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## Ukiah Senior Center executive director exonerated; charges dismissed

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Ukiah Senior Center Executive Director Diana Clarke was cleared Tuesday of any wrongdoing, when charges that she conspired with a former coworker in accessing confidential emails from a local health clinic were dismissed.

Clarke's attorney, Martin Sabelli, successfully argued in Mendocino County Superior Court that Clarke had nothing to do with three felony counts sought by the California Attorney General's Office.

The counts had alleged conspiracy to commit computer access fraud, eavesdropping or recording confidential communication and, without permission, taking, copying or making use of data from emails of the Consolidated Tribal Health Project in Redwood Valley.

Deputy Attorney General Johnette Jauron said both Clarke, who was formerly the human resources director for Consolidated Tribal Health, and Peter Fennell, the information technology director, were fired from the health care provider in October 2014.

After he was terminated, Fennell allegedly sabotaged Tribal Health's computer server and forwarded emails from it to his own email accounts, Jauron said.

The felony complaint filed by the Attorney General's Office in August 2015 alleged that between Nov. 14, 2014 and Dec. 8, 2014, Clarke and Fennell accessed and read confidential emails of 12 employees of the Consolidated Tribal Health Project, using two Gmail accounts created by Fennell, who then allegedly gave the account passwords to Clarke.

Based on the testimony in court Tuesday, the only thing that linked Clarke to the investigation was an exchange of text messages with Fennell during the time frame of the alleged crimes.

Testifying Tuesday was Carl Chapman, supervising inspector for the Marin County District Attorney's Office, and part of the Northern California Computer Crimes Task Force.

While a search warrant was served on Fennell's Redwood Valley residence in April 2015 for related evidence, the defense argued that no warrant or evidence gathering attempt was made upon Clarke, further solidifying the lack-of-evidence against her in the case.

Because "everyone was so aware" of what was going on at that particular time, Chapman said, he didn't feel it was "worthwhile" to serve a warrant upon Clarke.

Superior Court Judge Jeanine Nadel said there was no supporting evidence that Clarke read any of the emails or that she used them for any criminal purpose.

Sabelli also said the allegations that Clarke used "data" didn't add up as emails aren't considered data, meaning she couldn't have made use of any data as was charged in the complaint. He said there was also no evidence of her eavesdropping or recording anything.

While the charges against Clarke were dismissed Tuesday, the case against Fennell will proceed

Nadel said there was sufficient evidence for five charges against Fennell as originally filed, including:

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on took, copied or made use of data from a computer system when he accessed and transferred emails belonging to the Consolidated Tribal Health Project to his personal cell phone;

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- That he unlawfully accessed and without permission altered, damaged or deleted data when he deleted databases and backup files of patient records on the computer server belonging to the health care provider;

- That he disrupted computer services when he redirected the domain name server of the health project web page to the wrong IP address, thus

disabling the website;

- That he used an electronic device to eavesdrop and record confidential emails of the health project;
- That he accessed and read confidential emails of the employees of the Consolidated Tribal Health Project.

Fennell will be back in court at 1:30 p.m. March 22.

Jauron has put damages to the Consolidated Tribal Health Project in the case at more than \$200,000, with Chapman testifying that a law firm which specializes in data breaches had to be hired, and that the health center's computer system was down for several weeks.

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