

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Jose Alba v. State of Arizona, et al.

No. CV-23-01419-PHX-MTL (ASB), United States District Court for the District of Arizona (March 31, 2026)

OPINION

1 WO 2 3 JDN 4 5 6 7 8 IN THE UNITED STATES DISTRICT COURT 9 FOR THE DISTRICT
OF ARIZONA 10 11 Jose Alba, No. CV-23-01419-PHX-MTL (ASB) 12 Plaintiff, 13 vs. ORDER
14 Arizona, State of, et al., 15 Defendants. 16 17 On July 31, 2025, the Court granted Motions for
Summary Judgment filed by the 18 State of Arizona (“the State”), the City of Scottsdale (“the
City”), Scottsdale Officer Sean 19 Ryan, and former and current Maricopa County Sheriffs Paul
Penzone and Jerry Sheridan 20 (“the Sheriffs”).

(Doc. 94.) In its Summary Judgment Order, the Court issued an order 21 pursuant to Federal Rule
of Civil Procedure 56(f)(1) for Plaintiff Jose Alba to show cause 22 why the remaining claims
against Maricopa County (“the County”) should not also be 23 dismissed because they rely on the
same material facts as the claims against the State and 24 the Sheriffs. (Id. at 20.)

Before the Court is Plaintiff’s Response to the Order to Show 25 Cause. (Doc. 95.) The Court will
dismiss the claims against the County and terminate the 26 action. 27 I. Background 28 Plaintiff
brought this pro se civil rights case under 42 U.S.C. § 1983 and state law 1 against the State, the
City, Officer Ryan, the County, and the Sheriffs. (Doc. 26.)1 Plaintiff 2 initiated this action in
Maricopa County Superior Court, and the State removed the action 3 to federal court.

(Doc. 1, No. CV2-23-093027.) 4 Plaintiff’s claims arose in 2022, after Plaintiff was acquitted on
two criminal charges 5 but found guilty on a third, and he was sentenced to 2 years and 4 months
imprisonment. 6 (Doc. 26 ¶ 16.) At his sentencing on November 3, 2022, Plaintiff was given
credit for 7 pretrial detention that totaled 2 years and 8 months, and he was told that upon his
return to 8 the Maricopa County Jail after the hearing, he would be immediately released.

(Id. ¶¶ 17– 9 18.) Plaintiff continued to be held in jail and was not released until February 6, 2023.
(Id. 10 ¶ 25; Doc. 66 ¶ 21; Doc. 82 ¶ 21.) 11 As relevant here, Plaintiff asserted a state law claim
of prolongation of 12 imprisonment and false imprisonment against the State, the County, and
Sheriff Penzone 13 (Count One). (Doc. 26 ¶¶ 5–31.) Plaintiff also asserted claims under § 1983
and state law 14 against the County and Sheriff Penzone (Count Two).

(Id. ¶¶ 32–38.) The Court construed 15 Plaintiff’s § 1983 claim in Count Two as a Fourteenth
Amendment Due Process claim. 16 (Doc. 94 at 10.) See *Gant v. City of Los Angeles*, 772 F.3d
608, 620 (9th Cir. 2014) (“[a] 17 wrongful detention can ripen into a due process violation if ‘it

was or should have been known [by the defendant] that the [plaintiff] was entitled to release”) (quoting *Lee v. City 19 of Los Angeles*, 250 F.3d 668, 683 (9th Cir.

2001)). 20 The Court granted summary judgment on the claims against the State and the 21 Sheriffs after determining that Plaintiff’s detention after his November 3, 2022, sentencing 22 23 1 In his First Amended Complaint, Plaintiff also named numerous Doe Defendants. (Doc. 26.)

The Court dismissed the Doe Defendants because Plaintiff failed to timely move 24 to substitute the named individuals in place of the Doe Defendants. (Doc. 94 at 17–18.) In his Response to the Order to Show Cause, Plaintiff requests that the Court amend its 25 Order to reinstate the Doe Defendants. (Doc. 95 at 2.) Plaintiff states that the Doe Defendants refer to certain FBI personnel whose names were unknown at the time.

(Id.) 26 To the extent Plaintiff seeks reconsideration of a portion of the Court’s Summary Judgment, his request is untimely. See LRCiv 7.2(g)(2) (any motion for reconsideration 27 must be filed within 14 days of the Order that is the subject of the motion). Plaintiff also fails to present any valid grounds for reconsideration. See LRCiv 7.2(g)(1); *Motorola, Inc. 28 v. J.B.*

Rodgers Mech. Contractors, 215 F.R.D. 581, 582–83, 586 (D. Ariz. 2003). Thus, Plaintiff’s request to amend its Order to reinstate the Doe Defendants is denied. 1 was a lawful detention because outstanding bonds existed for 2018 and 2019 criminal 2 matters that justified detention. (Doc. 94 at 7–13, 20.) 3 The County did not move for summary judgment as to the claims against it 4 ostensibly because Plaintiff failed to properly serve the County.

(See Doc. 70 at 2 n.1.) 5 But the Court determined that, because the County consented to removal of this action from 6 state court to federal court under 28 U.S.C. § 1441(a), the County waived service. (Doc. 7 94 at 20.) 8 II. Summary Judgment Pursuant to Federal Rule of Civil Procedure 56(f)(1) 9 Rule 56(f)(1) provides that a court may “(1) grant summary judgment for a 10 nonmovant; (2) grant the motion on grounds not raised by a party; or (3) consider summary 11 judgment on its own after identifying for the parties material facts that may not be 12 genuinely in dispute,” so long as the Court first “giv[es] notice and a reasonable time to 13 respond.” See *Greene v. Solano Cnty.*

Jail, 513 F.3d 982, 990 (9th Cir. 2008) (reversing 14 summary judgment as to some claims because the pro se plaintiff “did not have notice and 15 an opportunity to oppose summary judgment on those claims”). 16 Here, the Court identified the material facts that may not be genuinely in dispute 17 and provided Plaintiff an opportunity to respond and show cause why, considering these 18 material facts, the claims against the County should not be dismissed.

19 III. Relevant Facts 20 The facts in this case were set out in the Court’s Summary Judgment Order. The 21 Court repeats some of them here because Plaintiff’s claims are fact specific. 22 In

2018, Plaintiff was charged with aggravated assault, domestic violence, and 23 disorderly conduct. (Doc. 66 ¶ 1; Doc. 82 ¶ 1; Doc. 66-3 at 15, Pl. Dep. 13:12–23, Sept.

24 16, 2024.) On February 19, 2020, Plaintiff posted the \$50,000 bond in this case. (Doc. 66 25 ¶ 1; Doc. 82 ¶ 1; Doc. 66-3 at 16, Pl. Dep. 14:18–22.) 26 In 2019, Plaintiff was charged with aggravated assault and disorderly conduct. 27 (Doc. 66 ¶ 6; Doc. 82 ¶ 6; Doc. 66-3 at 24, Pl. Dep. 22:24–23:3.)

On November 26, 2019, 28 Plaintiff paid the \$25,000 bond in this case. (Id.; Doc. 66-3, Pl. Dep. 22:3–23, 23:4–6.) 1 On January 9, 2020, the Scottsdale Police Department arrested Plaintiff for money 2 laundering and conspiracy and took him into custody. (Doc. 68 ¶ 7; Doc. 68-2 at 3, Ryan 3 Decl. ¶ 10; Doc. 68-2 at 50–55.)

Because Plaintiff was on release for the 2019 criminal 4 matter at the time of this 2020 offense, the State requested that he be held on “non-bondable 5 status.” (Doc. 68-2 at 158 (March 3, 2021, Minute Entry); Doc. 68-2 at 66.) 6 On January 10, 2020, the bond for the 2019 criminal case was exonerated. (Doc. 7 66 ¶ 7; Doc. 82 ¶ 7.) 2 8 On February 21, 2020, the bond for the 2018 criminal case was exonerated.

(Doc. 9 66 ¶ 2; Doc. 82 ¶ 2.) 10 Plaintiff was charged in the 2020 criminal case with three counts: possession of 11 narcotic drugs for sale; money laundering; and possession of drug paraphernalia. (Doc. 12 68-2 at 138, Hr’g Tr. 60:6–13, March 3, 2021.)

On March 3, 2021, an evidentiary hearing 13 was held on Plaintiff’s “non-bondable status,” and the Court ordered that Plaintiff continue 14 to be held without bond. (Doc. 68 ¶¶ 15, 20; Doc. 89 ¶¶ 15, 20.) 15 In August 2022, a trial was held in Plaintiff’s 2020 criminal case; Plaintiff was 16 acquitted on two of the charges, but he was convicted of possession of drug paraphernalia.

17 (Doc. 68-2 at 152 (Pl.’s Resp. to Admis. No. 4).) On November 3, 2022, he was sentenced 18 to 2 years, 4 months’ imprisonment. (Doc. 66 ¶ 11; Doc. 66-4 at 2–3.) 19 At the November 3, 2022, sentencing hearing, the court stated: 20 He’s already served two years and nine months already [sic], so he would go 21 over to DOC,[3] get his number, and either pay the bond on the other two cases that he’s got, or come back and sit here pending his other two trials.

22 23 24 I don’t know how this is going to work with you going over to DOC because 25 26 2 See Ariz. R. Crim. P. 7.6(d)(1) (“[i]f the court finds before a violation that there is no further need for an appearance bond, it must exonerate the bond and order the return of 27 any security”). 28 3 “DOC” refers to the Arizona Department of Corrections, Rehabilitation, and Reentry, which is referred to as DOC, ADOC, and ADCRR interchangeably. of your other case that’s pending...

I just don’t know. It’s entirely possible 1 that they’ll take you, and then Mr. George [Prosecutor] may have to do 2 something or the Court might have to issue a transfer—not you; Ms. Grisman

[Prosecutor] will have to issue some sort of transport. I just don't know. I 3 wish I did, but I don't. 4 (Doc. 66 ¶¶ 12–13; Doc. 82 ¶¶ 12–13; Doc. 66-4 at 12, Hr'g Tr.

8:25–9:3, 15:13–20.) 5 After the November 3, 2022, hearing, Plaintiff was returned to the jail, but he was 6 never transported to DOC; rather, he remained held at the jail. (Doc. 68-2 at 70, Pl. Dep. 7 71:11–14, 86:11–22.) 8 On January 11, 2023, a status conference was held in the 2020 criminal case. (Doc. 9 66-4 at 24.) At this hearing, the court addressed trial scheduling for Plaintiff's two other 10 cases, which were still pending.

(Id. at 27, Hr'g Tr., 4:18–8:19.) Regarding the 2020 case, 11 Plaintiff testified that he had served eight months over his sentence. (Id. 32:1–11.) The 12 court reviewed the November 3, 2022, sentencing Minute Order, which stated that Plaintiff 13 was ordered to be transported to the DOC to be processed so that he could be immediately 14 released from custody.

(Id. 10:1–5.) The court expressed that it could not understand how 15 DOC had not yet processed Plaintiff. (Id. 10:23–24.) 16 On January 12, 2023, the Maricopa County Jail sent an email to the ADCRR Time 17 Computation Unit asking the Unit to investigate Plaintiff's sentence. (Doc. 66-2 at 2.) 18 On January 13, 2023, Plaintiff filed a Motion to Modify Conditions of Release in 19 the 2019 criminal case; the Motion requested that the bond in the case be reduced.

(Doc. 20 66-3 at 108.) In this filing, Plaintiff's counsel stated that there was a bond set at \$25,000, 21 and that Plaintiff had previously paid the bond in this matter; however, for unknown 22 reasons that bond was returned, and Plaintiff was not in the same position financially as he 23 was in when he posted the bond. (Id. at 108–109.) 24 On January 13, 2023, the ADCRR Time Computation Unit issued a directive to the 25 County regarding Plaintiff, which stated "[t]his is your authorization to release the Arizona 26 Department of Corrections, Rehabilitation and Reentry hold on the above-named subject.

27 This release is effective: 1/13/2023 on the following case: CR2020 101481001." (Doc. 66- 28 2 at 5.) 1 On January 31, 2023, Plaintiff's counsel sent an email to Judge Suzanne Cohen 2 inquiring about a hearing date to address the Motion to Modify Conditions of Release and 3 notifying the Judge that Plaintiff was still in custody of the County Sheriff. (Doc.

66-3 at 4 112–113.) The Judge responded, "[d]idn't you get my email from last week? DOC lifted 5 his hold so if he pays his bond he'll get out." (Id. at 112.) The Judge also stated she would 6 not reduce the bond. (Id. at 111.) 7 On February 3, 2023, Plaintiff posted the \$25,000 bond and the \$50,000 bond in his 8 2018 and 2019 criminal cases. (Doc. 66-3 at 114–119.)

9 On February 6, 2023, Plaintiff was released from the County jail. (Doc. 66 ¶ 21; 10 Doc. 82 ¶ 21.) 11 Approximately four months later, Plaintiff's 2018 and 2019 criminal cases were 12 dismissed. (Doc. 68-3 at 74, Pl. Dep. 87:17–24.) 13 IV. Summary Judgment Order 14 In its

Summary Judgment Order, the Court noted that, with respect to a claim of 15 false imprisonment, the essential element is unlawful detention.

(Doc. 94 at 7, 10.) “A 16 detention that occurs pursuant to legal authority... is not an unlawful detention. If 17 the... imprisonment has occurred pursuant to valid legal process, the fact that the action 18 was procured maliciously and without probable cause does not constitute false arrest or 19 false imprisonment.” (Id. at 7, quoting *Mundt v. United States*, 611 F.2d 1257, 1259 (9th 20 Cir.

1980)). 21 As set forth above, after the November 3, 2022, sentencing hearing, the ADCRR 22 did not lift its “hold” on Plaintiff until January 13, 2023. In its Summary Judgment Order, 23 the Court found that detention pursuant to the ADC hold was improper, as it should have 24 been lifted immediately with respect to Plaintiff’s 2020 case. (Id. at 9.) But the Court went 25 on to state that, even if the ADC hold had been lifted immediately after the November 3, 26 2022, sentencing, “Plaintiff would not have been released from the County Jail because his 27 bonds for the 2018 and 2019 criminal matters were still outstanding and had to be paid 28 before he could be released.” (Id.)

The Court noted that, at the November 3, 2022, hearing, 1 the judge expressly told Plaintiff and his attorney that Plaintiff had to pay the bond on his 2 other two cases. (Id. at 11, citing Doc. 66-4 at 12, Hr’g Tr. 8:25–9:3, 15:13–20.)

Thus, 3 Plaintiff’s detention after the November 3, 2022, hearing was not unlawful because it was 4 pursuant to the outstanding bonds in the 2018 and 2019 cases. 5 In the summary judgment briefing, Plaintiff argued that his detention after the 6 November 3, 2022, hearing was unlawful because the bonds for the 2018 and 2019 criminal 7 matters “were exhausted when the bonds issued... and then returned” to the bondsman.

8 (Doc. 83 at 6.) Plaintiff claimed that the two bonds were no longer outstanding and no 9 longer applied, so he was entitled to a new bond hearing on those two cases after the 10 November 3, 2022, hearing. (Id. at 5–6.)

The Court rejected that argument, finding that 11 Plaintiff had already received bond hearings in the 2018 and 2019 cases, and the orders 12 setting the bonds in those cases were not vacated. (Doc. 94 at 12.) Plaintiff failed to present 13 any grounds that he was entitled to second bond hearings in the 2018 and 2019 cases. (Id.) 14 See *Frantz C. v. Shanahan*, No. 18-CV-2043 (JLL), 2018 WL 3302998, at *2–3 (D.N.J.

15 July 5, 2018) (explaining detainee was not entitled to a second bond hearing “absent some 16 showing that his original bond hearing was not bona fide,” and finding that original bond 17 hearing, at which the government bore the burden of proof, was bona fide). 18 The Court concluded that, because the evidence showed Plaintiff was not unlawfully 19 detained following

the November 3, 2022, sentencing hearing, Plaintiff could not establish 20 genuine issues of material fact regarding his false imprisonment and due process claims 21 against the State and the Sheriffs.

(Doc. 94 at 9, 13.) The Court then issued the Order to 22 Show Cause why the claims against the County should not be dismissed in light of the fact 23 that Plaintiff's post-November 3, 2022, detention was lawful. (Id. at 20.) 24 V. Response to Order to Show Cause 25 Plaintiff argues that, following the November 3, 2022, sentencing hearing, the 26 County (and the Sheriffs) had a statutory duty to present him for a hearing to enable him 27 to post bond in the 2018 and 2019 cases.

(Doc. 95 at 4, citing Ariz. Rev. Stat. § 13-3967.) 28 Plaintiff submits that County and State officials should have allowed him a bond hearing 1 within 24 hours after his November 3, 2022, hearing. (Id. at 4–5.) According to Plaintiff, 2 during his post-November 3, 2022, detention, he was never told of the need to post bond, 3 and the bond orders in the 2018 and 2019 cases were “exhausted,” returned to the 4 bondsman, and never renewed.

(Id. at 5.) Plaintiff maintains that a jury could find the 5 County is liable for false imprisonment and due process violations because the County and 6 the Sheriff purposely ignored Plaintiff's express request to be taken to be bonded. (Id. at 7 7–8.) 8 Plaintiff misinterprets the meaning of a bond being “exonerated.” He asserts that 9 when the bonds in the 2018 and 2019 cases were exonerated after he was placed in custody 10 for the 2020 charges, it meant that “there was simply no bond order any longer” in those 11 cases, “and likewise, there was no order denying bond [in those cases], or any order 12 denying release in [those cases].” (Id. at 6.)

13 “Exoneration” means that the bondsman who put up the bond receives the funds 14 back and is released of its obligation. As the Court explained in the Summary Judgment 15 Order: 16 When Plaintiff went into pretrial custody on the 2020 case, he was not 17 relieved from having to pay the bonds ordered in his prior cases; rather, the sureties (bail bondsmen) in the 2018 and 2019 cases were exonerated, i.e., 18 released from their obligation, because there was no further need for a bond 19 with Plaintiff in custody.

See Ariz. R. Crim. P. 7.6(d)(1) (“If the court finds before a violation that there is no further need for an appearance bond, it must 20 exonerate the bond and order the return of any security.”); United States v. 21 Torres, 807 F.3d 257, 261 (7th Cir. 2015) (“A court is not required to exonerate the surety until ‘a bond condition has been satisfied’ or until a 22 surety ‘timely surrenders the defendant into custody.’”) (quoting Fed.

R. Crim. P. 46(g)). 23 (Doc. 94 at 12.) Contrary to Plaintiff's interpretation, exoneration does not mean that the 24 orders issued in the 2018 or 2019 cases were “exonerated” or vacated. Those bond orders 25 remained valid and were in effect when Plaintiff completed his sentence in the

2020 case. 26 In attempting to show cause why the claims against the County should not be 27 dismissed, Plaintiff repeats the same arguments he made in response to the State and the 28 1 | Sheriff's Motions for Summary Judgment; namely, that the bond orders were no longer in 2| effect, he was entitled to a new bond hearing, and he was unaware of the need to post bond 3) in the 2018 and 2019 cases.

The Court has already addressed and rejected these arguments. Plaintiff therefore fails to show cause why the remaining claims against the County should 5 | not be dismissed. Summary judgment will be granted on the claims against the County. 6| IT IS ORDERED: 7 (1) Pursuant to Federal Rule of Civil Procedure 56(f)(1), summary judgment is 8 | granted in favor of the County on the remaining claims in this action.

9 (2) The Clerk of Court must enter judgment accordingly and terminate the action. 1] Dated this 30th day of March, 2026. 12 Michael T. Sihurde Michael T. Liburdi 15 United States District Judge 16 17 18 19 20 21 22 23 24 25 26 27 28 -9-