

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR MULTNOMAH COUNTY

THE STATE OF OREGON,

Plaintiff,

DA 2385054-1
2385054-2

v.

JAMES DEWEY,
SHAWN MCKENZIE,

Defendants.

MOTION FOR A COURT ORDER TO
RELEASE A GRAND JURY TRANSCRIPT
UNDER ORS 132.270(3)(a)(A)

FILED
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4TH JUDICIAL DIST.

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COMES NOW ROD UNDERHILL, District Attorney for Multnomah County, by and through Senior Deputy District Attorney Brian S. Davidson, respectfully requests a court order to release a transcript of the grand jury proceedings recorded pursuant to ORS 132.260(1) in the above referenced case.

INTRODUCTION

On September 13th, 2018, Multnomah County Grand Jury No. 3, Term No. 9 returned a “not true bill” indorsement after reviewing evidence presented regarding the fatal shooting of Jason Erik Washington by peace officers on June 29th, 2018. The grand jury proceedings were recorded in accordance with ORS 132.260(1). The State now moves the court for an order under ORS 132.270(3)(a)(A) that a transcript of the grand jury proceedings recorded pursuant to ORS 132.260(1) be released. The above listed defendants attorneys have received a copy of this motion via E-Mail. The defendant’s, through their attorneys, have agreed to waive the 10-day period described in ORS

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1 132.270(4)(a)(C) and ask that the transcript be released as soon as completed and this order signed by a
2 judge.

3 **LAW AND ARGUMENT**

4 ORS 132.270(3) provides:

5 (a) When a grand jury inquires into the conduct of a public servant
6 ... for acts occurring in the performance of the public servant's
7 duties, and an indictment resulting from the grand jury proceedings
8 is indorsed "not a true bill":

9 (A) The ... prosecuting attorney may file a motion
10 requesting a court order releasing all or a portion of a
11 transcript of the grand jury proceedings. A copy of
12 the motion must be served on the opposing party. In
13 deciding whether to issue such an order, the court
14 shall determine whether the public interest in
15 disclosure outweighs the interest in maintaining the
16 secrecy of the grand jury proceedings. If the court
17 orders disclosure, the court may set reasonable
18 conditions on copying, disseminating or republishing
19 the transcript.

20 ORS 132.270(4)(a)(C) provides:

21 (C) The prosecuting attorney, the public servant who
22 is the subject of an indictment indorsed "not a true
23 bill" or the public servant's attorney may file a
24 motion for a protective order within 10 days of
25 receiving a motion described in subsection (3)(a) of
26 this section.

27 In this case, the grand jury has reviewed acts occurring in the performance of the duties
28 of the following public servants: Portland State University Police Officers James Dewey and
29 Shawn McKenzie. The grand jury returned a "not true bill" indorsement after hearing the
30 presentation of evidence in the case.

31 The attorneys for the above listed public servants received a copy of this motion via E-
32 Mail on September 14, 2018. Therefore, under ORS 132.270(4)(a)(C), they have 10 days from
33 September 14th, 2018 to file a motion for a protective order concerning the transcript. However,

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1 as stated above, both defendants have waived the 10 day waiting period and ask that the
2 transcript be released as soon as completed.

3 This case involved the use of deadly force by the above listed peace officers against
4 Jason Erik Washington. As such, there is a significant public interest in disclosing the grand jury
5 proceedings recorded pursuant to ORS 132.260(1) that, under the circumstances of this case,
6 outweighs the interest in maintaining the secrecy of the grand jury proceedings. Should the
7 Court grant the State's motion, the State intends to publish the transcript to the Multnomah
8 County District Attorney's Office public website.

9 **CONCLUSION**

10 For the reasons stated above, the State respectfully requests that the Court order a release
11 of a transcript of the grand jury proceedings recorded pursuant to ORS 132.260(1) in this case.

12
13 Dated this 14th day of September, 2018.

14 Respectfully Submitted,

15 ROD UNDERHILL
16 District Attorney
Multnomah County

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19 Brian S. Davidson, OSB 025873
20 Senior Deputy District Attorney