No.

25-5956

IN THE SUPREME COURT OF THE UNITED STATES

In re SANTOS CUEVAS, PETITIONER

v.

COREY FHUERE, Superintendent,

Oregon State Penitentiary, DEFENDANT

ON PETITION FOR WRIT OF HABEAS CORPUS

FOR WRIT OF HABEAS CORPUS

SANTOS CUEVAS SID# 11207100

SALEM, OREGON 97310

OREGON STATE PENITENTIARY

PHONE NUMBER

Questions Presented

1. May the Sixth Amendment in retroactive by the state allow remedy to initial and successive post-conviction proceedings, if so, may the right to effective assistance of counsel at trial, direct appeal extend to these proceedings, and if so, may a post-conviction court, on initial or subsequent petition have the authority to reverse, modify or change the highest court's opinion and statement of law and with an innocence claim?

2.Does judicial estoppel doctrine or estoppel by judgment bar misstatements of law when a judge avoids submitting an aggravated fact to the jury instead imposes a bench trial equates to a second prosecution with mandatory guidelines 'prior conviction sentence increase' to all the indicted convictions found by the judge not the jury, under federal law and to bar burdens at sentencing on a criminal defendant to show that if findings require a concurrent sentence in order to reduce his sentence-from being subject to prior convictions that which otherwise would aggravate the crime and sentence, here alleged to violate the double jeopardy federal law and on joinder of alleged counts on two alleged victims, at three different locations, and bar affirmance that the verdict does not implicate the Sixth Amendment without a jury poll and without special jury instructions , and does it violate the Eighth Amendment Ex-post facto, and double jeopardy federal law and fifth amendment

against self-incrimination, Equal privileges or immunities clause federal law, and fourth amendment interstate extradition, no governors' warrant?

Judicial Estoppel on a federal precedent in the public legal interest will be aid of jurisdiction of this court. Article III standing, plaintiff bears burden to demonstrate injury in fact, causation, and redressability. U.S. Const. art. 3, § 2, cl. 1.

Public legal interest is the exception on the impact of actuality.

Judicial findings under Oregon v Ice decisions to impose a concurrent or consecutive sentence are not prior conviction sentencing enhancements. Both rules of state law and remainder of laws of Oregon are drawn into question. Oregon v. Ice,555 U.S. 160, 129 S.Ct. 711, 172 L.Ed.2d 517 (2009), is controlling on judicial findings under the same statue. (Ors. 137.1231-5)

Aid of Jurisdiction The Ice court's findings of victim harm and omitted 'forcible compulsion' conflicts with this court's ruling of Jones v. United States, 526 U.S. 227, 119 S.Ct. 1215, 143 L.Ed.2d 311 (1999), and Apprendi v New Jersey 530 U.S 466, 2000,

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Aid of appellate jurisdiction (the shift to I- rule where a base sentence is only allowed on a concurrent sentence) Oregon Sentencing Guidelines is attached and Sentencing counts as Appendix-1, Ex post fact law, the controversial Ballot Measure 11, a retrial can impose 30 years or 300 mths. On a single count see following page for context, Ors.137.700 is should be reviewed to be excised or struck from procedure, Ex-Post Facto Federal law-Laws the sentencing rules in this case impose greater punishment is inhibited and at issue.

Aid of appellate jurisdiction of this court that in this case at sentencing these findings are not of an offense category of prior conviction, Oregon v. Ice, 555 U.S. 160, 129 S.Ct. 711, 172 L.Ed.2d 517 (2009), Petitioner is entitled to the equal privilege to have a right to counsel to protect the most basic fundamental rights. Against double jeopardy laws Gideon v. Wainwright, 372 U.S. 335, 83 S.Ct. 792, 9 L.Ed.2d 799 (1963)

Aid of Jurisdiction, for Apprendi v New Jersey purposes the omitted element of forcible compulsion element must be made by the jury baed on the facts presented to the jury(the element of "forcible compulsion" that elevates third-degree sexual abuse to first-degree sexual abuse, State v. Marshall, 350 Or. 208, 253 P.3d 1017 (Or. 2011) see also State v. Nelson, the "subjected to forcible compulsion" element of first-degree rape and first-degree sexual abuse "necessarily requires a culpable mental state" because it directly "concerns the substance or quality of the crime[s]—

the harm or evil sought to be prevented." 241 Or.App. 681, 251 P.3d 240 (Or. App. 2011)

n5 By the time that the trial court imposed sentences on four of defendant's convictions, defendant the sentences for defendant's fifth, sixth, seventh, and eighth convictions were all higher than they would have been if his first, second, and third convictions had not been included in his criminal history score, (and the first and second conviction was equated and considered for two 'felony' priors and increased the sentence for the third conviction)(each count of conviction receiving multiple punishments), see State v. Cuevas, 358 Or 147, 361 P.3d 581 (Or. 2015) affirming State of Oregon 326 P.3d 1242, 263 Or.App. 94 (Or. App. 2014)

> [E]*ach time the trial court passed sentence on a count representing a separate criminal episode, the court considered that count to be part of defendant's criminal history for the purpose of the remaining counts.* Held as an Apprendi error harmless under state law.

In Oregon convictions that are concurrent or consecutive are on that contingent subject to an increase to a 200%, 400% or a single (the shift to I- rule) or all convictions are subject to an offense category increase for a prior-conviction. (the Bucholz or State v Santos Cuevas rule, this case)

Fundamental fairness, misstatements of law, Public Legal Interest and Improper harmless error reviews are the exception for review.

IN THE SUPREME COIURT OF THE UNITED STATES PETITION

FOR WRIT OF HABEAS CORPUS

OPINIONS BELOW

State Court Cases

The opinion of the highest state court to review the merits are not attached to Appendix to the petition and is Published: State v. Cuevas, 358 Or 147, 361 P.3d 581 (Or. 2015) is not attached as Appendix

The opinion of the lower court of Appeals is not attached to Appendix to the petition. And is published: State v. Cuevas, 326 P.3d 1242, 263 Or.App. 94 (Or. App. 2014)

Santos Cuevas v Brandon Kellly cs.No.25CV29554 opinion letters is attached as Appendix-

For cases from state courts: the date the state habeas court court began to decided my case here at issue Was on 7-28-2025 not attached, Opinion letters of dismissals are not attached., and Santos Cuevas v Brandon Kelly cs.No.25CV29554

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Jurisdiction

For cases from state courts: the date the state habeas court court began to decided my case here at issue Was on 7-28-2025 not attached, Opinion letters of dismissals are not attached., Judge Tracy Prall ruling is attached at Appendix-

And is pending case Santos Cuevas v Brandon Kelly cs.No.25CV29554

Statement of the case Rule 20.4 (a) Oregon chose appellate attorney and States' reliance on State law should have been barred under Oregon v Ice precedent in Estoppel by Judgement or Judicial Estoppel with Public Legal Interest Exception and must be considered to further aid of appellate jurisdiction of this Court to prevent double jeopardy or egregious precedents State of Oregon 326 P.3d 1242, 263 Or.App. 94 (Or. App. 2014)

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>
> Fundamental fairness, misstatements of law, Public Legal Interest and Improper harmless error reviews are the exception for review. Ex-post facto laws are not allowed. **Plain errors Measure 11 Ex-post facto risk of retrial and disproportionality 8th Amendment cruel and unusual punishment,**
>
> Defendant pleaded guilty to two felony counts of sexual abuse in the first degree, **827 two felony counts of unlawful sexual penetration in the first, [redacted]

District Court remedy sought, Appendix-6

degree, and one misdemeanor count of sexual abuse in the third degree. ORS 163.427; ORS 163.411; ORS 163.415. His sole assignment of error on appeal is that the trial court erred in sentencing him under ORS 137.700 (Measure 11) on one of his convictions for first-degree sexual abuse, because he committed the crime before the effective date of that statute. Defendant concedes that he did not raise that issue below, but asks that we review it as plain error. We conclude that the trial court committed plain error, but that it is not appropriate under the circumstances to exercise our discretion to correct the error. State v. Brown Court of Appeals of Oregon227 Or.App. 99, 204 P.3d 825, (2009) see Collins v. Youngblood, 497 U.S. 37, 110 S.Ct. 2715, 111 L.Ed.2d 30 (1990)

See State v. Reinke, 354 Or 98, 309 P3d 1059 (Or. 2013) (same faulty principle of labels-fact of or seriousness of a conviction returned by a court or jury)

Some facts need not be pleaded because they are not elements of a crime and imposing an additional 30-year prison sentence. See ORS 161.725(1)(b) (authorizing the imposition of that sentence) Reinke, supra The conviction warranted a 10 year sentence and added 30 yrs. Based on a judge's finding. Further risks of double jeopardy is the concern.

Judicial Estoppel or Estoppel by judgement applies in Aid of Appellate Jurisdiction of this court States' Sovereignty is insufficient under Oregon v Ice and announced principles in the following Aid of Jurisdiction that State Sovereignty reliance of state law is contrary to and unreasonable under the Ice Court in the following-

> "[T]he same historical and state-sovereignty considerations that drove the court's decision in Ice apply with equal force to the shift to- I rule." Exhibit 117 page 23 of 42 case No. 6:18-cv-01973-JR

See cs# 6:18cv-01973-JR pg. 12 of 42 ("The State argued Ice controls, and Apprendi is not implicated. The court of Appeals rejected that argument simply by stating that defendant did not challenge his consecutive sentences." (The State of Oregon sought estoppel, and the court of appeals ignored it's position of States' to the public legal interest) Aid of Appellate Jurisdiction Valentine v. Konteh, 395 F.3d 626 (6th Cir. 2005) , the District Court relied upon Russell v. United States, 369 U.S. 749, 82 S.Ct. 1038, 8 L.Ed.2d 240 (1962), and found that the Ohio Court of Appeals had unreasonably applied its due process principles in Valentine's appeal. see Lockyer v. Andrade, 538 U.S. 63, 71–72, 123 S.Ct. 1166, 155 L.Ed.2d 144 (2003). The Supreme Court has established a clear and consistent path for the courts regarding the due process sufficiency of criminal charges, and the Ohio Court of Appeals has strayed so far from that path as to warrant habeas relief. See id. at 72, 123 S.Ct. 1166.

Aid of Appellate Jurisdiction ""Error letters are routinely sent to courts indicating that convictions sentenced the same day are not to be counted toward each other in the criminal history calculation.' "State v. Bucholz, 855 P.2d 1100, 317 Or. 309,319 (Or. 1993) Public legal interest is the exception and to the legal community promoting the legislature

Aid of Appellate Jurisdiction See State v. Bucholz, 317 Or. 309, 314, 855 P.2d 1100 (1993) ("Nothing in the wording of the criminal history rule excludes consideration of the conviction for a separately occurring crime merely because the two separate crimes are sentenced on the same day and in the same session of court.")). (pg 3 of State of Oregon petition for Review)

Aid of Appellate Jurisdiction Retrial Risks of instability and disproportionality ORS.137.719 (1) The presumptive sentence for a sex crime that is a felony **is life** imprisonment without the possibility of release or parole if the defendant has been sentenced for sex crimes that are felonies at least two times prior to the current sentence.

Aid of appellate jurisdiction of this court that in this case at sentencing these judge findings are not of an offense category of prior conviction, Oregon v. Ice, 555 U.S. 160, 129 S.Ct. 711, 172 L.Ed.2d 517 (2009), Petitioner is entitled to the equal privilege to have a right to counsel to protect the most basic fundamental rights. Gideon v. Wainwright, 372 U.S. 335, 83 S.Ct. 792, 9 L.Ed.2d 799 (1963)

Aid of Appellate Jurisdiction to this court, this court disavowed any element reading into sentencing statute that essentially required it, see Oregon v Ice, supra and should be revisited when sexual abuse cases are involved in light of degrees of crimes and the facts that increase the sentence,

Aid of Appellate Jurisdiction to this court, for Apprendi v New Jersey purposes the omitted element of forcible compulsion element must be made by the jury based on the facts presented to the jury (the element of "forcible compulsion" that elevates third-degree sexual abuse to first-degree sexual abuse, State v. Marshall, 350 Or. 208, 253 P.3d 1017 (Or. 2011) see also State v. Nelson, the "subjected to forcible compulsion" element of first-degree rape and first-degree sexual abuse "necessarily requires a culpable mental state" because it directly "concerns the substance or quality of the crime[s]—the harm or evil sought to be prevented." 241 Or.App. 681, 251 P.3d 240 (Or. App. 2011)

Aid in Appellate Jurisdiction is a collateral matter in The Privileges or Immunities Clause is to include those rights enumerated in the Constitution" see McDonald v Chicago 561 U.S. 742 (2010) And Oregon v Ice suggested unanimity reliance on a historical tradition on sentencing. Oregon v Ice 556 U.S. id at 168, Ice supra. **Oregon Supreme Court affirmance with opinion and dissent published** This case involves two sentencing guidelines rules. **One rule directs trial courts to count a defendant's convictions at the time of sentencing in calculating the defendant's criminal history.** OAR 213–004–0006(2). The other rule limits the

length of a consecutive sentence that a trial court can impose. **583 OAR 213–012–0020(2). On appeal, the Court of Appeals concluded that both rules increased defendant's sentence based on facts that, under Apprendi v. New Jersey, 530 U.S. 466, 120 S.Ct. 2348, 147 L.Ed.2d 435 (2000), a jury must find beyond a reasonable doubt. State v. Cuevas, 263 Or.App. 94, 114, 326 P.3d 1242 (2014). Although the Court of Appeals concluded that the trial court should have submitted those facts to the jury, it held that the failure to do so was harmless error. Id. On review, we hold that the two sentencing guidelines rules do not implicate Apprendi and affirm the Court of Appeals decision on that ground. State of Oregon v Santos Cuevas, 358 Or. 147, 2015

Holding: Holdings: The Supreme Court, Kistler, J., held that:

1 Apprendi does not apply to fact findings regarding whether convictions arose out of the same or separate criminal episodes under rule limiting the length of an aggregate consecutive sentence, and

2 Apprendi does not apply to findings regarding whether convictions arose out of the same or separate criminal episodes under rule governing determination of criminal history score.

The number two procedure listed, subjects only a single conviction to increase and reconstitute to a higher prior conviction points of the guidelines the shift to- I rule Judicial estoppel by judgment under Oregon v Ice judicial finding of imposing a concurrent sentence and consecutive sentence, at common law do not increase the sentence, affirmance is error on both rules.

Under **Public Legal Interest is the Exception and in the presumption of innocence considered for a jury poll requirement**

State and Federal procedures have been sought for remedy.

In the procedural default doctrine and Magistrate findings' reliance on state law enforcing the default Ors. 138.550 (2) the court avoided the application of the AEDPA deferential standard improper denials and findings and the Federal court departure reliance of a state procedural statute ensured also with the states judiciary that there is no appeal and no AEDPA review. See the following-

"When the petitioner sought and obtained the direct appellate review of the conviction and sentence of the petitioner, no ground for relief may be asserted by petitioner in a [PCR] petition ...unless such ground was not asserted and could not have reasonably have been asserted in the direct appellate review proceeding"

> "Likewise, a claim that petitioner's sexual abuse charges were treated as strict liability offense" could and should have been asserted in the trial court and raised on direct appeal and was not properly raised in the PCR review." Cs.No.6:18-cv-01973-JR

Recently on State Habeas Corpus Petition, Judge Bureta dismissed the case based on defendant's defense-"Defendant is correct that habeas cases may not be used as an alternative to appellate or post-conviction proceedings. Citing Allen v Maass 124 Or. App 195 (1993)

Alleging double jeopardy and no jury poll claim on habeas corpus against trial Judges findings and for which are not findings of an offense category of prior convictions under the sentencing statute Ors.§ 137.123(2). The issue of petitioner's petition for state writ of habeas corpus denied as not being the correct vehicle for challenging convictions and is a statement of law hereto directing the petitioner to return to a post-conviction procedure that of which his claims are time barred and previously dismissed.

The holding of the Marion County Circuit Court in Salem, Oregon also ensures with misstatement of law that habeas law precludes any challenges to illegal extradition and false arrest, and false imprisonment claims, no jury poll claim, in light of the fact that petitioners' claims have been exhausted and are untimely beyond the statute of limitations for post-conviction review. See Ch.16 § Habeas Corpus law of Oregon,

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A renewed summary of judgment or defendant's motion to deny petition for writ of Habeas Corpus meets the same fate for granting the defendants motion to deny, on the same ground's mis-reliance, in the context of the litigation for second or successive petition for post-conviction remedy on the quoted holdings The habeas corpus law is that, according to the defendant that:

"A petition for post-conviction relief is the sole method for collaterally challenging the lawfulness of a criminal conviction and sentence."

A vacated judgment on the denial has been ordered and summary of facts is incorporated here in reference, and is attached as Appendix

Recently petitioner filed a petition for Writ of Habeas Corpus in Santos Cuevas v Brandon Kelly cs.No.25CV29554 (Judge Jodie Bureta-letter of dismissal of 6-10-2025) Upon subsequent petitioner's motions Order of Denying petition was later vacated by presiding judge Tracy Prall., on 9-08-2025

Reasons For Granting The Writ

In Coleman v. Thompson, 501 U.S. 722, 111 S.Ct. 2546, 115 L.Ed.2d 640 (1991) (presumption that state court decision was based on federal grounds did not apply to dismissal of petitioner's state court appeal,

Equal privileges and Immunities clause of Due process federal law, is to ensure a state sovereign, in union with the states. Equal protection of the law in union with this court and the states required. This court would not suggest that Oregon may not be an inferior court and make unreasonable applications ofc federal law.

See 28§2254 Habeas Corpus and case law support of this court.

The defaulted clams in this case and failure to correct by ineffective assistance of counsel attributable to the state procedure and rulings ensures that there is no appeal. Review is necessary.

In Crotsley, the defendant threatened a 14-year old girl with a knife and forced her to engage in sexual acts. 308 Or. at 275, 779 P.2d 600. The defendant was charged with first-degree rape and first-degree sodomy because he used forcible compulsion. Id. The defendant also was charged with third-degree rape and third-degree sodomy because his victim was less than 16 years of age. Id. State v. Crotsley, 308 Or. 272, 278, 779 P.2d 600 (1989)

This Court should update the laws set for aid of jurisdiction allow the Apprendi rule and lesser included offense doctrine to apply, in the public legal interest in dismissing the indictment in tis case. The double jeopardy violations in this case draws into question all the applications of federal laws of due process.

The Kotteakos standard is better tailored to the nature and purpose of collateral review than the Chapman standard, and is more likely to promote the considerations underlying this Court's recent habeas jurisprudence.
Brecht v. Abrahamson 507 U.S. 619, (1993)

Public Legal Interest is the Exception and in the presumption of innocence considered for a jury poll requirement and correcting improper harmless error reviews. See State of Oregon v Santos Cuevas 263 Or.App. 94, 326 P.3d 1242, 2014 And likewise draws into question Ors.137.123(1-5) Judicial findings avowed in the published opinion, converts the proceeding to a bench trial, impermissible findings of 'victim harm' under Apprendi supra, and See Barnes v. United States 8212 5443, 412 U.S. 837, 93 S.Ct. 2357, 37 L.Ed.2d 380 (1973)
Prosecution in this case state law that allowed uncorroborated accounts by a purported eye witness should not have been admissible and lacked indicia of truthfulness or reliability and is not a firmly rooted hearsay exception or rule at all,

see Crawford v Washington 541 U.S. 36, 124 S.Ct. 1354, 158 L.Ed.2d 177, (2004)

And in turn Abuse of court discretion in the courts decision not allowing a state witness to be cross examined as result of the rules that all uncorroborated statements are permissible, 2008 District attorney Erin Landis issued a statement that the 2007 interview of S was not prosecutable against the petitioner.

This State witness district attorney was not allowed on quashed subpoena to be called as a witness to be discredited, to be cross-examined on disregarded of uncorroborated purported eye witness account of k allegation of her sibling being sexually abused. And innocence claims of innocence that should have at best attack the prosecution on Brady v Maryland violations statements from a non other than the ex-wife Sherri of 'used condoms in the attic' till this day is uncorroborated and never produced. The Carrier standard is applicable for new evidence innocence claims that Oregon's post-conviction proceedings are not settled law. See Carrier v Murray 477 U.S. 478, 106 S.Ct. 263 991 L.Ed.2d 397, 1989

Post-conviction collateral review was made mandatory by this court, Martinez v Ryan 566 U.S 1, 2012 and precluded any remedy, and ineffective counsel representation was not allowed claim at second post-conviction hearing to excuse defaulted claims by initial post-conviction attorney.

Ineffective assistance of counsel is attributable to the State of Oregon.

Public Legal Interest is the Exception and in the presumption of innocence considered for a jury poll requirement.

Lack of a governor's warrant instead a bench warrant claims of false arrest and false imprisonment is drawn into question and Interstates Extradition Act is drawn into question; in light of video statements, uncorroborated alleged victims account of alleged witnessed a third party-sibling being sexually abused, admissibility under state law violated fourth amendment false arrest and warranted further investigation could have discovered that k was interviewed in 2006 found missing, and petitioner was not a suspect for any sexual abuse, established treasonable doubt. In 2008 District attorney Erin Landis issued a statement that the 2007 interview of S was not prosecutable against the petitioner. This State witness district attorney was not allowed on quashed subpoena to be called as a witness to be discredited, to be cross-examined on disregarded of uncorroborated purported eye witness account of k allegation of her sibling being sexually abused. Motion was denied violated petitioners right to cross examination, under Due process, and sixth amendment right to confrontation, and compulsory process. Court of Appeals ruling on trial court allowing former state employee testimony and experience on child abuse being non-scientific and omission of any forcible compulsion and state law is drawn into question.

"Hansen's testimony thus did not draw its convincing force from some principle of science. See also Rambo, 250 Or.App. at 195, 279 P.3d 361 (holding that trial court did not err in admitting testimony that drew its force from training and experience rather than "the mantle of science"). The trial court did not err by admitting her testimony. State v. Cuevas, 326 P.3d 1242,[326 P.3d 1253, 263 Or.App. 94 (Or. App. 2014)

Federal law principles of 403 of Fed. Proc. The evidentiary errors resulting from prejudicial application of prior conviction offense penalty to each indicted count is drawn into question;

State law hearsay rules were drawn into question for admissibly, was ruled to be excluded , later was allowed to show state of mind of the officer his reason not to pursue any further investigation. Oregon evidence code, 801, 803 and Ors.107.705. **Judge ruled that Ors.107.705 did not apply. Pg. 60 of tr trpt-**

"THE COURT-" Because as defined in 107.705 or 419B.005 so we need to look to see if it falls within this .ORS.107.705 defines abuse as " the occurrence of one or more of the following between family members: attempting to cause or knowingly recklessly causing bodily injury, imminent bodily injury, or placement in a fear of bodily injury; causing another to engage in in voluntary

sexual relations y force or threat of force." COURT –"So those don't apply."

"the heavy burden of persuading the court that changes in society or in the law Dictate that the values served by stare decisis yield in favor of a greater objective" Vasquez v Hillary 474 U.S at 266 106 S.Ct. at 625, 1986

And that objective was the State of Oregon, reliance with the Public legal interest on Oregon v Ice is necessary and allowing review.

This court has not shown how would the double jeopardy protection applies against the states with multiple victims on joinder offenses and an indictment that fails to allege locations, in the circumstances of avoiding a Federal jury issue on the degrees of crimes alleged alleged and would a narrower window of time is required among the issue addressed. And neither has ever shown how specific and definite an indictment is required. Nor have considered that expert testimony must involve training in 'forcible compulsion.'

Sufficiency of Indictment and for dismissal under Valentine v Konteh 395 F.3d 626 6th circuit (2005) and Russell v United States 369 U.S. 749, 8 L Ed 2d 240, 82 Sct. 1038 (1962 is drawn into question

Gerber "–[I]s that reconstitution my client's criminal history and enhancing him up on the gridline violates double jeopardy in that he's being tried twice for the same crime" trial tr. 781

Susan Gerber –" And we've obviously made our objection----"

Trial Tr.107

Trial counsel Susan Gerber "Your honor, against both alleged victims------they've alleged a 1995-2002 window with no specificity as to location, with no specificity as to time period, how does he protect himself against double jeopardy?

So there is simply no reason why the Court shouldn't make the State be more specific when Mr. Cuevas's rights to due process and protecting him from double jeopardy exists in this case. Tr 109

The denial of Equal privileges and Immunities access to the laws of this court is in the following:

The lack of differentiation for each alleged conduct for locations was not alleged for three different residences resulting the illegality of this imprisonment, incarceration, or restraint has not been adjudged previously by any prior writ of habeas corpus, state trial court denied 'motion to make more definite and certain' under Valentine v Konteh 395 F.3d 626 6th circuit (2005) and Russell v United States 369 U.S. 749, 8 L Ed 2d 240, 82 Sct. 1038 (1962) and both the basis and the sentencing procedure affected the substantial rights of the petitioner and contributed to the verdict, bypassing a jury poll and nullification in the opinions allowing the states to re-classify and redefine the from indicted convictions to be sentenced for prior conviction sentence increase.

There is no jurisdictional bar to consideration of challenges to multiple convictions, even though concurrent sentences were imposed. (Trial tr 772-778 findings of 'distinct victim harm, and to each different locations specific addresses, that were not alleged.) and the concept of merger are at issue for basis and taint.

This argument was preserved in objection and indictment was legally not sufficient Matters of controversy

A misstatement of law and procedure an avowed redefining the elements of a cognizable defined crime "that constitute different crimes, characterizing them as factors that bear solely on the extent of punishment." Mullnaey v Wilbur 421 U.S. 684, 698, (1975)

The Supreme Court, Justice Powell, held that: (1) the Eighth Amendment prohibits not only barbaric punishments, but also sentences that are disproportionate see Solem v. Helm, 463 U.S. 277, 103 S.Ct. 3001, 77 L.Ed.2d 637 (1983),

The avowed jury verdict that is not taken from any jury poll violates Ramos v Louisiana, omitted 2020 this Court expressed that no juror's vote shall be of a legal nullity.

And previously held that-

" Article I, section 10, of the United States Constitution, provides, in part, "No state shall * * * pass any * * * ex post facto Law[.]" Miller v. Florida, 482 U.S. 423, 107 S.Ct. 2446, 96 L.Ed.2d 351 (1987)

Double jeopardy

Oregon subsequently made the unanimity rule retroactive, Patchell v. State, 325 Or.App. 395, A175815 (Or. App. Apr 19, 2023) To this day an error of law found by an appellate court has not been identified by a post-conviction court for remedy, on no jury poll issue.

Ineffective assistance of counsel is drawn into question on double jeopardy and the direct appeal review and Supreme Court representation failed to challenge no jury poll claim.

Furthermore, this petition for Writ of Habeas Corpus would aid the appellate jurisdiction of this court, in light of effective assistance of counsel requirement in this case is alleged for the initial post-conviction collateral review and for any meaningful legal interest to protect any bill of rights of the United States constitution deprived to a defendant at trial. see Gideon v. Wainwright, 372 U.S. 335, 83 S.Ct. 792, 9 L.Ed.2d 799 (1963)

At least Maine and Florida do not follow unanimity rule since the Ramos decision.

Conclusion

No disruption when outweighed by the public legal interest that the jury unanimity is an enumerated constitutional right and was denied in this case. And replaced by a sentencing statute. Prior conviction sentencing to all indicted counts, is a jury nullity.

Public interest under misstatements of law with first amendment infringements and all described to update these practices and where a lower court agreed that the indictment denied Valentine his due process rights and violated double jeopardy and counts were undifferentiated Valentine v Konteh, supra id at 630 and for all the reasons explained all procedural should be corrected and restored to Oregon, dismissal of indictment is only fair, and for justice under the law to do the same.

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Respectfully,

Santos Cuevas

10/16/2025