

Appendix A  
544 P.3d 451  
331 Or.App. 348

STATE

v.

FREDA, Kristopher Jacob

A180194

Court of Appeals of Oregon.

February 22, 2024

[544 P.3d 451]

Affirmed without opinion.

Appendix B

546 P.3d 913

372 Or. 192

STATE

v.

FREDA, Kristopher Jacob

(A180194)(S070936)

Supreme Court of Oregon.

April 11, 2024

[546 P.3d 913]

(331 Or App 348)

Review Denied

Appendix C  
Constitution & Statutory Provisions

**163.732. Stalking**

- (1) A person commits the crime of stalking if:
- (a) The person knowingly alarms or coerces another person or a member of that person's immediate family or household by engaging in repeated and unwanted contact with the other person;
  - (b) It is objectively reasonable for a person in the victim's situation to have been alarmed or coerced by the contact; and
  - (c) The repeated and unwanted contact causes the victim reasonable apprehension regarding the personal safety of the victim or a member of the victim's immediate family or household.
- (2)
- (a) Stalking is a Class A misdemeanor.
  - (b) Notwithstanding paragraph (a) of this subsection, stalking is a Class C felony if:
    - (A) The person has a prior conviction for:
      - (i) Stalking, or an equivalent crime in another jurisdiction; or
      - (ii) Violating a court's stalking protective order, or an equivalent crime in another jurisdiction;
    - (B) The person is the respondent for an active protection order in any jurisdiction that restrains the person from stalking, intimidating, molesting or menacing another person, and the person protected by the order is not the victim of the current offense; or
    - (C) At least one instance of unwanted contact is the commission of the following against the victim:
      - (i) A felony;
      - (ii) Unlawful dissemination of an intimate image under ORS 163.472; or
      - (iii) Unlawful use of a global positioning system device under ORS 163.715.
  - (c) When stalking is a Class C felony pursuant to paragraph (b) of this subsection, stalking shall be classified as a person felony and as crime category 8 of the sentencing guidelines grid of the Oregon Criminal Justice Commission.

**163.750. Violating a court's stalking protective order**

- (1) A person commits the crime of violating a court's stalking protective order if:
- (a) The person has been served with a court's stalking protective order as provided in ORS 30.866 or 163.738, or service was waived under ORS 163.741 because the person appeared before the court;
  - (b) The person, subsequent to the service of the order or the waiver of service, has engaged intentionally, knowingly or recklessly in conduct prohibited by the order; and
  - (c) If the conduct is prohibited contact as defined in ORS 163.730 (3)(d), (e), (f), (h) or (i), the subsequent conduct has created reasonable apprehension regarding the personal safety of a person protected by the order.
- (2)
- (a) Violating a court's stalking protective order is a Class A misdemeanor.
  - (b) Notwithstanding paragraph (a) of this subsection, violating a court's stalking

protective order is a Class C felony if:

(A) The person has a prior conviction for:

- (i) Stalking, or an equivalent crime in another jurisdiction; or
- (ii) Violating a court's stalking protective order, or an equivalent crime in another jurisdiction;

(B) The person is the respondent for an active protection order in any jurisdiction that restrains the person from stalking, intimidating, molesting or menacing another person, and the person protected by that order is not the same as the person protected by the order at issue in the current offense; or

(C) At least one instance of unwanted contact is the commission of the following against the person protected by the order:

- (i) A felony;
  - (ii) Unlawful dissemination of an intimate image under ORS 163.472; or
  - (iii) Unlawful use of a global positioning system device under ORS 163.715.
- (c) When violating a court's stalking protective order is a Class C felony pursuant to paragraph (b) of this subsection, violating a court's stalking protective order shall be classified as a person felony and as crime category 8 of the sentencing guidelines grid of the Oregon Criminal Justice Commission.

#### **§ 3582. Imposition of a sentence of imprisonment**

(c) MODIFICATION OF AN IMPOSED TERM OF IMPRISONMENT.-The court may not modify a term of imprisonment once it has been imposed except that-

(1) in any case-

(A) the court, upon motion of the Director of the Bureau of Prisons, or upon motion of the defendant after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant's behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant's facility, whichever is earlier, may reduce the term of imprisonment (and may impose a term of probation or supervised release with or without conditions that does not exceed the unserved portion of the original term of imprisonment), after considering the factors set forth in section 3553(a) to the extent that they are applicable, if it finds that-

#### **Oregon Constitution – Article 1, § 8. Freedom of speech and press**

No law shall be passed restraining the free expression of opinion, or restricting the right to speak, write, or print freely on any subject whatever; but every person shall be responsible for the abuse of this right. -

#### **U.S. Constitution – 1<sup>st</sup> Amendment**

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

### **U.S. Constitution – 8<sup>th</sup> Amendment**

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

### **U.S. Constitution – 14<sup>th</sup> Amendment**

**Section 1.** All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.