
IN THE COURT OF APPEALS OF THE STATE OF OREGON

STATE OF OREGON,

Plaintiff-Respondent,
Petitioner on Review,

v.

KAYLAN MICHELLE WINN,

Defendant-Appellant,
Respondent on Review.

Marion County Circuit Court
Case No. 12C46360

CA A154313

SC S064263

BRIEF ON THE MERITS OF *AMICUS CURIAE*
OREGON JUSTICE RESOURCE CENTER

On Review of the Opinion of the Court of Appeals
On an appeal from a judgment of the Circuit Court for Marion County
Honorable Albin W. Norblad III, Judge

Court of Appeals Opinion filed: May 25, 2016
Author of Opinion: Judge Sercombe, P.J.

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BRIEF ON THE MERITS OF *AMICUS CURIAE* OREGON JUSTICE RESOURCE CENTER

INTRODUCTION

The Oregon Justice Resource Center (OJRC) is a non-profit organization founded in 2011. OJRC works to “dismantle systemic discrimination in the administration of justice by promoting civil rights and enhancing the quality of legal representation to traditionally underserved communities.” OJRC Mission Statement, www.ojrc.info/mission-statement. The OJRC Amicus Committee is comprised of Oregon attorneys from multiple disciplines.

Amicus is concerned with the preservation of the robust individual rights and liberties afforded by the Oregon Constitution. Ensuring the strength of those rights and liberties is critically important in the context of police-citizen encounters like the one in this case.¹ In such cases, police officer and citizen meet outside the presence of a judicial officer, who would ensure that constitutional limits proscribe the officer’s investigation. And no advocate is present to ensure that the investigation’s subject is fully aware of his or her rights—and fully confident in his or her entitlement to assert them.

¹ It is also important in the context of the police-citizen encounter in *State v. Blair*, 278 Or App 512, 380 P3d 313, *rev allowed*, 360 Or 400 (2016). *Blair* is consolidated with this case for oral argument and involves the same core issues.

In light of those circumstances, OJRC urges this court to accept defendant's proposed rule of law and urges the Court to affirm the Court of Appeals decision reversing the trial court's denial of defendant's motion to suppress. *State v. Winn*, 278 Or App 460, 375 P3d 539, *rev allowed*, 360 Or 400 (2016).

SUMMARY OF ARGUMENT

The OJRC agrees with defendant and the Court of Appeals that the security officer's search of defendant exceeded the scope of defendant's consent, in violation of Article I, Section 9, of the Oregon Constitution. *Amicus* further agrees that the state's proposed rule places an impermissible burden on the citizen to define or limit the scope of consent. Such a requirement fails to consider the inherently coercive nature of police-citizen encounters and the reality that most people would not feel they were free to limit their consent or stop a search once it has begun. Instead, a rule that requires the state to present affirmative evidence that a defendant reasonably understood their consent to permit a search of the specific place or thing at issue is consistent with the principle that underlies current Oregon Article I, section 9, jurisprudence—to protect a person's privacy right against governmental intrusion.

As demonstrated by the empirical data discussed below, the power dynamics at play in the average police-citizen encounter exert significant pressure over the individual and frequently deprive the individual of his or

her ability to determine dispassionately whether to protect his or her rights and to decline to cooperate with law enforcement. In short, the empirical data shows that in the average police-citizen encounter, an individual's consent to an officer's exercise of authority is a product of the social context in which that authority is exercised. Additionally, any rule crafted by this court will have an outsized impact on minority communities, as empirical data indicates that minority populations endure a disproportionately greater number of police stops and searches than majority populations. Those communities face unique pressures in the context of police-citizen encounters.

Amicus respectfully submits that, in crafting the rule that will govern this case and all others like it, the reality of the pressures that are brought to bear on individuals during police-citizen encounters, including the disproportionate impact on minorities, should guide this court in determining the scope of consent. In recognizing the ways in which individuals feel compelled to consent to police authority, this court can ensure the vindication of the individual rights guaranteed by this state's constitution.

ARGUMENT

Consent to search is an exception to the warrant requirement under Article I, section 9. *State v. Bonilla*, 358 Or 475, 480, 366 P3d 331 (2015). In determining whether consent permits a warrantless search, this court assesses the totality of the circumstances, including what a reasonable person would understand her consent (if any) to mean. *See State v. Unger*, 356 Or 59, 72, 333 P3d 1009 (2014) (applying a totality-of-the-circumstances test to determine the voluntariness of consent); *State v. Shaff*, 343 Or 639, 645, 175 P3d 454 (2007) (applying an objective test to determine whether circumstances are “compelling,” requiring *Miranda* warnings). *See also Florida v. Jimeno*, 500 US 248, 249, 111 S Ct 1801, 114 L Ed 2d 297 (1991) (applying an objective, totality-of-the-circumstances test to evaluate the scope of consent under the Fourth Amendment to the United States Constitution). Thus, the reasonable person’s understanding is the controlling factor in determining the scope of consent.

Significantly, consent is “perhaps *the* dominant” search exception to the warrant requirement. Joshua Dressler & Alan C. Michaels, *Understanding Criminal Procedure* 261 (2006). For example, between August 5, 2011, and December 31, 2011, the Portland Police Bureau conducted 24,998 motor vehicle stops, resulting in 1,192 searches, 58 percent of which were consent searches. Portland Police Bureau, *Stops Data Collection: The Portland Police*

Bureau's Response to the Criminal Justice Policy and Research Institute's Recommendations, 13-15 (Feb 13, 2014) available at

<http://www.portlandoregon.gov/police/article/481668>. Thus, the decision in this case will impact many. And it will disproportionately impact minority communities, because minorities are more likely to be asked to consent to police searches.²

² The majority of police stops are conducted on minorities. *Utah v. Strieff*, 136 S Ct 2056, 2070, 195 L Ed 2d 400 (2016) (J. Sotomayor, dissenting) (highlighting the disproportionate impact of suspicionless stops on minorities in a case assessing whether a warrant attenuated the connection between an unlawful stop and evidence seized); Tracey Maclin, *Black and Blue Encounters—Some Preliminary Thoughts about Fourth Amendment Seizures: Should Race Matter?*, 26 Val UL Rev 243 (1991). The federal Bureau of Justice Statistics found in a recent nationwide study that black drivers are stopped more frequently than white drivers and are more than twice as likely to be searched. Lynn Langton & Matthew Durose, *Special Report: Police Behavior During Traffic and Street Stops, 2011*, Bureau of Justice Statistics 9 (Sept 2013).

Oregon is no exception to the national trend. Oregon Criminal Justice Commission, *Racial and Ethnic Impact Statement Historical Data*, available at <https://www.oregon.gov/cjc/SAC/Documents/racialandethnic/Adult%20CJ%20System%20Racial%20and%20Ethnic%20Statement%20Background.pdf>. At each stage of the Multnomah County justice system—from initial contact through case prosecution—communities of color are represented at a greater rate than white communities. MacArthur Foundation Safety and Justice Challenge, *Multnomah County Racial & Ethnic Disparities and the Relative Rate Index Summary*, available at <https://multco.us/lpscc/macarthur-safety-and-justice-challenge>. For example, black adults are 5 percent of the general population in Multnomah County, but they are 27 percent of the Multnomah County Jail population. *Id.* A study of Portland Police Bureau stops shows that African-Americans make up 11.8 percent of all traffic stops and 22.1 percent of all pedestrian stops, but African-Americans comprise only 6.3 percent of the city's general population. See Sgt Greg Stewart & Emily Covelli, Portland Police Bureau, *Stops Data Collection: The Portland Police Bureau's Response*

If this court is to uphold Article I, section 9, rights for all citizens, the “reasonable person” must be, at minimum, an average person and not an outlier. At best, the analysis starts with the average person and includes consideration of personal and community circumstances and experiences. *See State v. Ehly*, 317 Or 66, 80, 854 P2d 421 (1993) (the test for whether an officer’s suspicion is reasonable is objective and considers the officer’s experiences and circumstances).

The state’s proposed rule in this case presumes that a reasonable person believes her consent is extensive unless explicitly or implicitly limited. That rule requires this court to accept the premises that a reasonable person believes she can decline to consent, understands the broad scope of her consent, and believes that she can limit the scope even once an officer begins to search. Social science indicates that those premises are false. Therefore, this court should adopt defendant’s proposed rule that a reasonable person believes her consent is limited unless broadened. *See State v. Brooke*, 276 Or App 885, 892,

to the Criminal Justice Policy and Research Institute’s Recommendations, at 11, 15-17, 29 (2014). In general and consistent with the national data, African-Americans in Oregon are more likely to be stopped and searched by police, and are more likely than whites to give consent to searches. *Id.* at 15.

369 P3d 1205 (2016) (officers should clarify whether a suspect meant to invoke his right to counsel when the request was equivocal).

This court should adopt defendant's proposed rule, because it considers the realities of what an average person faces in the disproportionate power dynamic between police and citizens. That dynamic prevents a citizen from giving truly voluntary consent to police and inhibits a citizen from limiting or defining the scope of that consent. Narrowly interpreting a citizen's consent safeguards against exceeding the citizen's actual or intended consent in violation of Article I, section 9. Additionally, because police stops disproportionately impact minority communities, the narrow interpretation of consent may also help quell the disproportionate impact on that community in the justice system.

The power dynamic between police and citizens should inform the reasonable person standard and should compel a narrow interpretation of the scope of a person's consent unless broadened.

I. A reasonable person does not provide truly voluntary consent and does not feel able to define or limit the scope of her consent, because the nature of police-citizen interactions is inherently disproportionate in power.

Decades of social-psychology research demonstrate that deference to authority can influence people's behavior. Thomas Blass, *Understanding Behavior in the Milgram Obedience Experiment: The Role of Personality*,

Situations, and Their Interactions, 60 J Personality & Soc Psychol 398, 409 (1991). Stanley Milgram pioneered this research with his now-famous study in which test subjects, upon prompting by the test administrator, delivered what they believed were a series of increasingly severe electric shocks to another person. Stanley Milgram, *Behavioral Study of Obedience*, 67 J Abnormal & Soc Psychol 371, 371-78 (1963). Eighty-seven percent of participants continued to deliver shocks even after the other person protested by pounding on the wall, and 65% continued until the very end, beyond the “danger: severe shock” level to “XXX.” *Id.* Subsequent studies in which the “victim” engaged in continuous screaming and pleading or complained about a heart condition yielded similarly high rates of obedience. Blass, 60 J Personality & Soc Psychol at 402. The obedience studies attributed the high rates of compliance, in part, to the incremental nature of the shock procedure and the fact that the subjects did not choose the situation in which they found themselves. *Id.* at 406. The “strong” situation presented by the experiment, combined with the psychological inhibition caused by its incremental nature, rendered it “virtually impossible” for the subjects “to respond in a detached, uninvolved manner.” *Id.*

The obedience phenomenon and the factors identified in Milgram’s research shed some light on cases of consent to police searches. Civilians do not choose to be in circumstances where they must decide whether to allow an officer to search their property. Here, defendant wished to enter a court facility

but did not choose to have her purse singled out for an individual search.

Additionally, consent to search property often occurs incrementally, starting with a request to speak with a civilian before proceeding to a request for consent to search property. Here, defendant's response to the officer's request for consent must be considered in light of the fact that defendant already had submitted to the officer's authority by sending her purse through the x-ray scanner.

Studies suggest that the coercive nature of police is so powerful that warning people of their right to refuse a search will not empower people to feel free to refuse a search. David K. Kessler, *Free to Leave? An Empirical Look at the Fourth Amendment's Seizure Standard*, 99 J Crim & Criminol 51, 84 (2009). In one study, researchers reviewed data collected by the Ohio Highway Patrol on the number of consent searches during traffic stops before and after officers administered *Miranda*-like warnings. The study revealed a slight increase in the number of people who consented to searches after being given the *Miranda*-like warning. Illya Lichtenberg, *Miranda in Ohio: The Effects of Robinette on the "Voluntary" Waiver of Fourth Amendment Rights*, 44 How LJ 349, 367-368 (2001). The study proposes that "even confirmed consent would likely be coerced consent." Kessler, 99 J Crim & Criminol at 68.

Because of the power inequality and coercive nature of police encounters, an average (reasonable) person never provides truly voluntary consent to police

requests to search. And if a citizen's consent to search is not voluntary, it follows that they will not feel empowered to limit or define the scope of the search. *Jimeno*, 500 US at 254-55 (J. Marshall, dissenting). As explained below, social research has identified a number of other social constructs and situational factors that influence civilian decisions when interacting specifically with police. Those factors include: a police officer's status as an authority figure, civilians' deference to people in uniform, civilians' understanding that they must respect police, civilians' use of submissive communication with police, and civilians' fear of police. The factors illustrate a power inequality between police and civilians, making police requests of civilians inherently coercive. And, in minority communities, the coercive effect of many of the foregoing factors is heightened.

A. Police are authority figures.

Research indicates that people view police as authority figures, and they consent to police activity and waive their rights, because they believe that they must comply with authority figures. Susan F. Mandiberg, *Reasonable Officers vs. Reasonable Lay Persons in the Supreme Court's Miranda and Fourth Amendment Cases*, 14 Lewis & Clark L Rev 1481, 1520 (2010). In one study, researchers dressed as university security guards and stopped 83 random passersby and requested the subjects' identification. All of the subjects complied with the guards' requests, with 61 percent doing so based on their

perception that the officers had inherent authority. Alisa M. Smith, Erik Dolgoff & Dana Stewart Speer, *Testing Judicial Assumptions of the Consensual Encounter: An Experimental Study*, 14 Fla Coastal L Rev 285, 301, 303, 320 (2013).

Because people perceive police to have inherent authority, police requests are often construed as demands. *State v. Johnson*, 68 NJ 349, 354, 346 A2d 66 (1975) (holding that consent must be both knowing and voluntary under the New Jersey Constitution, because “[m]any persons, perhaps most, would view the request of a police officer to make a search as having the force of law”); Marcy Strauss, *Reconstructing Consent*, 92 J Crim L & Criminology 211, 213 (2001-2002) (current consent jurisprudence “fails to consider the reality that most people will feel compelled to allow the police to search, no matter how politely the request is phrased”). Studies demonstrate that the social context of a statement plays an important role in its meaning, particularly when a speaker employs indirect language. “Higher status people frequently direct the actions of others, and hence others expect the remarks of higher status speakers (in the appropriate contexts) to act as directives.” Thomas Holtgraves, *Communication in Context: Effects of Speaker Status on the Comprehension of Indirect Requests*, 20 J of Experimental Psychol: Learning, Memory, & Cognition 1205, 1214-15 (1994). For example, in a study that compared listeners’ comprehension of indirect requests by a high-status speaker with

those of a speaker of equal status, listeners readily understood a remark by a person of higher status as a directive to act. *Id.* at 1214. In another study, subjects perceived a peer's statement "don't be late again" as more coercive than the statement "try not to be late again"; but when an authority figure (such as the subjects' boss) made the same statements, there was no difference in perceived coercion. Janice Nadler, *No Need to Shout: Bus Sweeps and the Psychology of Coercion*, 2002 Sup Ct Rev 153, 189 (2002) (citing Jennifer L. Vollbrecht, Michael E. Roloff & Gaylen D. Paulson, *Coercive Potential and Face Threatening Sensitivity: The Effects of Authority and Directives in Social Confrontations*, 8 Intl J Conflict Mgmt 235, 236 (1997)). Thus, "power relationships dictate that when the police make a 'request' and they could apparently compel the suspect to carry out the request, the suspect will view the request as a command." Peter Tiersma, *The Judge as Linguist*, 27 Loy LA L Rev 269, 282 (1993). Consistent with that idea, a random survey of 54 individuals, whom police had asked for consent to search, found that only one subject believed that police would have honored a refusal to consent. Nadler, 2002 Sup Ct Rev at 203 (citing Illya D. Lichtenberg, *Voluntary Consent or Obedience to Authority: An Inquiry into the "Consensual" Police-Citizen Encounter* 199, 271-72 (1999) (unpublished Ph.D. dissertation, Rutgers University)).

The research consistently indicates that perceived police authority eliminates the possibility that a person can provide truly voluntary consent or feel able to limit consent. In this case, although the officer posed his request for consent to search defendant's purse as a question, in light of the social context, defendant likely interpreted that "question" as a directive. Thus, defendant's response consenting to the search was an acknowledgement of the officer's power and far from a freely extended invitation to search her purse and the containers inside of her purse.

B. Civilians defer to people in uniform.

Additional studies on situational factors that affect obedience demonstrate that compliance rates increase when the requestor is wearing a uniform. In one study, an experimenter dressed variously as a civilian wearing a sport coat and tie, a milkman, and an unarmed security guard asked individuals to perform a simple task of giving a dime to a stranger. Ric Simmons, *Not "Voluntary" But Still Reasonable: A New Paradigm for Understanding the Consent Searches Doctrine*, 80 Ind LJ 773, 808 (2005) (citing Leonard Bickman, *The Social Power of a Uniform*, 4 J Applied Soc Psychol 47 (1974)). Compliance rates were much higher when the experimenter dressed as a security guard, with 33 percent of the subjects complying with a civilian's request and 89 percent complying with a guard's request. *Id.* Another study, in which experimenters dressed as a blue-collar

worker, a business executive, and a firefighter, demonstrated a similarly high level of compliance when the experimenter in the firefighter's uniform relative to the experimenter in civilian clothes. Kessler, 99 J Crim L & Criminol at 63 (citing Brad J. Bushman, *Perceived Symbols of Authority and Their Influence on Conformity*, 14 J Applied Soc Psychol 501, 502-06 (1984)).

In the context of officer requests for consent, such as this case, the officer is dressed in a police or guard uniform. The uniform reinforces the social dynamic in which a person is significantly more likely to view a "request" for consent to search as a command. Thus, the uniform studies suggest that a person's consent to search is not truly voluntary, but based on submission to an officer's request.

C. Civilians learn that they must respect police.

Social studies also indicate that the average citizen is taught to respect officers and their requests. *See* Nadler, 2002 Sup Ct Rev at 197. In the study discussed *supra* about the researchers dressed as university security guards asking passersby to stop and provide identification, the subjects explained their deference to the guard's authority as respect for authority, and several specifically noted their respect for law enforcement. Smith, 14 Fla Coastal L Rev at 304. A study of inner-city, disadvantaged populations, found that young people are taught to respect police, and to exhibit that respect through compliance with officer requests:

“* * *[S]everal respondents believed that youth risked serious physical injury or unfavorable criminal justice outcomes if officers perceived them as disrespectful; adults thus instructed youths to comply with officers’ requests and commands no matter how unreasonable they seemed at the time.”

Rod K. Brunson & Ronald Weitzer, *Negotiating Unwelcome Police*

Encounters: The Intergenerational Transmission of Conduct Norms, Journal of Contemporary Ethnography 40(4), 450-51 (June 2011).

If people are taught to respect officers by complying with officer requests, it follows that any consent to police searches is not truly voluntary, but a product of social norms. It further follows that people would not feel free to define or limit the scope of a “consent” search, because that would contradict their display of respect for the officer.

D. Civilians use submissive communication with police.

Sociolinguistic research indicates that women and ethnic minorities are more likely to use indirect speech patterns. Mandiberg, 14 Lewis & Clark L Rev at 1521 (citing Janet E. Ainsworth, *In a Different Register: The Pragmatics of Powerlessness in Police Interrogation*, 103 Yale LJ 259, 261 (1993)). The research concludes that the submissive communication method is a product of feeling powerless to another. Those who are confronted by officers—deemed authority figures—may feel similarly powerless to the officer, and use indirect speech. *Id.*

The submissive communication research is important in a consent search context, because police often do not recognize indirect invocations of rights. *Id.* If a civilian feels powerless and only indirectly refuses a consent search, the perceived consent is not voluntary. Submissive communication is, thus, a social construct for this court to consider in interpreting whether a reasonable person would believe they consented to the scope of the conducted search.

E. Civilians fear police.

Anxiety is often a product of being singled out by police even when the basis of the interaction is relatively unremarkable. Mandiberg, 14 Lewis & Clark L Rev at 1508. It is “[c]ommon knowledge that even a routine traffic stop raises the pulse rate of many.” *Id.* at 1507. People are generally unable to control the anxiety produced from police interactions. *Id.* at 1502 (citing Nadler, 2002 Sup Ct Rev at 211). And it is another situational factor that influences consent decisions.

In a random survey of 54 individuals who had consented to police requests to search them, 47 out of 49 people who “consented” indicated that they did so only out of fear of the consequences that would follow if they refused. Nadler, 2002 Sup Ct Rev at 202 (citing Lichtenberg at 251, 268). Further evidence of fear impacting civilians’ decisions to comply with officer requests is found in the study discussed *supra* about researchers dressed as

university security guards. There, 11% of the subjects who complied with the guards' requests reported that they did so because they believed compliance would avoid "trouble, conflict or being chased." Smith, 14 Fla Coastal L Rev at 320.

The concept of fear driving a civilian to consent to police requests is particularly salient when the civilian is a member of a minority community. In determining whether to comply with police, people draw upon personal experiences and experiences of fellow community members. Mandiberg, 14 Lewis & Clark L Rev at 1502 (citing Cynthia Lee, *But I Thought He Had a Gun: Race and Police Use of Deadly Force*, 2 Hastings Race & Poverty LJ 1, 22 (2004); Maclin, 26 Val UL Rev at 255, 276 (1991)). It is "commonplace to note that many members of certain racial groups in the United States experience discrimination or even physical violence at the hands of police during encounters that start out as casual in nature, or at least widely perceive that this is so." Mandiberg, 14 Lewis & Clark L Rev at 1502 (citing Ronald J. Bacigal, *Choosing Perspectives in Criminal Procedure*, 6 WM & Mary Bill of Rrs J 677, 727 (1998); Devon W. Carbado, *(E)racing the Fourth Amendment*, 100 Mich L Rev 946, 952 (2002); Kevin R. Johnson, *How Racial Profiling in America Became the Law of the Land: United States v. Brignoni-Ponce and Whren v. United States and the Need for Truly Rebellious Lawyering*, 98 Geo LJ 1005 (2010); Lee, 2 Hastings Race & Poverty LJ 1; Anthony E. Mucchetti, *Driving*

While Brown: A Proposal for Ending Racial Profiling in Emerging Latino Communities, 8 Harv Latino L Rev 1 (2005)). Surveys of police violence indicate that it is disproportionately used against blacks. Mandiberg, 14 Lewis & Clark L Rev at 1502 (citing Lee, 2 Hastings Race & Poverty LJ at 243; Maclin 26 Val UL Rev at 251-152, 254).

The disproportionate targeting by police of minority communities and the disproportionate use of unreasonable force corrodes the trust between minorities and police. United States Department of Justice Civil Rights Division and United States Attorney's Office Northern District of Illinois, *Investigation of the Chicago Police Department*, 142-48 (January 13, 2017). Distrust of police based on fear of irrational police violence is a social context alive in minority communities. One study found that African-Americans are more likely to consent to police requests based on violent encounters between police and African-American men:

“This is what the law is supposed to be; black men, however, know that a different ‘law’ exists on the street. Black men know that they are liable to be stopped at any time, and that when they question the authority of the police, the response from the cops is often swift and violent.”

Maclin, 26 Val U L Rev at 253. The fear and distrust of police manifesting in minorities acquiescing to police requests means that their “consent” is not truly voluntary:

“Given the reality faced by the African-American community, a court’s nimble assertion that a person can ‘Just say no’ to a police request to search is a sorry, empty slogan. It is no more based in reality than the tooth fairy or Santa Claus. Rather, the reality facing African-Americans and other members of minority groups is this: they are more likely to be stopped, and more likely to be asked to consent to a search of their persons and property because of their color. And, because of the experiences in their community, they will frequently-if not usually feel coerced to forego their constitutional right of privacy. The idea of a voluntary consent in such circumstances is a fantasy.”

Strauss, 92 J Crim & Criminol at 222-24. And it follows that fear of police response prevents people from defining or limiting “consent” once it is given.

CONCLUSION

For the foregoing reasons, this court should adopt defendant’s proposed rule and affirm the decision of the Court of Appeals.

Respectfully submitted,

s/ Amanda Garty

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**CERTIFICATE OF COMPLIANCE
WITH BRIEF LENGTH AND TYPE SIZE REQUIREMENTS**

Brief length

I certify that (1) this brief on the merits complies with the word-count limitation in ORAP 5.05(2)(b)(i) and (2) the word count of this brief (as described in ORAP 5.05(2)(a)) is 4700 words.

Type size

I certify that the size of the type in this brief is not smaller than 14 point for both the text of the brief and footnotes as required by ORAP 5.05(4)(f).

s/ Amanda Garty

Amanda Garty, #103871

CERTIFICATE OF FILING AND SERVICE

I certify that on February 10, 2017, I filed the original of this BRIEF ON THE MERITS OF *AMICUS CURIAE* OREGON JUSTICE RESOURCE CENTER with the State Court Administrator by the eFiling system.

I further certify that on February 10, 2017, I served a copy of the BRIEF ON THE MERITS OF *AMICUS CURIAE* OREGON JUSTICE RESOURCE CENTER on the following parties by electronic service via the eFiling system or via conventional e-mail service:

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