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MONTANA EIGHTEENTH JUDICIAL DISTRICT COURT
 COUNTY OF GALLATIN

LUIS SOTO LOPEZ,)
)
 On behalf of himself and all others similarly)
 situated,)
)
 Plaintiff,)
 vs.)
)
 BRIAN GOOTKIN, in his individual capacity)
 and his official capacity as Sheriff of Gallatin)
 County, and JASON JARRETT in his)
 individual and his official capacity as)
 administrator of Gallatin County Detention)
 Center,)
)
 Defendants.)
)
)
)

Cause No. DV-19-212B
**CLASS ACTION COMPLAINT FOR
 DECLARATORY AND INJUNCTIVE
 RELIEF AND INDIVIDUAL CLAIM
 FOR DAMAGES**

INTRODUCTION

1. This suit challenges Gallatin County officials' policy and practice of unlawfully exceeding their authority under Montana law by depriving people of their liberty on the ground that they are suspected of civil violations of federal immigration law.
2. Being present in the United States without authorization is a civil matter, not a crime. *Arizona v. United States*, 567 U.S. 387, 396 (2012). Nevertheless, at the request of federal immigration authorities, Defendants Brian Gootkin and Jason Jarrett are imprisoning people solely because they are suspected of being removable from the United States.
3. Montana county sheriffs and jail administrators have limited authority and limited powers. They have only the authority that is provided in the Montana Constitution and Montana law. Montana law provides Montana sheriffs and jail administrators with no authority to arrest prisoners for alleged civil violations of federal immigration law.
4. Sheriff Gootkin and Administrator Jarrett hold prisoners in custody for days after state law requires their release.
5. On behalf of himself and a class of similarly situated persons (collectively, "Plaintiffs"), Plaintiff Lopez seeks temporary and permanent injunctive relief, as well as a declaratory judgment that the policies and practices challenged here exceed Gallatin County officials' authority under Montana law. Plaintiff Lopez further asks for damages for false imprisonment as a result of Gallatin County officials' unlawful practices.

JURISDICTION AND VENUE

6. This Court has jurisdiction to grant declaratory and injunctive relief under the Uniform Declaratory Judgments Act, Mont. Code Ann. §§ 27-8-101, *et seq.*, Mont. Code Ann. §§ 27-19-101, *et seq.*, and Montana Rules of Civil Procedure 57 and 65. The Court has jurisdiction to

grant mandamus relief under Mont. Code Ann. §§ 27-26-101, *et seq.* and jurisdiction over Plaintiff Lopez' tort claim under Rule 4, Mont. R. Civ. P.

7. Venue is proper in Gallatin County, pursuant to Mont. Code Ann. § 25-2-122.

PARTIES

8. Plaintiff Luis Soto Lopez has lived in the United States for the past 21 years and in Montana for the past three. He and his wife Sylvia have three children, ages 14, 11 and 5. He is a pretrial detainee of the Gallatin County Detention Center ("GCDC") and is being held subject to a federal immigration detainer.
9. Defendant Brian Gootkin is the Sheriff of Gallatin County. He is responsible for the policies and practices of the Gallatin County Sheriff's Office, including the GCDC. He has supervisory responsibility for employees and deputies who work at the Gallatin County Sheriff's Office, including the GCDC. He is sued in both his individual and his official capacity.
10. Defendant Jason Jarrett is the administrator of the GCDC. He is responsible for the policies and practices of the GCDC. He has supervisory responsibility for employees and deputies who work at the GCDC. He is sued in both his individual and his official capacity.

THE CHALLENGED POLICY AND PRACTICE

11. Montana law requires the release of prisoners who have posted bond, completed their sentences, or otherwise resolved their criminal cases. Defendants nevertheless refuse to release such prisoners if federal immigration authorities have requested their continued detention.
12. Requests for continued detention come from immigration enforcement officers employed by U.S. Immigration and Customs Enforcement (ICE) and the U.S. Customs and Border Protection (CBP), agencies within the Department of Homeland Security (DHS).
13. The requests are generally made using DHS Form I-247A, also known as an "immigration

- detainer” or “ICE hold.” An immigration detainer identifies a prisoner being held in a local jail. It asserts that DHS believes that the prisoner may be removable from the United States. It asks the jail to continue to detain that prisoner for an additional 48 hours after he or she would otherwise be released, to allow time for DHS to take the prisoner into federal custody.
14. Requests are also sometimes made using predecessor versions of the detainer form, or through oral requests. The substance of such requests is the same as Form I-247a.
 15. Detainers are issued by ICE police officers and CBP Agents. They are never reviewed, approved, or signed by a judicial officer.
 16. Detainers may be accompanied by other forms that convey similar information, such as an administrative warrant, DHS Form I-200, or an inmate tracking form, DHS Form I-203.
 17. Forms I-200 and I-203 are issued by ICE officers and/or CBP agents. Like Form I-247A, they are never reviewed, approved, or signed by a judicial officer.
 18. Defendants routinely comply with federal immigration detainers. In prior proceedings GCDC officials conceded that prisoners would not be released on bond where an immigration detainer has been issued. *See* Transcript of Hearing at 23:18—24:2, *Valerio-Gonzales v. Jarrett*, Cause No. DV-17-688B, Montana Eighteenth Judicial District Court (October 5, 2017).
 19. In the *Valerio-Gonzales* proceeding, Captain Jarrett testified that GCDC would not release someone who had posted bail and for whom the jail had received an ICE detainer, and that GCDC would continue to hold that person for up to 48 hours for ICE officials to arrive.

PLAINTIFF’S FACTS

Luis Soto Lopez

20. Luis Soto Lopez moved to Montana three years ago. He has resided in the United States for 21 years. He and his wife Sylvia have been married for 15 years. They have three children

together, ages 14, 11 and 5. Sylvia and the children are all U.S. Citizens. The family resides in Bozeman, Montana.

21. In November, 2018 Mr. Soto Lopez was booked into the GCDC, after voluntarily turning himself in. He is charged with tampering with a communication device, a misdemeanor. The charges arise from an incident that occurred in May, 2018. Mr. Soto Lopez has never been convicted of a crime.
22. When Mr. Soto Lopez appeared at the GCDC to address this charge, he was initially informed that he could pay an \$800 bond and be released on his own recognizance. However, when Mr. Soto Lopez attempted to post the bond he was subsequently informed by jail officials that an immigration detainer prevented him from being released.
23. The jail received a detainer, DHS Form I-247A, naming Mr. Soto Lopez, issued by ICE, and dated November 14, 2018. It also received a Form I-200 for Mr. Soto Lopez.
24. At his initial appearance the Municipal Court set Mr. Soto Lopez' bond at \$500. Posting bond should have secured Mr. Soto Lopez' release pending trial on his misdemeanor criminal charge.
25. During Mr. Soto Lopez' initial appearance the Municipal Court Judge noted the immigration detainer and stated, "It sounds like if you have an ICE hold you're going to be in jail."
26. Mr. Soto Lopez and his family remain able and willing to post the \$500 bond.

Class Action Allegations

27. Plaintiff brings this action on behalf of himself and all others similarly situated, pursuant to Montana Rules of Civil Procedure 23.
28. Plaintiff seeks to represent a class defined as: all current and future prisoners in the GCDC who are, or will be, the subjects of immigration detainers and/or administrative warrants transmitted to the Jail by ICE or CBP.

29. Pursuant to Gallatin County officials' policies, these prisoners are being or will be held by jail administrators in excess of their authority under Montana law.
30. There are numerous people who are being held, who were recently held, or who will be held in the GCDC pursuant to immigration detainers. At least two people at GCDC currently are subject to detainers; and counting only clients of the public defender in Gallatin County, at least twelve people have had detainers issued for them since 2017.
31. The proposed class is so numerous and so fluid that joinder of all members is impracticable.
32. There are questions of law and fact common to members of the plaintiff class. These questions include, but are not limited to, the following:
- Whether GCDC officials have the authority under Montana law to arrest prisoners suspected of civil immigration violations after Montana law otherwise requires their release because they have posted bond, completed their sentence, or otherwise resolved their state criminal charge.
 - Whether members of the plaintiff class have a clear legal right to release when GCDC officials' state-law authority to confine them has ended, and whether GCDC officials have a clear and mandatory legal duty to release the members of the plaintiff class when the state-law authority for their confinement has ended.
 - Whether holding prisoners at the request of ICE after they have posted bond, completed their sentence, or otherwise resolved their state criminal charge constitutes an unreasonable seizure, in violation of Article II, Sections 10 and 11 of the Montana Constitution.
 - Whether holding prisoners at the request of ICE after they have posted bond, completed their sentence, or otherwise resolved their state criminal charge deprives them of procedural due process, in violation of Article II, Section 17 of the Montana Constitution.

- Whether holding prisoners at the request of ICE after they have posted bond deprives them of their right to pretrial release on bail, in violation of Article II, Section 21 of the Montana Constitution.

33. The claims of the representative party, the named plaintiff, are typical of the claims of the members of the class.

34. The representative party will fairly and adequately protect the interests of the class.

35. Defendants have acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole.

CLAIMS FOR RELIEF

First Claim For Relief

Ultra Vires Actions; Declaratory and Injunctive Relief

(Asserted on Behalf of Plaintiff and the Class against Defendants in their Official Capacities)

36. Plaintiff hereby incorporates all other paragraphs of this Complaint as if fully set forth in this claim.
37. Montana law does not authorize Defendants to deprive persons of liberty on the ground that they are suspected of civil violations of federal immigration law.
38. Defendants have seized, threatened to seize, and continue to seize and threaten Plaintiff with arrest and detention that is not authorized by any valid legal authority.
39. Defendants have acted and are threatening to continue acting under color of law, but in excess of their legal authority, to deprive Plaintiff of his liberty.
40. Defendants' illegal detainer policy is causing and threatening irreparable harm. Because of the Defendants' policy, Plaintiff cannot post bond, even though a court ordered him released upon

the posting of bond. And at the end of his state-law custody, Defendants will illegally arrest him for civil immigration violations.

41. Wherefore, Plaintiff requests a declaratory judgment, temporary and permanent injunctive relief, and any additional relief the Court deems just.

Second Claim For Relief

Relief in the Nature of Mandamus, Mont. Code Ann. § 27-26-101 et seq.

(Asserted on Behalf of Plaintiff and the Class against Defendants in their Official Capacities)

42. Plaintiff hereby incorporates all other paragraphs of this Complaint as if fully set forth in this claim.
43. When Defendants' state-law authority to confine Plaintiff has ended, Plaintiff has a clear legal right to release from the GCDC.
44. Defendants have a clear and mandatory legal duty to release the Plaintiff when the state-law authority for his confinement has ended.
45. Plaintiff has no adequate legal remedy to secure this release.
46. Wherefore, Plaintiff requests interim injunctive relief and relief in the nature of mandamus, and any additional relief the Court deems just.

Third Claim For Relief

Unreasonable Seizure, Montana Constitution, Article II, Sections 10 and 11;
Declaratory and Injunctive Relief

(Asserted on Behalf of Plaintiff and the Class against Defendants in their Official Capacities)

47. Plaintiff hereby incorporates all other paragraphs of this Complaint as if fully set forth in this claim.
48. An arrest without legal authority is an unreasonable seizure, in violation of Article II, Sections 10 and 11 of the Montana Constitution.

49. Defendants have acted and are threatening to continue acting under color of law but without legal authority, to carry out unreasonable seizures of the Plaintiff.
50. Wherefore, Plaintiff requests a declaratory judgment, temporary and permanent injunctive relief, and any additional relief the Court deems just.

Fourth Claim For Relief

Procedural and Substantive Due Process, Montana Constitution, Article II, Section 17;
Declaratory and Injunctive Relief

(Asserted on Behalf of Plaintiff and the Class against Defendants in their Official Capacities)

51. Plaintiff hereby incorporates all other paragraphs of this Complaint as if fully set forth in this claim.
52. Defendants' policies do not provide Plaintiff with meaningful notice and opportunity to be heard to contest the unreasonable detentions challenged in this lawsuit.
53. Deprivations of liberty carried out without notice and opportunity to be heard deprives Plaintiff of procedural due process, in violation of Article II, Section 17 of the Montana Constitution.
54. Deprivations of liberty carried out without lawful authority constitute deprivations of substantive due process, in violation of Article II, Section 17 of the Montana Constitution.
55. Defendants have acted and are threatening to continue acting under color of law but without legal authority, to carry out the deprivation of the Plaintiff's liberty without notice and opportunity to be heard, and without lawful authority.
56. Wherefore, Plaintiff request a declaratory judgment, temporary and permanent injunctive relief, and any additional relief the Court deems just.

Fifth Claim For Relief

Right to Bail, Montana Constitution, Article II, Section 21; Declaratory and Injunctive Relief

(Asserted on Behalf of Plaintiff and the Class against Defendants in their Official Capacities)

57. Plaintiff hereby incorporates all other paragraphs of this Complaint as if fully set forth in this claim.
58. The challenged policies violate Plaintiff's right to pretrial release on bail, in violation of Article II, section 21 of the Montana Constitution.
59. Defendants have acted and are threatening to continue acting under color of law but without legal authority, to deprive the Plaintiff of his right to release on bond.
60. Wherefore, Plaintiff requests a declaratory judgment; temporary and permanent injunctive relief, and any additional relief the Court deems just.

Sixth Claim For Relief

False Imprisonment

(Asserted by Plaintiff Soto Lopez against Defendants in their individual capacities)

61. Plaintiff hereby incorporates all other paragraphs of this Complaint as if fully set forth in this claim.
62. Defendants knowingly and intentionally restricted Mr. Soto Lopez' freedom of movement. Mr. Soto Lopez was aware that his freedom of movement was restricted.
63. Defendants restricted Mr. Soto Lopez' freedom of movement without legal justification.
64. Defendants are liable to Mr. Soto Lopez for false imprisonment.
65. Wherefore, Mr. Soto Lopez is entitled to damages for false imprisonment, and any additional relief the Court deems just.

PRAYER FOR RELIEF

Wherefore, Plaintiff requests that the Court:

- A. Certify, pursuant to Montana Rules of Civil Procedure 23, a class defined as "all current and future prisoners in the GCDC who are, or will be, the subjects of immigration detainers and/or administrative

warrants transmitted to the Jail by ICE or CBP.”

- B. Issue a judgment declaring that Defendants have no authority under Montana law to arrest individuals for civil immigration violations and enjoining them from undertaking such arrests.
- C. Order Defendants to release all class members who post bond, complete their sentences, or otherwise resolve their state criminal cases, notwithstanding any detainer request from ICE or CBP;
- D. Issue a judgment declaring that Defendants violate the Montana constitutional right to be free of unreasonable seizures when they make civil immigration arrests without state-law authority;
- E. Issue a judgment declaring that Defendants violate the Montana constitutional right to due process of law when they make civil immigration arrests without state-law authority;
- F. Issue a judgment declaring that Defendants violate the Montana constitutional right to bail when they rely on ICE detainers or ICE administrative warrants as grounds for refusing to release pretrial detainees who post bond;
- G. Award interim and permanent injunctive relief, and relief in the nature of mandamus;
- H. Award compensation for the losses and harms Mr. Soto Lopez has incurred as a result of Defendants’ wrongful conduct to date;
- I. Award compensation for general damages, in an amount to be determined by the jury at trial;
- J. Schedule a jury trial on Plaintiff’s claim of false imprisonment;
- K. Award costs and prejudgment interest on Plaintiff’s claim of false imprisonment; and
- L. Provide any additional relief the Court deems just.

DATED THIS 22nd day of February, 2019.



Alex Rate
ACLU OF MONTANA
Attorney for Plaintiffs