

# Supreme Court ruling could throw convictions into question

By AUBREY WIEBER  
Oregon Capital Bureau

SALEM — The U.S. Supreme Court could force Oregon into doing what every other state already does — requires every juror to vote to convict before a person is judged guilty.

Such a decision by the Supreme Court in a case now before it could make it more difficult for prosecutors to get convictions and could provide a new avenue appeal for those already convicted.

The looming decision pits some of Oregon's criminal justice reform champions against each other. Attorney General Ellen Rosenblum recently submitted a brief to the high court, urging the justices to find split decisions are constitutional. A decision rejecting such verdicts would send the Oregon court system into disarray, she said.

Rosenblum is against split decisions, but said Oregon has been following previous Supreme Court rulings that unanimity is not required. Her role in submitting a legal filing to the court was "making sure the supreme court is aware of the impact on our state justice system," she said.

For the past 85 years,



Pamplin Media Group Photo

**Attorney General Ellen Rosenblum recently submitted a brief to the high court, urging the justices to find split decisions are constitutional. A decision rejecting such verdicts would send the Oregon court system into disarray, she said.**

people in Oregon charged with most felonies can be convicted if at least 10 of the 12 jurors vote guilty. Oregon is the only state to allow split decisions. Recently, Louisiana moved away from split decisions.

The 2019 Legislature considered but didn't pass a proposal to ask voters to decide the fate of split verdicts. Rosenblum is worried

that overturning a 1972 U.S. Supreme Court ruling in *Apodaca v. Oregon*, which upheld split decisions, would impact past cases. The U.S. Supreme Court is considering a case from Louisiana to determine whether a split decision is constitutional.

Oregon's court system doesn't track how the jury votes in convictions. Rosenblum's spokeswoman, Kristina Edmunson, said state

Justice Department lawyers are aware of about 300 cases where there was a split guilty verdict.

Rosenblum said the actual number could be much higher — potentially in the thousands.

Roughly 97% of criminal cases are resolved without a trial. But in two out of three cases that do get to a jury, convictions result from split verdicts, according to

the Justice Department.

If the supreme court abolishes split verdicts, the state wouldn't take action to review convictions resulting from unconstitutional conduct. Instead, according to Rosenblum's staff, it would be up to defendants to challenge their convictions and defense attorneys have been preparing for such appeals.

Aliza Kaplan, Lewis and Clark Law School professor, said she's puzzled why Rosenblum is trying to sink what she considers crucial reform for Oregon's criminal justice system.

Rosenblum said since the Supreme Court ruled in 1972 that split decisions were legal, she doesn't think past cases should be overturned. She wants voters to approve a change to unanimity going forward.

Rosenblum said either way, defense attorneys will file appeals, but said her team has been preparing legal arguments for that.

"You could certainly say, 'Hey, for 80 years we've had an unconstitutional system in Oregon.' I'm not buying that," Rosenblum said.

Kaplan contended in her own brief filed with the supreme court that split decisions are unconstitutional. Her brief was joined by Gov. Kate Brown, former

governors John Kitzhaber, Ted Kulongoski and Barbara Roberts, and several former state Supreme Court justices.

In 1934, Oregon voters approved a ballot measure allowing split jury verdicts. At the time, white supremacy was at its height in Oregon, and state newspapers editorialized about the need to silence minorities' voices on juries by allowing a split decision.

Because of that past, Kaplan finds it especially hard to understand Rosenblum's position.

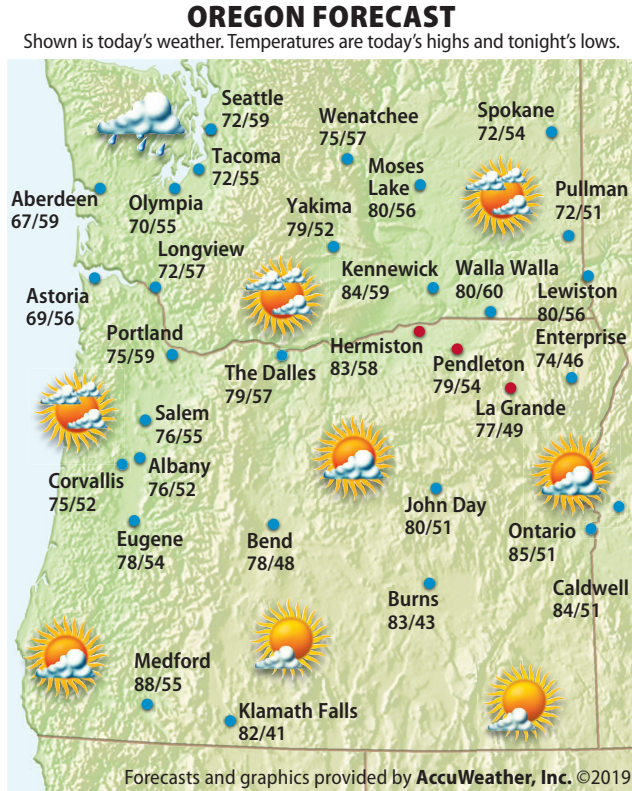
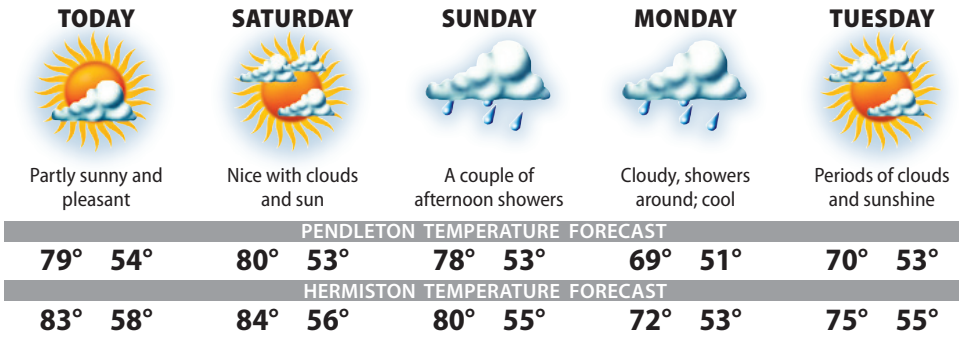
"Is her real issue retroactivity, or is it that she's going to be on the wrong side of history on this issue?" Kaplan said. "To side with racism and our horrible history in a law is completely unfair."

Rosenblum said she is aware of the history of the policy, but for more than 80 years, the state has followed a practice upheld by the courts.

Even if a Supreme Court ruling doesn't specifically address closed cases, many expect the legal challenges to pile up nonetheless.

Convicts found guilty by split decision could appeal to have the new rule applied to their cases, likely setting up new legal battles.

## Forecast for Pendleton Area



**ALMANAC**  
PENDLETON through 3 p.m. yest.

TEMP.	HIGH	LOW
Yesterday	85°	48°
Normals	79°	51°
Records	95° (1892)	25° (1921)

**PRECIPITATION**  
24 hours ending 3 p.m. 0.00"  
Month to date 0.58"  
Normal month to date 0.18"  
Year to date 10.32"  
Last year to date 6.52"  
Normal year to date 8.56"

**HERMISTON through 3 p.m. yest.**

TEMP.	HIGH	LOW
Yesterday	84°	49°
Normals	80°	49°
Records	96° (1953)	31° (2014)

**PRECIPITATION**  
24 hours ending 3 p.m. 0.00"  
Month to date Trace  
Normal month to date 0.14"  
Year to date 4.61"  
Last year to date 5.15"  
Normal year to date 6.26"

**WINDS (in mph)**

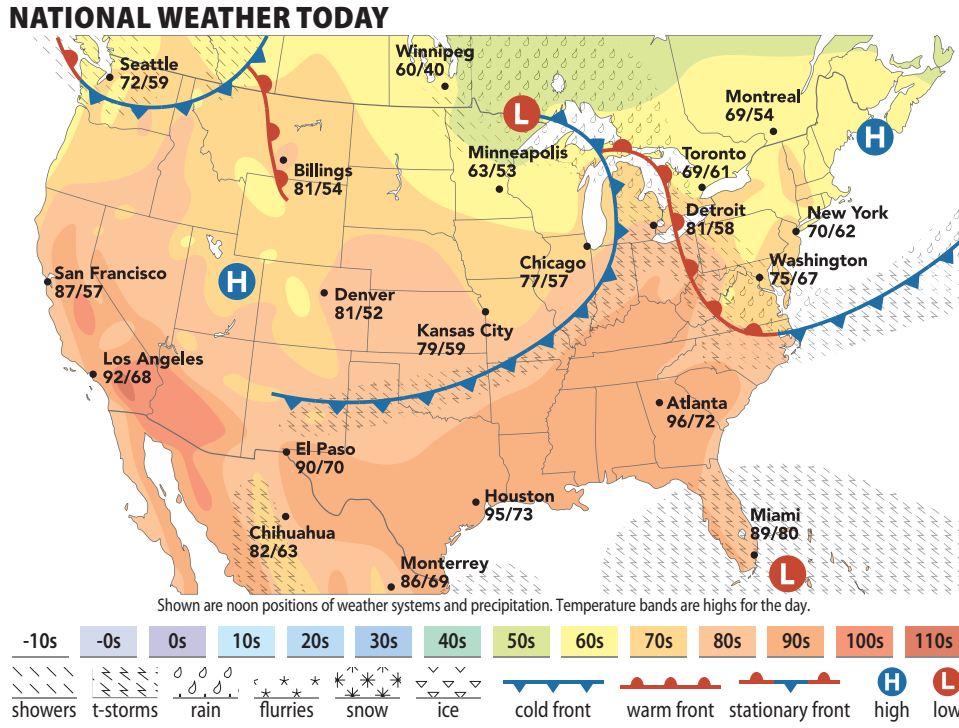
Boardman	WSW 8-16	WSW 6-12
Pendleton	W 8-16	W 6-12

**SUN AND MOON**

Sunrise today	6:31 a.m.
Sunset tonight	7:11 p.m.
Moonrise today	7:28 p.m.
Moonset today	5:47 a.m.

Full Sep 13, Last Sep 21, New Sep 28, First Oct 5

**NATIONAL EXTREMES**  
Yesterday's National Extremes: (for the 48 contiguous states)  
High 103° in Thermal, Calif. Low 18° in Bodie State Park, Calif.



EO file photo

**Eastern Oregon University is expecting more than 300 incoming freshmen to participate in its annual Week of Welcome. Activities begin with Move-In Day on Sept. 20, and continue right up to the first day of fall term on Sept. 25.**

## EOU welcomes students back

More than 300 incoming freshmen expected to attend Week of Welcome

East Oregonian

LA GRANDE — Four days of fun, friendship-building activities await Eastern Oregon University's incoming class of freshmen and transfer students during Week of Welcome.

With more than 300 students expected to attend, EOU has designed each event to express the inviting, inclusive culture of the university community.

Activities begin with Move-In Day on Sept. 20, and continue right up to the first day of fall term on Sept. 25.

Week of Welcome encourages students get

out of their comfort zone, make friends, learn about campus resources and embrace their new home as Mountaineers.

"Programming for Week of Welcome is very intentional in trying to assist students in their transition to campus," said Kathryn Shorts, director of student success and transition at EOU. "We want them to feel part of the EOU and La Grande community. Having a sense of belonging and engaging in activities aids in student success."

A signature event of WOW is the EOU Base Camp. Small class sizes allow EOU to bus all WOW participants to a camp near Summerville for an off-campus day of adventure. The rest of the week includes community-building activities, school spirit games, and

orientation to campus.

"The whole week shows students how much they are cared for from EOU and the greater community," Director of Housing Jeremy Jones said. "Our students are important to us, and we are excited to have them as Mountaineers."

Community partners are also excited to welcome new students. The Union County Chamber of Commerce and the Downtown Merchants Association are collaborating with EOU to host a community block party on Sept. 24. Community members, business owners, faculty, staff and students can mingle and celebrate the start of a new school year in the covered parking area next to Benchwarmers. This event is open to the public, and offers dinner beginning at 5:30 p.m.

**CORRECTIONS:** The *East Oregonian* works hard to be accurate and sincerely regrets any errors. If you notice a mistake in the paper, please call 541-966-0818.

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