

Lawsuit

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On Sept. 22, 2022, Andrew Hallman, a U.S. magistrate judge, recommended that Ash and the county's motion for summary judgment — meaning Nilsson's claims would be dismissed — be granted for all but one of those claims, including his contention that Ash violated his Second and Fourth amendment rights.

Hallman recommended that Nilsson's other claim, that Ash violated Nilsson's First Amendment rights, be decided at trial. Nilsson contends that Ash retaliated against him, including by participating in the search of Nilsson's vehicle and home, after Nilsson complained to the sheriff about how he was treated by police during the incident at the lime plant. Nilsson also gave media interviews about the lime plant incident in which he complained about how Maldonado treated him and his friend.

Hallman, as a magistrate judge, does not have the authority to grant summary judgments. His recommendations will go to Judge Michael Mosman, who will decide, probably within a few months, whether to approve Hallman's recommendations in whole or in part.

The Second Amendment violation claim is based on Ash suspending Nilsson's concealed carry handgun permit after Nilsson pleaded guilty in November 2017 to one count of third-degree criminal mischief, a Class C misdemeanor, for spray-painting graffiti at the lime plant. The charge of criminal trespassing while in possession of a firearm was dismissed in a plea agreement with the district's attorney's office.

In his recommendations, Hallman wrote that the four-year suspension of Nilsson's permit does not violate Nilsson's Second Amendment rights.

In a written statement to the Baker City Herald, Ash wrote: "As the sheriff of Baker County, I consistently work to earn the public's trust. To that end, I continue to deny the claim Mr. Nilsson has raised against me in his lawsuit."

Nilsson wrote in a text to the Baker City Herald: "I'm confident that a jury will find that Sheriff Ash retaliated against me. As long as Ash is held to account for retaliation I'm satisfied. I'm concerned with truth and accountability, not vindication and punishment."

Ash sought to dismiss lawsuit claims

Ash, who along with the county is represented by Salem attorneys Aaron Hisel and Elizabeth A. Jones, filed a motion on Oct. 1, 2021, seeking to dismiss the First Amendment violation claim as well as Nilsson's claims about Second and Fourth amendment violations.

But Hallman disagreed, writing in his findings and recommendations on Sept. 22, 2022, that Ash is not entitled to summary judgment on Nilsson's First Amendment violation claim.

Ash's attorneys argued that the sheriff and other county officials searched Nilsson's home and vehicle not as retaliation for his public statements that criticized their actions, but as a normal part of a criminal investigation.

Hallman conceded that this interpretation is one "that a reasonable juror could accept."

However, Hallman also notes that summary judgments are appropriate only in situations where there is no "genuine issue of material fact" — in effect, when a reasonable juror could only reach one conclusion on the issue at hand.

But so long as a reasonable juror could come to more than one conclusion, a summary judgment is not warranted, Hallman wrote.

In this case, Hallman wrote, Nilsson "has demonstrated a genuine issue of material fact: whether Defendant Ash retaliated against Plaintiff for exercising his rights under the First

Amendment."

Hallman also wrote: "When the evidence is viewed in the light most favorable to (Nilsson), a reasonable juror could conclude that retaliation was a substantial or motivating factor behind the search."

Hallman noted that although other people have trespassed at the lime plant and painted graffiti there, during the five years prior to Nilsson being cited in August 2017, the sheriff's office didn't apply for any search warrants as part of other investigations related to graffiti at the property.

Ash's attorneys countered by pointing out that another man, about one month after Nilsson was cited, was also arrested for similar violations at the lime plant.

Hallman noted, however, that the sheriff's office did not apply for a search warrant in that case, although the suspect lived in a different state.

Ultimately, Hallman concluded, Nilsson has raised an "issue of fact" about whether retaliation was a factor in the search of his home and vehicle, and so Ash is not entitled to a summary judgment on that single claim, and that it should be decided by a jury.

Fourth Amendment

Hallman reaches a different conclusion with regard to Nilsson's claim that Ash, through the August 2017 search, violated Nilsson's constitutional rights against unreasonable searches and seizures.

Hallman concludes that aspects of that search, including the county seizing papers, a micro-SD card, cellphone and computer tablet, are not constitutional violations even though, as Nilsson noted in his complaint, some of those documents and devices contained data not related to the incident at the lime plant.

In regard to the papers, for instance, Hallman writes that "Defendant Ash was not required to parse through each page of the legal pad to determine which pages directly related to the incident at the Lime Plant."

Claims against other defendants dismissed

After filing the lawsuit in 2019, Nilsson submitted an amended complaint on April 1, 2021, naming as additional defendants Jef Van Arsdall, then the Baker County undersheriff (he has since moved out of the county), Maldonado and two other officers from the sheriff's office, Lt. Will Benson and Sgt. Eric Colton.

Nilsson's amended suit also named as defendants Baker City, then police chief Wyn Lohner, and detective Shannon Regan.

The claims against the city, Lohner and Regan were dismissed on Aug. 23, 2021, after their attorney filed a motion stating that Nilsson's claims were not timely.

Hallman recommended in his Sept. 22 findings that the claims against Van Arsdall, Maldonado, Benson and Colton also be dismissed.

Hallman wrote that, as was the case with Nilsson's amended suit naming the city, Lohner and Regan as defendants, there is a two-year statute of limitations for adding defendants. Hallman recommended that the same criteria that the court used to dismiss claims against the city defendants also apply to Van Arsdall, Maldonado, Benson and Colton.

Nilsson, in a text to the Baker City Herald, acknowledged that he filed the amended suit, naming the other defendants, too late.

But Nilsson said that the amended complaint ensures there is a "more detailed and complete record of events."

"I'm not going to berate myself for not being a great lawyer," Nilsson wrote, referencing his decision to represent himself in the lawsuit. "I'm learning as I go."

developing more partnerships.

- Increase leadership training.
- The return of youth programs, such as student exchanges.
- Promoting the Rotary Foundation, which is supporting Ukrainian disaster relief and working to eradicate polio.

Fulkerson said the Foundation can also help with local disaster relief efforts.

Each club contributes to the Foundation, and Fulkerson pre-



Fred Joe/Oregon Capital Chronicle

People set up a mini-homeless camp on the edge of Southeast 28th Street in Portland in September 2022.

Cities seek to control camping amid growing homeless crisis

BY CLAIRE RUSH

Associated Press/Report for America

PORTLAND — The tents proliferating on sidewalks in downtown and residential neighborhoods across Portland are fueling a debate that's playing out in cities nationwide as the homelessness crisis in the U.S. explodes: Should camping be banned anywhere except in sanctioned sites?

Republican-led states including Texas and Missouri have passed laws in the past couple years prohibiting street camping while diverting money from affordable housing projects to short-term shelter solutions.

Now, after decades of struggling to tackle homelessness, some progressive West Coast cities are considering similar plans. Portland City Council members voted Thursday, Nov. 3 to create at least three large, designated campsites and ban the rest of the roughly 700 encampments currently scattered across the city. More than 3,000 people are living without shelter in Portland, a 50% jump from 2019, according to the proposal.

"People on the streets deserve our com-

passion. They need our understanding, and many of them need our help to get off and stay off the streets," Portland Mayor Ted Wheeler said after the vote. "It is my personal view that these resolutions take an important step forward for the city of Portland to be able to do just that."

Commissioner Jo Ann Hardesty was the sole council member that voted against the resolution.

"I hear and share the anxiety and frustration community members feel around the city about the houseless crisis. And I'm committed to continue to work to solve the problem," she said. "But saying we will magically wave a wand in 18 months and there will be no more street camping is not real."

Opponents have said the camping restrictions effectively criminalize homelessness and fail to address its root causes.

"As visible homelessness has increased, there is also an increase in pressure from the public and from others for elected officials and other folks in positions of authority to address that issue," said Ann Oliva, CEO of the National Alliance to End

Homelessness. "What's starting to happen is that the way to immediately address an issue that is at its core an affordable housing problem is to try and remove people from public view."

Portland's soaring homelessness has become a top concern for the vast majority of residents and has prompted legal action. A group of people with disabilities has sued the city over tents blocking sidewalks and making them inaccessible.

Portland's proposal would establish at least three designated sites where camping would be allowed, with an initial capacity to serve about 150 people each. They would have 24-hour management and provide access to services such as food, hygiene, litter collection and treatment for mental health and substance abuse.

Outreach workers would direct people living on the street to the designated camping sites. Those who refuse could be cited, but the citations could be waived if the person takes part in a diversion program that would require mental health or substance abuse treatment in lieu of jail time.

Camping

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For vehicles that are parked longer, the police department's code enforcement officer can affix a "dead storage" tag that requires the vehicles to be moved within 10 days.

In addition to the parking ordinance, the city council in May approved ordinance 3383, which regulates camping on public property.

Duby told councilors this spring that the ordinance, which is modeled after existing regulations in other Oregon cities, including Coos Bay, is designed to address problems with homeless people camping on public property.

The ordinance states, in part: "It shall be unlawful for any person to set up tents or any other temporary shelter or to use house trailers, campers or automobiles for the purpose of overnight camping in any city park, nor shall any person remain in any city park after closing hours; provided, however, organized youth groups under competent adult supervision may be permitted overnight camping privileges."

The ordinance defines parks as including the Leo Adler Memorial Parkway. The ordinance also prohibits camping in several other specific public properties, including within 150 feet of any school, preschool or childcare center, or at the Baker Heritage Museum at 2480 Grove St., the Baker County Courthouse, Sam-O Swim Center, the YMCA gym on Church Street and the YMCA Fitness Center on Pocahontas Road.

The ordinance also states that if someone is living in a vehicle, it must be moved at least every 24 hours and for at least the distance of a city block.

The ordinance also bans camping on public property in residential zones, while it

would be allowed, with time restrictions, on public property in the general-commercial, general industrial and light industrial zones. The ordinance prohibits camping during the period 6 a.m. to 8 p.m.

The ordinance applies only to public property. People are not allowed to camp on someone's property, at any time, regardless of the zone.

Duby was prompted to propose the ordinance after the Oregon Legislature passed a bill in 2021 which states that cities and counties with ordinances regulating camping on public property must ensure those ordinances are "objectively reasonable as to time, place and manner with regards to persons experiencing homelessness."

The state law also allows homeless people to challenge in court such city or county ordinances.

In his press release, Duby wrote that: "Multiple cities in Oregon have been overwhelmed dealing with transient camping that has littered their city with makeshift shelters, garbage, hazardous waste and caused public outcry. In our best effort to protect Baker City citizens, both with and without homes, the City of Baker City has adopted Ordinance 3383 that regulates camping in Baker City. This ordinance offers reasonable accommodations but does not allow unlimited encroachment of public and private properties."

Duby cited a camp trailer that the city towed from public property on Oct. 25.

The trailer had a sewage hose placed in the ground,

"contaminating the area," according to the press release.

"Due to an increase in this type of activity, Baker City Police Department officers and

The ordinance also states that if someone is living in a vehicle, it must be moved at least every 24 hours and for at least the distance of a city block.

our Code enforcement officer will be working proactively as time allows to address these issues before winter sets in," Duby wrote.

City councilors said they support Duby's effort to enforce the new ordinance.

"As far as I know it's working pretty well," Councilor

Johnny Waggoner Sr. said.

Mayor Kerry McQuisten said the council "passes ordinances with the expectation they will be enforced. The real solutions to the homeless issue in Oregon are found at the state level, however. Cities are stuck just trying to find workarounds. Our liberal legislators have created a growing homeless problem and subsequent taxpayer-funded industry to

ineptly handle the problem they made. You don't find this problem at nearly this level in most other states."

Councilor Shane Alderson said he believes the city's new camping regulations include "reasonable accommodation for people that are having a hard time."

"The city council put a lot of thought into our camping ordinance," Alderson said. "Our ordinances are the law and people should expect that they will be enforced."

Councilor Dean Guyer said he believes the city's new camping ordinance, and the time limits on parking recreational vehicles on public property, are reasonable.

"It gives people plenty of time to, if they have friends or neighbors that are visiting and they're sitting out in the front in their campers, that's plenty of time for a person to have a trailer out on the street but past that, when you have an ordinance, it needs to be enforced. Obviously there's no reason to have an ordinance if you don't enforce it."

Charles James "Jim" Conro March 8, 1930 - October 30, 2022

Charles James "Jim" Conro, 92, of Haines, Oregon, passed away on October 30, 2022, in Meridian, Idaho. A private family service to honor his life will be held in the spring of 2023 on the hill behind the family home in Haines, Oregon.

Jim was born on March 8, 1930, to Floyd and Eunice (Homer) Conro in Baker City, Oregon. He attended high school at Baker High and later Eastern Oregon University, graduating in 1948. Jim was also a Staff Sergeant in the United States Air Force and served his country for four years.

After serving in the military and attending college, Jim became a self-employed farmer in Haines, Oregon, retiring after 45 years at age 75 in 2005.

On October 22, 1988, Jim married Carol Steffey in Baker City, Oregon.

Jim enjoyed hunting, fishing, carpentry, metal fabrication, and working on his farm in his free time. Jim also won the best alfalfa hay award from the Oregon Farm Bureau. He was a member of the Elks Club and he attended the Baker City Church of the Nazarene.

He is survived by his wife, Carol Conro of Meridian, Idaho; sons Mike Conro of Jordan Valley, Oregon, and Bruce Conro of Nampa, Idaho; stepdaughters Kim Slack of Baker City, Oregon, and Karen Shishido of Nampa, Idaho. Jim is also survived by nine grandchildren and nine great-grandchildren.

Jim's first wife, Patricia Conro, his parents, Floyd and Eunice Conro, and his son Mark Conro have preceded him in death.

To leave an online condolence for the family of Jim, please visit www.colestributecenter.com.

Rotary

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"All over the world, Rotary makes a difference in peace and safety," she said.

Areas of focus this year include:

• Domestic peace building to "expand the peace force through service."

• Expanding public image by increasing Rotary's visibility and

sented plaques to recognize the Baker City club for its contributions — 100% of the members give \$100 or more.

"It's very impressive what the Baker City club is doing," she said. "Community and club collaboration to focuses on member engagement and recruiting for district positions."

"Rotary is as local or as global as you want it to be," Fulkerson said.

About Rotary

The Baker City Rotary Club meets at noon on Mondays at Baker Tower, corner of Main Street and Auburn Avenue. For more information, call Greg Baxter, membership chair, at 541-523-8205.

"The more people we have in our club, the more good we can do in our community," said Anthony Bailey, current club president.