IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR MULTNOMAH COUNTY

STATE OF OREGON PLAINTIFF VS **JARED ESSIG** DEFENDANT	Case No. 24CR22957 REQUEST FOR DISCOVERY OF PPB RESPONSE RECORDS MOTION FOR SET-OVER OF TRIAL READINESS (SUPPLEMENTS TO MOTION TO COMPEL FILED CONCURRENTLY)

Comes now the defendant, pro se, and requests that the Multnomah County District Attorney produce all documents purporting to show that the PSU Park Blocks were lawfully closed to the learning community of PSU and the general public on the 2nd May 2024, as alleged in the charging information and as contested by the demurrer motion filed 6/4/2024. Else we invite the State to admit that, as the demurrer alleges, the dispersal order was given only to the pro-Palestinian agitators conspiring to attempt re-occupation of the library in furtherance of their demands[1], but not to the scholastic community generally nor to the general public.[2] The burden

[1] They or their comrades and allies had earlier burglarized the library and ejected its customary tenants, and during the later morning were continuing to harass the University community in their attempted extortion, and reconvened in the late afternoon in front of the Library after the police had retreated.

[2] The rioters had occupied the Library in a widely-published attempt to extort the University into divestment from companies doing business with Israel and into academic boycott of Israeli university. Demurrer argues that the Park Blocks were not closed to the scholarly and learning community of PSU - many members of which do not support the divestment and boycott demanded by the library occupiers - nor were they closed to the public at large, but were only closed to the "peaceful protestors" who had gathered on the Park Blocks to chant in solidarity with the arrested occupiers, "intifada, intifada, globalize the intifada", and "we will honor all our martyrs", "from the river to the Sea, palestine will be free" (A more literal translation of the popular chant is "*from the water to the water, Palestine will be Arab*") and "disclose, divest, we

is on the State to prove that the premises were closed to the learning and scholastic community at large, and to the general public, for which purpose it must produce statements from the PSU administration or the faculty Senate to this effect, as the location is a public forum which is generally open. Defendant requests that the D.A. comply with the requirements of ORS 135.805-135.873, Article I, sections 1,9,10,11, and 20 of the Oregon Constitution, and the Fourth, Fifth, Sixth, and Fourteenth Amendments to the United States Constitution, and produce the following:

REQUEST FOR PRODUCTION

1. BOEC reports related to Portland Police Bureau response to, and presence at, political demonstrations and/or riots at Portland State University on 2nd May 2024
2. All briefing, alerts, or other communications to PPB's Public Order Team, or any other group of officers who responded to the PSU Campus Intifada and Palestinian occupation of the Millar Library on 2nd May 2024
3. All documents demonstrating that the South Park Blocks were lawfully closed to the learning and scholastic community, and to the general public (those not involved in instigating the rioting), on 2nd May 2024
4. All reports and records related to PPB's monitoring of and response to political demonstrations, riots, library occupation and ejectment, and campus intifada at PSU.

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will not stop we will not rest!", redoubling their efforts and restating their demands on the University administration. These were the only persons who were lawfully ordered to disperse by the PPB. Burden is on the State to prove otherwise.

5. All video in PPB's and/or the State's possession that depicts the political violence, demonstrations, and counter-demonstrations, and the police actions at PSU on 2nd May 2024.
6. All public announcements or campus alerts issued by PSU president Ann Cudd or other Administrators on 2nd May 2024, or decisions communicated verbally in the mobile Command center that day.
7. A record of all communications between the PPB, the Mayor's office, and the PSU president and administration, and all public statements made on official channels or in press conferences by elected officials in the week prior and week after, in regard to the Palestinian occupation of the PSU Park blocks and Millar Library.

Any information in the possession of any employee of the state or of the alleged victim (PSU) that goes towards a determination of appropriate charges to be brought against Mr. Essig or conversely withdrawn in this matter, should have already been provided to the defense in discovery, regardless of whether or not the defense demanded it, filed a discovery request, or filed a motion to compel discovery.

It is "as much the duty of prosecuting attorneys to see that a person on trial is not deprived of any of his statutory or constitutional rights as it is to prosecute him for the crime with which he may be charged." *Lane v. Marion Cty. Dist. Attorney's Office*, 310 Or App 296, 305 (2021) (quoting *State v. Osborne*, 54 Or. 289, 296 (1909))

STATES FAILURE TO PRODUCE

A Demurrer motion and objection to the charging information was filed 6/4/2024. The demurrer alleges that no crime of trespass occurred, because the area was not lawfully closed to the general public, but was rather closed only to those acting outside the scope of our Constitutions' protection on their free speech, and it is only the rioters who had been ordered to disperse. The burden of proof is on the State to show otherwise at a hearing on the demurrer, otherwise the anti-trespass statute is vague enough to be unconstitutional as-applied in this case. It must prove this independent of any evidence that is discovered whether through compulsion or not. But if the forum of a demurrer hearing excludes matter "outside the four corners of the charging instrument", then its underlying argument should be considered at a hearing on the motion to compel, wherein we will advance it. Although these specific requests for discovery were not enumerated in the first request, they were latent and inherent in the request for *BRADY* material, exculpatory evidence, and preservation of evidence made 5/6/2024 by and through assistant counsel Jack McRory, reiterated at appearances for trial readiness and in an email to D.D.A. Bija, and the defendant pro se does not think it is too late to specify the material requested or insist upon it.

Similar request for discovery and production of PPB response records were made by defense attorneys in related cases arising from the PSU intifada and occupation, therefore it should not be onerous for the State to simply reproduce them here. Mr. Essig is entitled to the same remedy as similarly situated defendants.

RELIEF REQUESTED AND SET-OVER OF TRIAL READINESS

We ask for set-over of trial readiness until a date chosen by the D.A.'s office, no less than one week after the office expects that it can comply with this reasonable request. If production is not made by a reasonable time, then this request, considered as a supplement to the motion to compel discovery that is being filed concurrently, and supported by the legal arguments therein presented, should be received as a demand. In the event, we ask the court for relief including an order compelling disclosure, a *BRADY* Colloquy, and an in camera review of the prosecutor's file.

DATED this 8th day of August, 2024.

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

POINTS AND AUTHORITIES

ORS 135.815(g) ([T]he district attorney shall disclose to a represented defendant the following material and information within the possession or control of the district attorney: Any material or information that tends to: (A)Exculpate the defendant; (B)Negate or mitigate the defendant's guilt or punishment; or (C)Impeach a person the district attorney intends to call as a witness at the trial.)

ORS 135.845 ("The obligations to disclose shall be performed as soon as practicable following the filing of an indictment or information in the circuit court or the filing of a complaint or information charging a misdemeanor or violation of a city ordinance. The court may supervise

the exercise of discovery to the extent necessary to insure that it proceeds properly and expeditiously.")
ORS 135.865

Brady v. Maryland, 373 U.S. 83 (1963)

Kyles v. Whitley, 514 US 419, 437 (1995) ([T]he individual prosecutor has a duty to learn of any favorable evidence known to the others acting on the government's behalf in the case…")

Strickler v. Greene, 527 US 263, 288, 119 S Ct 1936, 1952 (1999) (…"[U]nder *Brady* an inadvertent nondisclosure has the same impact on the fairness of the proceedings as deliberate concealment.")

Oregon Rules of Professional Conduct Rule 3.8 (The prosecutor in a criminal case shall (b) make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, and, in connection with sentencing, disclose to the defense and to the tribunal all unprivileged mitigating information known to the prosecutor, except when the prosecutor is relieved of this responsibility by a protective order of the tribunal.)

U.S. Constitution, Amendment XIV

Oregon Constitution, Article I, section 11

CERTIFICATE OF SERVICE

I certify that I served or caused to be served, a true and complete copy of the above motion on the District Attorney by hard-copy to the office receptionist, by email to the D.D.A, or by both.

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

DATED this 8th day of August, 2024

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