

MULTNOMAH COUNTY CIRCUIT COURT
IN AND FOR THE STATE OF WASHINGTON

STATE OF OREGON,

PLAINTIFF,

vs.

JOSEPH GIBSON,

DEFENDANT.

No. 19CR53042

JOSEPH GIBSON'S
MOTION TO CONTINUE
[ORAL ARGUMENT REQUESTED]
[UTC 4.050]

MOTION

COMES NOW Joseph Gibson, by and through the Angus Lee Law Firm, PLLC, and moves the Multnomah County Circuit Court to continue the currently scheduled trial in this matter. Mr. Gibson requests oral argument on this motion. Argument should last no more than 10 minutes per side.

BASIS

Trial is currently set to start on 7/20/2020. Mr. Gibson's case is consolidated for trial with State v. Russell Schultz (19-CR-53035), State v. Kramer (19CR50007), and State v. Lewis (CR1953040).

In this matter several motions have been filed by Mr. Gibson. Those motions were mostly joined by the co-defendants. Motions were heard before Judge Benjamin Souede in Early March before the pandemic. At the conclusion of the hearing Judge Souede reserved ruling on a motion

1 to compel discovery, reserved ruling on a motion for the state to produce statements of co-
2 defendants, reserved ruling on a motion for unanimous verdicts, and reserved ruling on a motion
3 for a jury question form.

4 The court also reserved ruling on a motion to sever and indicated that an evidentiary
5 hearing was needed. Upon conclusion of the hearing it was understood by all parties that the
6 State's counsel was to (1) prepare a written order on the motions, (2) provide a bill of particulars
7 to the defense, and (3) provide an exhibit list to the defense. The court also indicated that the State
8 must identify when each defendant is alleged to have begun to riot.

9 However, the State has failed to do (1), (2), or (3), above. Defense counsel emailed the
10 State on April 1, 2020, and inquired about when the above would be completed. See attached
11 Exhibit A. No reply was received.

12 On April 17, 2020, counsel for the defense again inquired as to when the above would be
13 completed. Id. Counsel for the State replied as follows:

14 My thoughts are that I need to get those things done as soon as possible. My
15 apologies for the delay which already is grossly inappropriate and grows more so
16 with each passing day. My workload was turned on its head due to the COVID-19
17 pandemic. I will try and finish those documents before the end of the weekend.

18 Id. Yet following that reply the State appears to have taken no action on (1), (2), or (3) above.

19 The bill of particulars and exhibit list is needed so that the defendants can prepare a defense,
20 and an evidentiary hearing on the motion to sever is still needed and time is short due to neglect
21 of this matter by the State. As an aside, the defense is not attributing any bad faith to the State,
22 and recognizes the difficulties of the present time, but regardless of good or bad faith the defense
23 has a right to have the information needed well enough in advance of trial to conduct motions and
24 prepare a defense.

1 CONCLUSION

2 The entire purpose of the prior motions, and the production of the bill of particulars and
3 exhibit list, was so the defense could complete their pretrial investigation of the case and prepare
4 a defense. Counsel for Mr. Gibson cannot fully prepare for trial until these items have been
5 produced. They should have been provided months ago. Mr. Gibson respectfully requests that trial
6 in this matter be continued.

7 Respectfully submitted this Friday, June 19, 2020.

/s/ D. Angus Lee

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/s/James L. Buchal

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Attorney for Defendant Joseph Gibson

8 DECLARATION OF COUNSEL

9 I, D. Angus Lee, declare under the penalty of perjury that the following is true and correct
10 to the best of my knowledge. I am over the age of eighteen, and I am competent to testify to the
11 matters herein. I have personal knowledge of the matters stated herein, or as indicated, have
12 information concerning those matters.

13 1. Attached as Exhibit A is a true and correct copy of an email.

14 I hereby declare that the above statement is true to the best of my knowledge and belief,
15 and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

16 Signed at Vancouver, Washington, on Friday, June 19, 2020

17 S// D. Angus Lee

18 D. Angus Lee

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 Friday, June 19, 2020, 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		
brad.kalbaugh@mcds.us		

Counsel for Ian Kramer	()	(BY FIRST CLASS US MAIL)
Jason Steen	(X)	(BY E-MAIL)
741 SW Lincoln St	()	(BY FAX)
Portland, OR 97201	()	(BY HAND)
jason@dickisonsteen.com		

Counsel for Russell Schultz	()	(BY FIRST CLASS US MAIL)
Aubrey R. Hoffman	(X)	(BY E-MAIL)
Law Office of Aubrey Hoffman, LLC	()	(BY FAX)
712 Main St.	()	(BY HAND)
Oregon City, OR 97045		
aubrey@aubreyhoffmanlaw.com		

Mackenzie Lewis, <i>pro se</i>	()	(BY FIRST CLASS US MAIL)
1725 SE 8th Ave.	(X)	(BY E-MAIL)
Camas, WA 98607	()	(BY FAX)
mack.lewis16@yahoo.com	()	(BY HAND)

/s/ D. Angus Lee

**D. Angus Lee** <angus@angusleelaw.com>

State v. Gibson, et al.

KALBAUGH Brad <Brad.KALBAUGH@mcda.us>

Fri, Apr 17, 2020 at 8:12 AM

To: "D. Angus Lee" <angus@angusleelaw.com>

Cc: Jason Steen <jason@dickisonsteen.com>, James Buchal <jbuchal@mbllp.com>, Mack Lewis <mack.lewis16@yahoo.com>, Aubrey Hoffman <aubrey@aubreyhoffmanlaw.com>, HUGHEY Sean <sean.hughey@mcda.us>

My thoughts are that I need to get those things done as soon as possible. My apologies for the delay which already is grossly inappropriate and grows more so with each passing day. My workload was turned on its head due to the COVID-19 pandemic. I will try and finish those documents before the end of the weekend.

From: D. Angus Lee <angus@angusleelaw.com>**Sent:** Friday, April 17, 2020 8:05 AM**To:** KALBAUGH Brad <Brad.KALBAUGH@mcda.us>**Cc:** Jason Steen <jason@dickisonsteen.com>; James Buchal <jbuchal@mbllp.com>; Mack Lewis <mack.lewis16@yahoo.com>; Aubrey Hoffman <aubrey@aubreyhoffmanlaw.com>**Subject:** Re: State v. Gibson, et al.

Brad:

Any thoughts on the below?

On Apr 1, 2020, at 9:40 AM, D. Angus Lee <angus@angusleelaw.com> wrote:

Brad:

EX. A

How about that (1) proposed order, (2) bill of particulars, and (3) exhibit list?

Thanks, and stay clean,

Angus

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EX. A