

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MINNESOTA**

<p>Jose Lopez Orellana Plaintiff,</p> <p>v.</p> <p>Nobles County; Nobles County Sheriff Kent Wilkening; unknown/unnamed defendants John Doe & Richard Roe; All individuals being sued in their individual and official capacity.</p> <p>Defendants.</p>	<p>Civil Action No: _____</p> <p>COMPLAINT FOR DAMAGES AND OTHER RELIEF</p> <p>JURY TRIAL DEMANDED</p>
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Plaintiff, Jose Lopez Orellana, by his attorneys of record, files this complaint and would show that Defendants violated his constitutionally guaranteed Fourth, and Fourteenth Amendment rights when Defendants denied him his right to post bail set by a Minnesota court and held him unlawfully for approximately 10 days on the basis of an immigration detainer. Plaintiff's interest in liberty and right to due process were violated.

STATEMENT OF CLAIMS

1. Plaintiff brings this action on behalf of himself for declaratory, injunctive and monetary relief against Defendants for violating his constitutional rights. He also brings forward supplemental claims for violations of Minnesota state law.

2. Plaintiff was unlawfully jailed by Defendants for 10 days in violation of the Fourth and Fourteenth Amendment to the U.S. Constitution, Article 1 §10 of the Minnesota Constitution, and Minnesota law against false imprisonment. Defendants refused to recognize

Plaintiff's right to bail in violation of the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution and Article 1 §7 of the Minnesota Constitution.

3. Plaintiff brings suit under 42 U.S.C. § 1983.

4. Plaintiff seeks an order of this Court declaring unlawful and enjoining Defendant's policy and systemic practice of holding foreign-born persons, like Plaintiff, in the Nobles County jail on the basis of an immigration detainer (form I-247).

5. Plaintiff also seeks compensatory damages and reasonable attorney's fees and costs, as authorized by 42 U.S.C. §§ 1983 and 1988.

6. Plaintiff has served timely notice of his state law claims in compliance with Minn. Stat § 466.05.

JURISDICTION

7. This Court has jurisdiction over the claims alleged in this Complaint pursuant to 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1343 (civil rights), 28 U.S.C. § 2201 (declaratory relief), and 42 U.S.C. §§ 1981, 1983, and 1988.

8. Supplemental jurisdiction over the pendent state law claims is proper pursuant to 28 U.S.C. § 1367.

9. This action arises under the United States Constitution, as applied to state and/or local authorities through 42 U.S.C. § 1983.

VENUE

10. Venue is proper in this judicial district based on 28 U.S.C. § 1391(b), as Defendants are residents of this judicial district and the acts or occurrences giving rise to these claims took place in Minnesota.

PARTIES

11. Plaintiff, Jose Lopez Orellana, resides in Worthington, MN. He has lived in the United States for nearly 12 years. Plaintiff is a Hispanic male.

12. Defendants are all, upon information and belief, Minnesota municipal entities and/or individual members of law enforcement agencies, in an appointed or elected capacity.

13. Nobles County is a political subdivision of the State of Minnesota that can sue and be sued in its own name. Defendant Nobles County includes, operates and is responsible for the Nobles County Jail.

14. Nobles County Sheriff Kent Wilkening was, at all times relevant, the Sheriff of Nobles County. He is sued in both his personal, individual and official capacities pursuant to Minn. Stat. § 466.01 et seq. and other applicable law.

15. John Doe & Richard Roe are unknown/unnamed defendants whom, on information and belief, are believed to be deputies and/or employees in the Nobles County Sheriff's department, and were acting under color of state law as contemplated by 42 U.S.C. § 1983. These individuals are being sued in their personal, individual, and official capacities pursuant to Minnesota Statutes § 466.01 et seq. and other applicable law.

16. When the names of the unknown and unnamed defendants are ascertained, Plaintiff will seek leave to amend this complaint to indicate their names.

17. All Defendant law enforcement deputies and/or employees were, at all times relevant to this complaint, working as on or off duty licensed Minnesota peace officers acting under color of state law and within the scope and course of their official duties and employment as officers with Nobles County.

FACTS

18. On November 9, 2014, Plaintiff was arrested for DWI and booked into the Nobles County jail.

19. On November 10, 2014, Minnesota District Court Judge Jeffery L. Flynn set bail for Plaintiff.

20. On November 21, 2014, Plaintiff's wife, Maria Flores, attempted to pay the bail at the Nobles County jail.

21. Having limited English skills, Maria brought along an interpreter, Jesus Hertado, to help communicate with the jail.

22. Through the interpreter, she informed two plain clothed jail staff that she was there to post the bail for her husband.

23. Acting pursuant to Defendant's policy, practice, custom and failure to train, the jail staff refused to accept the money, telling Maria that Jose had an "ICE hold" that prohibited him from being released. As such, they would not take her money.

24. Maria protested and spoke with two uniformed supervisors who, acting pursuant to Defendants' policy, practice, custom and failure to train, instructed her that they wouldn't take her money because ICE had a hold placed on Jose.

25. On December 1, 2014, Plaintiff went to court on his DWI charge where he pled guilty and paid his fine. His sentence of one year in jail was suspended and he was free to go. Immigration authorities never picked him up or attempted to remove him from the country.

26. Defendants prevented Plaintiff's bail from being paid, prevented him from being released on bail, and held him against his will in the county jail for 10 days without any legal authority to do so.

27. By detaining Plaintiff an extra ten days, Defendants deprived Plaintiff of the ability to assist his wife with their newborn child and to be with his family over the Thanksgiving holiday.

28. Defendants' actions are not isolated. On information and belief, in late June and Early July 2015, Defendants refused to accept bail from family members for two other Latino inmates who were in Nobles County Custody.

29. After one family insisted on paying bail with the help of local activist Lisa Kramer, the individual was still not released from Nobles County Jail.

30. Upon information and belief, no judicial warrants were provided for either individual to be held by Nobles County Jail.

Unconstitutional Immigration Detainer system

31. Immigration and Customs Enforcement (ICE), an agency of the U.S. Department of Homeland Security (DHS), enforces immigration laws in the United States. When ICE is investigating whether it should initiate deportation proceedings against a person in jail whom it suspects is not a citizen, ICE often issues immigration detainers.

32. The I-247 Detainer makes a request to state or local law enforcement agencies (LEA) that ICE has "determined that there is reason to believe the individual is an alien subject to removal from the United States." Through issuing the form, ICE requests that the LEA, under federal regulation 8 C.F.R. §287.7, "maintain custody of the subject for a period not to exceed 48 hours (excluding Saturdays, Sundays, and holidays), beyond the time when the subject would have otherwise been released from your custody."

33. The detainer form reminds the custodian four times that the hold period must not exceed 48 hours, once in bold type and capitalized letters in the very title of the document,

another time in bold type and capitalized letters in the body of the document, once more in bold type in the body of the document, and lastly, in the section of the document that is to be completed by the agency currently holding the subject of the immigration hold.

34. The First, Second, Third, Fourth, Fifth and Sixth Circuits have held that an ICE detainer is merely a request to hold an individual for ICE and are not mandatory. *United States v. Female Juvenile, A.F.S.*, 377 F.3d 27, 35 (1st Cir. 2004), *Lirazno v. United States*, 690 F.3d 78, 82 (2nd Cir, 2012), *Galarza v. Szalczyk*, 745 F.3d 634, 641-643 (3rd Cir. 2014), *United States v. Uribe-Rios*, 558 F.3d 347, 350 n 1 (4th Cir. 2009), *Giddings v. Chandler*, 979 F.2d 1104, 1105 n. 3 (5th Cir. 1992), *Ortega v. U.S. Immigration & Customs Enforcement*, 737 F.3d 435, 438 (6th Cir, 2013).

35. The Fourth Amendment does not permit Defendants to detain and imprison individuals based on ICE detainers forms as they lack probable cause.

36. In an attempt to get around these cases, ICE changed the language on the I-247 forms to state they had “reason to believe” an alien was removable. However, reasonable belief is not akin to probable cause.

37. Moreover, Defendants were specifically put on notice of the faults in the detainer form by the MN Sheriff’s Association who, among other things, circulated a memo by the Hennepin County Attorney in which he wrote: “There is no controlling precedent in the Eight Circuit. However, the recent federal court rulings and change in ICE policy lead to only one logical conclusion: ICE detainers are requests rather than mandatory orders. In other words, an ICE detainer or DHS Form I-247 without more is not legally sufficient to hold an individual in custody. ICE detainers alleging that DHS has merely “determined there is reason to believe the

individual is an alien subject to removal . . .” should no longer be relied upon by the HCSO to hold an individual in custody.” (See exhibit A).

38. The immigration detainer lodged against Plaintiff was not issued pursuant to an immigration Notice to Appear (NTA) or any other charging document, arrest warrant, or deportation order.

39. Were it not for the actions of the Defendants, Plaintiff’s wife, Maria, would have posted bail on behalf of her husband.

40. Defendants illegally deprived Plaintiff of his liberty by refusing to accept bail on behalf of Plaintiff and by telling Maria that posting his bail would not result in his release.

41. Defendants were put on notice that their actions were in violation of state and federal law. On or about May 4, 2014, every sheriff in Minnesota, including the Nobles County Sheriff, received a letter from the ACLU of MN (see exhibit B) explaining the illegality of honoring ICE detainers.

42. About a month later, every sheriff in Minnesota, including the Nobles County Sheriff, received a follow up email and attachments from the Minnesota Sheriff’s Association and Hennepin County Attorney explaining that the Hennepin County Sheriff was discontinuing his practice of honoring ICE detainers because of a concern about the unconstitutionality of the practice, and urging the sheriffs to follow suit. (See exhibit A).

43. ICE has long taken the position that liability and responsibility for the individuals in custody remain in the hands of the state actor, in this case Nobles County. See Defendant ICE’s Motion to Dismiss, *Gonzalez v. ICE*, No. 13-4416 at 10, 14-17, 23-24 n.p (C.D. Cal. Filed Mar. 10, 2014)(stating that it is the responsibility of local law enforcement official to decide, in his or her discretion, to comply with ICE’s immigration detainer,” and arguing that it was the

county sheriff, not ICE, who bore ultimate responsibility for plaintiff's detention on ICE detainers.).

44. Upon information and belief, Sheriff Wilkening knew of these constitutional infirmities and refused to follow advice to stop honoring ICE detainers, therefore his deliberate willfulness created the harm that affected Plaintiff.

45. It is the policy, practice, and custom adopted by the Nobles County Jail, in direct opposition to the policies and memos issued by the Sheriff's Association, and established case law to hold foreign-born persons like Plaintiff in the jail awaiting pick-up by federal immigration authorities; to prevent friends and family seeking to post bail on such persons behalf by telling them that they will not be released from custody because of immigration detainers, even if bail is posted on their behalf; and to hold such persons well beyond the 48 hours the immigration hold suggests, if federal immigration authorities have not come to pick up such persons within that time.

46. The County has also failed to properly supervise and train its employees at the Nobles County jail, causing its employees to unlawfully deny detainees their right to post bail to secure their release when they are subject to an immigration hold by refusing to accept bail and informing people seeking to post bail that the detainee will not be released because of their immigration hold, and by refusing to release individuals even when bail is posted. Defendant has acted with such deliberate indifference that these constitutional violations were the inevitable result.

Plaintiff's Imprisonment Due to ICE Detainer was unlawful

47. Because the ICE Detainer was intended and did cause Plaintiff's continued imprisonment, it could not lawfully be issued on less than probable cause.

48. ICE detainers do not meet the probable cause standard nor do they pretend to. They merely state in boilerplate that “there is reason to believe the individual is an alien subject to removal from the United States.”

Defendants Have No Authority to Imprison, on less than Probable Cause, Individuals who have met Bail Requirements.

49. An immigration detainer is merely a “request,” not a legally-enforceable command, to hold an alien subject to removal for up to 48 hours (excluding holidays and weekends). 8 C.F.R. § 287.7(a). Under the “anti-commandeering” doctrine, a federal official is constitutionally barred from asserting authority to order a state or local official to exercise sovereign authority to imprison. *Printz v. United States*, 521 U.S. 898, 910 (1997); *Galarza*, 745 F.3d at 643.

50. In Defendant’s eyes, the detainer prevented Plaintiff’s release on bail.

51. Detainers lack probable cause.

52. Consequentially, Defendants agreed to imprison Plaintiff on less than probable cause and disregarded his rights under the Fourth, Eighth and Fourteenth Amendments.

53. Plaintiff continues to reside in Nobles County. Because of Defendants’ unconstitutional conduct in the past and their policy, practice and customs, Plaintiff fears that, if he is stopped by police or arrested in the future, he will again be subject to Defendants’ unconstitutional policy, practice and customs of holding foreign-born nationals without lawful justification pursuant to an ICE hold.

Even if Defendants Had Probable Cause, they Have No Authority to Hold Plaintiff beyond 48 hours.

54. Even if Defendants had probable cause to hold Plaintiff under an ICE detainer, that authority expired on November 25, 2014. Plaintiff would have had to have been released on that day.

55. By refusing to accept Maria's bail money, Defendants prevented the ICE detainer's limited duration from taking effect and kept Plaintiff unlawfully detained in Nobles County Jail.

COUNT I
42 U.S.C. § 1983 Fourth Amendment Illegal Search and Seizure

56. Paragraphs 1 through 55 are incorporated herein by reference as though fully set forth.

57. This is a claim under 42 U.S.C. § 1983 for violation of the Fourth Amendment of the U.S. Constitution.

58. Defendants held Plaintiff in the Nobles County jail in violation of the Fourth Amendment's prohibition against unreasonable searches and seizures, depriving him of his liberty without due process and causing significant pain and suffering.

59. Once Judge Flynn set bail for Plaintiff and his wife came to the Nobles County jail with money orders in hand to post bail, Defendant's legal authority to maintain custody of the Plaintiff ended.

60. Alternatively, once Plaintiff's wife attempted to post bail, the 48-hour ICE detainer limit should have begun to run and Defendant's legal authority to maintain custody over him would expire at the end of that time frame.

61. Defendants' continued detention of Plaintiff beyond that time – either November 21st or November 25th, constituted new, unauthorized arrests without probable cause.

62. Because the Plaintiff's continued detention constituted a new arrest, and because

immigration detainees are not warrants and do not require a finding of probable cause, Defendants' individual actions and official policies, practices, customs, lack of supervision, failure to train, acts, and omissions violate the Fourth Amendment's requirement that persons arrested without a warrant be brought before a neutral magistrate for a probable cause hearing within 48 hours of arrest. County of Riverside v. McLaughlin, 500 U.S. 44 (1991); see also Gerstein v. Pugh, 420 U.S. 1003 (1975). Such failure to train was done with such deliberate indifference on the part of Defendants that this constitutional violation inevitably would occur. Defendant's policies, practices, customs, lack of supervision, failure to train, acts, and omissions were the moving force behind this constitutional violation and the cause of such violation.

63. Wherefore, as a direct and proximate cause of the actions of Defendants, Plaintiff has suffered damages in an amount in excess of one hundred thousand dollars (\$100,000.00).

COUNT II

42 U.S.C. § 1983 Fourteenth Amendment Substantive Due Process Violations

64. Paragraphs 1 through 63 are incorporated herein by reference as though fully set forth.

65. Defendants' unlawful detention of Plaintiff, which violated his rights under the Fourteenth Amendment, caused him significant pain and suffering by infringing on his fundamental liberty interests.

66. The principles of substantive due process under the Fourteenth Amendment forbid the infringement of fundamental liberty interests, unless that infringement is narrowly tailored to serve a compelling government interest. Freedom from physical restraint is a liberty interest protected by the Fourteenth Amendment's promise of substantive due process.

67. Further, a person whose bail has been set has a liberty interest in being freed from jail when that bail is met, as the state's justification for holding that person has faded. It is a deprivation of liberty to continue to detain the person.

68. The unauthorized, indeterminate, and unlawful detention of Plaintiff on an immigration detainer has no basis in state law. Immigration detainees are only used to enforce federal civil immigration laws and are devoid of any standards guiding their issuance in a criminal law setting. The detainees are not narrowly tailored to a compelling government interest, or reasonably related to a legitimate government goal to permit civil detention of an alien and lack probable cause required to meet that standard.

69. As a proximate result of Defendant's unconstitutional policies, practices, customs, lack of supervision, failure to train, acts, and omissions, done under color of law and official authority, Plaintiff suffered significant deprivations of his constitutional rights detailed in the preceding causes of action, namely his Fourth Amendment right to be free from unreasonable seizures and his Fourteenth Amendment substantive and procedural due process rights. The failure to train was done with such deliberate indifference on the part of Defendants that these constitutional violations inevitably would occur. Defendant's policies, practices, customs, lack of supervision, failure to train, acts, and omissions were the moving force behind these constitutional violations and the cause of such violations.

70. Wherefore, as a direct and proximate cause of the actions of Defendant, Plaintiff has suffered damages in an amount in excess of one hundred thousand dollars (\$100,000.00).

COUNT III
42 U.S.C. § 1983 Fourteenth Amendment Procedural Due Process Violation Deprivation of Liberty

71. Paragraphs 1 through 70 are incorporated herein by reference as though fully set forth.

72. Procedural due process requires that the government be constrained before it acts in a way that deprives a person of liberty interests protected under the Due Process Clause of the Fourteenth Amendment. See *Matthews v. Eldridge*, 424 U.S. 319, 332 (1976).

73. Pursuant to 8 C.F.R. §287.7, through the issuance of immigration detainers, ICE requests that state and local LEAs hold persons in custody, solely to enforce federal civil immigration laws and without any basis in state law, and requires that the hold period not “exceed 48 hours,” excluding weekends and holidays, after such persons would have otherwise been released from criminal custody.

74. The Fourteenth Amendment’s Due Process Clause protects against the deprivation of liberty interests without the due process of law, requiring notice and an opportunity to be heard prior to the deprivation of liberty. It also mandates a method by which to challenge the deprivation of liberty. Defendants refused to provide Plaintiff with any of these protections, in violation of his due process rights.

75. Relying on the issuance of immigration holds as its sole justification, Defendants detained Plaintiff without lawful authority and without judicial review. Such acts and omissions violate Fourteenth Amendment procedural due process rights.

76. As a proximate result of Defendants’ unconstitutional policies, practices, customs, lack of supervision, failure to train, acts, and omissions, done under color of law and official authority, Plaintiff suffered significant deprivations of his constitutional rights detailed in the preceding causes of action, namely his Fourth Amendment right to be free from unreasonable seizures and his Fourteenth Amendment substantive and procedural due process rights. The

failure to train was done with such deliberate indifference on the part of Defendants that these constitutional violations inevitably would occur. Defendants' policies, practices, customs, lack of supervision, failure to train, acts, and omissions were the moving force behind these constitutional violations and the cause of such violations.

77. Wherefore, as a direct and proximate cause of the actions of Defendants, Plaintiff has suffered damages in an amount in excess of one hundred thousand dollars (\$100,000.00).

COUNT IV

42 U.S.C. § 1983 Fourteenth Amendment Due Process Violation Failure to Accept Bail

78. Paragraphs 1 through 77 are incorporated herein by reference as though fully set forth.

79. The denial of bail must comport with the requirements of due process.

80. To avoid depriving an arrestee of due process, the government may only interfere with this protected liberty interest, for instance by refusing to accept lawfully set bail from the arrestee and detaining him until some later time, if its actions reasonably relate "to a legitimate goal." See e.g., Campbell v. Johnson, 586 F.3d 835, 840 (11th Cir. 2009) (explaining that a county sheriff may be held liable for violating the due process rights of an arrestee if he acts with deliberate indifference in personally refusing to accept the arrestee's court-set bail or if his actions were causally connected to his subordinates' refusal of the arrestee's bail)

81. The Fourteenth Amendment's Due Process Clause protects against the deprivation of liberty interests without the due process of law, requiring notice and an opportunity to be heard prior to the deprivation of liberty. It also mandates a method by which to challenge the deprivation of liberty. Defendants refused to provide Plaintiff with any of these protections, in violation of his due process rights.

82. Relying on policies, practices and customs, Defendants detained Plaintiff without lawful authority and without judicial review. Such acts and omissions violate Fourteenth Amendment due process rights.

83. As a proximate result of Defendant's unconstitutional policies, practices, customs, lack of supervision, failure to train, acts, and omissions, done under color of law and official authority, Plaintiff suffered significant deprivations of his constitutional rights detailed in the preceding causes of action, namely his Fourth Amendment right to be free from unreasonable seizures and his Fourteenth Amendment due process rights. The failure to train was done with such deliberate indifference on the part of Defendants that these constitutional violations inevitably would occur. Defendant's policies, practices, customs, lack of supervision, failure to train, acts, and omissions were the moving force behind these constitutional violations and the cause of such violations.

84. Wherefore, as a direct and proximate cause of the actions of Defendants, Plaintiff has suffered damages in an amount in excess of one hundred thousand dollars (\$100,000.00).

COUNT V
State Constitutional violation – Art 1 § 10 – Unlawful Seizure

85. Paragraphs 1 through 84 are incorporated herein by reference as though fully set forth.

86. Defendants held plaintiff after he could have been released under state law solely because of a policy to hold aliens with ICE detainers. Those detainers do not give defendants probable cause to detain individuals beyond their state ordered custody.

87. Defendants detained Plaintiff without lawful authority and without judicial review. Such acts and omissions violate Article 1, § 10 of the Minnesota Constitution.

88. As a proximate result of Defendants' unconstitutional policies, practices, customs, lack of supervision, failure to train, acts, and omissions, done under color of law and official authority, Plaintiff suffered significant deprivations of his constitutional rights detailed in the preceding causes of action, namely his Article 1 §10 Minnesota constitutional right to be free from unreasonable seizures. The failure to train was done with such deliberate indifference on the part of Defendants that these constitutional violations inevitably would occur. Defendants' policies, practices, customs, lack of supervision, failure to train, acts, and omissions were the moving force behind these constitutional violations and the cause of such violations.

89. Wherefore, as a direct and proximate cause of the actions of Defendants, Plaintiff has suffered damages in an amount in excess of one hundred thousand dollars (\$100,000.00).

COUNT VI
State Constitutional violation – Art 1 sec 7 – Due Process Violations

90. Paragraphs 1 through 89 are incorporated herein by reference as though fully set forth.

91. Due process requires that an individual receive adequate notice and an opportunity to be heard before being deprived of life, liberty, or property. State v. Ness, 819 N.W.2d 219, (Minn. Ct. App. 2012) aff'd, 834 N.W.2d 177 (Minn. 2013).

92. Defendants violated plaintiff's Minnesota Constitutional right to due process under Article 1 § 7 by depriving him of liberty interests under the U.S. and Minnesota Constitution as set forth in the preceding paragraphs, without giving him notice or an opportunity to oppose the ICE detainer.

93. As a proximate result of Defendants' unconstitutional policies, practices, customs, lack of supervision, failure to train, acts, and omissions, done under color of law and official authority, Plaintiff suffered significant deprivations of his constitutional rights detailed in the

preceding causes of action, namely his Article 1 §10 and Fourth Amendment right to be free from unreasonable seizures and his Fourteenth Amendment substantive and procedural due process rights. The failure to train was done with such deliberate indifference on the part of Defendants that these constitutional violations inevitably would occur. Defendants' policies, practices, customs, lack of supervision, failure to train, acts, and omissions were the moving force behind these constitutional violations and the cause of such violations.

94. Wherefore, as a direct and proximate cause of the actions of Defendants, Plaintiff has suffered damages in an amount in excess of one hundred thousand dollars (\$100,000.00).

COUNT VII
Tort Claims – False Imprisonment

95. Paragraphs 1 through 94 are incorporated herein by reference as though fully set forth.

96. All of the individual Defendants named in this Complaint are employees, deputies or agents of municipalities.

97. All acts of the individual Defendants alleged above were conducted within the scope of the Defendants' employment or duties.

98. The actions of Defendants were willful, malicious and in violation of the known rights of Plaintiff.

99. Defendants' unlawful detention of Plaintiff for ten days after his wife attempted to post bail set by a Minnesota court for him, done under color of law and official authority, pursuant to official policy or custom and because of lack of supervision, constitutes false imprisonment in violation of Minnesota law. Defendants' unconstitutional policies, practices, customs, lack of supervision, failure to train, acts, and omissions were the moving force behind this state law violation and the cause of such violation. The failure to train was done with such

deliberate indifference on the part of Defendants that this constitutional violation inevitably would occur.

100. Defendants intentionally confined and restrained Plaintiff without his consent by not releasing him from custody when his wife attempted to post judicially-set bail on his behalf. Defendants intentionally confined Plaintiff, with his freedom of movement restrained, from November 21, 2014 to December 1, 2014 or November 25, 2014 to December 1, 2014. Plaintiff did not consent to this unlawful detention.

101. Because Plaintiff had been granted bail and because his wife tried to post bail Defendants knew it had no lawful authority to continue detaining Plaintiff.

102. Defendants did not have probable cause to continue to keep plaintiff in jail; nor did the immigration detainer provide probable cause for Plaintiff's continued detention. Even if the immigration detainer provided probable cause, that probable cause expired on November 25, 2015.

103. As a direct and proximate result of this false imprisonment, Plaintiff suffered injuries and damages, including loss of physical liberty, loss of time with his family during a Holiday, loss of time with his newborn child, becoming indebted to friends and neighbors, emotional pain, suffering, and trauma, loss of enjoyment of life, humiliation, and embarrassment.

104. Wherefore, as a direct and proximate cause of the actions of Defendant, Plaintiff has suffered damages in an amount in excess of one hundred thousand dollars (\$100,000.00).

DECLATORY RELIEF

105. This suit involves an actual controversy within the Courts' jurisdiction and the Court may declare the rights of Plaintiff under the Constitution and laws of the United States and

the laws of Minnesota and grant such relief as necessary and proper. Plaintiff seeks declaratory relief on his behalf.

106. Plaintiff seeks declaratory judgment that Defendants' policies, practices, customs, lack of supervision, failure to train, acts, and omissions described herein of holding foreign born persons in the Nobles County jail based on immigration holds and denying foreign born persons the ability to post bail to secure their release based on immigration holds are unlawful and violate their rights and those of the class under the Fourth and Fourteenth Amendments to the U.S. Constitution and constitute false imprisonment in violation of Minnesota state law.

INJUNCTIVE RELIEF

107. Because Plaintiff may continue to experience violations of his Fourth and Fourteenth Amendment rights and suffer false imprisonment because of Defendants' policies, practices, customs, lack of supervision, failure to train, acts and omissions, temporary and permanent injunctive relief is necessary to stop such unlawful activity.

108. Plaintiff requests that the Court enjoin Defendants from continuing further the policies, practices, customs, lack of supervision, failure to train, acts, and omissions complained of above and order that Defendants cease holding foreign-born prisoners on behalf of an immigration detainer if a prisoner offers to post bail on the underlying criminal offense or if bail is offered for the prisoner.

109. Plaintiff have shown the likelihood of success on the merits of their claim.

PRAYER FOR RELIEF

Wherefore, Plaintiff respectfully requests that this court enter judgment in favor of Plaintiff and against the Defendants, and grant the following:

A. Enter a declaratory judgment on behalf of Plaintiff that Defendants' policies, practices, customs, lack of supervision, failure to train, acts, and omissions, described herein, of holding foreign born persons in the Nobles County jail based on immigration detainers and

denying foreign born persons the ability to post bail to secure their release based on immigration detainees are unlawful and violate their rights under the Fourth and Fourteenth Amendments to the U.S. Constitution, the Minnesota Constitution and constitute false imprisonment in violation of Minnesota state law;

B. Enter a permanent injunction on behalf of Plaintiff against Defendants, enjoining Defendants from continuing further the policies, practices, customs, lack of supervision, failure to train, acts, and omissions complained of above and ordering that Defendants cease holding foreign born prisoners on behalf of immigration detainees if a prisoner offers to post bail on the underlying criminal offense or if bail is offered for the prisoner;

C. Enter judgment on behalf of Plaintiff against Defendants for reasonable actual damages sufficient to compensate him for the violation of his Fourth and Fourteenth Amendment rights and rights under the Minnesota Constitution and Minnesota state law;

D. Order Defendants to pay Plaintiffs' attorney's fees and costs as authorized by 42 U.S.C. §1988; and,

E. Grant all other and additional relief to which Plaintiff may be entitled in this action, at law or in equity.

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