

FILED

MAR 23 2022

CIRCUIT COURT

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

THE STATE OF OREGON

Plaintiff,  
v.

TUSITALA JOHN TOESE

Defendant(s).

C# 21-CR-61225  
DA# 2441395-2  
Crime Report PP 21-681328

**MOTION FOR PRELIMINARY  
VIOLENT FELONY  
DETERMINATION (JC 3)**

The charging document in this matter contains offenses that the State alleges are violent felonies, specifically: Count 1 – Assault in the Second Degree (ORS 163.175(b)); Count 2 – Assault in the Third Degree (ORS 163.165); Count 3 – Assault in the Second Degree (ORS 163.175(b)); Count 4 – Assault in the Second Degree (ORS 163.175(b)); Count 5 – Assault in the Third Degree (ORS 163.165); Count 6 – Unlawful Use of a Weapon (ORS 166.220); Count 7 – Unlawful Use of a Weapon (ORS 166.220), because:

☐ it appears in the December 15, 2021 Presiding Judge Order, “RE PREVENTATIVE DETENTION HEARING PROCEDURES AND SECURITY RELEASE IN VIOLENT FELONIES,” list of offenses categorically subject to ORS 135.240(4); or

☒ the underlying allegations set forth in the attached affidavit indicate it is “a felony offense in which there was an actual or threatened serious physical injury to the victim.” ORS 135.240(6).

If the court finds, either from the face of the information or the attached affidavit, that an offense in this charging document is a violent felony subject to ORS 135.240(4), the defendant is not statutorily eligible for security, conditional, or recognizance release pending a detention hearing before the court.

The State does not stipulate to the setting of security in this matter and requests that, pursuant to ORS 135.240(4) and the implementing PJO referenced above, the court defer a determination of whether to set a security amount pending a preventative detention hearing. Absent waiver by the defendant, this hearing must occur within five calendar days. ORS 135.240(4)(b). The State request that a hearing date within these constraints be calendared.

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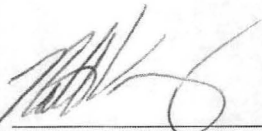
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DATED this 2<sup>nd</sup> day of February, 2022.

MIKE SCHMIDT  
District Attorney  
Multnomah County, Oregon

By:   
NATHAN T. VASQUEZ, OSB# 014437  
Deputy District Attorney

SUBMITTED BY:  
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