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# Fight over National Guard in Portland could go before appeals court Thursday

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More than 100 protesters and counterprotesters gathered on opposite sides of the street outside the U.S. Immigration and Customs Enforcement building in South Portland on Monday, Oct. 6, 2025. Sean Meagher/The Oregonian



By [Maxine Bernstein](#) | [The Oregonian/OregonLive](#)

A federal appellate court has tentatively set a hearing for Thursday morning on the Trump administration's push to put a pause on an Oregon judge's order barring the president from sending National Guard troops into federal service in Portland.

The hearing is set to be held remotely at 9 a.m. before the 9th U.S. Circuit Court of Appeals, but a three-judge panel of the court may also choose to decide the matter solely on the briefs submitted to the court.

Attorneys for the Trump administration have urged the 9th Circuit to quickly take up their request to place an immediate hold, or stay, on U.S. District Judge Karin J. Immergut's order.

They argue that Immergut "impermissibly second-guessed the Commander in Chief's military judgments."



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Attorneys for the state and Portland submitted briefs asking the 9th Circuit to keep the order in place until the court hears the federal government's full appeal.

They argue the 9th Circuit should maintain the status quo and "prevent unlawfully federalized soldiers from engaging the public and patrolling Portland streets."

Immergut issued a temporary restraining order last Saturday, finding that President Trump hadn't met any of the criteria under Title 10, Section 12406 of the U.S. code to put 200 Oregon National Guard troops under federal control to send to Portland.

She ruled that no threat of rebellion exists in the city and that the sporadic protests outside the U.S. Immigration and Customs Enforcement office in South Portland could be handled by local police.

Immergut late Sunday night issued a broader temporary restraining order barring the redeployment of any National Guard members from any state to Oregon after the Trump administration sent about 100 California National Guard members to Oregon and also mobilized Texas National Guard members to head to Oregon and Illinois.

Oregon lawyers wrote in their brief to the 9th Circuit that the Trump administration's "actions infringe on Oregon's sovereign power to manage its own law enforcement activity and its own National Guard and cause economic and other harms to the city of Portland. What is worse, they do so based entirely on inaccurate information."

Attorneys from 42 cities and counties around the nation, including Los Angeles, Chicago and Multnomah County, filed a brief in support of keeping Immergut's order in place.

Meanwhile, Homeland Security Secretary Kristi Noem was visiting Portland on Tuesday. She met with Oregon Gov. Tina Kotek and later entered the ICE building about 12:15 p.m.

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Federal officers emerged earlier from the building to spruce up the take down protest signs across the street and pick up trash. About 25 protesters were visible near the office, outnumbered by members of the media.

Oregon's U.S. Senator Ron Wyden said he believed Noem was visiting the city to "incite violence."

“Kristi Noem is cosplaying as a public official,” Wyden said in a statement. “In reality, she’s been sent by Trump to incite violence. ...The best response to her playacting as cop? Ignore her and keep supporting the members of our community.”

## Maxine Bernstein

Maxine Bernstein covers federal court, law enforcement and criminal justice issues after spending two decades covering Portland police. She joined The Oregonian in 1998 after a seven-year stint working for The... more

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