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CASE NUMBER: 2018CV30057

DISTRICT COURT, TELLER COUNTY, COLORADO 101 W. Bennett Avenue, Cripple Creek, Colorado 80813	
Plaintiff: LEONARDO CANSECO SALINAS, v. **Defendant:** JASON MIKESELL, in his official capacity as Sheriff of Teller County, Colorado	▲ COURT USE ONLY ▲
	Case Number: 18CV30057 Division: 11

ORDER DENYING MOTION FOR PRELIMINARY INJUNCTION

This matter comes before the Court on Plaintiff's Motion for Preliminary Injunction filed on July 23, 2018. The Court set an expedited briefing schedule and the matter was fully briefed by August 10, 2018. In addition to briefs from the parties, the Court permitted the filing of *amicus* briefs. The Court has reviewed the following pleadings and briefs: the Complaint for Declaratory and Injunctive Relief, the Plaintiff's Emergency Motion for Temporary Restraining Order and Preliminary Injunction, Defendant's Response Brief in Opposition to the Motion, the Brief of *Amici Curiae* National Sheriffs' Association and Western States Sheriffs' Association in Support of Defendant Sheriff Mikesell, the Statement of Interest of the United States of America, Plaintiff's Reply in Support of Motion for Preliminary Injunction, the Combined Brief of

Plaintiff and *Amici Curiae* in Response to Statement of Interest of the United States of America, and the Answer to Complaint for Declaratory and Injunctive Relief. On August 15, 2018, the Court held an evidentiary hearing on the motion and allowed counsel for the parties to make oral argument. Counsel stated that Mr. Canseco's presence was not necessary for purposes of the hearing. For the reasons stated below, the Court finds that Plaintiff has not met all six requirements necessary for granting interim relief and DENIES the motion for preliminary injunction.

I. FACTS

The Parties stipulated to the admissibility of twelve exhibits for use at the hearing along with certain factual stipulations listed below, with reference to the admitted exhibits.

1. On Saturday night, July 14, 2018, at approximately 10:25 p.m., Leonardo Canseco Salinas was arrested by the Colorado Division of Gaming in Cripple Creek, Colorado and charged with two misdemeanor offenses: fraudulent gaming acts in violation of C.R.S. § 12-47.1-823 (allegedly playing $8.25 in credits left unattended at a slot machine), and criminal possession of a forged instrument (an allegedly forged U.S. Permanent Resident Card, also known as a "Green Card") in violation of C.R.S. § 18-5-107. Exhibits 1-4.

2. Mr. Canseco was booked into the Teller County Jail at 1:56 a.m. on July 15, 2018. Exhibit 1.

3. During the jail booking process, Mr. Canseco's bond for the state criminal charges was set at $800. This amount for bond was determined when the Division of Gaming charged Mr. Canseco. Exhibits 1-2.

4. Mr. Canseco was in possession of $1,090.45 when he was booked into the Teller

County Jail. Exhibit 6.

5. On July 15, 2018, a Teller County Jail Deputy faxed to ICE a "Detained Alien Status Inquiry Form" containing identifying information for Mr. Canseco. On this form, the deputy noted that Mr. Canseco "[h]as enough money to bond himself out of jail." Exhibit 7.

6. On July 15, 2018, at 3:29 a.m., via fax, ICE sent a Form I-247A (Immigration Detainer – Notice of Action) and a Form I-200 (Warrant for Arrest of Alien) to the Teller County Jail regarding Mr. Canseco. Exhibits 8 and 9.

7. The Form I-247A (Immigration Detainer – Notice of Action) was signed by what the form identifies as an "Immigration Officer." Exhibit 8.

8. The Form I-247A (Immigration Detainer – Notice of Action) identifies Mr. Canseco by name, states that DHS has determined that probable cause exists that he is a removable alien, requests that the local law enforcement agency notify DHS at least 48 hours before the alien is released from custody, and requests that the local law enforcement agency maintain custody of the alien for a period not to exceed 48 hours beyond the time when he would otherwise have been released from custody to allow DHS to assume custody. Exhibit 8.

9. The Form I-200 was signed by what the form identifies as "an authorized immigration officer." Exhibit 9.

10. The Form I-200 identifies Mr. Canseco by name, states that the immigration officer has determined that there is probable cause to believe that Mr. Canseco is removable from the United States based upon: biometric confirmation of the subject's identity and records check of federal databases that affirmatively indicate, by themselves or in addition to other reliable information, that the subject either lacks immigration status or notwithstanding such status is

removable under U.S. immigration law; and/or statements made voluntarily by the subject to an immigration officer and/or other reliable evidence that affirmatively indicate the subject either lacks immigration status or notwithstanding such status is removable under U.S. immigration law. Exhibit 9.

11. The Teller County Jail file for Mr. Canseco includes notations that he is subject to an "ICE hold" or "INS hold," with accompanying notations ("bond denied," "no bond"). The Teller County Pretrial Services Personal Recognizance Bond Investigation document states, "PR bond not completed due to a no bond ICE hold on this individual." Exhibits 1 and 10.

12. Since October 2017, there have been five cases where ICE has sent the Teller County Jail a Form I-247A (Immigration Detainer – Notice of Action) and a Form I-200 (Warrant for Arrest of Alien) naming prisoners in the jail, including Mr. Canseco.

Over the Plaintiff's objection, the Court admitted Defense Exhibit A, a booking information sheet purportedly filled out by Gaming Investigator Webb that was submitted at the time Mr. Canseco was booked into the Teller County Jail.

According to the Complaint, Mr. Canseco "remains ready, willing and able to post the $800 bond" but he has not done so because he does not want to be detained by the Teller County Jail for transfer of custody to ICE. Complaint, ¶¶ 49, 50 and 53.

II. ISSUE

Does the Teller County Sheriff have the legal authority to deny release of a defendant who has posted bond in a pending criminal case by cooperating with Immigration and Customs Enforcement (ICE) to detain persons for whom an ICE detainer request and warrant for arrest of alien has been issued?

III. PLAINTIFF'S ARGUMENT

Plaintiff argues that Sheriff Mikesell exceeds his authority under Colorado law by refusing to release him if he posts the $800 bond on his state criminal charges because Colorado Sheriffs are limited to the express powers granted them by the legislature and only the implied powers reasonable necessary to execute those express powers. *People v. Buckallew*, 848 P.2d 904 (Colo. 1993), *Douglass v. Kelton*, 610 P.2d 1067 (Colo. 1980). Plaintiff asserts he has standing to seek prospective relief to prevent a threatened injury even though he has not posted bond. *Wimberly v. Ettenberg*, 570 P.2d 525 (1977). Additionally, he argues that Sheriff Mikesell carries out a new warrantless arrest, not authorized by the Colorado statutes, by not releasing him upon posting the bond.

IV. DEFENDANT'S ARUGMENT

The Sheriff argues he has legal authority to cooperate with Immigration and Customs Enforcement (ICE) to detain persons for whom an ICE detainer request and warrant for arrest of alien has been issued and that this cooperation is not the equivalent of a new arrest. The Sheriff cites a specific provision in the Immigration and Nationality Act (INA) at 8 U.S.C. § 1357(g)(10)(B) for the authority to cooperate with ICE. He also points to the revised ICE policy effective April 2, 2017, ICE Policy Number 10074.2, which now includes a probable cause analysis on Form I-247A combined with the I-200 Warrant for Arrest of Alien signed by an authorized ICE officer as providing probable cause that the person is a removable alien. Finally, the Sheriff argues that his inherent authority under Colorado law to keep and preserve the peace in Teller County authorizes him to cooperate with ICE.

V. STANDING

To establish standing, a Plaintiff must show 1) he suffered an injury in fact and 2) the injury was to a legally protected interest. *Wimberly, supra* at 539. The Defendant argues because the Plaintiff has not suffered an injury in fact (since he has chosen not to bond out) and any potential injury Plaintiff seeks to avoid (arrest by ICE) is incidental to Sheriff Mikesell's actions and has not yet occurred, Plaintiff does not have standing to bring claims against Sheriff Mikesell. *Hickenlooper v. Freedom from Religion Foundation, Inc.*, 338 P.3d 1002 (Colo. 2014). The injury in fact requirement ensures that an actual controversy exists so that the matter is a proper one for judicial resolution. The Court finds there is no dispute about Defendant's intent to detain the Plaintiff, should he post bond, pursuant to the Form I-247A detainer request combined with the I-200 Warrant for Arrest of Alien. The injury Plaintiff alleges (being prevented from bonding out) would occur at the moment he posts bond, thus it's not so remote to find there's no controversy at issue. Furthermore, the Court finds it would be unjust to require the Plaintiff to post the $800 bond, for which he would not be released and may be forfeited, in order to gain standing.

VI. *RATHKE* FACTORS FOR A PRELIMINARY INJUNCTION

In order to grant the extraordinary relief of a preliminary injunction, this Court must find that Plaintiff meets all six of the following requirements: (1) he has a reasonable probability of success on the merits; (2) there is a danger of real, immediate, and irreparable injury that may be prevented by injunctive relief; (3) there is no plain, speedy, and adequate remedy at law; (4) the granting of a temporary injunction will not disserve the public interest; (5) the balance of equities favors the injunction, and (6) the injunction will preserve the status quo pending trial on the

merits. *Rathke v. MacFarlane*, 648 P.2d 648, 653-654 (Colo. 1982). In order to restrain the judicial branch of government from usurping the exercise of powers of another branch, a court must consider each of the factors in *Rathke* prior to granting the extraordinary relief of a TRO and preliminary injunction. *See Kourlis v. Dist. Court, El Paso Cnty.*, 930 P.2d 1329, 1335 (Colo. 1997).

(1) Plaintiff cannot show a reasonable probability of success on the merits.

(a) This is a case of first impression in Colorado.

There is no controlling case law in Colorado on the issue presented in this case. Colorado does not have a statute compelling law enforcement to cooperate with federal immigration officials (*C.R.S. §29-29-101* requiring cooperation with federal immigration officials was repealed in 2013 by *House Bill 13-1258*). Nor does Colorado have a statute prohibiting law enforcement from cooperating with federal immigration officials (*House Bill 15-1356,* which sought to prohibit a public safety agency from holding or detaining a person beyond the point he/she is eligible for release based solely on an immigration detainer request or warrant, did not pass). Both parties cite cases from other jurisdictions as persuasive authority. The briefs from the United States and the *Amici Curiae* also cite numerous cases from federal and state courts across the country. Another division in this judicial district recently reached a different result in a similar situation. What is apparent in this area of continuously developing law and legal uncertainty is that reasonable minds both analyzing the same set of facts and legal authority may reach different conclusions.

(b) The application of the Immigration and Nationality Act, 8 U.S.C. § 1357(g)(10)(B), and ICE's revised procedures.

The federal government's power over immigration and the status of aliens includes the authority to interview, arrest, and detain removable aliens. *See, e.g.* 8 U.S.C. §1226(a)(Secretary of Homeland Security may issue administrative arrest warrants and may arrest and detain aliens pending a decision on removal). In enforcing immigration laws, the federal government may work with state and local governments, such as the situation here where following arrest for a criminal offense an individual is identified as having violated immigration law. The Immigration and Nationality Act (INA), 8 U.S.C. §1101, *et seq.*, provides authority for those cooperative efforts. There are three categories of cooperation.

First, the INA authorizes the Department of Homeland Security (DHS) to enter into cooperative agreements with states and localities, *see* 8 U.S.C. § 1357(g) (known as 287(g) agreements) under which state and local officers may, under the supervision of the Secretary of Homeland Security, perform the functions of an immigration officer. Sheriff Mikesell testified he does not currently have a 287(g) agreement with ICE, but has applied for such an agreement.

Second, federal law authorizes DHS to enter into agreements, referred to as intergovernmental services agreements (IGSAs), with localities for the "housing, care, and security of persons detained by [DHS] pursuant to federal law. *Id.* §1103(a)(11)(A). Until an immigration officer arrests the detainee, a detainee cannot be held under an IGSA. Teller County has an IGSA from which ICE can request housing for detainees at federal expense. Since Mr. Canseco has not been arrested on the federal immigration warrants, he is not being held pursuant to the IGSA.

Third, the INA provides states and localities may "communicate with the [Secretary of Homeland Security] regarding the immigration status of any individual" or "cooperate with the [Secretary] in the identification, apprehension, detention, or removal of aliens not lawfully present in the United States," 8 U.S.C. §1357(g)(10). That cooperation must be pursuant to a "request, approval, or other instruction from the Federal Government." *Arizona v. United States*, 567 U.S. 387 at 410 (2012).

Sheriff Mikesell testified that he does not enforce federal immigration law, does not act unilaterally regarding immigration law, and does not arrest persons for federal immigration offenses. The Sheriff testified that he cooperates with ICE's requests by providing space at the Teller County Jail to meet with inmates, notifying ICE before an inmate is released from custody, and by holding an inmate whom ICE has determined is a removable alien to facilitate ICE's arrest and assumption of custody. Sheriff Mikesell argues that this cooperation qualifies as operational support permitted by 8 U.S.C. § 1357(g)(10)(B). The Sheriff also points to the changes to the ICE detainer and warrant policy and procedures effective in April 2017 as providing the administrative warrant for arrest that accompanies the detainer request. This 2017 ICE policy was examined and approved of in a recent case from Michigan, *Lopez-Lopez v. County of Allegan*, No. 1:17-CV-786, 2018 WL 3407695 (W.D. Mich. July 13, 2018). In that case, Mr. Lopez-Lopez was arrested on an outstanding warrant for a probation violation and booked into the Allegan County jail. His family posted a $1,000 bond at around 9:30 p.m., which payment was confirmed by the bond processing company at 10:24 p.m. At around the same time that evening and prior to receiving confirmation of the bond, the Allegan County jail received an I-247A detainer and I-200 warrant for arrest from ICE. Based on the receipt of the

ICE forms, the Allegan County Sheriff maintained custody of Mr. Lopez-Lopez after the bond was confirmed until the next morning when an ICE officer personally served the I-200 warrant for arrest and later took custody of Mr. Lopez-Lopez around 3:00 p.m. that day. Based on those facts, the federal district court judge in *County of Allegan* found that the Allegan County Sheriff's cooperation "with the federal government's request (as allowed pursuant to § 1357(g)(10)) 'by providing operational support' by holding [Mr. Lopez-Lopez] until ICE could take custody of him the following day…did not run afoul of the Fourth Amendment prohibition against unreasonable seizures." *Id.* at *5-6. Of all the cases cited by the parties, this case is the most similar to the facts in the case before this Court and the most persuasive for its analysis of the Fourth Amendment seizure issue.

Plaintiff relies on cases decided on facts that existed prior to the ICE policy change in April 2017. Those cases involved the service by ICE of either a detainer or a warrant, but not service of both a detainer and a warrant for arrest with a probable cause analysis that the person is a removable alien. In *Lunn v. Commonwealth*, 78 N.E. 3d 1143 (Mass. 2017), the primary case cited by Plaintiff, only a detainer form was issued (which form was rescinded with the new ICE policy), the detainer form was not served on Mr. Lunn, no warrant for arrest was issued and the court found that "the sole basis for holding him was the civil immigration detainer." *Lunn* at 1154. Although the *Lunn* decision, issued after 2017 policy changed went into effect, briefly discusses the policy change in *footnote 17*, its decision focused solely on the detainer in effect at the time of Mr. Lunn's detention. Thus, *Lunn* and the other cases cited by Plaintiff are distinguishable from the present case where it is undisputed that ICE followed its new policy and procedure. Here, ICE issued both the new I-247A detainer and I-200 warrant for arrest, and the I-

247A was served upon the Plaintiff. *See* Exhibit 8. Both establish the basis for DHS's determination that it has probable cause to believe that Mr. Canseco is a removable alien.

The Court finds that Sheriff Mikesell's conduct, in cooperating with ICE based on the I-247A detainer and I-200 warrant for arrest, fall into the cooperation authorized by 8 U.S.C. § 1357(g)(10)(B). The Court is not persuaded that Colorado law prohibits Sheriff Mikesell from providing this type of cooperation to ICE.

(c) It is not certain that continued detention when ICE has served an I-247A and an I-200 Warrant for Arrest of Alien is the equivalent of a new arrest.

Plaintiff argues that if Sheriff Mikesell maintains custody of him after he posts the $800 bond that would be the equivalent of a new arrest. Plaintiff analyzes the Sheriff's actions entirely in the context of a criminal arrest which pursuant to C.R.S. § 16-1-104 (8) limits law enforcement to warrant arrests based on warrants issued by a judge of a court of record; which the forms provided by ICE do not satisfy. The Court will request additional briefing on the impact of the Supremacy Clause and constitutionality of administrative warrants, in the area of immigration law, as it intersects with the limitations of Colorado law argued by Plaintiff. Sheriff Mikesell argues that cooperating with ICE's detainer request when it is accompanied by a warrant for arrest is lawful because he is relying on the probable cause determination of an authorized immigration officer empowered and trained to issue these warrants for arrest of alien. The Court sees some parallels to out-of-state warrant holds, parole or extradition holds that are routinely done by sheriffs in Colorado; however, neither party addressed this issue in their briefs. The court in *Tenorio-Serrano v. Driscoll* recognized this same issue and saw "at least some meaningful difference between a unilateral arrest by a sheriff's officer and continued detention on the basis of a federal warrant. In the former, the officer is acting entirely on his own authority

and on the basis of his own judgment and investigation. In the latter, the officer is acting on the probable cause determination of a federal officer empowered and trained to make such determinations." *Tenorio-Serrano v. Driscoll*, 2018 WL 3329661, at *9 (D. Ariz. July 6, 2018). That court denied the plaintiff's motion to enjoin the Coconino County Sheriff's cooperation with an I-247A Detainer Form and I-200 Arrest Warrant Form.

This Court, like the *Driscoll* court, sees the need to explore further in this litigation the extent and significance of the distinction between a new arrest versus continued detention on the basis of a federal warrant.

(d) Authority of the Sheriff.

Plaintiff argues that the authority of the Sheriff is very limited and there is no specific statutory authority for the Sheriff to detain him based on the ICE detainer and warrant for arrest. The Sheriff disagrees and argues that he has inherent authority to cooperate with ICE. Both parties cite the same Colorado case law on a sheriff's inherent power. Clearly, a sheriff has inherent powers to perform his duties, but there are only a few reported Colorado cases that address this question, and each case is very fact specific. No reported Colorado case has addressed this issue presented here. "The test for determining whether a power is implicit within a sheriff's express authority is whether or not the sheriff can fully perform his functions without the implied power." *People v. Buckallew*, 848 P.2d 904, 908 (Colo. 1993).

Sheriff Mikesell argues that one of his central duties and functions is to keep and preserve peace in the sheriff's county, codified at C.R.S. § 30-10-516. The Sheriff testified that he has seen an increased presence of illegal aliens in Teller County and has seen a nexus between illegal aliens and the increased crime associated with illegal marijuana grows in Teller County.

He argues that cooperation with ICE is critical to protecting Teller County citizens from illegal activity by aliens. Sheriff Mikesell's cooperation with an ICE detainer and warrant provides operational support to ICE by facilitating the custodial transfer of a removable alien to ICE in a controlled, custodial setting. This helps avoid the potential risk of danger to ICE officers and to the general public that could occur through at-large arrests in the community, or having these individuals remain at large. The Sheriff has presented a credible nexus between cooperation with ICE and his duty to keep and preserve the peace in Teller County. The Plaintiff has not presented any Colorado law that prohibits the Sheriff from cooperating with ICE as part of his inherent power to keep and preserve the peace in Teller County. While Plaintiff's arguments raise serious questions for this Court's consideration, at this early stage of the case, the Court cannot conclude that he has shown a reasonable probability of success on the merits.

(2) Plaintiff cannot show a danger of real, immediate, and irreparable injury which may be prevented by injunctive relief.

The Court notes that the Plaintiff has had the ability to post the $800 bond since the night he was arrested on July 14, 2018, but more than one month later, he has not yet done so because of the possibility that ICE will execute the I-200 warrant for arrest and take him into federal custody for the alleged federal immigration offenses. The injury Plaintiff alleges is not his current detention on the state criminal charges, it is the potential 48-hour detention he may face under the ICE detainer and warrant for arrest if he posts bond. "A plaintiff suffers irreparable injury when the court would be unable to grant an effective monetary remedy after a full trial because such damages would be inadequate or difficult to ascertain." *Awad v. Ziriax,* 670 F.3d 1111, (10th Cir. 2012). Recent litigation in this judicial district indicates an effective monetary remedy can be ascertained in situations where defendants are held in custody past an eligible

release date. *See, Gazette.com,* August 15, 2018, article reporting settlement of a lawsuit brought by the ACLU against El Paso County, Colorado for failing to release jailed defendants approved for personal recognizance bonds due to their inability to pay the $55 release fee. Under the terms of the agreement those individuals are entitled to receive $125 for each additional day they were kept behind bars past their eligible release date. Sheriff Mikesell testified ICE comes to the Teller County Jail three times per week and he's never had to maintain custody pursuant to an ICE hold for more than 12 hours, despite the 48 hours permissible under the INA.

Plaintiff argues that he is suffering a deprivation of his constitutional rights and cites Wright, Miller and Kane, *Fed. Prac. & Proc. Civ. 2d,* Vol 11A § 2948.1 (2008) for his argument that "[w]hen an alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary." The Sheriff argues that a removable alien like Plaintiff does not enjoy the same constitutional protections as citizens because "[a]liens, even those lawfully within the country, do not have most of the constitutional rights afforded to citizens...They may be arrested by administrative warrant issued without an order of a magistrate…and held without bail." *Lopez v. INS*, 758 F.2d 1390, 1393 (10th Cir. 1985). In *Abel v. United States*, 362 U.S. 217, 233, (1960) the Supreme Court acknowledged the long-standing use of administrative warrants in immigration enforcement. As discussed above, the Court will require additional briefing on this issue. Since the question of detaining an alien on a properly issued federal immigration detainer and warrant versus the limitations of the Sheriff's authority argued by Defendant remains unresolved, the Court cannot find the Plaintiff has met this *Rathke* factor.

(3) Plaintiff cannot show that there is no plain, speedy, and adequate remedy at law.

ICE has presented a valid detainer and a valid warrant for arrest based upon probable cause determinations that he is a removable alien. The Plaintiff has not challenged the validity of these documents. Whether he is removable is an issue for a United States immigration court, not this court. Plaintiff will have all of the rights and remedies available in that immigration court forum. Under the facts developed thus far in this case, this Court finds that Plaintiff has not met this factor.

(4) Plaintiff cannot show that the granting of a preliminary injunction will not disserve the public interest.

This Court recognizes that the federal government has "broad, undoubted power over the subject of immigration and the status of aliens" *Arizona v. United States*, 567 U.S. 387, 394, 132 S.Ct. 2492, 183 L.Ed.2d 351 (2012) and that cooperating in the effort to prevent unlawful immigration is a significant public interest recognized by the United States Supreme Court, *Id.* at 397-99. The Court also recognizes the public interest in ensuring that local law enforcement, like the Teller County Sheriff, does not overstep its authority in immigration areas that are preempted by federal law. Plaintiff repeats his argument that he is suffering a violation of his constitutional rights; however, as explained above, since there is valid probable cause showing that he is a removable alien, he may not have the same constitutional rights afforded to citizens of the United States and citizens of Colorado. The Sheriff argues that an injunction would disserve the public interest because it would significantly curtail his authority to cooperate with ICE and it would interfere with his statutory duty to preserve the peace in Teller County. Given the broad power of the federal government over immigration enforcement, there is a legitimate public interest in not

obstructing the federal government from enforcing immigration law. This issue needs further development in the case; thus, the Court cannot find the Plaintiff has met this factor.

(5) The Plaintiff cannot show that the balance of equities favors the injunction.

The Court recognizes the liberty issue raised by Plaintiff and his desire to be immediately released from the Teller County jail if and when he posts the $800 bond. The Court also recognizes the legitimate law enforcement concern about releasing a person from custody when a valid federal administrative warrant for arrest has been issued. The Court agrees any deprivation of liberty may weight in favor of the Plaintiff; however, this factor is intertwined with the issues discussed above such that the Court cannot find the balance of the equities favors the injunction Plaintiff seeks.

(6) An injunction will not preserve the status quo pending a trial on the merits.

The status quo is "the last uncontested status between the parties which preceded the controversy." *Dominion Video Satellite, Inc. v. EchoStar Satellite Corp.*, 269 F.3d 1149, 1155 (10th Cir. 2001). The parties dispute what the status quo is. Plaintiff states the requested relief will preserve the status quo that existed between the two parties when Plaintiff was first booked into the jail, after bond was set and before ICE sent any documents to the jail. Defendant contends the status quo is to cooperate, if he voluntarily choses to do so, with a request from ICE to honor their detainer and arrest warrant request. As noted above, the use of administrative warrants in immigration enforcement is time-honored in our jurisprudence are well established precedent. *See Abel* and *Lopez, supra.* The court does not have to resolve this sixth factor, as all six *Rathke* factors must be met to grant the injunctive relief requested. For the reasons stated above, the Court finds the Plaintiff has not met his burden of proof.

VII. CONCLUSION

For the foregoing reasons, IT IS ORDERED that Plaintiff's motion for a preliminary injunction is DENIED. The Plaintiff shall file a Notice to Set for Status Conference on a Tuesday or Wednesday morning at 8:30 a.m. At the status conference the Court will set additional briefing deadlines and set the case for case management conference, pre-trial readiness hearing and trial. The parties may arrange with Court Staff to appear by telephone conference for the status conference and case management conference.

Done this 19th day of August, 2018.

BY THE COURT:

Linda Billings Vela

Linda Billings Vela
District Court Judge