ELLEN F. ROSENBLUM
ATTORNEY GENERAL

FREDERICK M. BOSS
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE

Justice Building
1162 Court Street NE
Salem, Oregon 97301-4096
Telephone: (503) 378-4400

August 12, 2019

VIA EMAIL ONLY: sllvolin@gmail.com

Stephanie Volin
29 South Valley Road
West Orange, NJ 07052

Re: Petition for Public Records Disclosure Order
Oregon Office of the State Court Administrator
DOJ File No.: 198040-GA0118-19

Dear Ms. Volin:

This letter is the Attorney General's response to your petition for disclosure under the Oregon Public Records Law, ORS 192.311 to 192.478. Your petition asks the Attorney General to order the 12th Judicial District Court (the "court") to disclose a complete and certified copy of the audio from a particular hearing. For the reasons that follow, we respectfully deny your petition.

The Public Records Law confers the right to inspect public records in Oregon, unless such records are exempt under ORS 192.338, 192.345, or 192.355. ORS 192.314(1). The law is a disclosure law, and exemptions from disclosure must be express. Any person denied the right to inspect or to receive a copy of a public record of a state agency may petition the Attorney General to review the record and determine if it may be withheld. ORS 192.411(1). The agency carries the burden to sustain its actions. ORS 192.411(1).

Your petition explains that the court sent you a certified copy of the hearing audio, but that you believe it is incomplete. Specifically, you note that the hearing started at 2:00 p.m., but that the recording you received does not begin until 2:08 p.m. In light of your petition, the court sent you another certified copy of the hearing audio. You claim the new copy is identical to the first and fails to account for the missing 8 minutes. You therefore ask us to order the court "to account for those minutes through audio or otherwise."

We contacted Lori DePaulis, Assistant General Counsel, Office of the State Court Administrator (SCA), Oregon Judicial Department (OJD), regarding your petition. She

explained that the court did not intend to deny any aspect of your request. She indicated that the court has triple-checked the recording and confirmed that you received a complete copy of the audio from the hearing. She also explained that although the hearing was scheduled to begin at 2:00 p.m., it did not actually begin until the judge arrived at approximately 2:08, at which time the recording began.

We have no reason to conclude that the court withheld any portion of the audio from you. According to Ms. DePaulis, the court provided you with two certified copies of the audio and checked a third time to ensure you received the complete copy. And although we do not have the authority to order the court to account for "the missing 8 minutes," the court has offered a reasonable explanation for why the recording did not begin at 2:00. Under the circumstances, we have no reason to second-guess the court's representations. Moreover, we have reviewed the audio you provided to us and it appears to encompass the entire substance of the hearing. Because it does not appear the court has denied any aspect of your records request, we must respectfully deny your petition.

Sincerely,

Frederick M. Boss
Deputy Attorney General

FMB:pjn/DM975839
c via email only: Lori DePaulis (OJD)