



OCVLC NEWSLETTER



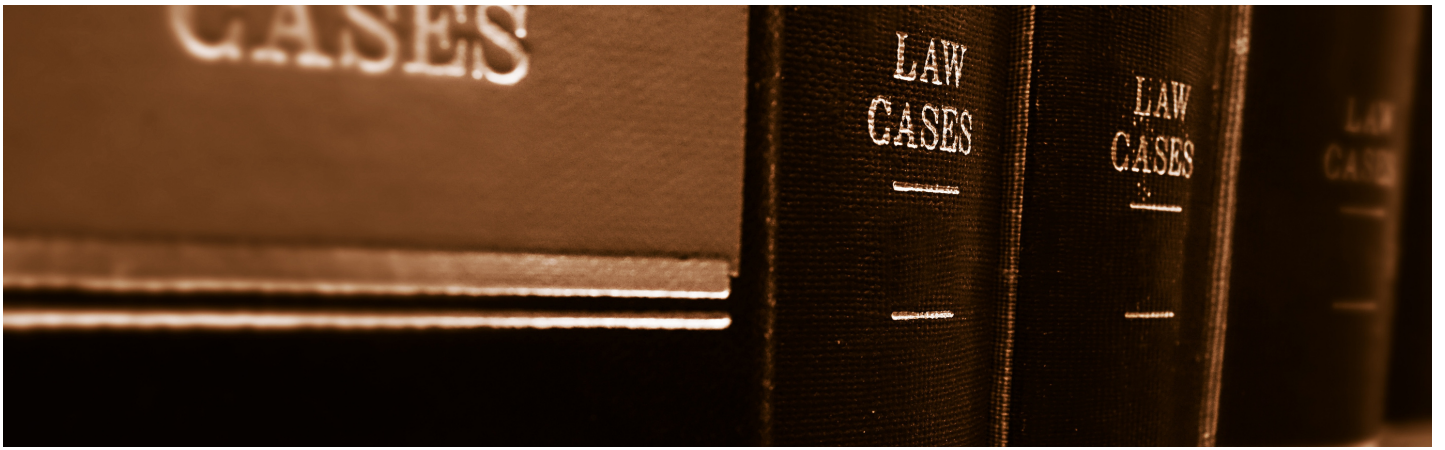
From the Executive Director

By Rosemary Brewer

The recent beautiful weather we've been having, the flowers and trees blooming, and the availability of vaccines seems to have created a more hopeful environment lately, and at OCVLC we are appreciative! We are all still working remotely, but weekly staff meetings via Zoom, frequent phone calls and chats, and regular check-ins have kept us all working collaboratively and effectively for our clients. While we all look forward to being able to have our staff meetings in person, I am grateful to be working with such a flexible and committed group of people.

Last week we held our Annual Hardy Myers Award Presentation and Fundraiser online. Meg Garvin, the amazing Executive Director and Law Professor at the National Crime Victims Law Institute at Lewis & Clark Law School, was our honoree, and I can't think of a more deserving recipient of the award. Meg is remarkably accomplished and has done incredible work on behalf of victims across the country, but she is always willing to listen and provide input when I call looking for help. We are lucky to know her.

Our attorneys have stayed busy this last quarter, and as courts are beginning to slowly schedule more cases, our call volume has increased. We've been in courts around the state, both in person and remotely, and continue to work to make sure that victims' rights are being honored despite the current challenges. We've also presented a number of trainings recently, hopefully advancing the cause of victims' rights with others! We look forward to being able to meet with our clients in person again and to being together as a team.



Reflecting on *Ramos*

By Emily La Brecque

“Then and now, non-unanimous juries can silence the voices and negate the votes of black jurors, especially in cases with black defendants or black victims, and only one or two black jurors. The 10 jurors “can simply ignore the views of their fellow panel members of a different race or class.” *Louisiana v. Ramos*, 140 S. Ct. 1390 (2020) citing *Johnson v. Louisiana*, 92 S. Ct. 1620 (1972)

As of January 1, 2019, Oregon was the last state in the United States in which a defendant could be convicted by a non-unanimous jury. Previously Oregon had shared this legal standard with only Louisiana, which amended its constitution to require unanimous jury verdicts in 2018. The amendment was not retroactive. The measure for a similar constitutional amendment failed to pass in the Oregon Senate in 2019, and Oregon law continued to allow felony convictions by a 10-12 jury.

On April 20, 2020, the U.S. Supreme Court held in *Ramos v. Louisiana*, that the Constitution requires unanimous jury verdicts in state criminal trials. The decision overturned the Louisiana conviction of Evangelisto Ramos, who was convicted by a 10-2 jury verdict prior to the change to Louisiana’s Constitution. Ramos argued that his non-unanimous conviction violated his Sixth Amendment rights. The Court agreed, and held that the Sixth Amendment’s unanimous jury requirement is fully incorporated against the states. The majority opinion held that *Apodaca v. Oregon* should be overturned and that the laws of the Louisiana and Oregon were Jim Crow-era enactments rooted in racism, intended to undermine minority participation in the judicial process.

In *State v. Ramos*, 367 Ore. 292 (2020), the Oregon Supreme Court affirmed in part and reversed in part the conviction on Isidro Flores Ramos and remanded the case to the circuit court for further proceedings. Flores Ramos was tried by jury in Oregon on five felony counts. The jury returned a unanimous verdict on all counts but one. The Oregon Supreme Court in *State v. Ramos* applied *Louisiana v. Ramos* in its holding that the non-unanimous conviction on one count was in violation of the Sixth Amendment, and therefore in error. Further, the Court held that conviction by a non-unanimous jury qualifies as plain error, which is subject to reversal even in instances where the error was not properly preserved for appeal.

The *State v. Ramos* Court went on to hold that the four counts in which Flores Ramos was convicted by a unanimous jury would not be overturned because although the jury instruction allowing for a non-unanimous jury verdict was in violation of his Sixth Amendment rights, the jury’s return of a unanimous jury verdict rendered the error harmless. In support of this finding the Court wrote, “[t]he abstract possibility of an effect on deliberation was insufficient to preclude the finding of harmlessness beyond a reasonable doubt and indicate that only a direct effect on the verdict would suffice to require reversal.” As a result criminal convictions based on unanimous jury convictions will not be overturned under *Ramos*, regardless of whether the jury was instructed that a conviction could be based on a less than unanimous verdict.

The Courts in *Louisiana v. Ramos* and *State v. Ramos* Court did not address the impact these cases will have to cases not on direct appeal at the time of the holdings.

Post-Conviction Rights for Victims

By Tirzah Stanley



Crime victims in Oregon have rights even after an adult or juvenile offender has been convicted of a crime and sentenced. Victims can continue to receive notifications of events post-conviction, including motions being filed, hearings, and releases, but victims must update the supervising authority with their address to receive notification. Victims should discuss with the prosecutor, victim advocate, or victims' rights attorney how to assert these rights.

A victim has the right to receive **prompt restitution** from the offender who caused the victim's loss or injury. (Oregon's statute provides that victims may receive "full restitution," but the Constitution only provides for "prompt" restitution.) The statute requires the prosecuting attorney to investigate the crime-related loss and present evidence to the court the nature of and amount of the damages. Although this right is automatic, it is important for the victim to be in communication with the prosecuting attorney throughout this process and assist in providing evidence as to the amount requested.

An offender may file a motion to expunge, set aside, vacate, or dismiss a conviction. The prosecutor must **notify** the victim that the motion has been filed, the motion's hearing date, and provide the victim with a copy of the offender's motion. The prosecutor will use the victim's last-known address to notify the victim. The victim has the **right to be heard** at the hearing.

Victims have the right to have **access to sex offender information**, including updates on the prison status, release information, parole status and any other information authorized for release regarding the person who committed the crime against the victim.

Victims have the **right to protection** at Parole Board hearings, PSRB hearings, and other post-conviction proceedings.

Victims have the right to be **notified of and to speak at juvenile sex offender registration determination hearings**. The prosecutor shall notify the victim prior to the hearing of the right to appear and the right to be heard.

Victims have the right to receive **notification of an offender's post-conviction relief petition**. It's important for victims to keep their address updated with the prosecutor's office to receive notification of a PCR petition or request for post-conviction DNA testing.

Victims of a sex offense who were under 18 years old at the time of the crime, can specifically **request the offender not live within 3 miles of the victim**, with certain geographical limitations.

Victims have the right to have their **schedule taken into consideration** when choosing dates for hearings.

When an adult offender is found guilty except for insanity and the victim wishes to be notified, the PSRB will then be required to **provide the victim with advanced notice of any hearing** regarding the offender.

A victim has the **right to be notified by the prosecutor, to personally appear, and make a statement to the court at any hearing that may result in a probation revocation**. The victim must keep the probation department updated with their most current contact information.

**Thank you
to all who participated in the
2021 Hardy Myers Presentation and Fundraiser.**

**Congratulations to the
2021 Hardy Myers Victim Advocacy Award winner,
Meg Garvin, Executive Director and Law Professor,
National Crime Victim Law Institute
at Lewis and Clark Law School.**

**With your support, OCVLC raised over \$57,000 and
will help OCVLC continue to ensure victims' rights
are honored and protected in Oregon.**

**We appreciate your patience as the pandemic forced
the postponement and the cancellation of the
dinner in 2020. We hope to gather in
person in 2022!**

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Introducing OCVLC's Newest Attorney

Sydney Trimble



Sydney Trimble is a staff attorney with Oregon Crime Victims Law Center. She represents clients in contested restraining order cases and helps victims of crime assert their rights. Before joining OCVLC, Sydney worked in a medium sized civil litigation firm practicing insurance defense.

During law school, Sydney focused her coursework and experiential learning on criminal law. Her externship experiences include serving as a judicial clerk for the Honorable Charles M. Zennache, participating in the Prosecution Clinic with the Lane County District Attorney's Office, and spending a year handling Violation of Restraining Order cases in the Domestic Violence Unit of the Multnomah County District Attorney's Office.

Sydney earned a Bachelor's of Science in Marketing and Communication from the University of Utah in 2017 and graduated from the University Of Oregon School Of Law with her JD in 2020.





Highlights from OCVLC's recent work

By Vicky Radenkova

OCVLC attorneys work with victims across the state and provide legal representation in cases involving both juvenile and adult victims. This past quarter OCVLC attorneys assisted in matters such as providing legal representation in criminal prosecution cases and protective order cases to advocate on behalf of the victims. Below is a look back on some of the case OCVLC's attorneys worked on during this past quarter:

An OCVLC attorney represented a minor victim in a probation violation case. The probation violation hearing had several continuances. The minor victim wished to have her schedule considered at each continuance, so she could be present at every hearing. An OCVLC attorney assisted the minor victim with preparing her statement for the court. The attorney also asserted the minor victim's right to be heard at the probation violation hearing. At the hearing, despite an objection by opposing counsel, the minor victim's voice was heard, and her statement considered. The judge determined the offender violated his probation and sentenced him to prison.

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An OCVLC attorney represented a mother, who was a victim of domestic violence, at a modification of a restraining order hearing after the father of the child requested to modify the custody and parenting time conditions of the order. After a hearing, the modification was denied and the mother retained custody because of safety concerns for the mother and the child.

OCVLC provided representation to the family of a minor victim killed by a juvenile offender. OCVLC represented the family in both the juvenile delinquency case and the criminal case of the juvenile offender's parent. Representation in these matters lasted for more than a year, and during that time OCVLC was able to ensure that the family received information and communicated with the DA's office about the case, was heard at release hearings and the sentencing and dispositional hearings, and was awarded restitution for lost wages and funeral expenses.

An OCVLC attorney assisted a client who left an abusive relationship and filed a restraining order to protect herself. After the offender contested the restraining order, the OCVLC attorney represented the victim in the contested hearing. The hearing involved calling several witnesses, pictures of the physical injuries caused by the offender, and court certified documents from an ongoing criminal strangulation case involving the same victim and offender. The client's restraining order was ultimately upheld by the court and a few months later, the offender plead guilty in the criminal case as well.