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

STATE OF OREGON,

Plaintiff,

vs.

JACK EDWARD SIGLER,

Defendant.

Case No.: 20CR67214

**MOTION TO EXCLUDE ANY OF
DEFENDANT’S STATEMENTS NOT
SPECIFICALLY IDENTIFIED
ALTERNATIVE MOTION TO IDENTIFY
STATEMENTS INTENDED TO BE
INTRODUCED**

**Request for Evidentiary Hearing, Oral
Argument, Findings of Fact and
Conclusions of Law**

DEFENSE MOTION #10A

UTCR 4.050 Information

Pursuant to UTCR 4.050, Defendant estimates the testimony and oral argument on this motion will take approximately one (1) hour. This motion incorporates by reference any previous memoranda and authority filed contemporaneously in the court record for this case.

Motion

Jack Sigler through his attorneys Mark Sabitt, Kristina Kayl, and Steve Lindsey, respectfully moves for a hearing pursuant to *State v. Brewton*, 238 Or 590 (1964), permitting pretrial judicial review of any specific statements the State intends to offer against the accused. Defendant further moves for suppression of any statements that reference Mr. Sigler’s request for an attorney and the particular statements referenced below:

- (1) Defendant moves to exclude his statement “I want a lawyer”;

- 1 (2) The defense objects to any statement obtained in violation of Jack Sigler’s right
2 to remain silent or right to counsel;
- 3 (3) The defense objects to any statement made in reference to or as Mr. Sigler
4 invoked any constitutional or statutory rights, including the right to counsel,
5 right to remain silent, or other similar invocation. The discovery indicates Mr.
6 Sigler was advised of his right to refuse questions, refuse an interview, or
7 otherwise not provide statements. During an interview on December 6, 2020,
8 Mr. Sigler states in a summary remark that “he’s seen the shows and needs a
9 lawyer”;
- 10 (4) The defense objects to any statement obtained and offered as an exception to the
11 rule against hearsay or non-hearsay; specifically including any statements
12 attributed to Jack Sigler which are obtained from or offered via testimony of any
13 eyewitness, any law enforcement officer, or any unknown witness; such
14 statements specifically include but are not limited to any statement attributed to
15 Jack Sigler and offered via testimony of:
16 a. Jon Vineyard
17 b. Tameka Stevens-Ranch
18 c. Sylvia Jones
19 d. Kevin Dugger
- 20 (5) Any statement the State seeks to introduce as a voluntary admission or confession
21 of Mr. Sigler pursuant to the principles articulated in *State v. Jackson*, 364 Or. 1,
22 430 P.3d 1067 (2018). (Out of court confessions presumed to be involuntary.)
- (6) Any Statements not introduced pretrial during the *Brewton* hearing.

1 In the event the prosecution has not established a knowing, intelligent and voluntary
2 waiver of Mr. Sigler's *Miranda* protections, as identified and referenced in prior Defense
3 Motion #10, then the defense moves to exclude any testimony surrounding the allegations in
4 the Indictment and Superceding Indictment offered as an admission or confession.

5 In support of this Motion, Defendant relies upon the points and authorities cited below,
6 all prior testimony and memoranda regarding the issue of defendant's statements, the pleadings,
7 records, and files in this case, and any additional authorities, evidence and/or arguments that
8 may be produced at the hearing on this Motion.

9 RESPECTFULLY SUBMITTED.

10 DATED: Thursday, April 21, 2022.

11 /s/Steve Lindsey

12 Steve Lindsey, OSB #000745

13 Mark Sabitt, OSB #891155

14 Kristina Kayl, OSB #094031

15 Attorneys for Jack Sigler

16 **POINTS & AUTHORITIES**

17 U.S. Const. Amends. IV, V, VI, XIV

18 Oregon Const. Art. I, §§ 9, 11, 12 & ORS 136.425(1)

19 *Miranda v. Arizona*, 384 US 436 (1966)

20 *Arizona v. Roberson*, 486 US 675, 684-85 (1988) (discussing right to counsel under both Sixth
21 and Fifth Amendments)

22 *State v. Vasquez-Santiago*, 301 Or App 90, 456 P.3d 270 (Or. App. 2019)-To protect a
defendant's core statutory and constitutional right to be free from compelled self-incrimination,
an out-of-court confession is presumed to be involuntary and, thus, inadmissible. *Jackson*, 364
Or. at 21, 430 P.3d 1067 ; see also Powell , 352 Or. at 225-26, 282 P.3d 845 ("It is well
established that confessions are initially deemed to be involuntary and that the state has the

Page 3 of 4 MOTION TO EXCLUDE ANY OF DEFENDANT'S STATEMENTS NOT SPECIFICALLY
IDENTIFIED ALTERNATIVE MOTION TO IDENTIFY STATEMENTS INTENDED TO BE INTRODUCED
(DEFENSE MOTION #10A)

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1 burden to overcome that presumption by offering evidence affirmatively establishing that the
confession was voluntary.").
2 *State v. Isom*, 306 Or 587 (1988) (upon invocation, all questioning must cease)
State v. Brewton, 238 Or 590 (1964) (providing for pretrial review of statements of accused)
3 *State v. Garcia*, 88 Or App 169 (1987) (*Brewton* hearing required to review voluntariness)
State v. Ryan, 89 Or App 129 (1988) (same)
4 *State v. Farmer*, 65 Or App 336, 339 (1983) ("The state has the burden of proving by the clear
weight of the evidence that defendant's confession was voluntary.")
5 *State ex rel Juv. Dep't of Washington County v. S.C.G.*, 77 Or App 543 (1986) (statements not
voluntary when prefaced by implied promise of treatment rather than incarceration)
6 *State v. Capwell*, 64 Or App 710 (1983) (same)
State v. Wintzingerode, 9 Or 153, 162-64 (1881) (statements not voluntary if prisoner told "it
7 would be better for him to confess, or worse if he did not confess," specifically, "It would be
better for you, Harry, to tell the whole thing.")
8 *State v. Lloyd*, 22 Or App 254 (1975) (intoxication can preclude voluntariness)
State v. Magee, 304 Or 261 (1987) (defendant in custody when told he could not leave police
station by officer, investigating fight in which he and his brother had been involved)
9 *State v. Mendacino*, 288 Or 231, 234 n. 3 (1980) (defendant in custody when detective at
hospital took defendant's clothing for testing, considered defendant a suspect and would not
10 have allowed him to leave)
State v. Osborn, 82 Or App 451 (1986), *rev den* 302 Or 614 (1987) (civilian was agent of
11 police in questioning defendant after invocation of right to silence)
United States v. Wallace, 848 F2d 1464 (1988) (silence in response to questioning equates to
12 invocation of right to silence)
State v. Prickett, 136 Or App 559 (1995) ("once the field sobriety tests have concluded, the
13 setting becomes 'compelling'" * * * and the officer must give *Miranda*-like warnings")
(internal modification & quotation omitted)
14 *State v. Goree* 151 Or App 621 (1997) (Confession or admission is deemed involuntary unless
state affirmatively proves, by preponderance of evidence, that it was made voluntarily. US
15 Const, Amend V; Or Const, Art I, § 12; ORS 136.425.)

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******* CERTIFICATE OF SERVICE *******

I hereby certify that I caused to be served the MOTION TO EXCLUDE ANY OF DEFENDANT'S STATEMENTS NOT SPECIFICALLY IDENTIFIED ALTERNATIVE MOTION TO IDENTIFY STATEMENTS INTENDED TO BE INTRODUCED (DEFENSE MOTION #10A) on the following person(s), in the following manner: by OJD File & Serve, by mailing (First-Class postage prepaid), by faxing; or by electronic mail, on the date subscribed below:

Ms. Lanee Danforth
Lincoln County District Attorney's Office
Lincoln County Courthouse
225 W. Olive Street, Suite 100
Newport, OR 97365
ldanforth@co.lincoln.or.us

U.S. POST OFFICE
/ /
 FACSIMILE
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 ELECTRONIC MAIL
4/21/2022
 OJD FILE & SERVE
4/21/2022

DATED: Thursday, April 21, 2022.

/s/Jennifer Fashbaugh
Jennifer Fashbaugh
Legal Assistant

CERTIFICATE OF SERVICE

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