IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR MULTNOMAH COUNTY

STATE OF OREGON, Plaintiff vs. JARED ESSIG, Defendant. pro se	)	Case No. 24CR22957 DEFENDANT'S MOTION TO SUPPRESS EVIDENCE OBTAINED IN AN UNLAWFUL SEARCH AND SEIZURE Oral Argument and Evidentiary Hearing Requested (UTCR 4.050)

MOTION TO SUPPRESS EVIDENCE

Comes now Defendant, pro se, and moves this Court for an Order suppressing evidence -- direct and derivative, including the identity of Defendant, any evidence gathered as a result of Defendant's stop, the contents of his pockets, etc. -- discovered pursuant to the warrantless, unlawful seizure, search, and arrest of Defendant. Defendant denies the existence of probable cause to believe he had committed a crime, and submits that the search of his person and/or property was warrantless, and reminds the Court that the introduction of this evidence against Defendant would violate his rights under Article I, Section 9 of the Oregon Constitution and Amendments IV and XIV to the United States Constitution.

Defendant admits and asks the court to consider all "published evidence", including including signage he was openly displaying, and flyers he was distributing to the public,

photograph or audio recording of the defendant during his well-mannered speech activity in the place of a traditional public forum where he was apprehended during a time when it was ordinarily open to the public, all of which constitutes evidence that was available to the police - as also to the PSU scholastic community and the general public - evidence which could have been obtained without a warrantless, unlawful seizure, search, and arrest; which published evidence the State is continuing to tendentiously ignore, perhaps because it does not support the District Attorney's expansive and constitutionally dubious legal theory, and also tends to exculpate the defendant in the eyes of most reasonable observers and mainstream constitutional scholars[1]. If the District Attorney cannot or will not produce such "published evidence", incriminating or otherwise - such as could have easily been obtained without a warrantless, unlawful search, seizure, and arrest, then the State has effectively conceded that no probable cause for the arrest existed, and the court may accept such silence as an admission. If the State will, on its own initiative, concede this in written or verbal admission before the court, then the defendant will accept such admission as a sign of competence and a token of good faith, and in the event promises to refrain from any future civil action against the Portland or PSU police for false imprisonment, or against the Multnomah County District Attorney for malicious prosecution in the matter.

This Motion is based on the brief below and the points and authorities contained herein.

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[1] For summary see: point #11 in REQUEST FOR JUDICIAL NOTICE of PSU as VICTIM, filed earlier.

UTCR 4.060(1)(b) BRIEF

The Fourth Amendment to the United States Constitution, applicable in state courts via the Fourteenth Amendment, commands:

> The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Article I, Section 9 of the Oregon State Constitution provides:

> No law shall violate the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable search, or seizure.

In *State v. Stevens*, 311 Or. 119 (1991), the Oregon Supreme Court held that the State has the burden of proving exceptions to the warrant requirement and the burden of proving the voluntariness of a defendant's statements. Defendant contends that the failure of the prosecution to prove the existence of a valid and specific warrant in this case precludes the admission of any evidence that the State obtained through a search and seizure of Defendant unless the prosecution obtained a court order that such a search was reasonable.

Warrantless searches and seizures are per se unreasonable; the State has the burden of proving otherwise. *State v. Miller*, 269 Or. App. 328, 334 (1974); see also U.S. Const. Amend.

IV, Or. Const. Art. I § 9. Prompted statements made in custody are inadmissible absent a knowing, voluntary, and intelligent waiver by Defendant; the State bears the burden of proving a waiver. *State v. Norgren*, 287 Or. App. 165 (2017); see also U.S. Const. Amend. V, Or. Const. Art I § 12. The Defendant is not required to allege any additional facts in a motion to suppress. Miller at 335, see also State v. Oxford, 287 Or. App. 580 (2017). This motion is, in the opinion of the pro se defendant and his assistant counsel, well-founded in law and neither made nor filed for the purpose of delay.

Because the State has offered no testimony or argument that the Fourth Amendment to the United States Constitution and Article I, section 9 of the Oregon Constitution were not violated by its actions in conducting a search without a warrant and thereby obtaining the statements and physical evidence which it seeks to introduce at trial, such evidence should not be admitted against Defendant at trial.

DATED this _8th_ day of November, 2024.

Jared Essig
jared.essig@gmail.com
Pro Se Defendant

UTCR 4.060 brief by Jack McRory
assistant counsel / legal advisor

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Oregon Constitution, Article I, section 9
United States Constitution, Amendments IV, V, and XIV
ORS 133.693(4) (when a motion to suppress challenges evidence obtained as a result of a warrantless search, the prosecution has the burden of proving a valid search)

CERTIFICATE OF SERVICE

I hereby certify that I served a true and complete copy of the Defendant's Motion to Suppress in Multnomah County Circuit Court Case No. 24CR22957 on the district attorney via the Oregon e-file and serve system, fax, or via email at the following email address:

Mariel Mota

Multnomah County Deputy District Attorney
mariel.mota@mcda.us

DATED this ____ day of November, 2024.

Jared Essig
jarded.essig@gmail.com
Pro Se Defendant