

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF OREGON

3 EUGENE DIVISION

4
5 CASEY MILLER,

6 Plaintiff,

7 v.

8 LINCOLN COUNTY, a public body;
9 DAVID COLLIER, in his individual
10 capacity; KELLY MEININGER, in her
11 capacity as the personal
12 representative of the estate of
13 CLAIRE HALL; WALTER CHUCK, in his
14 individual capacity; and KRISTIN
15 YUILLE, in her individual
16 capacity,

17 Defendants.

)
)
) No. 6:26-cv-00499-AA

) June 16, 2026

) Eugene, Oregon

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TRANSCRIPT OF PROCEEDINGS

(Oral Argument by teleconference)

BEFORE THE HONORABLE ANN AIKEN

UNITED STATES DISTRICT COURT SENIOR JUDGE

COURT REPORTER:

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1 (June 16, 2026, 1:02 p.m.)

2 **P R O C E E D I N G S**

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4 THE COURTROOM DEPUTY: Now is the time set for Civil
5 Case Number 26-499, Miller v. Lincoln County, et al., for oral
6 argument.

7 If you could please introduce yourselves for the
8 record, beginning with plaintiff.

9 MS. CREIGHTON: Beth Creighton and Kristin Bell for
10 plaintiffs.

11 MR. HERNANDEZ: Good afternoon, Your Honor. This is
12 Roman Hernandez and Jared Ahern for all defendants.

13 THE COURT: Thank you, counsel. I've had a chance to
14 read everything in detail and I'm happy to have any additional
15 argument or information that would be helpful.

16 So Ms. Creighton, this is your motion and request, so
17 why don't you go first.

18 MS. CREIGHTON: Thank you, Your Honor. So
19 essentially we're here today because my client, Casey Miller,
20 has been denied the privileges of his duly elected position.
21 He is not being permitted to -- let me go back a little bit,
22 because -- so there's three commissioners at Lincoln County,
23 and one of those commissioners died in January, so there's
24 only two commissioners. Right now they're in the process of
25 appointing a third commissioner, so there's only effectively

1 one other commissioner other than Mr. Miller who is serving
2 for -- on behalf of Lincoln County right now.

3 And so after he made his speech in September of 2024,
4 he was essentially barred from his office, he was barred from
5 meetings with other staff, and he was barred from the meetings
6 that set the agenda items. And he has not been permitted to
7 effectively fulfill his duties as a county commissioner and
8 raise issues like, for example, policies and procedures and
9 trying to get answers about what's going on with legal issues
10 and trying to get other issues that his constituents are
11 requesting that he put in front of the commission. Obviously
12 this has basically hogtied him in his ability to represent the
13 people effectively for the county.

14 We're here today to ask that he be restored to his
15 full access to the county courthouse office, where he has his
16 office and where the constituents come to expect their county
17 commissioners to be there, and that he be permitted to once
18 again participate in adding the agenda items to the agenda,
19 where he previously had enjoyed being able to do that prior to
20 his protected speech regarding his suspicions -- or his
21 understanding that there was a violation of the public meeting
22 laws. He had also referred this to the ethics council, and I
23 believe there's an opinion forthcoming, but we don't have that
24 yet.

25 And so this is -- this was always a concern of his

1 that there were these e-mails where decisions were being made
2 and things that should have been in front of the public were
3 being discussed. And his -- you know, my client's goal in
4 being a county commissioner, one of his -- his core principles
5 is transparency. And so when you're having these backdoor
6 deals that are not in compliance with the public meeting laws,
7 it's not only an ethics issue, it's an issue for access to
8 justice and access to the democratic process for not only my
9 client as an elected official, but all the constituents who
10 voted for him.

11 So that's why we're here today, to restore his access
12 and to allow him to get on with the -- the duties that he was
13 given as a part of the election by the constituents of Lincoln
14 County.

15 THE COURT: So I'm just curious, can you elaborate on
16 why he waited so long to file the suit and the PI request?

17 MS. CREIGHTON: Well, I just recently started
18 representing him, but as he wrote in his declaration, he kept
19 thinking -- the County kept telling him, "Well, if you do X,
20 you will be restored. If you do Y, you will be restored," so
21 he kept doing all these things. He took management classes,
22 he took -- you know, he wrote a formal apology to, you know,
23 the staff or anyone he may have offended. He did all the
24 steps that were asked of him, but yet he still wasn't allowed
25 access.

1 So he didn't want to come to court for this
2 injunction or for this violation of his First Amendment
3 rights. He thought that he could work it out, and they -- and
4 the County led him to believe that they would restore his
5 access if he just jumped through the proper hoops, but
6 apparently none of the hoops that he jumped through were good
7 enough, so that's why we're here today.

8 THE COURT: Thank you for that. I -- I wanted that
9 noted for the record, so thank you. Anything else you need to
10 add?

11 MS. CREIGHTON: Not at this time.

12 THE COURT: I guess the one other thing is I -- I
13 think you'll see that in looking at everything, the
14 agenda-setting issue is, if anything, the one that is -- let's
15 just say their record is really obscured about how that's been
16 done historically, nothing in writing. There's all sorts of
17 conflicting information about the agenda setting.

18 So do you have anything you can point me to that is
19 either a written process or a -- anything more, because I
20 don't have it in your record and I don't have it in
21 defendants' record, so I'm left with a great deal of ambiguity
22 about agenda setting.

23 MS. CREIGHTON: So in my client's declaration, he
24 sets forth that in the past, there has been these meetings
25 where --

1 THE COURT: Right.

2 MS. CREIGHTON: -- the council members were allowed
3 to participate in the meetings and were allowed to put items
4 on the agenda. So that's what he had done in the past prior
5 to September 18th, 2024, and then he was barred from these
6 meetings. So he was not aware of any policy requiring a
7 second council member to approve an agenda item. He had never
8 been asked to second anyone's agenda item. It had just been,
9 you know, something that they discussed and they -- you know,
10 "Oh, you know, Commissioner Miller wants it on the agenda."
11 "Yes, put it on the agenda," but after he started questioning
12 the public meeting laws and the -- the non-compliance with the
13 public meeting laws with the County, other commissioners, that
14 access to setting those agenda items went away.

15 There's no written process that I'm aware of and, as
16 you saw, defendants have not provided one either.

17 THE COURT: Correct. All right. I think we
18 understand it the same way. I appreciate that. Thank you.

19 MS. CREIGHTON: You're welcome.

20 THE COURT: Counsel for the defendants.

21 MR. HERNANDEZ: Yes. Good afternoon, Your Honor.
22 This is Roman Hernandez.

23 Your Honor, as to that particular question on the
24 agenda setting, I would like to direct Your Honor's attention
25 to the declaration of Kristin Yuille, paragraph 6, where she

1 describes the County's practice as to setting the agenda.

2 Additionally, Your Honor, Kristin Yuille also
3 submitted a supplemental declaration, and on page 2, paragraph
4 4, she confirms that she worked with plaintiff on a particular
5 agenda item that he requested to be approved and placed on the
6 April 2026 agenda, and that it was placed on the May 13, 2026,
7 agenda item.

8 So it appears that there is a process, and when
9 plaintiff follows that process, that the agenda items that he
10 requests to be placed on the agenda are -- are placed there,
11 but I do want to address the particular standard that Your
12 Honor pointed to, and that is the irreparable harm, noting
13 that this issue came up in -- in September -- back in
14 September 18th, 2024, and that plaintiff waited until now to
15 seek the preliminary injunction. And it's not just a
16 preliminary injunction seeking to return to the status quo, it
17 is a preliminary injunction seeking that the Court direct the
18 County to take particular actions.

19 And I do want to point out that it is not as if
20 plaintiff does not have an office provided by the County. He
21 does. He has an office that the County is paying for, but
22 that he --

23 THE COURT: Counsel, let's not talk about the stuff
24 that's not necessarily helpful to me.

25 Aside from the speech, what did plaintiff do that

1 required defendants to take action? Beyond the speech, point
2 in the record what the defendant did that required the
3 defendants to take action.

4 MR. HERNANDEZ: Your Honor, it is -- it is really
5 that particular speech and the harm that came from that
6 speech. It is that particular action there and the harm that
7 the --

8 THE COURT: What -- excuse me.

9 MR. HERNANDEZ: -- county employees --

10 THE COURT: Excuse me. What action?

11 MR. HERNANDEZ: Well, it is the -- the speech, Your
12 Honor, and the fear and safety concerns that the county
13 staff --

14 THE COURT: And what -- what were those? What --
15 what did he say or what did he actually do that put them at
16 fear?

17 MR. HERNANDEZ: Your Honor, and I want to direct Your
18 Honor's attention to the Yuille declaration, Exhibit C, which
19 contains summaries of the investigation that was undertaken
20 after plaintiff's remarks, the speech that he made during that
21 particular meeting, and that contains the statements provided
22 by the county employees to the investigator. And you'll see
23 in Exhibit C, Your Honor, the fear that the county employees
24 have about their own safety. So it is -- it is the statements
25 that he made that they felt intimidated, Your Honor, and it's

1 reflected in Exhibit C.

2 THE COURT: Point to the statement that is not --
3 point to the statement, because the investigation found no
4 bullying or threatening comments. There were no physical
5 threatening comments other than a speech. Point to me where
6 there -- any employee would have any fear or threat. What
7 action did he propose?

8 MR. HERNANDEZ: So I don't have a reference for his
9 particular speech, Your Honor, but what I'm referencing in
10 Exhibit C is how those individuals felt, Your Honor.

11 THE COURT: And that's not good enough, Counsel.
12 Have you read the *Boquist* case in any detail?

13 MR. HERNANDEZ: Yes. Yes, Your Honor. I have it in
14 front of me right now.

15 THE COURT: Right. So you know the -- what exactly
16 was stated on the floor of the Oregon legislature, that the --
17 the reference was made to killing state troopers and directly
18 threatening the Oregon senate leadership, nothing remotely
19 approaching what exists here. And there's no credible
20 allegation of violence or threat that has been represented in
21 any of the declarations that have been filed on behalf of the
22 defendants, and the investigation did not find that the
23 plaintiff had engaged in bullying or harassment.

24 So your argument about the delay in the request for
25 preliminary injunction and filing this case has a common sense

1 answer, and that was given when I asked the question of
2 counsel about why the delay. And it appears that after the
3 investigation, there -- except for taking to try to resolve
4 this in a thoughtful way and plaintiff bent over backwards to
5 do what was required, no -- nothing was changed. So I --
6 you're going to have to do better, because what you provided
7 as a record is insufficient.

8 MR. HERNANDEZ: Your -- Your Honor, that's the record
9 that we have before the Court. The -- the investigative
10 report contains the reactions from the individuals who --

11 THE COURT: Reactions -- reactions to a person's
12 speech, no threats, no violence, to the comments that were
13 made, speech, is prohibited. So it's a -- it's a First
14 Amendment case, so you're going to have to give me something
15 more than he may -- and I -- I don't see anything in the
16 speech, in the information that's been provided to this Court,
17 that warranted perhaps an investigation, but clearly nothing
18 more, if that.

19 MR. HERNANDEZ: Your Honor, those individuals, their
20 reactions are genuine. And I know what Your Honor is saying,
21 but those -- there is a legitimate concern of those
22 individuals, Your Honor, for their -- their safety and
23 concern.

24 THE COURT: Counsel, again, you aren't reading the
25 *Boquist* case, then, or the opinion from the Ninth Circuit.

1 Serious threats were made on the floor of the Oregon
2 legislature, much more serious and direct than in this
3 instance, and the Ninth Circuit sent that case right back.

4 So I -- I don't think at this particular point -- I
5 don't know. I'm -- you -- unless you have something else to
6 add to -- to point to in your record, your case falls way
7 short of what happened in *Boquist*.

8 MR. HERNANDEZ: Yes, Your Honor. I'm -- I'm familiar
9 with the *Boquist* case. I understand what that -- what that
10 legislator said about "send bachelors," that "If you come for
11 me..." I -- I understand that, Your Honor. Admittedly the
12 plaintiff did not make those type of statements in this case.
13 He did not.

14 THE COURT: Nothing --

15 MR. HERNANDEZ: I -- I acknowledge that. I
16 acknowledge that.

17 THE COURT: Nothing -- nothing remotely close.

18 MR. HERNANDEZ: I concede that point, Your Honor.

19 THE COURT: Yes. That's right. I'm sorry. *Boquist*
20 in so many ways defines this. And I'm just disappointed that
21 when plaintiff has indicated and done the things that the
22 County asked and expected, that this is before this Court at
23 this point and hasn't been resolved.

24 And I'm happy to -- I'm happy to make a ruling on the
25 PI and move forward with this, but I -- I don't know how else

1 to say there's nothing in this record that comes close to what
2 was -- happened in *Boquist* and what the -- and what the Ninth
3 Circuit articulated in its opinion sending it back and
4 reversing.

5 So unless you have something more, I -- I've read the
6 entire record. I actually read Ms. Yuille's statement, which
7 is all based on speech. So I -- there isn't anything in this
8 record that even comes close to what was articulated on the
9 floor of the -- or of the Oregon legislature. It was direct
10 threats and violence directed towards people. In this
11 instance, that's not even (indiscernible) issue. And even
12 after investigation, there was no finding of bullying or
13 harassment.

14 MR. HERNANDEZ: I understand, Your Honor. That's the
15 record we have before the Court.

16 THE COURT: I -- if something develops down the road,
17 that'll be taken a look at up against what's been provided
18 now, but at the moment, I -- I really don't see the basis for
19 denying the PI at this point. It's returning to the status
20 quo, is what this PI will do, and it's giving back to this
21 individual, Mr. -- well, Commissioner Miller, all rights and
22 privileges that are afforded an elected official to the county
23 commission, similar to those of the other individual on the
24 commission and those -- to the third -- soon to be third
25 appointed commissioner to move forward the public's business,

1 duly elected to serve the County of Lincoln.

2 So I'm -- it's a return to the status quo, with the
3 exception of there's a murky, undefined, unresolved everybody
4 has their own version of how agendas are made, but there's
5 nothing in writing and there's nothing anybody can point to.
6 There are two different versions, there may be two or three
7 different versions of how agendas have traditionally been set,
8 but that's the one -- the one issue that I am hesitant on and
9 probably will allow that to go forward and be resolved down
10 the road, because I don't think either side has a sufficient
11 record for me to make a finding.

12 Anything else you need to point me to? If you can
13 point me to something else that gets beyond the *Boquist*
14 standard, I'll hear you, but I don't -- I just don't read it.
15 I've been through this with a fine-tooth comb, and I don't
16 read it.

17 MR. HERNANDEZ: Your Honor, this is Roman Hernandez
18 again. The only thing I would like to say on the record is
19 that the County is not prohibiting the plaintiff from -- from
20 doing his job, as that -- that *Boquist* case discusses. He is
21 not prohibited from doing his job. It has provided him with a
22 different office that is available to him. He has put items
23 on the agenda, at least the supplemental declaration of
24 Kristin Yuille provides that he has put an item on the May
25 2026 agenda. And that's the only thing I wanted to provide on

1 the record, Your Honor.

2 MS. CREIGHTON: Your Honor, this is Beth Creighton.
3 I want to point out that that agenda item was allowed to be
4 put on the agenda after we filed for the preliminary
5 injunction, so I think that's notable.

6 In addition, I'm requesting that -- that the Court
7 put a timeline as to when his access to the office, the key
8 card access, all that should be restored, because I know if
9 history is any indicator, there will be many delays in that if
10 the Court doesn't put a timeline on it.

11 THE COURT: All right. Anything else I need to hear
12 before we go any further?

13 MR. HERNANDEZ: Nothing further from the defendants,
14 Your Honor.

15 MS. CREIGHTON: Nothing further from plaintiffs.

16 THE COURT: All right. Therefore, the Court hereby
17 issues a preliminary injunction ordering the following: The
18 defendants shall immediately return plaintiff to the enjoyment
19 of the regular rights and prerogatives of his office as a
20 Lincoln County Commissioner, such as access to the former
21 physical office that he occupied, and in the building where
22 the commissioners are housed, as well as all meetings and
23 communications to which the holder of his office would be
24 regularly invited or included commensurate with the practice
25 prior to September 24th, 2024, when all this stopped.

1 Not on this record am I able to discern what has been
2 the process for agenda setting. I would ask that -- that you
3 understand and maybe perhaps take a look at that, because
4 there isn't -- there -- no -- nobody can point to a past
5 practice or anything that was sustained for any length of time
6 on how that process works. And access to the agenda is an
7 important consideration for participation in an elected body,
8 but I am not going to include that particular provision in
9 this preliminary injunction.

10 If there's something that I can address later, there
11 becomes more difficulties, I will be happy to resolve it in a
12 second hearing with more information provided, but on this
13 record, I can't make the necessary findings.

14 I'm returning defendant to the status quo -- or
15 excuse me, the plaintiff to the status quo, Commissioner
16 Miller, based on the record that I have before me. And no
17 later -- "immediate" means no later than Friday he should be
18 back in his office and getting the regular communications,
19 having access to the people who help him serve his
20 constituency as an elected official, and no -- no additional
21 barriers placed in his way.

22 And the agenda setting may be an issue for some --
23 for a while, but if it gets to be difficult, you can bring it
24 back to the Court.

25 Is there anything else to be spelled out more clearly

1 just -- and I'm happy to talk about it now.

2 MS. CREIGHTON: No. I think that covers it. Thank
3 you, Your Honor.

4 MR. HERNANDEZ: Nothing further from the defendants,
5 Your Honor. Thank you.

6 THE COURT: And from the defendants, I would like you
7 to go back to your clients and have them take a look at all
8 they asked him to do and all that he did trying to move this
9 forward.

10 And I suggest that as we move this case forward, I'll
11 be interested in seeing if your parties are willing and ready
12 to enter into some form of settlement conference or mediation,
13 because, again, these are elected positions, and when people
14 are not able to serve in those positions, individuals go
15 unrepresented, and the shorter that period of time is, the
16 better for the functioning of an elected government. All
17 right?

18 With that being stated, we're going to issue a
19 written opinion. We -- I'm planning to have it out before
20 Friday. So it'll spell everything out in the arguments and
21 where the shortcomings were, because they exist. And I
22 suggest people need to go back and take a strong look at the
23 cases that have been prior to this set of circumstances, and I
24 think the guideposts are there.

25 All right. Anything else?

1 MR. HERNANDEZ: No, Your Honor.

2 MS. CREIGHTON: No. Thank you, Your Honor.

3 THE COURT: Thank you. We're in recess.

4 MR. HERNANDEZ: Thank you. Bye-bye.

5 (Proceedings adjourned at 1:29 p.m.)

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