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Kenneth W. Harper
Quinn N. Plant
Menke Jackson Beyer, LLP
807 North 39th Avenue
Yakima, WA 98902
509-575-0313
Attorneys for Defendants

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

RICARDO OLIVERA SILVA,

Plaintiff,

v.

ED W. CAMPBELL, Director of Yakima
County Department of Corrections;
SCOTT HIMES, Chief of the Yakima
County Department of Corrections; and
YAKIMA COUNTY,

Defendants.

NO. 1:17-cv-03215-SMJ

DEFENDANTS' ANSWER AND
AFFIRMATIVE DEFENSES

JURY TRIAL DEMANDED

Defendants, in answer to plaintiff's complaint, (ECF No. 1) admit, deny,
and allege as follows:

1. Answering the first sentence of paragraph 1 of the complaint, said
sentence contains a general description of the plaintiff's lawsuit to which no
response is required. To the extent a response is required, defendants deny the
plaintiff's characterization of the defendants' policies and practices but admit

DEFENDANTS' ANSWER
AND AFFIRMATIVE DEFENSES - 1

MENKE JACKSON BEYER, LLP
807 North 39th Avenue
Yakima, WA 98902
Telephone (509)575-0313
Fax (509)575-0351

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3 that plaintiff was unlawfully detained after he posted bail. Answering the
4 second sentence of paragraph 1 of the complaint, defendants deny the same.
5
6 Answering the third sentence of paragraph 1 of the complaint, DHS Form I-
7
8 200s and regulations governing DHS speak for themselves. Answering the
9 fourth sentence of paragraph 1 of the complaint, defendants deny plaintiff's
10 characterization of the defendants' policies and practices but admit that plaintiff
11 was entitled to immediate physical release after posting bail and that
12 defendants' actions prevented plaintiff from being released from the Yakima
13 County Jail.
14

15
16 2. Answering first sentence of paragraph 2 of the complaint, said
17 sentence contains a general description of the relief sought by the plaintiff in
18 this lawsuit, to which no response is required. To the extent a response is
19 required, defendants deny the plaintiff's characterization of the defendants'
20 policies and practices and further deny that the plaintiff is entitled to the
21 declaratory relief sought. Answering the second sentence of paragraph 2 of the
22 complaint, defendants deny the same. Answering the third sentence of
23 paragraph 2 of the complaint, defendants admit only that defendants' actions
24 violated the plaintiff's rights under the Fourth Amendment to the United States
25 Constitution, and deny each and every other allegation of said sentence.
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30 DEFENDANTS' ANSWER
AND AFFIRMATIVE DEFENSES - 2

MENKE JACKSON BEYER, LLP
807 North 39th Avenue
Yakima, WA 98902
Telephone (509)575-0313
Fax (509)575-0351

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3. Answering paragraph 3 of the complaint, defendants admit the same.

4. Answering paragraph 4 of the complaint, defendants admit the same.

5. Answering paragraph 5 of the complaint, defendants deny the same.

6. Answering paragraph 6 of the complaint, defendants are without information or knowledge sufficient to form a belief as to the truth of said allegations, and therefore deny the same.

7. Answering paragraph 7 of the complaint, defendants admit only that defendant Ed W. Campbell was, at all times relevant to this action, the Director of the Yakima County Department of Corrections and is being sued in his official capacity. Defendants deny each and every other allegation of said paragraph.

8. Answering paragraph 8 of the complaint, defendants admit only that defendant Scott Himes was, at all times relevant to this action, the Chief of the Yakima County Department of Corrections and is being sued in his official capacity. Defendants deny each and every other allegation of said paragraph.

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9. Answering paragraph 9 of the complaint, defendants admit the same.

10. Answering paragraph 10 of the complaint, defendants admit the same.

11. Answering paragraph 11 of the complaint, defendants are without information or knowledge sufficient to form a belief as to the truth of said allegations, and therefore deny the same.

12. Answering paragraph 12 of the complaint, defendants admit the same.

13. Answering paragraph 13 of the complaint, defendants admit only to the existence of a Form I-200 dated April 13, 2017, which speaks for itself, and deny each and every other allegation of said paragraph.

14. Answering paragraph 14 of the complaint, defendants admit the same.

15. Answering paragraph 15 of the complaint, defendants are without information or knowledge sufficient to form a belief as to the truth of said allegations, and therefore deny the same.

16. Answering paragraph 16 of the complaint, defendants admit the same.

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17. Answering paragraph 17 of the complaint, defendants admit the same.

18. Answering paragraph 18 of the complaint, defendants admit only that Ms. Cosina came to the Yakima County Jail on July 22, 2017, and thereafter posted bail for Ricardo Olivera Silva and Roberto Miranda. In answer to all other allegations of said paragraph, defendants are without information or knowledge sufficient to form a belief as to the truth of said allegations, and therefore deny the same.

19. Answering paragraph 19 of the complaint, defendants admit only that Ms. Cosina came to the Yakima County Jail on July 22, 2017. In answer to all other allegations of said paragraph, defendants are without information or knowledge sufficient to form a belief as to the truth of said allegations, and therefore deny the same.

20. Answering paragraph 20 of the complaint, defendants are without information or knowledge sufficient to form a belief as to the truth of plaintiff's said allegations, and therefore deny the same.

21. Answering paragraph 21 of the complaint, defendants are without information or knowledge sufficient to form a belief as to the truth of said allegations, and therefore deny the same.

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3 22. Answering paragraph 22 of the complaint, defendants are without
4 information or knowledge sufficient to form a belief as to the truth of said
5 allegations, and therefore deny the same.
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7 23. Answering the first sentence of paragraph 23 of the complaint,
8 defendants are without information or knowledge sufficient to form a belief as
9 to the truth of said allegations, and therefore deny the same. Answering the
10 second sentence of paragraph 23 of the complaint, defendants admit the same.
11

12 24. Answering paragraph 24 of the complaint, defendants admit only
13 that bail was posted for Ricardo Olivera Silva and Roberto Miranda and that
14 corrections officer Jason Ramsey provided Ms. Cosina with paper receipts for
15 each. The defendants are without information or knowledge as to the order in
16 which bail was posted for these individuals, and therefore deny plaintiff's
17 allegations as to same.
18

19 25. Answering paragraph 25 of the complaint, defendants admit only
20 to communications between Ms. Cosina and corrections officer Jason Ramsey
21 and deny plaintiff's characterization of same.
22

23 26. Answering paragraph 26 of the complaint, defendants deny the
24 same.
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3 27. Answering paragraph 27 of the complaint, defendants are without
4 information or knowledge sufficient to form a belief as to the truth of said
5 allegations, and therefore deny the same.
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8 28. Answering paragraph 28 of the complaint, defendants deny the
9 same.

10 29. Answering paragraph 29 of the complaint, defendants admit the
11 same.
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13 30. Answering paragraph 30 of the complaint, defendants deny the
14 same.
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16 31. Answering paragraph 31 of the complaint, defendants deny the
17 same.
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19 32. Answering paragraph 32 of the complaint, defendants admit the
20 same.
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22 33. Answering paragraph 33 of the complaint, defendants admit the
23 same.
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25 34. Answering paragraph 34 of the complaint, defendants admit the
26 same.
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28 35. Answering paragraph 35 of the complaint, defendants deny that
29 DHS assumed custody of Mr. Olivera on July 24, 2017. Defendants admit that

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3 DHS officers removed Mr. Olivera from the Yakima County Jail on July 24,
4
5 2017. With respect to each and every other allegation of said paragraph,
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7 defendants are without information or knowledge sufficient to form a belief as
8
9 to the truth of said allegations, and therefore deny the same.

10 36. Answering paragraph 36 of the complaint, defendants deny the
11
12 same.

13 37. Answering paragraph 37 of the complaint, defendants admit the
14
15 same.

16 38. Answering paragraph 38 of the complaint, defendants admit only
17
18 to the existence of *Miranda-Olivares v. Clackamas County*, No. 3:12-cv-
19
20 02317-ST, 2014 WL 1414305 (April 11, 2014), which speaks for itself, and
21
22 deny each and every other allegation of said paragraph.

23 39. Answering paragraph 39 of the complaint, defendants admit the
24
25 same.

26 40. Answering paragraph 40 of the complaint, defendants deny the
27
28 same.

29 41. Answering paragraph 41 of the complaint, DHS Form I-247s and
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31 Form I-200s and regulations governing DHS speak for themselves. Defendants
32
33 deny each and every other allegation of said paragraph.

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DEFENDANTS' ANSWER
AND AFFIRMATIVE DEFENSES - 8

MENKE JACKSON BEYER, LLP
807 North 39th Avenue
Yakima, WA 98902
Telephone (509)575-0313
Fax (509)575-0351

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3 42. Answering paragraph 42 of the complaint, DHS Form I-200s and
4 regulations governing DHS speak for themselves. Defendants deny each and
5 every other allegation of said paragraph.
6

7 43. Answering paragraph 43 of the complaint, the DHS Form I-200
8 issued for Mr. Silva and regulations governing DHS speak for themselves.
9 Defendants deny each and every other allegation of said paragraph.
10

11 44. Answering paragraph 44 of the complaint, defendants admit the
12 same.
13

14 45. Answering paragraph 45 of the complaint, the Intergovernmental
15 Agreement (IGA) speaks for itself. Defendants deny each and every other
16 allegation of said paragraph.
17

18 46. Answering paragraph 46 of the complaint, the IGA speaks for
19 itself. Defendants deny each and every other allegation of said paragraph.
20

21 47. Answering paragraph 47 of the complaint, the IGA speaks for
22 itself. Defendants deny each and every other allegation of said paragraph.
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24 48. Answering paragraph 48 of the complaint, the IGA speaks for
25 itself. Defendants deny each and every other allegation of said paragraph.
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3 49. Answering paragraph 49 of the complaint, defendants deny the
4
5 same except to admit that defendants' actions prevented plaintiff from being
6 released from the Yakima County Jail.

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8 50. Answering paragraph 50 of the complaint, defendants deny the
9 same.

10 51. Except to the extent specifically admitted herein, defendants deny
11 each and every remaining allegation of plaintiff's complaint.
12

13 **AFFIRMATIVE DEFENSES**

14 In further answer to plaintiff's complaint and as affirmative defenses,
15 defendants allege as follows:
16

- 17 1. Plaintiff fails to state a claim upon which relief can be granted.
18
19 2. The plaintiff's claims are not ripe.
20
21 3. The plaintiff lacks standing.
22
23 4. The plaintiff's claims are moot.
24
25 5. The plaintiff has failed to establish municipal liability pursuant to
26 *Monell v. Dept. of Social Services*, 436 U.S. 658 (1978), and its progeny.
27
28 6. The plaintiff's claims are barred in whole or in part by
29 justification, privilege, and/or discretionary immunity and/or other forms of
30 immunity in favor of answering defendants' actions in furtherance of answering

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3 defendants' obligations under the law and plaintiff's claims are contrary to
4 public policy.
5

6 7. The plaintiff's claims against individual answering defendants are
7 barred by the doctrine of qualified immunity.
8

9 8. The plaintiff's damages, if any, have been caused and/or
10 contributed to in whole or in part by the acts or omissions of others, including
11 plaintiff, and were not proximately caused by answering defendants.
12

13 9. This Court lacks subject matter jurisdiction over claims alleged to
14 arise under 28 U.S.C. §§ 2201 and 2202.
15

16 **DEMAND FOR JURY TRIAL**

17 Pursuant to Fed. R. Civ. P. 38(b), defendants demand a trial by jury of
18 this action.
19

20 **REQUEST FOR RELIEF**

21 Having answered the allegations of the complaint and pleaded
22 affirmatively, defendants request the following relief:
23

24 1. That the Court dismiss the plaintiff's claims arising under the
25 federal Declaratory Judgment Act (28 U.S.C. §§ 2201 and 2202) with prejudice
26 or enter judgment for defendants on those claims;
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2. That defendants be awarded their costs and attorneys' fees as allowed by law; and

3. For such other relief as the Court may deem just and equitable.

DATED THIS 24th day of January, 2018.

s/ KENNETH W. HARPER
WSBA #25578
s/ QUINN N. PLANT
WSBA #31339
Menke Jackson Beyer, LLP
Attorneys for Defendants
807 North 39th Avenue
Yakima, Washington 98902
Telephone: (509) 575-0313
Fax: (509) 575-0351
Email: kharper@mjbe.com
Email: qplant@mjbe.com

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CERTIFICATE OF SERVICE

I hereby certify that on January 24, 2018, I filed the foregoing with the Clerk of the Court using the CM/ECF System, which will send notification of such filing to the following:

Columbia Legal Services:

Lori Jordan Isley lori.isley@columbialegal.org
Bernardo Rafael Cruz bernardo.cruz@columbialegal.org

Northwest Immigrant Rights Project:

Matt Adams matt@nwirp.org
Leila Kang leila@nwirp.org

and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

None.

s/ KENNETH W. HARPER
WSBA #25578
s/ QUINN N. PLANT
WSBA #31339
Menke Jackson Beyer, LLP
Attorneys for Defendants
807 North 39th Avenue
Yakima, Washington 98902
Telephone: (509) 575-0313
Fax: (509) 575-0351
Email: kharper@mjbe.com
Email: qplant@mjbe.com

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DEFENDANTS' ANSWER
AND AFFIRMATIVE DEFENSES - 14

MENKE JACKSON BEYER, LLP
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Yakima, WA 98902
Telephone (509)575-0313
Fax (509)575-0351