

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF CARVER

FIRST JUDICIAL DISTRICT
Case Type: Other Civil/Misc.

Maikol Javier Suarez Varela,

Court File No.: _____

Plaintiff,

SUMMONS IN A CIVIL CASE

v.

Carver County; Carver County Sheriff Jason
Kamerud; Sergeant Colleen Freiberg; J. Doe;
All individuals being sued in their individual
and official capacity,

Defendants.

THIS SUMMONS IS DIRECTED TO THE ABOVE-NAMED DEFENDANTS.

1. **YOU ARE BEING SUED.** The Plaintiff has started a lawsuit against you. The Plaintiff's Complaint against you is attached to this summons. Do not throw these papers away. They are official papers that affect your rights. You must respond to this lawsuit even though it may not yet be filed with the Court and there may be no court file number on this summons.

2. **YOU MUST REPLY WITHIN 21 DAYS TO PROTECT YOUR RIGHTS.** You must give or mail to the person who signed this summons a **written response** called an Answer within 21 days of the date on which you received this Summons. You must send a copy of your Answer to the person who signed this summons located at:

**AMERICAN CIVIL LIBERTIES
UNION OF MINNESOTA**
P.O. Box 14720
2828 University Ave SE, Suite 160
Minneapolis, MN 55414

3. **YOU MUST RESPOND TO EACH CLAIM.** The Answer is your written response to the Plaintiff's Complaint. In your Answer you must state whether you agree or disagree with each paragraph of the Complaint. If you believe the Plaintiff should not be given everything asked for in the Complaint, you must say so in your Answer.

4. **YOU WILL LOSE YOUR CASE IF YOU DO NOT SEND A WRITTEN RESPONSE TO THE COMPLAINT TO THE PERSON WHO SIGNED THIS SUMMONS.** If you do not Answer within 21 days, you will lose this case. You will not get to tell your side of the story, and the Court may decide against you and award the Plaintiff everything asked for in the complaint. If you do not want to contest the claims stated in the complaint, you do not need to respond. A default judgment can then be entered against you for

the relief requested in the complaint.

5. **ASSISTANCE.** You may wish to get legal help from a lawyer. If you do not have a lawyer, the Court Administrator may have information about places where you can get legal assistance. **Even if you cannot get legal help, you must still provide a written Answer to protect your rights or you may lose the case.**

6. **ALTERNATIVE DISPUTE RESOLUTION.** The parties may agree to or be ordered to participate in an alternative dispute resolution process under Rule 114 of the Minnesota General Rules of Practice. You must still send your written response to the Complaint even if you expect to use alternative means of resolving this dispute.

Date: March 5, 2025

/s/ Ian Bratlie

Teresa Nelson (Bar No. 0269736)

Ian Bratlie (Bar No. 0319454)

Alicia Granse (Bar No. 0400771)

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STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF CARVER

FIRST JUDICIAL DISTRICT

Case Type: Other Civil/Misc.

Maikol Javier Suarez Varela,

Court File No.: _____

Plaintiff,

**COMPLAINT FOR DAMAGES AND
OTHER RELIEF**

v.

JURY TRIAL DEMANDED

Carver County; Carver County Sheriff Jason
Kamerud; Sergeant Colleen Freiberg; J. Doe;
All individuals being sued in their individual
and official capacity,

Defendants.

INTRODUCTION

1. This is an action arising out of the unlawful detention of Plaintiff Maikol Javier Suarez Varela by Carver County and its Sheriff, Jason Kamerud, for refusing to release Plaintiff when his bail could have been paid and then after his bail was paid. Instead, Defendants contacted ICE and held Plaintiff until ICE arrived to take Plaintiff into ICE custody.

2. Sheriff Kamerud and Carver County decided that they would not release Plaintiff based on an ICE detainer, which creates no legal authority to detain Plaintiff. By failing to release Plaintiff when they had no legal authority to continue his detention, the Defendants violated the Minnesota Constitution and committed the tort of false arrest and false imprisonment. Further, the Defendant's actions violated the Minnesota Human Rights Act by discriminating on the basis of national origin and ethnicity.

3. Minnesota sheriffs and other peace officers do not have inherent or common law authority to arrest or detain; instead, their powers are limited to those expressly granted by

Minnesota statute. Sheriffs in Minnesota have been on notice that these powers do not include enforcement of federal immigration laws or the authority to assist federal immigration authorities by arresting and detaining people they suspect of being removable from the United States. Sheriffs know there is no immigration exception to the warrant requirement in Minnesota.

4. Nevertheless, at the request of federal immigration authorities, Defendants chose to falsely imprison Plaintiff in the absence of any state or other lawful authority to do so. They did so to give ICE time to get to Carver County Jail to take Plaintiff into custody.

5. Defendants falsely imprisoned Plaintiff solely because he is suspected of being a noncitizen of the United States and thus potentially removable from the country.

6. Plaintiff seeks declaratory judgment and monetary damages against Defendants for his unlawful imprisonment.

JURISDICTION

7. The District Courts of Minnesota are courts of general jurisdiction, having original jurisdiction over “all civil actions within their respective districts.” Minn. Stat. § 484.01, subd. 1(1).

8. This action arises under Minnesota law. Plaintiff brings his claims under Minn. Stat. § 466.02 (Municipal Tort Claims Act); Minn. Stat. Chapter 555 (Uniform Declaratory Judgment Act); and Minn. Stat. Chapter 363A (the Minnesota Human Rights Act).

9. Venue is proper in Carver County because the cause of action or some part thereof arose in Carver County, pursuant to Minn. Stat. § 542.03.

PARTIES

10. Maikol Javier Suarez Varela is a person currently in ICE custody, housed in Freeborn County jail in Albert Lea, MN. Maikol is a native of Venezuela who entered the United States lawfully through the CBP1 system.

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

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

13. Carver County Sheriff Jason Kamerud was, at all relevant times the Sheriff of Carver County. He is sued here in both his individual and official capacities pursuant to Minn. Stat. § 466.01 et seq. and other applicable laws.

14. Carver County Sheriff Sergeant Colleen Freiberg was, at all relevant times, a member of the Carver County Sheriff's Office. She is sued in both her official and individual capacities pursuant to Minn. Stat. § 466.01 et seq. and other applicable laws.

15. J. Doe is, upon belief and information, a member of the Carver County Sheriff's Office. They are sued in both their official and individual capacities pursuant to Minn. Stat. § 466.01 et seq. and other applicable laws.

FACTS

16. On January 5, 2025, Plaintiff was arrested in Chanhassen by Carver County Sheriff's Office deputies and transported to Carver County Jail.

17. The Carver County Sheriff's Office booked Plaintiff into Carver County Jail.

18. Upon information and belief, on or about January 5, 2025, Sheriff Kamerud or others working at the Carver County jail alerted ICE to Plaintiff's presence in the jail.

19. Upon information and belief, ICE subsequently sent Defendants a “detainer” requesting that they (1) notify ICE before Plaintiff is released from custody; and (2) maintain custody of Plaintiff for up to 48 hours after he would otherwise be released so that ICE may assume custody of him.

20. Defendants did not serve Plaintiff with any paperwork regarding this request.

21. On or about January 7, 2025, Carver County Attorney’s Office filed charges against Plaintiff in the First Judicial District of Minnesota.

22. That same day, after a bail hearing, the judge of district court ordered that Plaintiff could be released from custody on the following conditions:

- a. That he pay \$50,000 bond or \$10,000 cash
- b. That he remain law-abiding
- c. That he make all future court appearances
- d. That he not have any contact with the alleged victim
- e. That he not leave the state of Minnesota and that he keep the court/his attorney informed of his address.

23. Plaintiff’s relatives contacted the Minnesota Freedom Fund (MFF), a nonprofit organization that pays cash bail for those who cannot afford to do so on their own and that provides pretrial resources and support. MFF agreed to post \$10,000 for Plaintiff and initiated its process to do so.

24. On or about February 3, 2025, MFF representatives LeMar Green and Alex Castro went to Carver County to pay Plaintiff’s bail. Green was told by Carver County Sheriff’s Office Sergeant Colleen Freiberg that they could pay the bail but that the Sheriff’s office would not release

Plaintiff. Instead, they would hold him until ICE picked him up. Sergeant Freiberg wasn't sure if ICE would pick him up that day or the next but he would be held until ICE came.

25. When Green followed up to ask for more information, Sergeant Freiberg confirmed that she had no documentation about Suarez Varela's immigration case. Sergeant Freiberg then repeated that Carver County would hold Suarez Varela for ICE even after MFF paid the bail imposed by the First District Court. According to Sergeant Freiberg, ICE would either come later that day or the next.

26. In light of that information, Green elected to consult with Plaintiff and his representatives before posting bail.

27. On or about February 6, 2025, the Minnesota Attorney General's office issued an eight-page advisory opinion regarding whether state county jails could detain individuals for ICE, finding that "Minnesota law prohibits state and local law enforcement agencies from holding someone based on an immigration detainer if the person would otherwise be released from custody."¹

28. This was hardly the first time Carver County had been warned not to honor ICE detainers. In fact, Defendants had ample notice that detaining persons in this manner both violated state law and was considered a false arrest.

- a. On May 7, 2014, the ACLU of Minnesota sent a letter to all sheriffs in Minnesota, including Carver County, advising them in detail of their legal liability for holding individuals for ICE.
- b. On June 11, 2014, Hennepin County Sheriff Rick Stanek declared that Hennepin County would no longer honor ICE detainers. That same day, Hennepin County

¹ The full document is at <https://www.ag.state.mn.us/Office/Opinions/3a-20250206.pdf>.

Attorney Michael O. Freeman shared a legal paper with all Minnesota Sheriffs outlining their conclusions of liability for honoring ICE detainees.

- c. On January 6, 2017, the Honorable Ann Montgomery, Judge of the United States District Court for the District of Minnesota, held that ICE detainees did not meet the legal standards for a warrant under the Fourth Amendment,² stating that detainees fail to provide law enforcement a constitutionally permissible predicate for an arrest and denying state law immunities to Nobles County for the state tort claims. *Orellana v. Nobles County*, 230 F.Supp.3d 934, 942-43 (D.Minn. 2017).
- d. On March 27, 2017, the ACLU of Minnesota sent another letter to all sheriffs in Minnesota to again warn them of their liability if they hold individuals for ICE, citing the *Orellana* opinion as well as numerous decisions from other states.
- e. On April 19, 2019, the Minnesota Court of Appeals upheld a temporary restraining order against Nobles County, finding that no state or federal law gave Minnesota sheriffs permission to arrest individuals for ICE, even if they have an ICE detainee. *Esparza v. Nobles County*, A18-2011, 2019 WL 4594512 (Minn. Ct. App. Sept. 23, 2019).
- f. On January 30, 2020, Minnesota District Court Judge Gregory Anderson issued a permanent injunction against Nobles County, preventing them from detaining individuals on behalf of ICE without an arrest by an immigration officer or a valid arrest warrant or detainer pursuant to Minnesota law.

² Plaintiff brings his claims under the Minnesota Constitution. A violation of the Fourth Amendment is necessarily a violation of Article I, Section 10 because the federal constitution provides the minimum of protections. Article I, Section 10 provides greater protections than does the Fourth Amendment.

- g. On May 5, 2022, Judge Anderson signed off on the *Esparza* settlement which authorized a \$200,000 settlement for the four plaintiffs who were unlawfully detained by Nobles County.³
 - h. On November 30, 2022, the Eighth Circuit Court of Appeals ruled that a county jail policy that required the jail to contact ICE for all foreign born individuals was a “classic example of national origin discrimination.” *Parada v. Anoka County*, 54 F.4th 1016, 1020 (8th Cir. 2022).
 - i. On January 28, 2025, Minnesota Sheriff’s Association attorney Richard Hodsdon stated that Minnesota jails cannot legally comply with ICE detainers. “They are not the same as a court order; they are a request issued by an administrative agency.”⁴
 - j. On February 11, 2025, the ACLU of Minnesota sent a letter to all sheriffs in Minnesota to highlight the AG’s advisory opinion.
29. Defendants ignored all of these warnings.
30. Green returned to Carver County Jail on February 13, 2025, to pay Plaintiff’s bail. MFF paid \$10,000 to the Carvery County Jail staff. Green asked the jail staff member, J. Doe #1, an unknown sergeant, whether it was lawful to hold Plaintiff for ICE given the advisory opinion issued by Attorney General Keith Ellison on February 6, 2025, and the case law referenced in that opinion. J. Doe #1 said something to the effect that “we have paperwork saying that ICE wants him, so we are holding him for ICE.”

³ <https://kstp.com/kstp-news/local-news/judge-approves-200k-settlement-in-immigration-detention-lawsuit/>.

⁴ <https://www.startribune.com/minnesota-sheriffs-reluctant-hold-people-ice-legal/601212816>.

31. Defendants held Plaintiff after his bail had been paid and his release paperwork was completed in order to deliver him into ICE custody. Plaintiff is currently detained in federal ICE detention in Minnesota at the Freeborn County Jail during the pendency of his immigration matter.

32. Were it not for Defendants' actions, Plaintiff would have been released from state custody.

33. Defendants illegally deprived Plaintiff of his liberty by honoring ICE's detainer request in violation of Minnesota law.

Plaintiff's "hold" was unlawfully based on a request from a federal administrative agency for a civil matter.

34. Neither Defendants nor any other person served Plaintiff with a judicial warrant that would grant Defendants the authority to detain Plaintiff after he paid the bail set by the District Court of Minnesota.

35. Defendants refused to release Plaintiff based solely on an administrative detainer issued by ICE.

36. The Administrative detainer does not authorize state or local officials to take any action.

37. Federal statutes and related regulations govern how ICE issues "detainers." 8 C.F.R. § 287.7. A detainer advises another federal, state, or local law enforcement agency that ICE "seeks custody of a [noncitizen] presently in the custody of that agency, for the purpose of arresting and removing the [noncitizen]." *Id.* § 287.7(a).

38. A detainer asks the receiving agency to do two things: (1) notify ICE before a specific detainee or inmate is released from custody; and (2) maintain custody of that person for up to 48 hours after he or she would otherwise be released so that ICE may assume their custody.

39. Under current policy, ICE uses form I-247A to issue detainer requests. The detainer is accompanied by one of two types of administrative warrants: form I-200 or form I-205.⁵ Both types are signed by a federal immigration official—not an Article III judge—and they are addressed to federal immigration officers for execution.

40. I-200 and 205 “warrants” issued under this discretionary authority are necessarily warrants for civil – as opposed to criminal – immigration enforcement.

41. I-200 and 205 “warrants” are administrative warrants that are specifically only enforceable by immigration officers “authorized pursuant to sections 236 and 287 of the Immigration and Nationality Act and part 287 of title 8, Code of Federal Regulations, to serve warrants for immigration violations.”

42. Defendants are not authorized immigration officers under sections 236 and 287 of the INA and 8 C.F.R. 287.

43. Defendants are not authorized to take any action with respect to I-200 or the I-205 administrative warrants.

44. 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.

45. ICE has, in fact, conceded for a long time in litigation that ICE detainers constitute warrantless arrests. *Moreno v. Napolitano*, 213 F.Supp.3d 999, 1005 (N.D. Ill, 2016).

⁵ The type of warrant issued depends on the detainer subject’s immigration status. ICE issues form I-200 warrants when “the subject of the detainer . . . is not yet subject to a final order of removal.” It issues I-205 warrants when “the subject of the detainer is also subject to a final order of removal.”

46. Defendants agreed to imprison Plaintiff on less than probable cause and in violation of his rights under Minnesota law.

Minnesota law does not authorize Defendants to honor ICE requests and place “holds” on people detained on Minnesota criminal law matters.

47. Article I, Section 10 of the Minnesota Constitution protects all people from unreasonable search and seizure. The Minnesota Constitution “afford[s] greater protection against unreasonable searches and seizures,” and more rigorously limits arrest authority than the United States Constitution does.

48. Article I, Section 10 contains a presumption that, in order to affect a seizure, a law enforcement officer must obtain a warrant, supported by probable cause, from a neutral magistrate. Carver County did not receive such a warrant from ICE nor did it seek one independently from a state court judge. Article I, Section 10 does not permit Defendants to detain and imprison individuals without a warrant for immigration violations, which are civil, not criminal, matters.

49. Peace officers in Minnesota derive their authority to arrest from state statute—not from an inherent constitutional power or the common law. An arrest that is unauthorized by statute is illegal.

Defendants have been on notice that their actions do not conform with Minnesota law

50. Defendants had extensive notice that holding people for ICE without probable cause is a violation of Minnesota law.

51. Further, 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 Carver County. *See* 8 C.F.R. § 287.7(e).

52. Defendants knew of these constitutional prohibitions and intentionally continued to detain Plaintiff without probable cause in violation of his rights under Minnesota law.

53. Defendants' intentional and wrongful conduct caused Plaintiff's damages.

CAUSES OF ACTION
First Claim for Relief
False Arrest and False Imprisonment

54. Plaintiff hereby incorporates all other paragraphs of this Complaint as if fully set forth in this claim.

55. The limited authority of a Minnesota sheriff to make an arrest or otherwise deprive a person of liberty derives from the statutes enacted by the Minnesota legislature and is limited by the Minnesota Constitution.

56. Neither the Minnesota Constitution, nor any Minnesota statutes, provide a Minnesota sheriff with authority to enforce federal immigration law.

57. A sheriff's decision to hold a person who would otherwise be released is the equivalent of a new arrest that must comply with the statutory and constitutional requirements for depriving persons of liberty.

58. A peace officer may arrest a person when he has a warrant commanding the person's arrest. A warrant must be issued by a judge.

59. The forms sent by ICE to Defendants that purport to justify the arrest or detention of the Plaintiff do not include a warrant signed by a judge. None of Forms I-247A, I-200, or I-205 are reviewed or signed by a judge or a judicial officer. All arrests made by a state law enforcement officer pursuant to such Forms are warrantless arrests and must meet the requirements of a warrantless arrest.

60. A peace officer may make a warrantless arrest only when the officer has probable cause to believe a crime was committed and probable cause to believe that the suspect committed

it. Even when ICE asserts that it has probable cause to believe a person is removable from the country, removability is a civil matter, not a crime.

61. As is clear, no statute authorizes Defendants to deprive any person their liberty on the ground that they are suspected of civil violations of federal immigration law.

62. Defendants, by their above-described actions, maliciously, wrongfully, illegally, and unjustifiably arrested and restrained Plaintiff without probable cause and thereby falsely arrested and imprisoned him.

63. As a result of Defendants' actions, Plaintiff was not released when he could have first paid bail or after bail was paid.

64. As a direct and proximate result of the acts and omissions of Defendants, Plaintiff has suffered mental and emotional distress, economic losses, embarrassment and humiliation, the invasion of his person, and has incurred other losses and damages, altogether well in excess of \$50,000.

Second Claim for Relief
Discrimination in Violation of the Minnesota Human Rights Act, Minn. Stat. § 363A.12,
Subd. 1

65. Plaintiff hereby incorporates all other paragraphs of this Complaint as if fully set forth in this claim.

66. When Defendants' state-law authority to confine Plaintiff ended, Plaintiff had a clear legal right to release from the Carver County Jail.

67. Defendants had a clear and mandatory legal duty to release Plaintiff when the state-law authority for their confinement has ended.

68. Minn. Stat. § 363A.12, subd. 1. prohibits discrimination in the full utilization of or benefit from any public service based on - among other categories - the person's national origin."

69. Defendants were providing a public service within the meaning of Minn. Stat. § 363A.12, subd. 1.

70. Defendants discriminated against Plaintiff based on his national origin.

71. Defendants' behavior toward Plaintiff was malicious as they knew they had no legal authority to continue to detain Plaintiff. Rather, they chose to break the law, ignore the advice of state and federal courts, the Minnesota Attorney General, Minnesota Sheriff's Association lawyers, and fellow sheriffs.

72. Defendants' treatment of Plaintiff was so at variance with what would reasonably be anticipated, absent discrimination, that discrimination is the probable cause of the explanation.

73. As a direct and proximate result of the acts and omissions of Defendants, Plaintiff has suffered mental and emotional distress, economic losses, embarrassment and humiliation, the invasion of his person, and has incurred other losses and damages, altogether well in excess of \$50,000.

Third Claim for Relief
Minnesota Constitution Art. I § 10

74. Plaintiff hereby incorporates all other paragraphs of this Complaint as if fully set forth in this claim.

75. By honoring the ICE hold on Plaintiff, Defendants restrained his liberty and subjected him to seizure under the Minnesota Constitution. Defendants' actions to keep Plaintiff in custody after he could have and should have been released violated Article I, Section 10's prohibition on unreasonable seizure.

76. Defendants' unlawful acts were the direct and proximate cause of the harm to Plaintiff because it was a significant deprivation of his constitutional rights under the Minnesota Constitution.

77. As a direct and proximate result of the acts and omissions of Defendants, Plaintiff has suffered mental and emotional distress, economic losses, embarrassment and humiliation, the invasion of his person, and has incurred other losses and damages, altogether well in excess of \$50,000.

Fourth Claim for Relief
Minnesota Constitution Art. I § 2

78. Plaintiff hereby incorporates all other paragraphs of this Complaint as if fully set forth in this claim.

79. Discrimination on the basis of an individual's race and/or national origin is a violation of the Minnesota Constitution's guarantee of equal protection under the law.

80. Defendants violated this right when they treated Plaintiff to a completely different process once his bail was paid. Instead of releasing him, Defendants agreed to hold him – for days if need be – until ICE officials picked him up. This process was directed at Plaintiff due to his national origin and had no support or authority under Minnesota law or the Minnesota Constitution.

81. As a direct and proximate result of the acts and omissions of Defendants, Plaintiff has suffered mental and emotional distress, economic losses, embarrassment and humiliation, the invasion of his person, and has incurred other losses and damages, altogether well in excess of \$50,000.

PRAYER FOR RELIEF

Wherefore, Plaintiff requests that the Court:

- A. Issue a judgment declaring that Defendants exceeded their authority under Minnesota law and that they violated the Minnesota Constitution when they relied on an ICE detainer or ICE administrative warrant, or any combination thereof, as grounds for refusing to release people who post bond, complete their sentence, released on recognizance or otherwise resolve their state criminal case;
- B. Schedule a jury trial on Plaintiff's claims of false arrest and imprisonment and violation of the Human Rights Act;
- C. Award attorney fees as well as costs and prejudgment interest to Plaintiffs; and
- D. Provide any additional relief the Court deems just and proper.

Date: March 5, 2025

/s/ Ian Bratlie

Teresa Nelson (Bar No. 0269736)

Ian Bratlie (Bar No. 0319454)

Alicia Granse (Bar No. 0400771)

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Attorneys for Plaintiff

ACKNOWLEDGEMENT

Plaintiff by the undersigned hereby acknowledges that pursuant to Minn. Stat. Sec. 549.211 sanctions may be imposed under this section.

Date: March 5, 2025

/s/ Ian Bratlie

Ian Bratlie