

Date: February 2, 2022
To: Senate Judiciary Committee
From: **Oregon Jews for Justice**
Re: Support SB 1511: Addressing fair trials for non-unanimous jury verdicts

Chair Prozanski, Vice-Chair Thatcher, and Members of the Committee:

We write as a coalition of Jewish people, Oregon Jews for Justice, to support SB 1511. As Jews, we feel an intimate and unsettling tie with non-unanimous jury law. As has been well documented, it was originally introduced and passed on a wave of racism, xenophobia, and antisemitism. It was designed with a chilling intention to discredit and neutralize voices who were seen as Other, and it has been effective in its impact. Now, in the current moment of racial reckoning and amid the rising incidences of antisemitism across the United States, **we as Jews share a particular interest in dismantling the vestiges of these antisemitic and racist policies.**

We are outraged by the effects of nearly 90 years of injustice wrought by non-unanimous jury convictions. Those injustices did not end when the U.S. Supreme Court overturned the law in the 2020 *Ramos v. Louisiana* decision. It is estimated that **250** Oregonians convicted by non-unanimous juries remain in prison, and many others have been released but continue to face ongoing limitations on rights and freedom which accompany felony convictions. The Supreme Court deemed these convictions discriminatory and unconstitutional, products of an explicitly racist practice. Justice Gorsuch has noted that Oregon's non-unanimous jury rule "can be traced to the rise of the Ku Klux Klan," and that "while it's hard to say why these laws persist, their origins are clear." Justice Kavanaugh stated that the rule's origins are "rooted in racism, in a desire to diminish the voices of Black jurors."

Today, there are hundreds of people sitting in prison even though at least ONE of their jurors voted "not guilty." Look closer and see that Black people are only 2.2 percent of the state population but are estimated to comprise 18 percent of those convicted by non-unanimous juries.

While accurate numbers of people convicted by non-unanimous juries are hard to determine given that verdicts were seldom recorded in Oregon (another way to keep this racist system intact), it is clear that our numbers are far fewer than Louisiana, the only other state in the country to share this particular shame with us. In Louisiana, New Orleans Parish alone has more substantiated cases affected by *Ramos* than the best

estimates of the entire state of Oregon. However, **unlike Oregon, New Orleans Parish is proceeding with retroactivity in these cases, elevating the interest of justice over that of efficiency.** Denying retroactivity out of a fear that the system will struggle to manage these cases effectively constitutes an active choice to privilege the interests of the judicial system over those of the people whose rights that system is supposed to protect. It is, in the words of the Human Rights Watch, an act of “arbitrarily deciding that some people’s rights are too burdensome to honor.”

We urged fellow Jew, Attorney General Ellen Rosenblum, to take action on this issue. We reached out to her during one of the most important holidays for us, Yom Kippur, the Day of Atonement. Here is what we wrote to the Attorney General:

Our Jewish tradition is one of accountable action. Once a year on Yom Kippur, we collectively recite and account for our wrongdoings. We take careful stock of our conduct, we name the places where we have failed, and we commit ourselves to the hard work of changing our conduct in the future. Jewish tradition teaches that simply admitting the wrong and asking forgiveness is insufficient; we must do the work to account for our behavior and choose to behave differently in the future. *Ramos* has made it clear where the wrongdoing has occurred; it was in our state’s legacy of antisemitism and racism, borne out through 86 years of discriminatory and unconstitutional jury decisions. **You have an opportunity to lead in enacting *t’shuvah* and *tikkun*, return and repair, by taking the steps to dismantle the legacy of that 86-year harm.**

With SB 1511, you now have that opportunity. Oregon’s history of non-unanimous juries rests without question on explicitly racist, xenophobic, and antisemitic foundations. While the policy has been struck down, its legacy lives on in the convictions and daily injustices of those Oregonians unjustly convicted. It is in your power to choose justice and accountable action by stipulating to retroactivity in those cases of known non-unanimous jury convictions. **We urge you to bring justice to the victims of Oregon’s hateful legacy of non-unanimous jury law by supporting SB 1511.**

Oregon Jews for Justice Coalition

The Alberta Shul

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Egalitarian Traditional Minyan

Havurah Shalom

Or haGan

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**Shir Tikvah
P'nai Or of Portland
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