My name is Joshua Marquis and I have practiced law in Oregon for 40 years. Since you heard from Prof Kaplan for far more than 5 minutes I'd ask for 1 or 2 extra minutes

Professor Kaplan and her team can cite statistics about what proportion of current defendants in the appeals process are of different races and colors, but it is only by false implication that they can claim WRONGFUL conviction because of that practice. In fact, Oregon has NOT had higher rates of convictions than other states in the last century, because the fact is that allowing jurors to either acquit or convict on 10 to 2 has only reduced the number of hung juries, NOT the number of convictions.

Implicit in the testimony you have been given, predominantly by lawyer, like Kaplan and her former students who have almost zero actual experience trying cases as either defense lawyers or prosecutors, is that a non-unanimous jury must inherently be an unjust verdict, and according to the felons whose statements were provided, they assert their innocence after even decades in prison - should be expect anything else?

Totally absent in this Devil's Arithmetic is any calculus of whether justice was meted out by jurors working hard to be fair and jury, judges who seek to ensure that the rights of both defendants and victims are protected and the diligent work of prosecutors to seek justice, and defense attorneys to engage in zealous defense of their client.

In 1880 the state of Louisiana was involved in an effort to repeal Reconstruction, the Republican party backed democratization of the south after the Civil War. In a series of vicious and violent attacks, many newly elected Black public officials and slavery opponents were deposed from office, often by violent and murderous means. In 1880 Louisiana passed non unanimous verdicts for all crimes, and since the Black population was over 45% of the state, it had a major racial effect.

Oregon, by contrast, currently has a 2.2 percent Black population and in 1930, four years before voters overwhelmingly passed the law that allowed non-unanimous verdicts (both guilty AND not guilty) Oregon's Black population was about one quarter of one percent of the population.

To claim that Oregon voters, who had just elected the state's first Jewish, and Independent Governor, Julius Meier, and it was during his administration that Measure 301 was overwhelmingly passed by the same voters who elected Meier, is absurd.

Without a history of institutional racism in Oregon legal history, the question must arise; why would Oregon want to grant rights to people who have been lawfully convicted of the most

vile crimes - murder, rape, child abuse, and who have lost many layers of state and federal appeals, all because the law has for almost a century allowed jurors to make decisions with a minimum of 10 votes. What you are not hearing is ANY evidence that convictions were in fact MORE common in Oregon when our state had non-unanimous verdicts, and Oregon allowed felony decisions of either guilty or not guilty based on a 10 to 2 or 11 to 1 vote? There is not a shred of evidence that innocent people have been convicted at a rate any different than neighboring states with unanimous verdicts.

In one of the letters, signed by what looks like a list of attorneys, they say " The excitement and hope that surrounded the Ramos decision was crushed by the United States Supreme Court's ruling in Edwards v. Vannoy, which refused to apply Ramos retroactively,"

The excitement and hope of WHO? Not the child who was beaten, not the woman who was raped, not the man who is now in a wheelchair, not the overwhelming majority of Oregon voters that 90 years ago passed Measure 301 and just 20- years ago reaffirmed their support for mandatory prison sentences for the most serious violent felonies.

I implore you not to make what will be a tragic error, a bill which, as drafted, will invalidate literally many thousands of the most serious convictions. What will you tell the woman who discovers that the man who raped her is not, once again, coaching softball, the same place he met her when she was 14? You may think that is hypothetical, but it is not. Not long after I was first elected DA in Astoria in 1994 a woman came into the DA's office in tears. She had been sexually molested by her softball coach when she was a teenager and he had gone to prison. She was told he would never again be allowed to exploit or even be around children, so 5 years later when she walked onto a softball field in Lents in Portland, she was shocked to see him again coaching softball. She went to the League organizers and through tears told them what this man had been convicted of. The Little League contacted the Portland Police, who had run records checks for the league. They ran a check and found nothing, so they told the League the woman must be crazy.

In desperation she came to the DAs office, where years earlier she had testified.

It turned out that a lazy Deputy DA and an even lazier judge had gone ahead and allowed expungement of a Rape charge, which under Oregon law can never be erased. But the judge sealed the file and that obliterated the charge and the verdict and would have forever if that young woman had not spoken up.

Now imagine that scenario played out, expect this hundreds of times in every county in Oregon. Most of the prosecutors, long since moved on, have literally NO record in the courts whether a verdict was unanimous or not. Some DA's keep log sheets where the prosecutors write down the verdict - I did for 35 years, but that slip of paper rarely survived two generations of scanning, purging, and computerization.

As written this bill, SB 1511 (which on its face seem s to apply only to the very rare verdict of "guilty but insane") would place the thinnest possible burden on the convicted felon. All a convicted multiple rapist who went to prison first in 1994 and then again in 2002 for different sexual assaults would have to do is fill out an affidavit claiming he remembered the judge saying it was an 11 to 1 verdict. That will then shift the burden to the prosecutor, who likely will have left years earlier, leaving only anecdotal records, at best.

Since nobody was ever required to note unanimous vs. non-unanimous verdicts, there will be no way for an ethical DA to supply an affidavit saying "no that verdict was unanimous," and then it is all over. The court will grant Post Conviction Relief, the crimes will be wiped away, as if the past never happened, and any restrictions on the now former felon from becoming a teacher or owning a gun will vanish as surely as their record.

That is nothing approaching justice, and if you examine the written and oral testimony of this bill's advocates you will see not a single word seeking justice for anyone but the lawfully convicted criminal.

Can you pass this bill - legally? Yes, you can.

Should you?

Absolutely not.

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