

Federal court tosses out Kitzhaber email subpoena

By ANDREW SELSKY
Associated Press

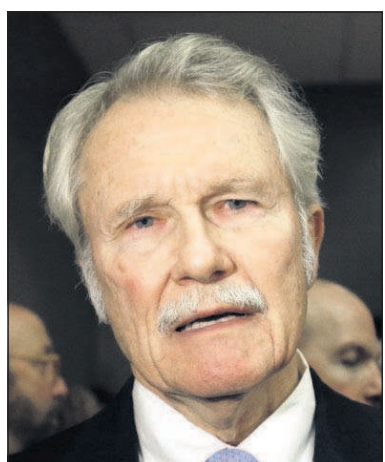
BEND — A federal appeals court, seeking to protect former Oregon Gov. John Kitzhaber's right to privacy, ruled Wednesday that an attempt to access a cache of messages from his personal email accounts as part of an influence-peddling probe "is unreasonable and invalid."

The 9th U.S. Circuit Court of Appeals panel reversed a lower court's order allowing emails from Kitzhaber's private accounts — some of which contain official business — to be subpoenaed. The higher court said the subpoena was "unreasonably overbroad" and should have been quashed.

The development shows how complications can result when officials use private email accounts for official correspondence. Hillary Clinton, the presumptive Democratic party nominee for president, ran into problems when she used a private email account to conduct official business as secretary of state.

Clinton's use of private email raised concerns about keeping top-secret government information secure. In contrast, authorities are now confronted with having to determine how to access emails from Kitzhaber's personal accounts that could be relevant to their investigation.

Judge Marsha S. Berzon, writing the opinion for the appeals court, said the U.S. District Court needed to "prevent the trampling of



Kitzhaber

Kitzhaber's reasonable expectation of privacy."

Investigators cannot simply get copies of all Kitzhaber's emails, the appeals court said, noting that they "include many private details unrelated to his official duties regarding him and his family, as well as private communications with his private attorneys."

Berzon suggested a neutral third party sort through the countless emails in Kitzhaber's private accounts, whose content is on state computers.

Kitzhaber's contention that his communications with lawyers working for the state of Oregon is protected by attorney-client privilege was rejected by the appeals court.

"Kitzhaber's communication with his private attorneys should receive all the protections normally afforded by the attorney-client privilege. But he may not himself

invoke the privilege to protect his communication with attorneys for the State of Oregon," Berzon wrote.

Gerri Badden, spokeswoman for the U.S. Attorney's office for the district of Oregon, told The Associated Press in an email: "The investigation continues." She declined to comment on the court's ruling.

Kitzhaber's attorney, Janet Hoffman, did not immediately respond to a phone call or email seeking comment.

Kitzhaber resigned in 2015 amid suspicion that his fiancée, Cylvia Hayes, used her relationship with him to earn lucrative consulting contracts. The couple has denied wrongdoing. The FBI has issued subpoenas for emails and thousands of other records for review by a grand jury.

Wednesday's ruling noted that copies of Kitzhaber's personal emails were archived on a state government computer. It said that in his second term as governor, he declined to use an official email address and instead established an "official" Gmail address and requested that those emails be archived.

He also used a private Gmail account and one hosted at att.net, and he commonly used those "to communicate with senior staff for both personal and state business," the appeals court said. Emails from the personal accounts, which were handled by the same device, were also archived on state computers, apparently without Kitzhaber's knowledge.

Two more Hanford workers report possible exposure to vapors

SPOKANE, Wash. (AP) — Even while workers on the Hanford Nuclear Reservation are engaged in a job action to protest getting sick from chemical vapors, two more employees reported possible exposure to the vapors.

The Hanford Atomic Metal Trades Council issued a stop work order on Monday to demand greater protections for workers at underground nuclear waste storage tanks.

The order required a halt to work at Hanford tank farms if employees were not using mandatory supplied air respirators.

The tank farm contractor complied with the order by giving employees the bottled air on Tuesday, allowing work to continue.

However, two workers who were outside the tank farm boundaries reported smelling chemical vapors and developing symptoms of illness on Tuesday.

The two workers were given medical evaluations and cleared to return to work.

Ex-sheriff's corporal admits choking deputy

PORTLAND (AP) — A Washington County Sheriff's Office corporal who was fired last year over domestic violence allegations has pleaded guilty to choking a fellow employee.

The Oregonian/OregonLive reports Jonathan Christensen pleaded guilty Tuesday to coercion, strangulation and official misconduct. An assault charge against him will be dropped as part of his plea deal with prosecutors.

Attorney Steven Myers says Christensen could avoid jail time if the court accepts the plea agreement.

Christensen was fired last August and indicted on the charges in December.

According to his termination letter, a former romantic partner and sheriff's office deputy was granted a restraining order against Christensen. The woman said he grabbed her hair, shoved

BRIEFLY

her against a wall and grabbed her around the neck when she tried to end the relationship.

Washington to require 'Not For Kids' label on pot products

OLYMPIA, Wash. (AP) — Washington officials say they plan to require a new "Not For Kids" label on edible marijuana products sold at the state's legal pot shops.

The symbol, chosen by the Washington Poison Center, features a bright red hand held up in a "stop" gesture, accompanied by the words "Not For Kids" with an emergency number to call.

Dr. Alexander Garrard, the poison center's managing director, says the center has received more than 150 calls about marijuana exposure so far this year.

Washington's Liquor and Cannabis Board initially said it would require a "Mr. Yuk" sticker on pot products to deter children from accidentally ingesting them. That drew objections from some marijuana producers and retailers. The board says the new symbol was developed with their input as well as suggestions from prevention specialists.

The board expects the label to be required beginning next January.

Semitrailer full of bananas catches fire

ASHLAND (AP) — Officials say a semitrailer carrying bananas has caught fire on Interstate 5 in southwest Oregon near Ashland.

The Oregon Department of Transportation said in a news release Wednesday afternoon that the semitrailer was fully engulfed, prompting a closure of the I-5 northbound lanes in the area.

KVAL-TV reports the truck's brakes overheated, sparking the fire.

Southbound lanes of the interstate remain open but officials said to expect delays in both directions until at least Wednesday evening.

It wasn't immediately known if anyone was injured in the blaze.

Last refuge occupier to remain in custody

PORTLAND (AP) — A federal court judge has allowed Oregon standoff defendant Kenneth Medenbach to be released from jail while awaiting trial, but he will keep the last holdout in the armed takeover in custody.

U.S. District Court Judge Robert E. Jones said Wednesday he remained concerned about David Fry's mental instability, threats of "suicide by cop" before his surrender to FBI agents and that he came to Oregon in violation of the conditions of his Ohio probation, The Oregonian/OregonLive reported.

Jones also said a psychological

report on Fry states that Fry is concerned about invasions from outer space and has spoken of a wish to be reincarnated as a woman.

Fry objected to the judge's characterization of those statements, saying he's never been diagnosed with a particular mental illness, that he has the right to believe in what he chooses to believe in, and that he had said he'd rather be a woman "because it seems easier." Suicidal statements he made before his surrender at the refuge were caused by fears of being raped in jail, he told the judge.

Fry's defense lawyer suggested Fry that be released to his parents

in Ohio and placed on electronic monitoring until trial, when he can be returned to custody as the trial proceeds. "I give you my word I will be here to see this through," Fry told the judge.

After Jones ruled to keep him in custody, Fry continued to object, calling the judge a bigot, a liar and a racist, as a deputy U.S. marshal led him out of the courtroom.

The 27-year-old has pleaded not guilty to charges of conspiring to impede federal officers from doing their work at the refuge.

Fry was the last occupier to surrender at the Malheur National Wildlife Refuge on Feb. 11.

Corrections

The East Oregonian works hard to be accurate and sincerely regrets any errors. If you notice a mistake in the paper, please call 541-966-0818.

EAST OREGONIAN

— Founded Oct. 16, 1875 —

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Office hours: Monday through Friday, 8 a.m. to 5 p.m.
Closed major holidays

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East Oregonian (USPS 164-980) is published daily except Sunday, Monday and Dec. 25, by the EO Media Group, 211 S.E. Byers Ave., Pendleton, OR 97801. Periodicals postage paid at Pendleton, OR. Postmaster: send address changes to East Oregonian, 211 S.E. Byers Ave., Pendleton, OR 97801. Copyright © 2016, EO Media Group

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REGIONAL CITIES

	Today			Fri.		
	Hi	Lo	W	Hi	Lo	W
Astoria	68	57	pc	67	57	pc
Baker City	85	43	s	78	40	s
Bend	84	44	s	78	40	s
Brookings	74	54	pc	72	57	s
Burns	87	46	s	83	40	s
Enterprise	82	49	s	77	44	s
Eugene	86	49	s	80	51	pc
Heppner	85	51	s	80	52	s
Hermiston	92	57	s	86	56	s
John Day	89	53	s	83	42	s
Klamath Falls	88	47	s	83	44	s
La Grande	85	47	s	79	45	s
Meacham	81	46	s	75	38	s
Medford	92	58	s	89	57	s
Newport	64	50	s	64	53	pc
North Bend	67	53	s	67	56	pc
Ontario	93	59	s	89	56	s
Pasco	92	57	s	86	57	s
Pendleton	88	56	s	82	53	s
Portland	80	56	s	76	58	pc
Redmond	87	43	s	81	43	s
Salem	84	53	s	78	54	pc
Spokane	82	55	s	76	55	s
Ukiah	81	45	s	73	39	s
Vancouver	79	55	s	75	38	pc
Walla Walla	88	58	s	83	56	s
Yakima	92	56	s	86	57	s

WORLD CITIES

	Today			Fri.		
	Hi	Lo	W	Hi	Lo	W
Beijing	91	70	c	83	69	pc
Hong Kong	88	81	t	90	83	t
Jerusalem	87	70	s	89	71	s
London	69	53	pc	70	61	pc
Mexico City	72	54	t	73	52	t
Moscow	77	63	t	89	68	t
Paris	69	50	pc	72	53	pc
Rome	84	63	pc	76	64	pc
Seoul	87	70	pc	86	69	pc
Sydney	61	44	s	63	50	s
Tokyo	86	72	t	79	73	sh

WINDS

(in mph)	Today	Friday
Boardman	WSW 4-8	WSW 4-8
Pendleton	W 4-8	W 6-12

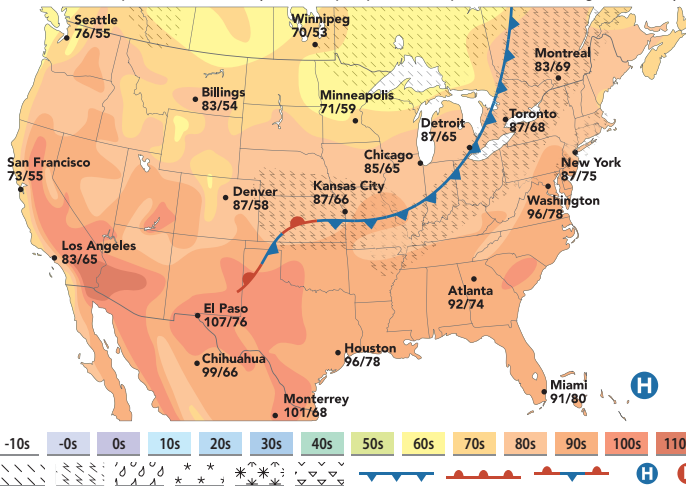
UV INDEX TODAY

2 5 7 7 5 2
8 a.m. 10 a.m. Noon 2 p.m. 4 p.m. 6 p.m.
0-2, Low 3-5, Moderate 6-7, High; 8-10, Very High; 11+, Extreme
The higher the AccuWeather.com UV Index™ number, the greater the need for eye and skin protection.

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NATIONAL WEATHER TODAY

Shown are noon positions of weather systems and precipitation. Temperature bands are highs for the day.



National Summary: Locally drenching and gusty thunderstorms will mainly focus from the central Plains to the middle Mississippi Valley and the eastern Great Lakes today. Much of the West will be dry and sunny.

Yesterday's National Extremes: (for the 48 contiguous states)
High 110° in Needles, Calif. Low 21° in West Yellowstone, Mont.

NATIONAL CITIES

	Today			Fri.		
	Hi	Lo	W	Hi	Lo	W
Albuquerque	98	68	s	99	70	pc
Atlanta	92	74	t	90	72	t
Atlanta City	87	77	pc	88	70	pc
Baltimore	95	74	t	94	71	pc
Billingham	83	54	s	84	56	t
Birmingham	93	74	t	90	71	t
Boise	91	60	s	89	56	s
Boston	84	71	pc	93	71	pc
Charleston, SC	96	79	t	95	79	pc
Chicago, IL	88	69	t	85	68	pc
Chicago	85	65	pc	76	62	pc
Cleveland	87	68	t	83	64	pc
Dallas	98	78	pc	97	78	pc
Denver	87	58	pc	88	59	t
Detroit	87	65	pc	81	60	pc
El Paso	107	76	s	106	78	pc
Fairbanks	86	66	pc	84	64	t
Fargo	86	53	r	75	56	t
Honolulu	87	77	s	88	76	sh
Houston	96	78	s	96	78	s
Indianapolis	84	68	t	82	61	pc
Jacksonville	94	74	t	92	72	t
Kansas City	87	66	pc	85	66	pc
Las Vegas	109	83	s	109	84	s
Little Rock	94	73	t	90	73	t
Los Angeles	83	65	pc	81	64	pc
Louisville	86	73	t	87	70	t
Memphis	92	75	t	90	73	t
Miami	91	80	pc	91	80	pc
Millwaukee	84	64	pc	73	63	pc
Minneapolis	71	59	pc	77	60	pc
Nashville	92	72	t	88	70	t
New Orleans	92	79	t	92	78	t
New York City	87	75	pc	92	75	pc
Oklahoma City	96	71	pc	92	69	t
Omaha	87	62	pc	82	66	pc
Philadelphia	93	77	t	95	75	pc
Phoenix	112	87	s	112	86	pc
Portland, ME	79	67	pc	89	65	pc
Providence	82	72	pc	92	70	pc
Raleigh	98	75	t	93	72	t
Rapid City	80	52	pc	81	56	t
Reno	99	60	s	96	61	s
Sacramento	101	59	t	97	58	s
St. Louis	90	72	pc	86	69	pc
Salt Lake City	94	66	s	98	65	pc
San Diego	77	65	pc	76	65	pc
San Francisco	73	55	pc	75	56	pc
Seattle	76	55	s	75	57	pc
Tucson	106	79	t	107	80	pc
Washington, DC	96	78	t	94	77	pc
Wichita	85	68	t	88	67	pc

Weather (W): s-sunny, pc-partly cloudy, c-cloudy, sh-showers, t-thunderstorms, r-rain, sf-snow flurries, sn-snow, i-ice.

AccuWeather.com Forecast

TODAY	FRIDAY	SATURDAY	SUNDAY	MONDAY
Pleasant with plenty of sunshine	Sunny to partly cloudy and nice	Pleasant with plenty of sunshine	Partly sunny and pleasant	Partly sunny and comfortable

PENDLETON TEMPERATURE FORECAST

88°	56°	82°	53°	84°	54°	89°	57
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