

# SUPREME COURT

## Media Release



---

**COPIES:**

Copies of the orders may be obtained from the Appellate Records Section, (503) 986-5555

**Contact:**

Stephen P. Armitage  
Staff Attorney

stephen.p.armitage@ojd.state.or.us

---

On September 16, 2022, the Supreme Court:

**1. Allowed petitions for review in<sup>1</sup>:**

*State of Oregon v. Jonathan A. Blackburn*, 319 Or App 121, 507 P3d 274 (2022)  
(A173200) (S069516) (on review from the Lincoln County Circuit Court)

Defendant, Jonathan A. Blackburn, has been granted review of a Court of Appeals decision that affirmed without opinion his convictions and sentences for the following first-degree crimes: rape, sodomy, unlawful sexual penetration, sexual abuse, attempted rape, and burglary.

On review, the issues are:

- (1) Under the proportionality clause of Article I, section 16, of the Oregon Constitution, may a trial court consider the aggregate sentence imposed upon a defendant?
- (2) Under the Eighth Amendment to the United States Constitution, may a trial court consider the aggregate sentence imposed upon a defendant in a proportionality analysis?

---

<sup>1</sup> These summaries of cases are prepared for the benefit of members of the media to assist them in reporting the court's activities to the public. Parties and practitioners should not rely on the summaries, or the statement of issues to be decided in the summaries, as indicating the questions that the Supreme Court will consider. Regarding the questions that the Supreme Court may consider, see Oregon Rule of Appellate Procedure 9.20.

- (3) Is a 75-year aggregate sentence a *de facto* life sentence that is constitutionally disproportionate as applied to a defendant with an IQ of between 63 and 71, and who was 17 years old when the offenses began?

*State of Oregon v. Raji Afife Azar*, 318 Or App 724, 509 P3d 668 (2022) (A170612) (S069578) (on review from the Multnomah County Circuit Court)

Defendant, Raji Afife Azar, has been granted review of a divided Court of Appeals decision that, among other things, affirmed the trial court's denial of his motion for judgment of acquittal on multiple counts of felony computer crime under ORS 164.377, for which he had been charged based on his repeated purchases of property that he believed to be stolen and subsequent online sale of that property, using a computer and the internet to do so.

On review, the issue is:

Does ORS 164.377(2)(c) apply to any theft that involves a computer, computer system, or computer network?

*State of Oregon v. Stephen Andrew Aranda*, 319 Or App 178, 509 P3d 152 (2022) (A171800) (S069641) (on review from the Lane County Circuit Court)

The State of Oregon has been granted review of a Court of Appeals decision that vacated defendant's conviction for first-degree rape and remanded for the trial court to conduct a balancing analysis under Oregon Evidence Code (OEC) 403 with respect to whether a prior conviction for first-degree sexual abuse should have been admitted for impeachment purposes under OEC 609(1)(a).

On review, the issue is:

Does the Due Process Clause of the United States Constitution require a trial court to engage in OEC 403 balancing before admitting evidence of a defendant's prior convictions under OEC 609?

*State of Oregon v. John Michael Haley*, 319 Or App 629, 511 P3d 440 (2022) (A173760) (A173761) (S069671) (on review from the Multnomah County Circuit Court)

The State of Oregon has been granted review of a Court of Appeals decision that, among other things, reversed defendant's conviction for second-degree burglary and remanded with instructions to enter a judgment of conviction for second-degree criminal trespass, instead.

On review, the issue is:

Is a private office a separate unit for purposes of the crime of second-degree burglary, when the burglary and criminal trespass statutes define "building," in ORS 164.205(1), to include the following: "Where a building consists of separate units, including, but not limited to, separate apartments, offices or rented rooms, each unit is, in addition to being a part of such building, a separate building."?

**2. Allowed the petition for review, vacated, and remanded in:**

*Linda Sue Hofer v. Oregon Health and Science University* (S069681) (A172328) (vacated the decision of the Court of Appeals and remanded to the Court of Appeals for reconsideration in light of *Lowell v. Medford School District*, 549C, 370 Or 79, \_\_\_ P3d \_\_\_ (2022))

**3. Denied the petition for reconsideration in:**

*Jeff Gist v. Zoan Management, Inc.* (S067992) (A159509)

**4. Denied petitions for review in:**

*Franklin David Roof v. Board of Parole and Post-Prison Supervision* (S069346) (A175140)

*State of Oregon v. Kevin Michael Ray* (S069579) (A173399)

*State of Oregon v. Zachariah Michael Meacham* (S069490) (A173682) (A173685)

*Nancy Johnston Kaser v. Public Employees Retirement System* (S069606) (A170559)

*Shaun Everett Lowry v. Garrett Laney* (S069607) (A171455) (Walters, CJ., and Duncan, J., would allow)

*State of Oregon v. David Edward Revette* (S069608) (A170972) (Flynn and

Duncan, JJ., would allow)  
*State of Oregon v. Dnay A. Lockhart* (S069627) (A167926) (A167927)  
*Joseph M. Lankford v. Brad Cain* (S069629) (A172913)  
*State of Oregon v. Robert Benbear Newkirk* (S069635) (A174096)  
*State of Oregon v. Kyle Jon Heward* (S069643) (A175225)  
*State of Oregon v. Karen Eve Donaldson* (S069646) (A174173) (Duncan, J. would allow)  
*Department of Human Services v. L. W.* (S069647) (A177119) (A177122)  
*Tasheema Thomas v. Dillon Family Limited Partnership II* (S069649) (A172292)  
*County of Linn v. State of Oregon* (S069650) (A173658)  
*Set Wai Aung v. Brad Cain* (S069662) (A172695) (Flynn and DeHoog, JJ., would allow)  
*State of Oregon v. Celina Alicia Candelaria* (S069683) (A174302)  
*David Lee Atkinson v. Board of Parole and Post-Prison Supervision* (S069689) (A166292)  
*Diane Wadiak Backus v. Alison M. Emerson* (S069708) (A173731)  
*State of Oregon v. Vincent Robert Gallagher, Jr.* (S069721) (A174744)  
*Department of Human Services v. J. H.* (S069727) (A177299)  
*Department of Human Services v. A. K.* (S069730) (A177533) (A177534)  
*State of Oregon v. Leroy James Ellis* (S069475) (A175179)

**5. Dismissed the petition for review in:**

*Sharon Neal v. Natalia Neal* (S069657) (A169261)

**6. Denied petitions for writs of mandamus in:**

*William Harvey Humphries v. Columbia Lutheran Charities* (S069677)  
*State ex rel Arnold R. Huskey v. Board of Parole and Post-Prison Supervision* (S069738)

**7. Dismissed the petition for writ of mandamus in:**

*De Lage Landen Financial Services, Inc. v. Oculus, Inc.* (S069679)