



## **JURISDICTION**

2. This action arises under the Constitution of the United States. This Court has jurisdiction under 28 U.S.C. § 2241, Art. I, § 9, cl. 2 of the United States Constitution and 28 U.S.C. § 1331, as Mr. Santos is presently in the custody of Lake County officials under color of authority of United States Customs and Immigration Enforcement and such custody is in violation of the U.S. Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, and the All Writs Act, 28 U.S.C. § 1651.

3. Mr. Santos also seeks money damages from state officials pursuant to 42 U.S.C. § 1983. This Court has jurisdiction over this claim pursuant to 28 U.S.C. § 1343.

## **VENUE**

4. Venue is proper in the United States District Court for the Northern District of Illinois, the judicial district in which the parties reside and where Mr. Santos is unlawfully detained. 28 U.S.C. § 1391(b).

## **PARTIES**

5. Petitioner Emil J. Santos is a resident of Fox Lake, Illinois.

6. Respondent/Defendant Mark C. Curran, Jr. is the Lake County Sheriff and oversees, directs, and controls the Lake County Adult Corrections Facility. He is sued in his official and individual capacity. Respondent/Defendant Curran is a custodial official within the jurisdiction of the United States District Court for the Northern District of Illinois, Eastern Division. Mr. Santos is detained pursuant to Respondent/Defendant Curran's orders. At all relevant times, Respondent/Defendant Curran acted under color of state law.

7. Respondent/Defendant Jane Doe is an officer at the Lake County Adult Corrections Facility. She is sued in her individual capacity. Respondent/Defendant Jane Doe accepted bond payment from Mr. Santos' sister and then told her that Mr. Santos would not be released. Respondent/Defendant Jane Doe is a custodial official within the jurisdiction of the United States District Court for the Northern District of Illinois, Eastern Division. Mr. Santos is detained pursuant to Respondent/Defendant Doe's orders. At all relevant times, Respondent/Defendant Doe acted under color of state law.

8. Other unknown Lake County officials participate in the unlawful detention of Mr. Santos. At all relevant times, unknown Lake County officials acted under color of state law.

#### **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

9. Mr. Santos has exhausted his administrative remedies to the extent required by law, and his only remedy is by way of this judicial action.

#### **STATEMENT OF FACTS**

10. Mr. Santos was born in Honduras. He resides in Fox Lake, Illinois.

11. On April 1, 2017, Fox Lake police arrested Mr. Santos and detained him at the Lake County Adult Corrections Facility ("Lake County jail") in Waukegan, Illinois. Mr. Santos was charged with domestic battery and interfering with a domestic violence report.

12. On the day of Mr. Santos' arrest, a judge ordered him released upon the payment of a \$20,000 bond.

13. On April 1, 2017, Mr. Santos' sister arrived at the Lake County jail and paid the bond.

14. After Mr. Santos' sister paid the bond to Respondent/Defendant Jane Doe, the jail officer who was working at the desk, Respondent/Defendant Jane Doe told her it would take three hours to process Mr. Santos' release and she could return in three hours to pick up Mr. Santos.

15. Before Ms. Santos' sister could return to Lake County jail to pick him up, she received a call from Respondent/Defendant Jane Doe who told her that Mr. Santos would not be released and that she could return to reclaim the money she had paid for his release.

16. Respondent/Defendant Jane Doe told Mr. Santos' sister that Mr. Santos would not be released because of a detainer issued by Immigration and Customs Enforcement ("ICE") and that she would lose her bond if she did not return to the Lake County jail to pick it up. Mr. Santos' sister then returned to the Lake County jail as instructed by Respondent/Defendant Jane Doe. Respondent/Defendant Jane Doe gave Mr. Santos' sister the amount she had paid as bond earlier in the day.

17. No federal immigration agency has issued Mr. Santos a Notice to Appear in Immigration Court. ICE officials have not taken Mr. Santos into custody.

18. Lake County officials continued to unlawfully detain Mr. Santos under color of state law.

19. As of April 11, 2017, Mr. Santos has not been released or transferred from the Lake County jail.

20. Respondent/Defendant Curran is responsible for establishing procedures, policies, and practices that ensure that individuals held at the Lake County jail are promptly released when no legal authority remains to detain them.

21. Under the direction of Respondent/Defendant Curran, the Lake County jail enforces a custom, policy, or practice of treating ICE detainees as “immigration holds” under which the Lake County jail holds individuals indefinitely for ICE and refuses to release those individuals despite the payment of bond.

22. Lake County’s custom, policy, or practice has resulted in the unlawful detention of Mr. Santos beyond the period of time that Respondents/Defendants have authority to detain him.

23. Mr. Santos is detained even though an independent examiner reviewed his eligibility for release and ordered him released upon the posting of bond.

24. Mr. Santos has been found not to be a flight risk or a danger to the community. Moreover, Mr. Santos has deep roots in the United States. He has lived in the United States for 16 years and has three U.S. citizen children. He works two jobs, one as a cook and another as a factory worker. His detention has placed his employment and his ability to support himself and his children in jeopardy. His detention further deprives his children of emotional and financial support.

25. Because Mr. Santos maintains his innocence, he also seeks to be released in order to prepare his defense to the charges against him.

26. There is no justification for Respondents/Defendants’ decision to continue to detain Mr. Santos. There is no better time for the Court to consider the merits of Mr. Santos’ request for release.

## **CLAIMS FOR RELIEF**

### **CLAIM ONE**

#### **Fourteenth Amendment to the U.S. Constitution (Due Process Clause)**

27. Petitioner re-alleges and incorporates by reference the factual allegations made above.

28. Mr. Santos has a liberty interest in being free from unlawful and prolonged detention.

29. Mr. Santos is deprived of his protected liberty interest without due process of law because he is being detained by Respondents/Defendants beyond the period of time that Respondents/Defendants have authority to detain him.

30. Mr. Santos' detention violates his clearly established right to substantive and procedural due process guaranteed by the Fourteenth Amendment to the U.S. Constitution.

### **CLAIM TWO**

#### **Fourth Amendment to the U.S. Constitution**

31. The Fourth Amendment to the U.S. Constitution prohibits arrests and seizures absent probable cause.

32. Respondents/Defendants' continued detention of Mr. Santos, beyond the time when he would have otherwise been released, is a seizure without probable cause in violation of the Fourth Amendment.

33. Mr. Santos's rights under the Fourth Amendment are clearly established.

## **PRAYER FOR RELIEF**

WHEREFORE, Petitioner prays that this Court grant the following relief:

1. Assume jurisdiction over this matter
2. Declare Petitioner's detention to be unlawful and unconstitutional;
3. Order Petitioner's release from custody;
4. Order Respondents/Defendants to pay compensatory and punitive damages for violating Mr. Santos' rights;
5. Award to Petitioner reasonable costs and attorney's fees; and,
6. Grant any other relief which this Court deems just and proper.

Respectfully submitted,

/s/Verónica Cortez  
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ATTORNEYS FOR PETITIONER

\*Application for Admission to be Filed

**VERIFICATION OF COUNSEL**

I, Verónica Cortez, hereby certify that I am familiar with the case of the named petitioner and that the facts as stated above are true and correct to the best of my knowledge and belief.

  
Verónica Cortez