

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

STATE OF OREGON,

Plaintiff,

v.

JOSEPH OWAN GIBSON,

Defendant.

Consolidated Case No. 19CR53042

**DECLARATION OF AUBREY
HOFFMAN IN SUPPORT OF
DEFENDANTS' MOTION TO DISMISS
FOR SELECTIVE PROSECUTION**

STATE OF OREGON,

Plaintiff,

v.

RUSSELL SCHULTZ,

Defendant.

Consolidated Case No. 19CR53035

11. Video of the protest shows the involvement of Mr. Schultz and Mr. Gibson during the protest. Mr. Schultz is visible in the video and was wearing a red turtleneck shirt, with a dark t- shirt on top of it, and a backwards hat.

12. The video appears to me to be devoid of any act of "violence" of "tumultuous conduct" committed personally by Mr. Schultz.

13. Mr. Schultz was not charged with any assault nor any other crime besides riot.

14. Personally, seeing no evidence that I believed established that Mr. Schultz engaged in riot, I joined in a motion for a bill of particulars which was filed by counsel for Mr. Gibson. I also joined in a motion for change of venue that was filed by counsel for Mr. Gibson, as I do not believe that Mr. Gibson or Mr. Schultz can receive a fair trial in Portland.

15. A hearing on those motions, and other motions, was held on or about March 6, 2020.

16. During a court recess of the March 6th hearing, I spoke directly and in person with Deputy District Attorney Brad Kalbaugh about the case against Mr. Schultz.

17. During that conversation, I told him that I did not see any evidence of violent or tumultuous conduct by Mr. Schultz and wanted to know why he had been charged.

18. Deputy District Attorney Kalbaugh did not deny my assertion, nor did he assert that I was wrong. He did not identify any violent or tumultuous conduct by Mr. Schultz. Instead, Deputy District Attorney Kalbaugh told me in clear terms that Mr. Schultz was being prosecuted because he, and numerous others, stood around a fist fight between two other individuals at the time of the protest.

19. In my review of the discovery, I observed that there were numerous individuals that were standing around the fist fight during the protest.

20. On information and belief, neither of the two other individuals that were fist fighting, nor any of the others that were standing around the fist fight, were charged with any crime.

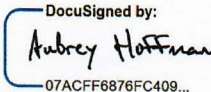
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1 I hereby declare that the above statement is true to the best of my knowledge and belief,
2 and that I understand it is made for use as evidence in court and is subject to penalty for perjury.
3 I declare under penalty of perjury under the laws of the United States of America that the
4 foregoing is true and correct. 4/21/2021 | 2:29:02 PM PDT

5 Executed on this ____th day of April, 2021.

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7 /s/ Aubrey Hoffman
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CERTIFICATE OF SERVICE

I, Carole A. Caldwell, 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, and not a party to or interested in the within entitled cause. I am an employee of Murphy & Buchal LLP and my business address is P.O. Box 86620, Portland, Oregon 97286..

On April 21, 2021, I caused the following document to be served:

DECLARATION OF AUBREY HOFFMAN IN SUPPORT OF DEFENDANTS' MOTION
TO DISMISS FOR SELECTIVE PROSECUTION

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	(X)	(E-Service, UTCR 21.100)
E-mail: brad.kalbaugh@mcdca.us		

/s/ Carole Caldwell