

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

STATE OF OREGON,

Plaintiff,

v.

JOSEPH OWAN GIBSON,

Defendant.

Case No. 19CR53042

**DECLARATION OF D. ANGUS LEE IN  
SUPPORT OF DEFENDANT'S MOTION  
TO DISMISS FOR DISCOVERY  
VIOLATIONS**

D. Angus Lee declares:

1. I am counsel to defendant Joseph Gibson in this action. I make this Declaration in support of Joseph Gibson's motion to dismiss for discovery violations and in further support of Defendant Gibson's Motion for Reconsideration, or, in the Alternative, for Dismissal in the Interests of Justice.

2. Attached as Exhibit 1 is a true copy of Defendant Gibson's Demand for Discovery, served on August 28, 2019, seeking, among other things, "any information indicating entrapment of the defendant, Joey Gibson". I believe there has been no materials produced by the Multnomah County District Attorney indicating the participation of any agents of Multnomah County law enforcement in the crowd in the vicinity of Cider Riot on May 1, 2019 (other than an undercover observer), and certainly no evidence of any cooperation agreements between a co-defendant and Multnomah County.

3. Attached as Exhibit 2 is a true copy of an excerpt from the transcript of a pretrial hearing held October 23, 2020, in which the State then claimed to have provided “all of the discovery”.

4. Attached as Exhibit 3 is a true copy of this Court’s Order of October 7, 2021, memorializing the State’s representation that “it has produced all discoverable material in its possession”.

5. After the January 13, 2022 hearing at which the State made no reference to any additional discovery materials, I began to suspect that the State was withholding critical discovery information, to wit, a cooperation agreement with a participant in the May 1, 2019 events at Cider Riot.

6. Attached as Exhibit 4 is a true copy of Defendant Gibson's Demand for Discovery, Supplemental No. 4, in which I specifically requested any cooperation agreement between Multnomah County and anyone involved in the May 1, 2019 Cider Riot incident. I served copy of this document on the State by e-mail on January 24, 2022.

7. The next day, I received an e-mail from Mr. Hughey, a true copy of which is attached as Exhibit 5, transmitting a draft protective order, a true copy of which is attached as Exhibit 6.

I certify under penalty of perjury that the foregoing is true and correct.

Dated this 31<sup>st</sup> day of January 2022.

*s/ D. Angus Lee*  
D. Angus Lee, OSB No. 213139  
ANGUS LEE LAW FIRM, PLLC  
9105A NE HWY 99 Suite 200  
Vancouver, WA 98665  
Tel: 360.635.6464  
E-mail: [Angus@AngusLeeLaw.com](mailto:Angus@AngusLeeLaw.com)  
*Attorney for Defendant Gibson*

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  
DEMAND FOR DISCOVERY

COMES NOW Joseph "Joey" Gibson, the defendant, by and through the Angus Lee Law Firm, PLLC, and demands all discovery available pursuant to ORS 135.815, and makes the following additional demands for discovery:

1. Any evidence of an exculpatory nature pursuant to *Brady v. Maryland*. 373 U.S. 93 (1963), or impeachment evidence pursuant to *United States v. Bagley*. 473 U.S. 667 (1985);

2. **All audio or video recordings** generated or gathered during the investigation of this matter, to include but not limited to vehicle mounted video recordings, body worn video recordings, or surveillance camera video recordings, regardless of the prosecution's intent to use said material at hearing or trial;

JOSEPH GIBSON'S DEMAND FOR DISCOVERY  
No. 19CR53042  
Wednesday, August 28, 2019

1

ANGUS LEE LAW FIRM, PLLC  
9105A NE HWY 99, STE 200  
Vancouver, WA 98665  
(P) 360-635-6464 (F) 888-509-8268

1 3. **All audio or video recordings of Joey Gibson** in the possession of the prosecuting  
2 authority, or the investigating police agency, regardless of perceived relationship of the recording  
3 to this present case;

4 4. The names, addresses, and phone numbers of all persons the prosecutor intends to call as  
5 witnesses at the time of hearing or trial, together with copies of any notes, written or recorded  
6 statements, and the substance of any oral statements made by any of those witnesses or by any  
7 third parties communicated to those witnesses bearing on any issue in this case;

8 5. Any statements, written or recorded, and the substance of any oral statement, made by the  
9 defendant or by any codefendant;

10 6. Any reports or statements, oral or written, by any witness, including expert witnesses,  
11 regarding the results of any scientific, chemical, physical, or mental examination, comparison, or  
12 tests performed in connection with this case;

13 7. Any books, papers, documents, photographs, or tangible objects which the prosecutor  
14 intends to use in the hearing or trial or which were obtained from or belonged to the defendant,  
15 Joey Gibson, together with a synopsis of its alleged connection to the charges herein;

16 8. Any record of prior criminal convictions known or reasonably knowable to the prosecuting  
17 authority of the defendant, Joey Gibson, or of any persons whom the prosecutor intends to call as  
18 witnesses at the hearing or trial;

19 9. Copies of or access to any "911" or other recordings of police communications relative to  
20 the investigation and or arrest of the defendant, Joey Gibson, herein;

21 10. Any expert witnesses with whom the prosecutor has consulted on this matter, or will call  
22 at the hearing or trial, the subject of their discussions or possible testimony, and any reports or

1 emails relating to the subject of their testimony that they have submitted to the prosecuting  
2 authority;

3 11. Any information indicating entrapment of the defendant, Joey Gibson;

4 12. Information pertaining to any searches of defendant, Joey Gibson, and items or fruits seized  
5 as a result of the search;

6 13. The relationship to the prosecuting authority, if any, of persons identified in response to  
7 the above demands;

8 14. Any electronic surveillance, including wiretapping, of Joey Gibson's premises or  
9 conversations to which the defendant, Joey Gibson, was a party and any record thereof;

10 15. Any print out or records of breath test results or breath test refusal;

11 16. The names, addresses, and phone numbers of all members of law enforcement present at  
12 the point of contact, or stop, and or subsequent arrest of Joey Gibson for the alleged violation, and  
13 or involved with the investigation of evidence handling of this case;

14 17. Any and all training logs, proficiency reports, disciplinary findings, fitness test reports, and  
15 use of force complaints related to the officers identified in response to number 16 above;

16 18. All audio recordings and the notes or report of a shorthand reporter produced pursuant to  
17 ORS 132.250 and ORS 132.260.

18 19. All grand jury materials releasable under ORS 132.270 or otherwise.

19 20. All records obtained from Cider Riot LLC tending to identify those present on the premises  
20 on May 1, 2019, including but not limited to all charge card receipts, records of identification  
21 verification systems (for drinking age) or other documents.

1           YOU ARE HEREBY NOTIFIED that failure to comply with the demands contained herein  
2 will result in defendant, Joey Gibson moving for appropriate relief at time of hearing or trial.

3 Respectfully submitted this Wednesday, August 28, 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 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 GIBSON

**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 3425 SE Yamhill Street, Suite 100, Portland, Oregon 97214.

On August 28, 2019, I caused the following document to be served:

JOSEPH GIBSON'S DEMAND FOR DISCOVERY

in the following manner on the parties listed below:

Brad Kalbaugh	(X)	(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/ Carole Caldwell

JOSEPH GIBSON'S DEMAND FOR DISCOVERY

No. 19CR53042

Wednesday, August 28, 2019

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ANGUS LEE LAW FIRM, PLLC

9105A NE HWY 99, STE 200

Vancouver, WA 98665

(P) 360-635-6464 (F) 888-509-8268

1           **MR. KALBAUGH:** Well, correct, because I  
2 don't know if this, you know, that --

3           **THE COURT:** Yep.

4           **MR. KALBAUGH:** -- it would be wonderful if  
5 a Defendant could simply say, "Well, here's the  
6 State's case. I'm going to present it and therefore  
7 I win." That's what Mr. Buchal's attempting to do.

8           **MR. BUCHAL:** No. Not at all. Not at all.

9           **MR. KALBAUGH:** So the State has provided  
10 Mr. Buchal with all of the discovery. We have now  
11 narrowed it down pursuant to the Court's order. And  
12 the Court's order as documented on the August 26th  
13 filing, which is titled Order Regarding March 6,  
14 2020 Omnibus Hearing, the State has complied with  
15 the terms of that order.

16           If Mr. Buchal is referring to Your Honor's  
17 oral orders in court -- and Your Honor made those  
18 orders; Your Honor can decide whether what's written  
19 in paragraph 4 accurately reflects that.

20           **THE COURT:** Simpler question, Mr.  
21 Kalbaugh.

22           Is the State resistant to the notion that  
23 the riot occurred -- began and was completed in its  
24 entirety between the time that Mr. Gibson walks up  
25 to Cider Riot and the time Mr. Gibson is known --



IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MULTNOMAH  
1200 SW First Avenue Portland Oregon 97204

Case No: 19CR53042

State of Oregon  
vs  
Joseph Owan Gibson

**ORDER**

DDA: Brad Kalbaugh; Sean Hughey  
Defense: Angus Lee; James Buchal

**The Court orders:**

State's Motion to Compel Discovery is GRANTED. Discovery deadline is Monday, November 15, 2021 by close of business.

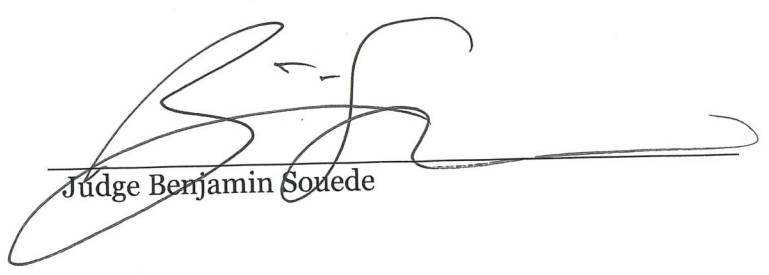
Defendant's Renewed Motion to Compel Discovery is DENIED. State represents that it has produced all discoverable material in its possession.

Defendant's Motion for Dismissal under Robertson Category Three is DEFERRED. The Court requires an evidentiary trial record before it can rule on this motion.

Defendant's Motion to Submit Questionnaire to Venire is DENIED WITHOUT PREJUDICE.

October 7, 2021

Date



Judge Benjamin Souede

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

STATE OF OREGON,

PLAINTIFF,

vs.

JOEY GIBSON,

DEFENDANT.

No. 19CR53042

JOSEPH GIBSON'S  
DEMAND FOR DISCOVERY  
**SUPPLEMENTAL NUMBER 4**

SUPPLEMENTAL DEMAND FOR DISCOVERY

The defendant, Mr. Joseph Gibson, by and through the Angus Lee Law Firm, having previously requested discovery pursuant to ORS 135.815, *Brady v. Maryland*, 373 U.S. 93 (1963), and *United States v. Baglev*, 473 U.S. 667 (1985), makes the following supplemental demand for:

- 1. Any cooperation agreement between Multnomah County (either the Sheriff's Office, the Prosecutor's Office, and any agent thereof) and anyone involved in the may 1, 2019 incident near Cider Riot. This request includes, but is not limited to, agreements with any current or previously charged co-defendants in this matter.**

YOU ARE HEREBY NOTIFIED that failure to comply with the demands contained herein will result in defendant, Joey Gibson moving for appropriate relief at time of hearing or trial.

DEMAND FOR DISCOVERY (SUP 4)  
No. 19CR53042  
Monday, January 24, 2022

ANGUS LEE LAW FIRM, PLLC  
9105A NE HWY 99, STE 200  
Vancouver, WA 98665  
(P) 360-635-6464 (F) 888-509-8268

Respectfully submitted this Monday, January 24, 2022.

/s/ D. Angus Lee

D. Angus Lee, OSB No. 213139  
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 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 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 Monday, January 24, 2022, 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

## James Buchal

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**From:** HUGHEY Sean <sean.hughey@mcda.us>  
**Sent:** Tuesday, January 25, 2022 3:40 PM  
**To:** 'D. Angus Lee'; KALBAUGH Brad  
**Cc:** James Buchal; 'Kelly Doyle'; oregondefender@gmail.com  
**Subject:** RE: Disco\_Demand JG 220124 (SUPPLEMENTAL NUMBER 4)  
**Attachments:** Proposed protective order 1.25.22.doc

I assume there is no objection to any responsive documents being produced pursuant to a protective order? I have attached a draft that we generated. If everybody stipulates to this, I will present it to Judge Souede for signature.  
Sean

Sean P. Hughey  
503-988-4721

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**From:** D. Angus Lee [mailto:angus@angusleelaw.com]  
**Sent:** Monday, January 24, 2022 4:10 PM  
**To:** HUGHEY Sean <sean.hughey@mcda.us>; KALBAUGH Brad <Brad.KALBAUGH@mcda.us>  
**Cc:** James Buchal <jbuchal@mbllp.com>  
**Subject:** Disco\_Demand JG 220124 (SUPPLEMENTAL NUMBER 4)

Mr. Kalbaugh and Mr. Hughey:

The defendant, Mr. Joseph Gibson, by and through the Angus Lee Law Firm, having previously requested discovery pursuant to ORS 135.815, Brady v. Maryland, 373 U.S. 93 (1963), and United States v. Baglev, 473 U.S. 667 (1985), makes the following supplemental demand for any cooperation agreement between Multnomah County (either the Sheriff's Office, the Prosecutor's Office, and any agent thereof) and anyone involved in the may 1, 2019 incident near Cider Riot. This request includes, but is not limited to, agreements with any current or previously charged co-defendants in this matter.

Confidentiality: This e-mail transmission may contain confidential and/or privileged information. The information contained herein is intended for the addressee only. If you are not the addressee, please do not review, disclose, copy or distribute this transmission. If you have received this transmission in error, please contact the sender immediately.

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

3 THE STATE OF OREGON,  
4

No. 19CR53035 (Schultz)  
No. 21CR14707 (Gibson)  
No. 19CR53040 (Lewis)

5  
6  
7 Plaintiff,  
8

9 v.  
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PROTECTIVE ORDER

11 RUSSELL SCHULTZ,  
12 JOSEPH GIBSON, and  
13 MACKENZIE LEWIS

14 Defendants  
15

16 This matter having come before the court by stipulation of the parties, it is hereby  
17 ORDERED that:

- 18 1. The State will provide defense counsel with certain confidential material pertaining to  
19 information provided to the Multnomah County District Attorney by the Multnomah  
20 County Sheriff on January 10, 2022, the entirety of which will be referred to in this  
21 order henceforth as “Produced Material”.  
22  
23 2. The Produced Material copied and produced by the State pursuant to this order shall be  
24 maintained by the defense attorney, his or her investigators paralegals, secretaries and  
25

1 experts, the entirety of which will be referred to in this order henceforth as “Defense  
2 Team”.

- 3 3. The Defense Team shall maintain the Produced Material in accordance with the terms of  
4 this order. The Produced Material shall be accessed, viewed, and used solely and  
5 exclusively by the Defense Team as the Produced Material pertains grand jury  
6 testimony, plea negotiations, motion practice, trial preparation, and sentencing  
7 recommendations, but for no other purpose.
- 8 4. The defendant’s ability to access, view, and otherwise use the material is hereby  
9 restricted. If the defendant is being detained in the custody of a county jail or the  
10 Oregon Department of Corrections, the Defense Team may allow the Defendant to view  
11 the Produced Material during a consultation or visitation at the facility in which the  
12 defendant is in custody. If the defendant is not being held in custody, the Defense Team  
13 may allow the defendant and only the defendant to access and view the Produced  
14 Material.
- 15 5. The Defense Team is prohibited from providing copies of the Produced Material to  
16 anyone who is not on the Defense Team.
- 17 6. The defendant may not make, photograph, distribute, or possess any copies of the  
18 Produced Material.
- 19 7. The Defense Team and the defendant are hereby prohibited from posting the Produced  
20 Material or any portion of the Produced Material on the internet, the world wide web, or  
21 on any social media platform on any operating system including, but not limited to,  
22 Facebook, MySpace, Instagram, Google Plus, and Twitter.  
23  
24  
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1 8. While in possession of the Produced Material, the Defense Team shall adhere to the  
2 following restrictions:

3 a. The Produced Material shall not be duplicated, except the Defense Team may  
4 make one or more electronic copies that will be stored on defense counsel's  
5 computer or server.

6 b. The Defense Team may make, file, and serve such copies as are necessary in the  
7 event that any Produced Material is used as an exhibit or otherwise submitted to  
8 the Court provided that any such submission is made under seal.

9 c. The Defense Team may make additional copies of the Produced Material as  
10 necessary for trial notebooks and other necessary preparation for litigation.

11 d. The Defense Team and the defendant are prohibited from copying, printing,  
12 duplicating, electronically transferring, reproducing, and in any way distributing  
13 the Produced Material except as set forth in this ORDER.

14 e. The Defense Team and the defendant shall keep a copy of this ORDER with the  
15 Produced Material at all times.  
16

17 9. The State shall identify, at the time of production to the defense, any material that it  
18 seeks to designate as Produced Material. Defense counsel shall have an opportunity to  
19 contest any such designation by application to this Court. Material not designated as  
20 Produced Material shall not be subject to the terms of this ORDER.  
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22  
23 Dated this \_\_\_\_ day of \_\_\_\_\_, 2022,  
24  
25 \_\_\_\_\_



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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 3425 SE Yamhill Street, Suite 100, Portland, Oregon 97214.

On January 31, 2022, I caused the following document to be served:  
**DECLARATION OF D. ANGUS LEE IN SUPPORT OF DEFENDANT’S MOTION TO DISMISS FOR DISCOVERY VIOLATIONS**  
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@mcda.us		
<i>Attorney for Plaintiff</i>		

s/ Carole Caldwell