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DEPARTMENT OF JUSTICE
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Salem, Oregon 97310
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July 31, 1995

Clinton Morse Watson
SRCI #6672038
777 Stanton Blvd.
Ontario, OR 97914

Re: ***Petition for Public Records Disclosure Order: Multnomah County Trial Court Records***

Dear Mr. Watson:

This letter is the Attorney General's order on your petition for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. Your petition, which we received on July 25, 1995,[1/] asks the Attorney General to direct the Multnomah County Trial Court Administrator to make available the case register for Multnomah County Criminal Case No. C94-11-37441 and the Sentence and Judgment Orders, Multnomah County Criminal Case No. C94-11-37441. You also have asked that the Attorney General review a denial of a fee waiver to obtain those records without charge. For the reasons that follow, we respectfully deny your petition.

Your petition states that you requested these records from the "Clerk of Court" on July 6, 1995, and that the request was denied by the same person. You also stated that you are indigent, you were "granted indigent status" in the criminal matter involved in the records you seek and you need the records to proceed with an appeal.

We have reviewed this matter with Linda Zuckerman, Legal Counsel to the State Court Administrator. She informs us that requests such as yours are routinely processed by

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[1/] You originally directed your petition to Multnomah County District Attorney Michael D. Schrunk. The District Attorney's office forwarded the petition to the Attorney General because the records requested are state records in the custody of the Multnomah County Trial Court Administrator. ORS 192.450. We treat the petition as filed on July 25, 1995, when it was received in the office of the Attorney General.

reviewing the file materials requested and noting on the requesting letter the amount that must be paid by the requester for the court's cost of making the records available. That information is forwarded back to the requestor. When the fee is received, the copies are promptly provided. We have been informed that this was the process followed in your case. Absent the denial of a request for a public record, the Attorney General has no jurisdiction to order disclosure of the record. *See* ORS 192.450. Accordingly, we respectfully deny your petition to compel disclosure.

You also ask the Attorney General to review whether there has been "an unreasonable denial of a fee waiver or fee reduction." ORS 192.440(5). Because the court did not keep a record of your original request for the records, the Trial Court Administrator's office is not aware whether you actually requested a reduction in the regular fees charged for copies. Without such a request and a denial, the Attorney General cannot determine whether there has been an unreasonable denial of a fee waiver or fee reduction.[2/]

For all of the above reasons, we deny your petition to compel disclosure or to review a fee waiver or reduction request under ORS 192.440(5).

Sincerely,

Elizabeth S. Harchenko

ELIZABETH S. HARCHENKO
Special Counsel
to the Attorney General

ESH:LRR:AV:jpl:JAA0195C

c: Linda Zuckerman, Legal Counsel, State Court Administrator
Douglas Bray, Multnomah County Trial Court Administrator

[2/] The basis for a fee waiver or fee reduction in ORS 192.440(4) is that the waiver or reduction "is in the public interest because making the record available primarily benefits the public." Indigency alone is not a basis for a fee waiver or reduction. The reasons you present for needing the record do not appear to be primarily a benefit for the general public. "When a requester seeks information relating solely to him in order to aid his defense against criminal prosecution, there is insufficient public benefit to require a fee waiver." OREGON ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL (1993) at 10. Thus, even if the Trial Court Administrator had determined not to grant you a fee waiver or reduction, we might find that the denial of a fee waiver or reduction was not unreasonable.