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Of Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

CASEY MILLER,

Civil Case No. 6:26-cv-00499-AA

Plaintiff,

vs.

**REPLY RE: PLAINTIFF'S MOTION
FOR A PRELIMINARY INJUNCTION**

LINCOLN COUNTY, a public body, **DAVID COLLIER**, in his individual capacity, **KELLY MEININGER**, in her capacity as the personal representative of the estate of **CLAIRE HALL**, **WALTER CHUCK**, in his individual capacity, and **KRISTIN YUILLE**, in her individual capacity

Defendants.

I. INTRODUCTION

Within their Response, Defendants' take inherently contradictory positions. Defendants claim that Plaintiff is not being subjected to any adverse action by Lincoln County (herein "the

County”), but then admit that they have disallowed him from accessing his own office, (Yuille Declaration paragraph 22), and have disallowed Plaintiff from attending “management team meetings for all department directors and elected officials.” (Collier Declaration, paragraphs 2 & 6). They claim that these adverse actions are not due to Plaintiff’s political speech, then point to Plaintiff’s statements in a September 18, 2024 council meeting (which they admit could be protected speech) to justify their adverse actions toward Plaintiff. (Yuille Declaration Paragraphs 17, 18, & 21). Further, Defendants seem entirely willing to misrepresent precedential case law from this circuit to support their position, citing *Boquist v. Courtney*, 32 F.4th 764, 778 (9th Cir. 2022) for the following proposition:

“In *Boquist*, the government applied security measures in response to concerns arising from the elected official’s protected speech, and the court determined that the government would have implemented the same security measures whether or not they were intending to retaliate against the elected official. *See Boquist*, 32 F.4th at 778.”

Defs’ Response pg. 16

The problem with Defendants’ representation is that it is entirely inapposite to the 9th Circuit Court of Appeals holding in *Boquist*. The *Boquist* Court held that the alleged “security restrictions” imposed on Boquist for political statements deemed incendiary (“if you send the state police to get me, Hell’s coming to visit you personally”) could be “retaliatory conduct that qualifies as a materially adverse action” because they did prevented Boquist from fully “exercising authority he enjoyed by virtue of his popular election.” *Boquist v. Courtney*, 32 F.4th 764, 783-84 (9th Cir 2022) (internal quotations omitted). With such a material misrepresentation of the law, it is unsurprising that Defendants would further misrepresent Plaintiff’s Motion as “cries for attention” (Defs’ Response pg. 2). If the law was actually on Defendants’ side, perhaps

they would not need to engage in such inflammatory rhetoric and mudslinging in their court filings.

II. FACTS

1. Facts to which Defendants have admitted in their Response to Plaintiff's Motion.

Plaintiff Casey Miller is a county commissioner for Lincoln County. Yuille Declaration paragraph 7. On September 18, 2024, Plaintiff spoke at a regular Board of Commissioners meeting, (speech which Defendants' categorized as "comments that reflected poorly on the County") and as a result of the content of his speech, was disallowed from utilizing his own office. Yuille Declaration paragraphs 17, 18, & 21. Further, the day after Plaintiff's September 18, 2024 speech, Plaintiff was informed he was now disallowed from attending "management team meetings for all department directors and elected officials." Collier Declaration paragraphs 2 & 6. Plaintiff has also been disallowed from placing some items for consideration on the agenda for meetings of the Board of Commissioners for Lincoln County. Yuille Declaration paragraphs 28 & 29.

2. Supplemental Facts offered in Response to Defendants' assertions within their Response to Plaintiff's Motion.

On September 18, 2024, Plaintiff made a report during a regular meeting of the Lincoln County Board of Commissioners. In that speech, he articulated the difficulty in evaluating the work of the County Administrator, when "county counsel [has] provided backup [...] when [the] administrator has been [...] out several times due to legitimate family issues" and "a medical absence" and requested "a list of activities that counsel is performing on our administrators' behalf while he has been out." Miller Declaration, Exhibit 1, *See also* Miller Declaration,

paragraphs 2 & 4. He also raised concerns within his speech that fellow commissioners were violating public meeting laws by having substantive conversations regarding County matters outside of public meetings and in violation of prohibitions on serial communications. Miller Declaration paragraph 3.

There is no formally adopted Board policy or written procedure governing how agenda items are submitted, reviewed, or placed on the agenda for meetings of the County Board of Commissioners (Miller Declaration paragraph 9), but prior to September 18, 2024 the Board held a regular staff-level meeting in which commissioners, administration, and staff reviewed and refined the upcoming meeting collaboratively. Miller Declaration paragraph 5.5. These meetings were discontinued by Defendants after Plaintiff's statements at the September 18, 2024 Board of Commissioners meeting, and there is now no mechanism for commissioners to collectively review or refine agenda items. Miller Declaration paragraph 6. Miller submitted multiple requests between July 2024 and April 2026 for agenda items and executive sessions addressing personnel, labor, and legal issues, including requests on July 17, 2024; September 18, 2024; January 8, 2025; January 31, 2025; February 25, 2025; April 11–13, 2025; May 20, 2025; January 21, 2026; and January 28, 2026, among others, but these items were not placed on the agenda or discussed. Miller Declaration paragraph 14, *See also* Miller Declaration, Exhibit 2. The County does not use a clear, consistently applied, or formally adopted process to determine when individual commissioners can place items on the agenda for Board consideration. Miller Declaration paragraph 5. As a practical matter, as one of three commissioners, Plaintiff has never been asked to “second” a request from another commissioner to put an item on the agenda, which is further evidence this alleged “seconding” requirement is pretextual. *Id.* Further, the alleged

“requirement” for legal review has been applied inconsistently, and there is no established mechanism by which an individual commissioner could ensure that an item received the necessary review in order to be placed on the agenda. Miller Declaration paragraph 12. It has become County Counsel’s “go to” excuse for excluding Plaintiff’s agenda items. *Id.*

The purpose of the agenda process is to allow elected officials to bring forward matters for collective consideration, so that discussion and decision-making on these matters can occur in the presence of a quorum at a noticed public meeting. Miller Declaration paragraph 8. By arbitrarily rejecting Plaintiff’s proposed agenda items, Defendants have made Plaintiff unable to reliably bring forward governance, policy, and oversight matters for Board discussion, materially limiting his ability to perform his duties as an elected official. Miller Declaration paragraph 6.

III. ARGUMENT

Defendants agree that the elements of a claim for a First Amendment Retaliation claim by an elected official are that:

“(1) [the Plaintiff] engaged in constitutionally protected activity; (2) as a result, he was subjected to adverse action by the defendant that would chill a person of ordinary firmness from continuing to engage in the protected activity; and (3) there was a substantial causal relationship between the constitutionally protected activity and the adverse action.” *See* Defs’ Response pg. 10.

1. Defendants admit that Plaintiff’s comments could be constitutionally protected activity.

While Defendants admits that Plaintiff’s comments could be constitutionally protected activity (*See* Defs’ Response pg. 11) Defendants attempt to make much hay out of Plaintiff’s statements, notably absent from their accusatory and misleading recitation of events (Plaintiff’s

statements are described as “unsafe,” “bull[ying]” and “traumatic” in Defendants’ Response by anonymous hearsay statements (*see* pgs. 6 & 7)) is any direct quotation from Plaintiff or any meaningful description of how his comments were outside the sphere of protected political rhetoric.¹ After all, “debate on public issues should be uninhibited, robust, and wide-open, and [...] it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials.” *N.Y. Times Co. v. Sullivan*, 376 US 254, 270, 84 S Ct 710, 721, 11 LEd2d 686, 701 (1964).

“Those who won our independence believed that the final end of the State was to make men free to develop their faculties; and that in its government the deliberative forces should prevail over the arbitrary. They valued liberty both as an end and as a means. [...] They believed that freedom to think as you will and to speak as you think are means indispensable to the discovery and spread of political truth; that without free speech and assembly discussion would be futile; that with them, discussion affords ordinarily adequate protection against the dissemination of noxious doctrine; that the greatest menace to freedom is an inert people; that public discussion is a political duty; and that this should be a fundamental principle of the American government. They recognized the risks to which all human institutions are subject. But they knew that order cannot be secured merely through fear of punishment for its infraction; that it is hazardous to discourage thought, hope and imagination; that fear breeds repression; that repression breeds hate; that hate menaces stable government; that the path of safety lies in the opportunity to discuss freely supposed grievances and proposed remedies; and that the fitting remedy for evil counsels is good ones. Believing in the power of reason as applied through public discussion, they eschewed silence coerced by law -- the argument of force in its worst form. Recognizing the occasional tyrannies of governing majorities, they amended the Constitution so that free speech and assembly should be guaranteed.”

Whitney v. California, 274 US 357, 375-76, 47 S Ct 641, 71 LEd 1095 (1927), Brandeis, Concur.

¹Plaintiff’s full comments to the Board on September 18, 2024 are set forth in Exhibit 1 to the Declaration of Miller In Support of Plaintiff’s Motion for Preliminary Injunction.

“Disrespect[ful]” comments, or “comments that reflect[] poorly on the County,” (*See* Yuille Declaration paragraph 18) fall well within the allowable temperature of political discussion in a free state, even assuming *arguendo* that Plaintiff’s comments could fairly be categorized as such. “The manifest function of the First Amendment in a representative government requires that legislators be given the widest latitude to express their views on issues of policy.” *Bond v. Floyd*, 385 US 116, 135-36, 87 S Ct 339, 349, 17 LEd2d 235, 247 (1966). However, Plaintiff denies that his comments on September 18, 2024 reflected poorly on the county or were disrespectful. Defendants rely on anonymous hearsay about how Plaintiff’s statements allegedly made certain witnesses feel, rather than his statements themselves, in order to wildly sensationalize his statements. For example the argument that Plaintiff “disclosed confidential personnel matters, medical information about a County employee, [and] disrespected fellow Commissioners and County staff[.]” *See* Yuille Declaration paragraph 18) apparently comes from the disclosure of the review process for the County Administrator and following portion of Plaintiff’s speech: “[C]ounty counsel [has] provided backup [...] when [the] administrator has been [...] out several times due to legitimate family issues” and “a medical absence” and requested “a list of activities that counsel if performing on our administrators’ behalf while he has been out.” Miller Declaration, Exhibit 1.

2. Defendants have subjected Plaintiff to materially adverse actions.

Defendants argue that “the County’s decision to relocate Plaintiff’s office, to no longer permit him to attend management meetings, and any other adjustments made as a result of the investigation, are not materially adverse actions.” Defs’ Response pg. 15. In defense of this position, Defendants argue that the instant case is analogous to *Houston Cmty. Coll. Sys. v.*

Wilson, 595 U.S. 468, 479 (2022) (*See* Defs’ Response pg. 14), wherein an elected Board of Trustees voted to adopt a resolution which stated that one of its member’s conduct was “not only inappropriate, but reprehensible.” However, there are marked differences between *Houston Cmty Coll Sys. v. Wilson* and the instant case. In *Houston*, duly-elected members of the relevant body voted to issue a public statement criticizing a fellow member, which is of course itself a form of protected speech. Here, unelected employees of the County are barring Plaintiff from his physical office and excluding him from meetings. Further, the *Houston* court explicitly stated this case was “a narrow one” that “does not involve expulsion, exclusion, or any other form of punishment.” *Hous. Cmty. Coll. Sys. v. Wilson*, 595 US 468, 482, 142 S Ct 1253, 1263, 212 LEd2d 303, 314 (2022). Plaintiff is being excluded from his office and meetings, which is explicitly inapposite to *Houston*. In the context of an elected official, an “adverse action” includes the deprivation of “the full range of rights and prerogatives that came with having been publicly elected.” *Blair v. Bethel Sch. Dist.*, 608 F3d 540, 544 (9th Cir 2010). *Boquist* found that a requirement that a legislator give advance notice when he wanted to appear at the legislature in person could be “an adverse action,” and wholly barring Plaintiff from County meetings he could previously attend by virtue of his office exceeds that prohibition. Utilizing his own office in the County building is a prerogative of Plaintiff’s elected position, and discussion of “all matters of county concern,” including matters that Defendants do not themselves consider “matters of county concern” is unquestionably within Plaintiff’s elected remit. Defendants’ continued obstruction is an adverse action.

3. There is a causal connection between Plaintiff’s speech and the adverse actions at issue.

The day after Plaintiff made his September 18, 2024 statements, Defendants informed Plaintiff he was barred from his physical office, told him he was banned from attending meetings for elected officials, and changed the process by which agenda items were added to the agenda in a way that made it harder for him to add items to the agenda. “[C]ausation can be inferred from timing alone where an adverse employment action follows on the heels of protected activity.” *Villiarimo v. Aloha Island Air, Inc.*, 281 F3d 1054, 1065 (9th Cir 2002).

However, Defendants argue that there is no causal connection between Plaintiff’s statements and the adverse actions by Defendants. In defense of this position, Defendants rely on the complete misrepresentation of the court’s ruling in *Boquist*, as described above. Defendants’ argument relies on the assumption that the “safety measures” put in place in *Boquist* were ruled to fail the causation prong, but the Court actually ruled:

“Boquist's complaint meets the third prong of the prima facie test. [...] The Special Committee imposed the 12-hour notice rule in response to Boquist's protected speech. Therefore, Boquist's complaint plausibly alleges that his speech ‘played a part, substantial or otherwise,’ in the retaliation.”

Boquist v. Courtney, 32 F.4th 764, 784 (9th Cir 2022).

In the instant case, Defendants have admitted that barring Plaintiff from his physical office and from certain County meetings attended by elected officials because of Plaintiff’s statements at the September 18, 2024 meeting, which they allege “disclosed confidential personnel matters, medical information about a County employee, disrespected fellow Commissioners and County staff, and made comments that reflected poorly on the County and were seemingly for personal gain.” *See* Yuille Declaration paragraph 18. As *Boquist* demonstrates, even if these allegations were true, which they are not, that would not allow

Defendants to take these adverse actions against Plaintiff.

4. Plaintiff's Evidence is Sufficient to Obtain an Injunction

“Due to the urgency of obtaining a preliminary injunction at a point when there has been limited factual development, the rules of evidence do not apply strictly to preliminary injunction proceedings.” *Herb Reed Enters., LLC v. Florida Entm't Mgmt., Inc.*, 736 F.3d 1239, 1250 n.5 (9th Cir. 2013). Further, Defendants' argument regarding evidentiary sufficiency is essentially mooted by their own admissions in their Response to Plaintiff's Motion, that Defendants took action against Plaintiff due to statements he made at on September 18, 2024, at a regular County meeting of the Board of Commissioners. *See* Defs' Response pg. 6. *See also* Yuille Declaration paragraphs 16, 17, & 18. Defendants further admit that these statements caused Defendants to decide Plaintiff “was no longer allowed to attend management meetings, contact Board staff [...], or occupy his courthouse office.” Defs' Response pg. 8.

Defendants further admit that Plaintiff's agenda items have been rejected for discussion at the Lincoln County Board of Commissioners' Meetings. *See* Defs' Response, pg. 12, *See also* Yuille Declaration paragraphs 28 & 29. Defendants claim that “Board meeting agenda items will only be added to the agenda with approval from the Chair, County Administrator, *and* County Counsel at agenda-setting meetings” but cite to no County ordinance or policy that dictates that procedure. Defendants' Response pg. 12. (Emphasis added). Defendants further claim that agenda items “may also be rejected if they have not gone through legal review, which is required before placement on the agenda.” *Id.* The following sentences of the Response make clear that it is Yuille herself who performs this “legal review.” This is a massive overreach of County Counsel's statutorily designated function. ORS 203.145(2) provides that County Counsel's role

is to “advise” the Board of Commissioners, “to provide such additional services as the board determines” and “serve[s] at the pleasure of the board[.]” Yuille, an unelected bureaucrat, has determined, without statutory authority (or any authority beside her own statements, *see* Yuille Declaration paragraphs 6 & 28-33) that she can veto items for discussion among elected leaders who are entrusted to “exercise authority within the county over matters of county concern, to the fullest extent allowed by Constitutions and laws of the United States and of this state[.]” ORS 203.035(1). Yuille is indisputably not a member of the governing body of the County, (*See* ORS 203.111 & ORS 203.240), nor has she been delegated these duties, yet has taken it upon herself to limit over what topics the governing body may “exercise general legislative authority over [...] matters of county concern[.]” ORS 203.111. This overreach is particularly egregious, as Yuille was one of the persons that Plaintiff accused of wrongdoing in his September 18, 2024 statements at the Board of Commissioners meeting (See Complaint paragraph 13), which Defendants *admit* is the impetus for their actions toward him. This personal animosity by Yuille cannot justify the stifling of legitimate discussion of potential wrongdoing.

“ The maintenance of the opportunity for free political discussion to the end that government may be responsive to the will of the people and that changes may be obtained by lawful means, an opportunity essential to the security of the Republic, is a fundamental principle of our constitutional system.”

Stromberg v. California, 283 US 359, 369, 51 S Ct 532, 536, 75 LEd 1117, 1123 (1931)

5. Plaintiff has been attempting to redress the adverse actions taken against him since September 19, 2024.

Since the investigation into Plaintiff’s September 18, 2024 statements at the commissioner’s meeting, Plaintiff has taken numerous steps to demonstrate to employees he

takes their feelings seriously. Miller Declaration paragraph 16. On December 12, 2025, Plaintiff met with Edward Choi, the attorney hired by Lincoln County to investigate the concerns raised about Plaintiff's September 18, 2024 statements, and Plaintiff was interviewed for approximately 7 hours. As a result of this extended conversation and additional correspondence, Plaintiff was found not to have engaged in bullying or harassment. Miller Declaration paragraph 20. On February 10, 2025, Plaintiff met with Tim Raschulte, a third party hired by the County to work with him to assist in reintegration back into the office. Miller Declaration paragraph 21. On January 22, 2025, Plaintiff apologized in the Commissioner Meeting, stating:

“I do want to ensure our county employees that I have their best interest in mind. I know what it's like to be an employee of 14 years for this organization and just please be assured any comments that I've made never intended to make anyone hurt or stressed or feelings of distrust I just want to assure you listening to this or hearing that. So I just wanted to make sure that I put that plug out there.” Miller Declaration paragraph 31.

Plaintiff has taken numerous trainings and seminars on best management practices and solicited feedback from colleagues in an attempt to foster better working relationships at the County. Miller Declaration paragraphs 17, 18, 19, 23, 24, 25, 26, 27, 28. Plaintiff had hoped these efforts would resolve Defendants' concerns about Plaintiff's return to his Commissioner duties and the place where he had worked for almost two decades amicably. Despite all of these efforts, Defendants' retaliation is continuing. Miller Declaration paragraph 32. After exhausting all other options, Plaintiff has filed this lawsuit and this injunction as a last resort because of Defendants continued retaliation. Miller Declaration paragraph 33.

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CONCLUSION

Based on the reasoning herein, Plaintiff respectfully requests his Motion for Preliminary injunction be granted.

DATED this 28th day of April, 2026.

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