

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

MICHAEL BAUER,)	
)	
Plaintiff,)	
v.)	
)	
JEFFERSON COUNTY, MISSOURI;)	
)	
MADISON COUNTY, MISSOURI;)	No. 4:09-cv-2116
)	
OLIVER BOYER , in his official capacity as)	JURY TRIAL DEMANDED
Sheriff of Jefferson County, Missouri; and)	
)	
DAVID LEWIS , in his official capacity as)	
Sheriff of Madison County, Missouri,)	
)	
Defendants.)	

COMPLAINT FOR DECLARATORY JUDGMENT AND DAMAGES

1. This is a complaint for declaratory judgment and damages for claims arising out of incidents that occurred in Jefferson County, Missouri and Madison County, Missouri from on or about February 18, 2009 to on or about March 27, 2009. On September 8, 2006, a family court in Jefferson County issued a body attachment against Plaintiff Michael Bauer (hereinafter “Bauer” or “Plaintiff”). The court dismissed and recalled the body attachment on May 17, 2007. Nevertheless, the withdrawn warrant continued to appear as “active” in police databases. When Bauer went to the St. Louis Metropolitan Police Department on February 18, 2009, to obtain a background check for a prospective job , police arrested him pursuant to the withdrawn warrant. Without ever being provided the opportunity to see a judge, Bauer was held involuntarily as an inmate in the Jefferson County and Madison County jails for 37 days despite his protests until the error was discovered and he was released.

2. For the 37 days — some 880 hours — he spent in custody of Defendants Bauer was unlawfully held without due process in violation of his rights under the Fourth and Fourteenth Amendments. In the alternative, Bauer's Eighth Amendment rights were violated. As a result of the detention, Bauer lost his employment and apartment and became homeless.

JURISDICTION AND VENUE

3. This action is brought pursuant to 42 U.S.C. § 1983 to redress the deprivation under color of state law of rights secured by the federal constitution. This Court has original jurisdiction pursuant to 28 U.S.C. § 1331 and § 1343.

4. The relevant acts and omissions occurred in Jefferson County, Missouri, and Madison County, Missouri; therefore, venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2).

5. Divisional venue is in the Eastern Division because two defendants reside in Jefferson County and most of the events giving rise to this suit occurred in Jefferson County. E.D.Mo. L.R. 2.07(A)(1), (B)(2).

PARTIES

6. Plaintiff is a resident and citizen of the United States of America and the State of Missouri.

7. Defendant Jefferson County is a political subdivision duly organized and existing under the laws of the State of Missouri. At all times relevant herein, Jefferson County acted through its officials, agents, servants, and employees.

8. Defendant Madison County is a political subdivision duly organized and existing under the laws of the State of Missouri. At all times relevant herein, Madison County acted through its officials, agents, servants, and employees.

9. Defendant Oliver Boyer is the Sheriff of Jefferson County. He is, and at all times relevant to this action was, an employee of Jefferson County and responsible for administering

and overseeing the Jefferson County Jail, including the hiring, training, disciplining, and dismissing of individual jail employees and the creation, implementation, and execution of jail policies and customs. He is sued in his official capacity as Sheriff of Jefferson County.

10. Defendant David Lewis is the Sheriff of Madison County. He is, and at all times relevant to this action was, an employee of Madison County and responsible for administering and overseeing the Madison County Jail, including the hiring, training, disciplining, and dismissing of individual jail employees and the creation, implementation, and execution of jail policies and customs. He is sued in his official capacity as Sheriff of Madison County.

11. Defendants were at all times relevant to this case and in all actions and omissions alleged herein acting under color of law.

BACKGROUND

12. In court proceedings in Jefferson County, Plaintiff was ordered to pay child support to his wife. On or about September 26, 2006, the circuit court issued a writ of attachment, otherwise known as a body attachment, for the arrest of Plaintiff, directing that he be taken into custody and brought before the court

13. On May 17, 2007, the body attachment was dismissed and recalled.

14. On or about February 18, 2009, Plaintiff went to the St. Louis Metropolitan Police Department to obtain a record check for prospective employment with the City of St. Louis.

15. On the same date, Plaintiff was arrested by officers of the St. Louis Metropolitan Police Department pursuant to the dismissed body attachment.

16. Plaintiff protested his arrest, explaining to the arresting officer that there must have been a mistake. After double-checking the database, the officer proceeded with the arrest.

17. On or about February 19, 2009, custody of Plaintiff was transferred to Jefferson County's Sheriff. Plaintiff was transported to the Jefferson County jail.

18. On or about February 20, 2009, Jefferson County transferred custody of Plaintiff to Madison County and the Madison County Sheriff because of overcrowding at Jefferson County's facility. Plaintiff remained in the custody of Madison County for approximately 10 days.

19. On or about March 10, 2009, custody of Plaintiff was returned to Jefferson County. He remained in the Jefferson County jail.

20. Throughout his time in custody, including both while in the custody of Jefferson County and Madison County, Plaintiff repeatedly complained to guards, who were employees and agents acting on behalf and under the direction of Defendants, about his unlawful detention. Plaintiff was informed that there was no process or assistance available to him to remedy the lack of due process and that nothing could be done until he had the opportunity to speak to the prosecutor.

21. Although Jefferson County has implemented a formal grievance procedure to address other issues, that procedure does not address grievances related to due process, and Plaintiff was informed that no assistance regarding the matter could be provided until he had the opportunity to speak with the local prosecutor.

22. During his 37 days in custody, Plaintiff was never taken before a judge. There is no policy or custom in place in the State of Missouri, Jefferson County, or Madison County that causes or requires a person arrested on a civil warrant to be brought promptly before a judge. In practice, persons arrested pursuant to a civil warrant may be held indefinitely without access to the court.

23. On March 27, 2009, Plaintiff finally met with an assistant prosecuting attorney for Jefferson County. She informed Plaintiff that a mistake had been made and he should not have been arrested. She told him he had been arrested on a withdrawn body attachment. He was released that day.

24. As the direct and proximate result of the actions and inactions of Defendants, Plaintiff suffered the following injuries and damages:

- A. Loss of his physical liberty for 37 days;
- B. Loss of his employment, place of residence, and prospective employment opportunities; and
- C. Violation of his constitutional rights under the Fourth and Fourteenth Amendments to be free from wrongful incarceration without due process.

COUNT I – FOURTH AMENDMENT

25. Plaintiff incorporates the allegations asserted in paragraphs 1 through 24 by reference as though fully set forth.

26. The seizure of Plaintiff was made without a valid warrant.

27. The seizure of Plaintiff's person by Defendants was unreasonable.

28. It was the policy or custom of Jefferson County to inadequately train and supervise its employees to avoid the unreasonable seizure of Plaintiff's person.

29. It was the policy or custom of Madison County to inadequately train and supervise its employees to avoid the unreasonable seizure of Plaintiff's person.

COUNT II – FOURTEENTH AMENDMENT

30. Plaintiff incorporates the allegations asserted in paragraphs 1 through 24 by reference as though fully set forth.

31. At all dates relevant to this action, Jefferson County developed and maintained policies or customs exhibiting deliberate indifference to the constitutional rights of persons in the custody of Jefferson County, Missouri, which caused the violation of Plaintiff's rights.

32. It was the policy, custom, or both of Jefferson County to arrest and detain individuals on civil body attachments without providing prompt access to the judicial system or taking adequate steps to ensure the continuing validity of the body attachment.

33. In addition, it was the policy, custom, or both of Jefferson County to inadequately train or supervise its employees to provide a grievance process to persons such as Plaintiff whose rights to due process are being violated.

34. Defendant Boyer is responsible for the establishment and implementation of the policies, and lack of policies, that caused the deprivation of Plaintiff's rights in Jefferson and Madison counties.

35. It is the policy of Jefferson County, through Defendant Boyer, that inmates at the Jefferson County jail have limited rights: the right to food, shelter, medical care, and nothing else.

36. Additionally, it was the policy or custom of Jefferson County to inadequately train its employees to inform persons similarly situated to Plaintiff of any formal grievance policy or to make any such procedure available to them.

37. It was the policy, custom, or both of Madison County to detain individuals on civil body attachments without providing prompt access to the judicial system or taking adequate steps to ensure the continuing validity of the body attachment.

38. In addition, it was the policy, custom, or both of Madison County to inadequately train and supervise its employees to provide a grievance process to persons such as Plaintiff whose rights to due process are being violated.

39. Defendant Lewis is responsible for the establishment and implementation of the policies, and lack of policies, that caused the deprivation of Plaintiff's rights in Madison County.

40. Federal due process did not permit Defendants to detain Plaintiff indefinitely (or for 37 days) without additional procedural protections.

41. Defendants' conduct shocks the conscience.

COUNT III – EIGHTH AMENDMENT

42. Plaintiff incorporates the allegations asserted in paragraphs 1 through 24 and 31 though 41 by reference as though fully set forth.

43. Defendants failed to establish and maintain reasonable safeguards to ensure that persons in their custody were in their custody lawfully and afforded due process.

WHEREFORE Plaintiff respectfully requests this Court:

- A. Enter judgment in favor of Plaintiff and against Defendants;
- B. Enter a declaratory judgment that the policy or custom of detaining persons on a body attachment without prompt access to the judicial system is unconstitutional;
- C. Award Plaintiff compensatory and punitive damages against Defendants;
- D. Award Plaintiff reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988 and any other applicable provisions of law; and
- E. Allow to Plaintiff such other relief as is just.

REQUEST FOR JURY TRIAL

Plaintiff requests that all issues in this case be tried to a jury to the extent they are so triable under the Seventh Amendment to the United States Constitution and Rule 38 of the Federal Rules of Civil Procedure.

Respectfully submitted,

s/ Anthony E. Rothert
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