

Supreme Court
State of Oregon

State of Oregon
Petitioner-Respondent-Respondent

versus

Brian Patrick Carr
Defendant-Appellant-Petitioner

Petition for Judicial Review
Decision of the Court of Appeals

Case A132012
Honorable Haselton, Armstrong, and Rosenblum
November 7, 2007

Brian P. Carr
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Respondent:
Hardy Myers, #64007, Attorney General
Mary Williams, #91124, Solicitor General
Christina M. Hutchins, #92470, Assistant Attorney General
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IN THE SUPREME COURT OF THE
STATE OF OREGON

The State of Oregon
Plaintiff / Respondent / Respondent

versus

Brian P. Carr
Defendant / Appellant / Petitioner

Case
Clearing 0923389
DA 2037182-1
CA A132012

Petition for Judicial Review of
Decision of the Oregon Court of Appeals

The Defendant / Appellant / Petitioner, Brian P. Carr, hereby seeks judicial review of the Decision filed on November 7, 2007 by the Oregon Court of Appeals Judges Haselton, Armstrong, and Rosenblum in this matter. A true and accurate copy of this decision is attached.

Parties

The parties to this review are:

Hardy Myers, #64007
Attorney General
Mary Williams, #91124
Solicitor General
Christina M. Hutchins, #92470
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Defendant / Appellant / Appellant
Brian P. Carr
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Decision for which review is sought

The [decision](#) of the Court of Appeals in its entirety was 'AFFIRMED WITHOUT OPINION'. The trial court's [decision](#) was not substantially longer though there was some justification at the [hearing](#) in the matter.

Justification for Review

The trial court relied on narrow interpretations of the trial court's jurisdiction in [ORS 137.225](#), [ORS 33.015-155](#), [ORS 181-555](#), and [OAR 257-010-0035](#) (3) in denying the Motion to Set Aside (arrest record) with the unfortunate effect of leaving gaps in the due process procedures required

by the [Fourteenth Amendment](#) of the U.S. Constitution. The court declined to address the request for relief under the [Fourteenth Amendment](#) of the U.S. Constitution with respect to due process and equal protection under the law.

One of the questions requested for consideration is whether the state can discriminate against those individuals who were arrested but for whom there was no probable cause of any crime or other justification for the arrest. The absence of any crime associated with an arrest is not justifiable discrimination for precluding the sealing of the record of the arrest as would be permitted if there had been probable cause of some crime. While the trial court cautiously cited a lack of jurisdiction concerning due process in the state's maintenance of criminal records, it would be appropriate for state courts address these issues before federal courts are asked to rule on these matters. The other [questions](#) raised in the [petitioner's brief](#) to the Court of Appeals are requested for consideration as well.

Certification of Filing

I certify that on November 20, 2007 I filed the original of this petition for judicial review with the State Court Administrator at the following address:

State Court Administrator
Supreme Court Building
1163 State Street
Salem, OR 97301-2563

by mailing with the United States Postal Service via ordinary first class mail. If it is not received and filed in the required time frame, an alternative method of filing will be attempted.

Certification of Service

I certify that on November 20, 2007 I served a true copy of this petition for judicial review on the state and Oregon Court of Appeals at the following addresses:

Reference CA A132012
Hardy Myers, #64007, Attorney General
Mary Williams, #91124, Solicitor General
Christina M. Hutchins, #92470, Assistant Attorney General
1162 Court Street NE
Salem, OR 97301-4096

and

Oregon Court of Appeals
Reference CA A132012
State Court Administrator, Records Section
Supreme Court Building
1163 State Street
Salem, OR 97301-2563

by mailing with the United States Postal Service via ordinary first class mail.

Dated: November 20, 2007

Location: Vancouver, WA

Signature of Petitioner
Brian Carr
11301 NE 7th St., Apt J5
Vancouver, WA 98684
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