

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

IN RE: GRAND JURY
INVESTIGATION.

No.

DA 2423136-1

ORDER

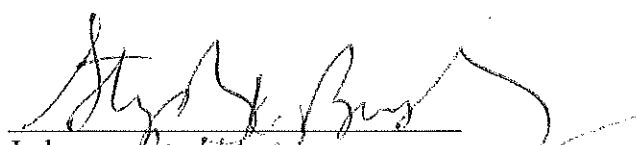
3
4 ORDER

5 This matter having come before the Court on motion of Mike Schmidt, District Attorney for
6 Multnomah County, by and through Senior Deputy District Attorney Amity Girt, the Court finds the
7 following:

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

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

16 Dated this 9th day of July 2021,

17 
18 Judge Bl. Stone
19 Multnomah County Circuit Court
20

1
2
3
4
5
6
7
8
9
10

Submitted by:

MIKE SCHMIDT
District Attorney
Multnomah County, Oregon

By: /S/ Amity Girt
Amity Girt, OSB 042605
Senior Deputy District Attorney

1 **IN THE CIRCUIT COURT OF THE STATE OF OREGON**

2 **FOR MULTNOMAH COUNTY**

3
4
5 IN RE: GRAND JURY
6 INVESTIGATION.

No.

DA 2423136-1

7
8 MOTION FOR A COURT ORDER TO
9 RELEASE A GRAND JURY TRANSCRIPT
10 UNDER ORS 132.270(3)(a)(A)

11
12
13
14 COMES NOW MIKE SCHMIDT, District Attorney for Multnomah County, by and
15 through Senior Deputy District Attorney Amity Girt, 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 July 9, 2021, Multnomah County Grand Jury “A,” Term No. 7, returned a “not true bill”
20 indorsement after reviewing evidence presented regarding the fatal shooting of Israel Mark Berry
21 by a peace officer on May 31, 2020. The grand jury proceedings were recorded in accordance
22 with ORS 132.260(1). The State now moves the court for an order under ORS 132.270(3)(a)(A)
23 that a transcript of the grand jury proceedings recorded pursuant to ORS 132.260(1) be released.
24 The public servant’s attorney has received a copy of this motion via E-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 servant: Gresham Police Officer James Doyle. The grand jury
27 returned a "not true bill" indorsement after hearing the presentation of evidence in the case.

28 The attorney for the above listed public servant received a copy of this motion via E-Mail
29 on July 9, 2021. Therefore, under ORS 132.270(4)(a)(C), the public servant or his attorney have
30 10 days from July 9, 2021 to file a motion for a protective order regarding the transcript. The
31 State is not requesting a protective order for the transcript at this time.

32 This case involved the use of deadly force by the above listed peace officer against Israel
33 Mark Berry, which resulted in Mr. Berry's death. As such, there is a significant public interest in

1 disclosing the grand jury proceedings recorded pursuant to ORS 132.260(1) that, under the
2 circumstances of this case, outweighs the interest in maintaining the secrecy of the grand jury
3 proceedings. Should the Court grant the State's motion, the State intends to publish the
4 transcript to the Multnomah County District Attorney's Office public website.

5 **CONCLUSION**

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

8
9 Dated this 9th day of July, 2021.

10 Respectfully Submitted,

11 MIKE SCHMIDT
12 District Attorney
13 Multnomah County

14 By /S/ Amity Girt
15 Amity Girt, OSB 042605
16 Senior Deputy District Attorney
17
18
19
20
21
22
23
24
25
26

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 9th day
4 of July, 2021, 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 Mark Makler
8 Attorney for James Doyle
9 515 NW Saltzman Road, #811
10 Portland, OR 97229
11 Mark.code3law@gmail.com
12
13
14

15 By /S/ Amity Girt
16 Amity Girt, OSB 042605
17 Senior Deputy District Attorney
18
19