

1 **IN THE CIRCUIT COURT OF THE STATE OF OREGON**
2 **FOR MULTNOMAH COUNTY**

3 THE STATE OF OREGON,

4
5 Plaintiff,

No. 1901-30000

DA 2403060-1
2403060-2

6 v.

7
8 JAMES MOONEY,
9 MICHAEL GONZALEZ,

Defendants.

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

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14 COMES NOW ROD UNDERHILL, District Attorney for Multnomah County, by and
15 through Deputy District Attorney Todd T. Jackson, respectfully requests a court order to release a
16 transcript of the grand jury proceedings recorded pursuant to ORS 132.260(1) in the above
17 referenced case.

18 **INTRODUCTION**

19 On June 3, 2019, Multnomah County Grand Jury No. 3, Term No. 5 returned a “not true
20 bill” indorsement after reviewing evidence presented regarding the fatal shooting of Jeb Brock by
21 peace officers on April 29, 2019. The grand jury proceedings were recorded in accordance with ORS
22 132.260(1). The State now moves the court for an order under ORS 132.270(3)(a)(A) that a transcript of
23 the grand jury proceedings recorded pursuant to ORS 132.260(1) be released. The above listed
24 defendants have received a copy of this motion via E-Mail, and have also been served with it by certified
25 U.S. Mail.

1 LAW AND ARGUMENT

2 ORS 132.270(3) provides:

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

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

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

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

25 In this case, the grand jury has reviewed acts occurring in the performance of the official
26 duties of the following public servants: Portland Police Sergeant James Mooney, and Portland
27 Police Officer Michael Gonzalez. The grand jury returned a "not true bill" indorsement after
28 hearing the presentation of evidence in the case.

29 The attorneys for the above listed public servants received a copy of this motion via E-
30 Mail on June 4, 2019. Therefore, under ORS 132.270(4)(a)(C), they have 10 days from June 4,
31 2019 to file a motion for a protective order concerning the transcript. The State is not requesting
32 a protective order for the transcript at this time.

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

7 **CONCLUSION**

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

10
11 Dated this 4th day of June, 2019.

12 Respectfully Submitted,

13 ROD UNDERHILL
14 District Attorney
15 Multnomah County

16 By /s/ Todd T. Jackson
17 Todd T. Jackson, OSB 114240
18 Deputy District Attorney
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1 CERTIFICATE OF SERVICE

2 I HEREBY CERTIFY that I have served the within MOTION FOR A COURT ORDER
3 TO RELEASE A GRAND JURY TRANSCRIPT UNDER ORS 132.270(3)(a)(A) on this 4th day
4 of June, 2019, by E-Mailing and mailing through certified U.S. mail a certified true copy thereof,
5 certified by me as such, addressed to:

6
7 Steven L Myers
8 Attorney for James Mooney
9 7307 SW Capitol Highway
10 Portland, OR 97219
11 steve@smyerslawfirm.com

12
13 Michael W Staropoli
14 Attorney for Michael Gonzalez
15 PO Box 25475
16 Portland, OR 97298
17 mwstaropoli@gmail.com

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21 By /S/ Todd Jackson
22 Todd Jackson, OSB 114240
23 Deputy District Attorney
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1 IN THE CIRCUIT COURT OF THE STATE OF OREGON
2 FOR MULTNOMAH COUNTY

THE STATE OF OREGON,

No. 19-01-30000

Plaintiff, DA 2403060-1
2403060-2

v.

ORDER

JAMES MOONEY,

MICHAEL GONZALEZ,

Defendants.

3 **ORDER**

4 This matter having come before the Court on motion of Rod Underhill, District Attorney for
5 Multnomah County, by and through Deputy District Attorney Todd T. Jackson, the Court finds the
6 following:

7 Pursuant to ORS 132.270(3), under the circumstances of this case, the public interest in
8 disclosure of a transcript of the grand jury proceedings recorded pursuant to ORS 132.260(1)
9 outweighs the interest in maintaining the secrecy of the grand jury proceedings.

10 Therefore, pursuant to ORS 132.270(3), in the above entitled matter, it is hereby
11 ORDERED that the State shall release a transcript of the grand jury proceedings recorded
12 pursuant to ORS 132.260(1). Further, pursuant to ORS 132.270(3)(b), the transcript shall not
13 include any personal identifiers of a victim or a witness, or any name or personal identifiers of a
14 grand juror.

15 Dated this 19th day of June 2019,

16 
17 Judge B. S. Jones
18 Multnomah County Circuit Court
19
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1 Submitted by:
2 ROD UNDERHILL
3 District Attorney
4 Multnomah County, Oregon
5

6 By: /s/ Todd T. Jackson
7 Todd Jackson, OSB 114240
8 Deputy District Attorney
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