

HON. DAVID REES

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

STATE OF OREGON,

PLAINTIFF,

vs.

JOSEPH GIBSON,

DEFENDANT.

No. 19CR53042

JOSEPH GIBSON'S
MOTION TO COMPEL
THE STATE OF OREGON
TO FILE LIST OF WITNESSES

MOTION

COMES NOW Joseph Gibson, by and through the Angus Lee Law Firm, PLLC, and moves the Multnomah County Circuit Court for an order to compel the State of Oregon to immediately file with the Clerk, and serve upon the defense, a list of the witnesses which the State of Oregon intends to use at trial. ORS 135.815(1)

LAW

The State of Oregon is required to disclose to accused the names and address of persons whom the State of Oregon intends to call as witnesses at trial. 1 *Criminal Law* § 14.2-1(c) (OSB Legal Pubs 2013).

the district attorney shall disclose to a represented defendant the following material and information within the possession or control of the district attorney: (a) The names and addresses of persons whom the district attorney intends to call as witnesses at any stage of the trial[.]

ORS 135.815.

1 “The policy underlying the right to criminal discovery is the same as that which the right
2 to civil discovery supports.” 12 Wash. Prac., Criminal Practice & Procedure § 1303 (3d ed.). In
3 an adversarial system, the quest for truth is better served if the evidence of one party does not come
4 as a surprise to the other party. Id. Thus, rules of discovery are designed to enhance the search for
5 truth by giving the defendant notice of the evidence and to enable him to prepare his defense as
6 well as to safeguard the state against surprise. Id. In order to provide adequate information for
7 informed pleas, expedite trials, minimize surprise, afford opportunity for effective cross-
8 examination, and meet the requirements of due process, pretrial discovery should be as full and
9 free as possible. Id.

10 In addition to the rules of discovery, a separate and distinct constitutional obligation
11 requires the prosecution to disclose evidence at trial or to the defense that is necessary to assure
12 the accused a fair trial consistent with Fourteenth Amendment safeguards of due process. Id., §
13 1301. The Supreme Court has held that the constitutional guarantee of effective assistance of
14 counsel includes the right to pretrial gathering of information. *Coleman v. Alabama*, 399 U.S. 1,
15 90 S.Ct. 1999, 26 L.Ed.2d 387 (1970). The Sixth Amendment confrontation clause, also
16 incorporated by the Fourteenth Amendment, may be violated by a refusal to provide the defense
17 with pretrial discovery. Id.¹

18 CONCLUSION

19 Mr. Gibson moves the Multnomah County Circuit Court for an order to compel the State
20 of Oregon to file a list of the witnesses which the State of Oregon intends to use at trial so that
21 Joseph Gibson can receive a fair trial.

¹ Citing *Pointer v. Texas*, 380 U.S. 400, 85 S.Ct. 1065, 13 L.Ed.2d 923 (1965); *Douglas v. Alabama*, 380 U.S. 415, 85 S.Ct. 1074, 13 L.Ed.2d 934 (1965).

1 Respectfully submitted this Tuesday, September 24, 2019.

/s/ D. Angus Lee

D. Angus Lee, WSBA# 36473 ***Pro Hoc Vice***

Angus Lee Law Firm, PLLC

9105A NE HWY 99 Suite 200

Vancouver, WA 98665

Phone: 360.635.6464

Fax: 888.509.8268

E-mail: Angus@AngusLeeLaw.com

Attorney for Defendant JOSEPH "JOEY"

GIBSON

/s/James L. Buchal

James L. Buchal, OSB No. 921618

MURPHY & BUCHAL LLP

3425 SE Yamhill Street, Suite 100

Portland, OR 97214

Tel: 503-227-1011

Fax: 503-573-1939

E-mail: jbuchal@mbllp.com

Attorney for Defendant JOSEPH "JOEY"

GIBSON

CERTIFICATE OF SERVICE

I, D. Angus Lee, hereby declare under penalty of perjury under the laws of the State of Oregon that the following facts are true and correct:

I am a citizen of the United States, over the age of 18 years.

On Tuesday, September 24, 2019, I caused this document to be served in the following manner on the parties listed below:

Brad Kalbaugh	()	(BY FIRST CLASS US MAIL)
Multnomah County District Attorney's Office	(X)	(BY E-MAIL)
600 Multnomah County Courthouse	()	(BY FAX)
1021 SW 4th Ave	()	(BY HAND)
Portland OR 97204		
E-mail: brad.kalbaugh@mcda.us		

/s/ D. Angus Lee