



# COURT OF APPEALS

## Media Release

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The Court of Appeals issued precedential opinions:

Ian Michael Williams v. Garrett Laney  
(A170928 - Marion County Circuit Court)  
State of Oregon v. Peter John Zielinski  
(A172304 - Marion County Circuit Court)  
State of Oregon v. Fred Scott Meyers  
(A174249 - Marion County Circuit Court)

The Court of Appeals issued these nonprecedential memorandum opinions:

Darrell Kelly Middlekauff v. Sue Washburn  
(A170635 - Umatilla County Circuit Court)  
State of Oregon v. David James Ray Rogers  
(A174274 - Lane County Circuit Court)  
State of Oregon v. Jeffrey Michael Moore  
(A174470 - Baker County Circuit Court)  
State of Oregon v. C. B. P.  
(A175036 - Malheur County Circuit Court)  
Department of Human Services v. C. S. C.  
(A177434 - Clackamas County Circuit Court)  
Department of Human Services v. J. M. O.  
(A177684 - Jackson County Circuit Court)

The Court of Appeals affirmed these cases without opinion:

State of Oregon v. Denver Esolde Galligo Evers  
(A174353 - Lane County Circuit Court)

John Francis Ross v. Brad Cain  
(A174627 - Malheur County Circuit Court)  
Andy Ngo v. Rose City Antifa  
(A175559 - Multnomah County Circuit Court)  
Douglas E. Bryson v. ESIS  
(A176515 - Workers' Compensation Board)  
Department of Human Services v. D. J. D.  
(A177470 - Jackson County Circuit Court)  
Department of Human Services v. D. J. D.  
(A177474 - Jackson County Circuit Court)  
Department of Human Services v. D. C. L.  
(A177738 - Marion County Circuit Court)

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**Ian Michael Williams v. Garrett Laney**

(Ortega, P. J.)

Petitioner appeals the denial of his petition for post-conviction relief concerning his convictions on one count each of second-degree sexual abuse, third-degree sexual abuse, and first-degree rape. He asserted numerous claims of inadequate assistance of counsel and prosecutorial misconduct. The post-conviction court found that petitioner had not established any of his claims. On appeal, petitioner renews his arguments from below. Specifically, he argues that his counsel failed to adequately object to or sufficiently remedy the use of the term "victim" at several points during trial. Held: The post-conviction court did not err. The trial court and both parties diligently policed the use of the term "victim" during trial; counsel brought the matter to the court's attention numerous times, and clarifications were offered to ensure that the jurors understood that they were to determine whether or not any of the complainants were "victims." Additionally, even if counsel's performance were to be considered deficient, petitioner did not carry his burden to prove prejudice. Affirmed.

**State of Oregon v. Peter John Zielinski**

(Kamins, J.)

Defendant appeals from a judgment of conviction for murder with a firearm for killing his wife. At trial, he did not deny shooting his wife, but presented a defense of extreme emotional disturbance. In his first eight assignments of error, defendant challenges the trial court's decision to admit various pieces of evidence regarding his marital relationship that the state presented to rebut that defense. In his ninth assignment of error, he challenges the trial court's decision to allow the state's cross-examination of his expert witness, Dr. Stanulis, on the details of the crimes for which the expert had been retained in the past. Held: The trial court erred when it allowed the state to cross-examine Dr. Stanulis about the specifics of the crimes his prior clients had committed. In order to be relevant for the purpose of establishing the expert's bias, the details of the crimes committed by Dr. Stanulis's prior clients would need to lead to a reasonable inference that he could not be impartial. Here, the state failed to lay a sufficient foundation to show that the proffered testimony was relevant as to the witness's credibility. That error was not harmless because defendant relied heavily on Dr. Stanulis's testimony, and the state emphasized the improper line of questioning in its rebuttal

argument to the jury. The Court of Appeals declined to address the evidentiary issues raised in defendant's first eight assignments of error, as a different, more complete record could develop on remand. Reversed and remanded.

**State of Oregon v. Fred Scott Meyers**

(Joyce, J.)

Defendant appeals from a judgment of conviction for driving under the influence of intoxicants (DUII) under ORS 813.011, which makes DUII a Class C felony if a person had been convicted of DUII at least two times in the 10 years before the date of the current offense. ORS 813.010(5)(a) also makes DUII a Class C felony if the current offense was committed in a motor vehicle and the defendant has been convicted of DUII at least three times in the prior 10 years. Defendant argues that ORS 813.010 and ORS 813.011 are unconstitutionally vague in violation of Article I, section 20, of the Oregon Constitution and the Due Process Clause of the Fourteenth Amendment to the United States Constitution because they fail to give fair warning as to whether a defendant's third DUII conviction is a misdemeanor or a felony and because the statutes give the prosecution "unfettered" charging power. Defendant also argues that he was treated differently from other similarly situated individuals, in violation of Article I, section 20. Held: The trial court did not err in ruling that neither ORS 813.010 nor ORS 813.011 is unconstitutionally vague under Article I, section 20, or the Due Process Clause. Defendant failed to preserve his claim that he was, in fact, treated differently than other similarly situated individuals. Affirmed.

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