled the conclusion that at least nine of the fifteen guilty verdicts were nonunanimous.
2. When it is established that a conviction was entered based on a nonunanimous verdict, the constitutional violation is substantial and the conviction is void for purposes of the Oregon Post-Conviction Hearing Act.
3. The case must be remanded for the post-conviction court to fashion an appropriate remedy that is proper and just and cures the harm caused by the nonunanimous convictions.

KEY QUOTATIONS

“when it is established that a conviction was entered based on a nonunanimous verdict, the proceeding must be recognized as fundamentally unfair, and post-conviction relief must be granted.” (623)

“The focus of (1)(a) is the substantial denial of constitutional rights, then, and not any individual conviction.” (626)

“has broad authority to fashion a remedy to correct the actual prejudice suffered by a criminal defendant” (628)

FACTUAL BACKGROUND

Petitioner was charged with fifteen counts of first-degree sexual abuse and was convicted on all fifteen counts after a jury trial. The jury was instructed that fewer than unanimous votes could support conviction. When the jury was polled, Juror #10 stated that the guilty verdict on all fifteen counts was not that juror's individual verdict, and the trial court recorded an 11-to-1 verdict. Juror #1 later informed the court that she had voted guilty on six counts and not guilty on nine counts, although she did not identify the particular counts.

PROCEDURAL HISTORY

Petitioner was convicted by a jury of fifteen counts of first-degree sexual abuse. During a post-verdict jury poll, one juror stated that the guilty verdict on all fifteen counts was not that juror's individual verdict; another juror

later stated that she had voted guilty on six counts and not guilty on nine. The post-conviction court denied relief, finding that petitioner had not proved that the verdicts were nonunanimous. The Oregon Court of Appeals reversed and remanded for the post-conviction court to fashion an appropriate remedy.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The post-conviction court must fashion an appropriate remedy that is proper and just and cures the harm caused by the fact that at least nine of petitioner's convictions were based on nonunanimous verdicts.

CASES CITED

- Green v. Franke, 357 Or. 301, 312, 350 P.3d 188 (2015)
- Watkins v. Ackley, 370 Or. 604, 630, 633, 523 P.3d 86 (2022)
- Cam v. Pedro, 346 Or. App. 635, 639-40, 585 P.3d 1145 (2026)
- State v. A. R. H., 371 Or. 82, 96, 530 P.3d 897 (2023)
- State v. Dilallo, 367 Or. 340, 342-48, 478 P.3d 509 (2020)
- State v. Ulery, 366 Or. 500, 503-04, 464 P.3d 1123 (2020)
- Mandell v. Miller, 326 Or. App. 807, 810-11, 533 P.3d 815 (2023), rev. den., 371 Or. 476 (2023)
- Hinton v. Hill, 342 Or. 222, 228, 231, 149 P.3d 1205 (2006)
- Lujan v. Myrick, 288 Or. App. 763, 768, 407 P.3d 966 (2017)
- Shipman v. Gladden, 253 Or. 192, 203-04, 453 P.2d 921 (1969)
- Brock v. Baldwin, 171 Or. App. 188, 196, 14 P.3d 651 (2000), rev. den., 332 Or. 56 (2001)
- Evans v. Nooth, 318 Or. App. 162, 178, 506 P.3d 469 (2022)
- Ramos v. Louisiana, 590 U.S. 83, 140 S. Ct. 1390, 206 L. Ed. 2d 583 (2020)
- Guerrero-Perez v. Kelly, 370 Or. 823, 825, 525 P.3d 1237 (2023)
- Jones v. Brown, 370 Or. 649, 652, 523 P.3d 82 (2022)
- Manning v. Kelly, 325 Or. App. 31, 34, 528 P.3d 311 (2023)
- Burcham v. Franke, 265 Or. App. 300, 320-22, 335 P.3d 298 (2014)
- McMillan v. Kelly, 304 Or. App. 299, 328, 467 P.3d 791 (2020)
- Galloway v. Nooth, 247 Or. App. 164, 166, 268 P.3d 736 (2011)
- Bogle v. Armenakis, 172 Or. App. 55, 67, 18 P.3d 390 (2001)
- State v. Civil, 283 Or. App. 395, 417, 388 P.3d 1185 (2017)
- Eagle Industries, Inc. v. Thompson, 321 Or. 398, 405, 900 P.2d 475 (1995)
- Carroll v. Lane County, 340 Or. App. 514, 523, 572 P.3d 332 (2025)
- Baertlein and Stocks, 303 Or. App. 51, 61, 464 P.3d 433 (2020)
- Interstate Roofing, Inc. v. Springville Corp., 347 Or. 144, 159, 218 P.3d 113 (2009)

