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**UNITED STATES DISTRICT COURT  
DISTRICT OF MONTANA**

MIGUEL ANGEL REYNAGA  
HERNANDEZ,  
  
Plaintiff,

vs.

DERREK SKINNER, in his official and  
individual capacities; PEDRO HERNANDEZ,  
in his official and individual capacities.

Defendants.

No. \_\_\_\_\_

**COMPLAINT**

**INTRODUCTION**

1. This lawsuit arises from the unlawful search and seizure of Plaintiff Miguel Angel Reynaga Hernandez (“Mr. Reynaga”), while he attended a hearing at Yellowstone County Justice Court in order to testify on behalf of his wife, who

was seeking a civil protection order against a third party. Judge Pedro Hernandez violated clearly established law and exceeded the scope of his authority by calling the Sheriff's office to request that Mr. Reynaga be taken into custody because of his immigration status. Derrek Skinner, a deputy sheriff of Yellowstone County, thereafter appeared and arrested Mr. Reynaga in the hallway of the courthouse.

2. Defendant Skinner and Defendant Hernandez effectuated Mr. Reynaga's arrest without a warrant, without probable cause that he had committed any crime, and without any basis in law. Defendants undertook such actions solely for the purpose of civil immigration enforcement, despite not having any legal authority to enforce civil federal immigration laws.

3. After placing Mr. Reynaga in the patrol vehicle, Defendant Skinner spoke on the telephone with U.S. Immigration and Customs Enforcement ("ICE") officers. Defendant Skinner then transported Mr. Reynaga to Yellowstone County Detention Facility ("YCDF") without any explanation for the arrest, and without informing Mr. Reynaga of his rights.

4. Mr. Reynaga remained in custody at YCDF for approximately six hours before being interviewed by an ICE officer. Mr. Reynaga was thereafter placed in deportation proceedings and detained by ICE for over three months. The deportation proceedings against Mr. Reynaga have been terminated.

5. Mr. Reynaga suffered substantial physical, emotional, and economic harm as a result of the unlawful search and seizure ordered by Defendant Hernandez and executed by Defendant Skinner.

6. Mr. Reynaga brings this action under 42 U.S.C. § 1983.

### **JURISDICTION AND VENUE**

7. This action arises under the Constitution and laws of the United States, including 42 U.S.C. § 1983. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 (federal question) and 1343 (civil rights).

8. Venue is proper pursuant to 28 U.S.C. § 1391(b), as a substantial part of the events giving rise to Mr. Reynaga's claims occurred in the District of Montana.

9. Declaratory relief is authorized under 28 U.S.C. §§ 2201, 2202, and Federal Rule of Civil Procedure 57.

### **PARTIES**

10. Plaintiff Miguel Angel Reynaga Hernandez is a resident of Yellowstone County, Montana. He is Latino.

11. At all times relevant to this action, Mr. Reynaga was a "person within the jurisdiction" of the United States for the purposes of 42 U.S.C. § 1983.

12. At all times relevant to this action, Mr. Reynaga was a "person" for the purposes of the Fourth Amendment to the United States Constitution.

13. Defendant Derrek Skinner was, at all times relevant to this action, a law enforcement officer employed by Yellowstone County as a deputy of the Yellowstone County Sheriff's Office.

14. At all times relevant to this action, Defendant Skinner was a person acting under color of state and local law.

15. Defendant Skinner is sued in his individual and official capacities.

16. Defendant Pedro Hernandez was, at all times relevant to this action, a judicial officer employed by Yellowstone County as a non-lawyer judge of the Yellowstone County Justice Court.

17. At all times relevant to this action, Defendant Hernandez was a person acting under color of state and local law.

18. Defendant Hernandez is sued in his individual and official capacities.

## **FACTUAL ALLEGATIONS**

### **I. Order of Arrest by Defendant Hernandez**

19. On the morning of Monday, October 2, 2017, Mr. Reynaga accompanied his wife, Ms. Reynaga, to the Yellowstone County Justice Court in Billings, Montana for a civil hearing to request an order of protection against a third party, Ms. Rachel Elizondo, the cousin of Ms. Reynaga.

20. Mr. and Ms. Reynaga planned on Mr. Reynaga testifying as a witness in the matter.

21. Shortly after 9:00 a.m., Mr. Reynaga was asked by the presiding judge, Defendant Hernandez, to wait outside of the courtroom, along with the other witnesses. Mr. Reynaga stepped out of the courtroom and remained in a hallway inside the courthouse, as instructed by Defendants Hernandez. Ms. Reynaga and Ms. Elizondo remained in the courtroom.

22. Ms. Reynaga presented her testimony, which included allegations of violence committed by the opposing party against the Reynaga family.

23. When Ms. Elizondo spoke, she asserted, among other things, that Mr. Reynaga was present in the country unlawfully.

24. Later on in the proceedings, Defendant Hernandez instructed his assistant to call the Yellowstone County Sheriff's Office, stating: "Call me a deputy. I have two illegals sitting outside, I want them picked up. Call."

25. Once Defendant Hernandez reached the Yellowstone County Sheriff's Office on the phone, he requested, "Send me a couple of deputies, I have two illegal immigrants out in the hallway."

26. Around 10:00 a.m., Defendant Skinner arrived at Yellowstone County Justice Court and entered Defendant Hernandez's courtroom.

27. Upon information and belief, Defendant Hernandez informed Defendant Skinner that there were two individuals in the hallway, including Mr. Reynaga, who were allegedly unlawfully present in the United States.

28. Upon information and belief, Defendant Hernandez asked Defendant Skinner for confirmation of the arrest of the two individuals.

29. Upon information and belief, Defendant Hernandez did not issue any judicial warrant for Mr. Reynaga's arrest.

30. Defendant Hernandez had no reason to believe that Mr. Reynaga had committed a crime or was otherwise engaged in criminal activity.

31. Defendant Hernandez committed a non-judicial act by relying on the report of a private individual as the sole basis to direct the warrantless arrest of Mr. Reynaga for an alleged federal civil immigration violation.

32. Defendant Hernandez acted in the clear absence of all jurisdiction in instigating Mr. Reynaga's arrest. Federal civil immigration investigation and enforcement is a matter which the law has expressly placed beyond the purview of state and local governments, such as Yellowstone County Justice Court. *Arizona v. United States*, 567 U.S. 387 (2012). Furthermore, Yellowstone County Justice Court is a court of "peculiar and limited jurisdiction." MONTANA CODE ANNOTATED 3-10-111; *see also id.* 3-13-10-301, 3-10-303. Defendant Hernandez acted in the face of clearly valid statutes and case law expressly depriving him of

jurisdiction to enforce federal immigration law. *See* Montana Judges’ Deskbook – Municipal, Justice, and City Courts, Section 100.205 (April 2010), available at [http://courts.mt.gov/Portals/189/lcourt/deskbook/2010\\_Deskbook.pdf](http://courts.mt.gov/Portals/189/lcourt/deskbook/2010_Deskbook.pdf) (“the first question the judge must ask whenever called upon to perform a judicial act is, “Do I have jurisdiction to act?””).

## **II. Warrantless Arrest by Defendant Skinner**

33. Upon information and belief, Defendant Skinner exited the courtroom after speaking with Defendant Hernandez and approached Mr. Reynaga in the hallway.

34. Defendant Skinner immediately asked Mr. Reynaga what he was doing in the courthouse. Mr. Reynaga indicated that he was accompanying his wife, whose hearing was taking place in the adjacent courtroom.

35. Defendant Skinner next asked Mr. Reynaga if he had identification. Mr. Reynaga answered that he had the right to be present at the courthouse and had no obligation to produce identification.

36. Defendant Skinner then asked whether Mr. Reynaga had lawful immigration status in the U.S. Mr. Reynaga affirmatively declined to answer Defendant Skinner’s question.

37. Immediately following Mr. Reynaga's refusal to answer, Defendant Skinner told Mr. Reynaga to put his hands above his head and informed Mr. Reynaga that he was being placed under arrest.

38. Defendant Skinner arrested Mr. Reynaga without probable cause or a judicial warrant.

39. Mr. Reynaga asked Defendant Skinner the reason for his arrest. Without answering, Defendant Skinner took hold of Mr. Reynaga's belt and pushed him forcefully against the wall.

40. Defendant Skinner searched Mr. Reynaga's person and confiscated his identification card.

41. Defendant Skinner handcuffed Mr. Reynaga and escorted him outside the courthouse. Defendant Skinner then placed Mr. Reynaga in the back of a patrol car, which belonged to the Yellowstone County Sheriff's Office.

42. Shortly thereafter, Ms. Reynaga emerged from the courthouse and introduced herself to Defendant Skinner. She asked Defendant Skinner whether he was going to release Mr. Reynaga.

43. Defendant Skinner responded that he was awaiting instructions from ICE.

44. Defendant Skinner then asked Ms. Reynaga if she was present in the country unlawfully. Ms. Reynaga answered that she was born and raised in Billings, Montana.

45. Defendant Skinner informed Ms. Reynaga that a check of Mr. Reynaga's name in the standard National Crime Information Center ("NCIC") database had revealed no outstanding warrants.

46. Defendant Hernandez also exited the courtroom and approached the patrol vehicle in order to ensure that Defendant Skinner had carried out the arrest.

47. Defendant Skinner communicated the details of Mr. Reynaga's arrest to an ICE officer over the phone.

48. After speaking with at least one ICE officer, Defendant Skinner told Ms. Reynaga that he would be transporting Mr. Reynaga to YCDF at the request of ICE.

49. Defendant Skinner never communicated to Mr. Reynaga the reason for his arrest or asked Mr. Reynaga any other questions.

50. Mr. Reynaga was detained at YCDF for approximately six hours before immigration officials appeared to interview him.

51. Defendant Skinner prolonged Mr. Reynaga's arrest without probable cause or judicial warrant. Defendant Skinner had no reason to believe that Mr.

Reynaga had committed a crime or otherwise engaged in criminal activity. Indeed, the NCIC database revealed no entries for Mr. Reynaga.

52. Mr. Reynaga was subsequently transferred to various immigration detention facilities and remained in custody for more than three months.

53. Each time he was transported between the detention facilities, Mr. Reynaga was handcuffed and shackled at his ankles.

54. Defendant Skinner, an employee of Yellowstone County, was not authorized to enforce civil federal immigration law.

55. Upon information and belief, Defendant Skinner improperly seized Mr. Reynaga and facilitated his later apprehension by ICE because of Mr. Reynaga's race, ethnicity, or national origin.

56. Mr. Reynaga felt ashamed and humiliated by Defendant Hernandez and Defendant Skinner's acts.

57. Mr. Reynaga suffered significant emotional distress as a result of his encounter with Defendant Hernandez and Defendant Skinner in October 2017.

58. As a result of his encounter with Defendant Skinner, Mr. Reynaga continues to feel nervous and scared each time he sees a police vehicle or law enforcement officer. He fears that even if he does nothing wrong, he could again be targeted and discriminated against by law enforcement or by judicial officers.

59. In October 2017, the law was clearly established that state and local law enforcement officers are not authorized to arrest individuals for purposes of immigration enforcement, except in specific and limited circumstances in which the state or local government has entered into a formal agreement with the federal government under 8 U.S.C. §1357(g)(1). *Arizona v. United States*, 587 U.S. at 407-409.

60. Upon information and belief, Defendant Skinner was not authorized to make immigration arrests under a formal agreement with the federal government.

61. In October 2017, the law was clearly established that state and local law enforcement officers violate the Fourth Amendment to the United States Constitution when they initiate or prolong a seizure solely to investigate whether an individual is unlawfully present in the United States. *Melendres v. Arpaio*, 695 F.3d 990, 1001 (9th Cir. 2012) (“While the seizures of the named plaintiffs based on traffic violations may have been supported by reasonable suspicion, any extension of their detention must be supported by additional suspicion of criminality. Unlawful presence is not criminal.”); *see also United States v. Brignoni-Ponce*, 422 U.S. 873, 884 (1975).

## CAUSES OF ACTION

### COUNT I

#### **Seizure Without Probable Cause – Fourth Amendment; 42 U.S.C. § 1983 (Against Defendant Hernandez, in his individual and official capacities)**

1. All of the foregoing allegations are repeated and re-alleged as though fully set forth herein.

2. Defendant Hernandez caused Mr. Reynaga's seizure by Defendant Skinner, despite lacking probable cause to believe that Mr. Reynaga had committed an offense, as required by the Fourth Amendment of the U.S. Constitution.

3. Defendant Hernandez committed a non-judicial act when he sua sponte initiated Mr. Reynaga's arrest based on an allegation of a violation of federal civil immigration law.

4. Furthermore, Defendant Hernandez acted in the clear absence of jurisdiction. The Montana Justice Courts have jurisdiction over a limited number of civil matters and misdemeanor criminal matters. *See* MONTANA CODE ANNOTATED 3-10-111, 3-10-301, 3-10-303.

5. Defendant Hernandez's conduct of subjecting Mr. Reynaga to an unconstitutional seizure was motivated by evil motive or intent, or was recklessly or callously indifferent to his Fourth Amendment rights.

6. Mr. Reynaga had the right under the Fourth Amendment to the United States Constitution to be free from unreasonable seizures.

7. The actions of Defendant Hernandez subjected Mr. Reynaga to a deprivation of his rights as secured by the Fourth Amendment.

8. Mr. Reynaga was injured by Defendant Hernandez ordering his unconstitutional seizure, which deprived Mr. Reynaga of his Fourth Amendment rights.

9. Mr. Reynaga suffered emotional and economic harm as a result of Defendant Hernandez's unconstitutional actions.

10. As a result of Defendant Hernandez's Fourth Amendment violations, Mr. Reynaga is entitled to damages and declaratory relief.

## **COUNT II**

### **Seizure Without Probable Cause - Fourth Amendment; 42 U.S.C. § 1983 (Against Defendant Skinner, in his individual and official capacities)**

11. All of the foregoing allegations are repeated and re-alleged as though fully set forth herein.

12. Defendant Skinner seized Mr. Reynaga, despite lacking probable cause to believe that Mr. Reynaga had committed a criminal offense, as required by the Fourth Amendment of the U.S. Constitution.

13. Defendant Skinner seized Mr. Reynaga by handcuffing him and placing him in the custody of YCDF.

14. Defendant Skinner's seizure of Mr. Reynaga was unsupported by reasonable suspicion or probable cause.

15. The law was clearly established prior to October 2, 2017 that Defendant Skinner, as a sheriff's deputy, had no lawful authority to investigate Mr. Reynaga's civil immigration status or to detain him for the purpose of enforcing civil federal immigration law.

16. The law was also clearly established prior to October 2, 2017 that, for state and local law enforcement officers, a warrantless arrest without probable cause or at least reasonable suspicion of a crime constitutes an unlawful seizure in violation of the Fourth Amendment to the United States Constitution.

17. Defendant Skinner extended Mr. Reynaga's seizure by detaining him at the Yellowstone County Detention Facility for approximately six hours until United States Immigration and Customs Enforcement agents arrived at the detention facility to interview him.

18. Mr. Reynaga had the right under the Fourth Amendment to the United States Constitution to be free from unreasonable seizures.

19. The actions of Defendant Skinner subjected Mr. Reynaga to a deprivation of his rights as secured by the Fourth Amendment.

20. Mr. Reynaga was injured by Defendant Skinner's unconstitutional seizure, which deprived him of his Fourth Amendment rights.

21. Defendant Skinner's conduct of unconstitutionally seizing Mr. Reynaga was recklessly or callously indifferent to his Fourth Amendment rights.

22. Mr. Reynaga suffered emotional and economic harm as a result of Defendant Skinner's unconstitutional actions.

23. As a result of Defendant Skinner's Fourth Amendment violations, Mr. Reynaga is entitled to damages and declaratory relief.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests relief as follows:

- a. Trial by judge on all claims so triable;
- b. Compensatory damages from Defendants in an amount to be proved at trial;
- c. Punitive damages from Defendant Hernandez;
- d. Punitive damages from Defendant Skinner;
- e. A declaration that Defendants violated Mr. Reynaga's rights under the Fourth Amendment to the United States Constitution and article II of the Constitution of the State of Montana;
- f. A declaration that Defendants are not authorized to arrest or detain individuals solely for suspected unauthorized presence in the United States;
- g. Attorneys' fees and costs of litigation pursuant to the provisions of Title 28 of the United States Code and 42 U.S.C. § 1988;

- h. Pre-judgment and post-judgment interest on any award of damages;  
and
- i. Such other relief as this Court deems just and equitable.

Respectfully submitted this 22nd day of February, 2018.

BORDER CROSSING LAW FIRM

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