

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION**

MOHAMED SALAH MOHAMED)
AHMED EMAD,)
)
Plaintiff,)
)
v.)
)
RICARDO WONG, Field Office Director,)
Chicago, U.S. Immigration and Customs)
Enforcement (“ICE”), PAUL D’AGOSTINO,)
MICHAEL McPHERSON, DODGE COUNTY,)
DODGE COUNTY SHERIFF DALE)
SCHMIDT, JAIL ADMINISTRATOR)
ANTHONY BRUGGER, WELLPATH, and)
HEALTH ADMINISTRATOR TAMMY)
WOLLIN,)
)
Defendants.)

Case No.

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Mohamed Salah Mohamed Ahmed Emad, by his undersigned attorneys, for his complaint against U.S. Immigration and Customs Enforcement (“ICE”) Field Office Director Ricardo Wong, Paul D’Agostino, Michael McPherson, Dodge County, Dodge County Sheriff Dale Schmidt, Jail Administrator Anthony Brugger, Wellpath, and Health Administrator Tammy Wollin, alleges as follows:

INTRODUCTION

1. This action is brought pursuant to 42 U.S.C. § 1983 to redress the deprivation under color of law of Mr. Emad’s rights as secured by the First, Fifth, and Fourteenth Amendments to the United States Constitution, the Religious Land Use and Institutionalized

Persons Act, and the Religious Freedom Restoration Act.

2. Mr. Emad is a stateless Palestinian, born with refugee status in Saudi Arabia, who has lived in the United States for 25 years. He is a devout Muslim who was active in his local mosque and well known in Milwaukee's Eastside community. For the past ten years, he worked at a Chinese restaurant where he was known as a hard worker and was considered a leader among his co-workers. His pastimes included playing soccer and frequenting the local coffee shop where he watched sports and engaged with friends from diverse backgrounds.

3. In late 2015, the FBI began to conduct surveillance on Mr. Emad's co-worker, Samy Hamzeh, and used confidential paid informants to gather "information" to prove Mr. Hamzeh was involved in terrorist activity. Eventually, the government filed questionable charges against Mr. Hamzeh for buying machine guns to allegedly carry out a terrorist attack. Mr. Hamzeh's defense in this case centers on an assertion that the federal informants attempted to entrap him and on recorded conversations during which Mr. Hamzeh adamantly refuses to participate in acts of violence and attempts to convince the informants that harming innocent people violates the tenants of Islam.

4. After Mr. Hamzeh's arrest, the FBI, for no legitimate reason, set its sights on Mr. Emad and gathered "information" on him from at least one of the same paid confidential informants involved in Mr. Hamzeh's case. Based solely on false information provided to the FBI by this informant, ICE arrested Mr. Emad on March 12, 2018.

5. After being arrested, Mr. Emad was denied bond because the FBI suggested that he was a terrorist and a danger to national security. Mr. Emad is not nor has he ever been a terrorist or involved in terrorist activity and in no way is he a danger to national security.

6. Since his arrest, Mr. Emad has been detained at Dodge County Detention Facility

(“Dodge County Jail”). The Dodge County Jail has a contract with ICE to hold immigration detainees pending the resolution of their removal cases. While at Dodge County Jail, Mr. Emad is being denied necessary mental health care, causing his mental health to deteriorate. Additionally, Mr. Emad is being denied the ability to freely exercise his religion—he is being denied access to a space for communal Friday Prayer and is forced to pray in his cell, just inches from his toilet.

7. Mr. Emad faces the possibility of indefinite detention because he is of Palestinian descent and was born a refugee in Saudi Arabia. To the U.S. government he is stateless and therefore unremovable. Yet ICE refuses to release him from detention because of the administration’s discriminatory animus towards Muslims and Palestinians.

JURISDICTION AND VENUE

8. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343(a). This Court has authority to grant declaratory relief under 28 U.S.C. §§ 2201 and 2202.

9. Venue is proper in this district under 28 U.S.C. § 1391(b) because the events giving rise to the claims asserted in this complaint occurred in this judicial district.

PARTIES

Plaintiff

10. Plaintiff Mr. Emad is a 47-year-old immigrant of Palestinian descent who was born in Saudi Arabia with refugee status. Mr. Emad is a resident of Milwaukee, Wisconsin. Mr. Emad has been detained by ICE at the Dodge County Detention Facility in Juneau, Wisconsin since March 12, 2018.

Defendants

ICE Defendants

11. Defendant Ricardo Wong was at all times mentioned herein the Field Office Director of the Chicago ICE Field Office. At all times relevant to the events at issue in this case, Defendant Wong was acting under color of authority of the Department of Homeland Security. Defendant Wong oversees the Chicago ICE Field Office's functions and operations and the immigration detainees within its jurisdiction. Upon information and belief, Defendant Wong was the final policy-making authority for the arrest and detention of Mr. Emad and is legally responsible for the violations against Mr. Emad as alleged herein. Defendant Wong is responsible for the oversight of immigration detainees in Dodge County Detention Facility, including their medical and mental health care. He is sued in his official capacity.

12. Defendant Paul D'Agostino is the Section Chief of the U.S. Immigration and Customs Enforcement. At all times relevant to the events at issue in this case, Defendant D'Agostino was acting under color of authority of the Department of Homeland Security. On information and belief, he communicated the false information that Mr. Emad was a terrorist to Defendant Wong and is legally responsible for the violations against Mr. Emad as alleged herein. Defendant D'Agostino is sued in his official capacity.

Dodge County Defendants

13. Defendant Dale Schmidt is the Sheriff of Dodge County. At all times relevant to the events at issue in this case, Defendant Schmidt was employed by the Dodge County Sheriff's Department in the capacity of Sheriff. As such, he was acting under color of law. At all times relevant to the events at issue in this case, Defendant Schmidt promulgated rules, regulations, policies, and procedures as Sheriff of Dodge County that governed the Dodge County Detention

Facility. He is sued here in his individual and official capacities.

14. Defendant Anthony Brugger is the Jail Administrator at Dodge County Detention Facility. At all times relevant to the events at issue in this case, Defendant Brugger was employed by the Dodge County Sheriff's Department. As such, he was acting under color of law. At all times relevant to the events at issue in this case, Defendant Brugger was responsible for implementing the policies and procedures promulgated by Defendant Schmidt, supervising all staff, and managing all aspects of Jail operations. He is sued here in his individual and official capacities.

15. Defendant Dodge County is a county of the State of Wisconsin. It oversees the Dodge County Sheriff's Department, which, in turn, operates the Dodge County Detention Facility.

Wellpath Defendants

16. Defendant Wellpath is the newly combined Correct Care Solutions and Correctional Medical Group Companies. Wellpath is a corporation headquartered in Nashville, Tennessee transacting business in Wisconsin. Wellpath, pursuant to a contract with Dodge County, provides medical and mental health evaluation, care, and treatment to detainees at the Dodge County Detention Facility. At all times relevant to the events at issue in this case, Wellpath was responsible for the implementation, oversight, and supervision of policies and practices at the Dodge County Detention Facility related to the provision of medical and mental health care. As an agent of Dodge County, Wellpath was at all times relevant to the events at issue in this case acting under color of law by and through its lawful agents, including the doctors and nurses who work at the Jail.

17. Defendant Tammy Wollin is the Health Administrator at Dodge County Detention

Facility and was employed by Wellpath during the relevant period. At all times relevant to the events at issue in this case, Defendant Wollin was acting under color of law and within the scope of her employment with Wellpath. Defendant Wollin was and is responsible for the medical care, treatment, and welfare of Mr. Emad while he is detained at the Jail, and she has failed in that responsibility. Defendant Wollin is sued here in her individual and official capacities.

FBI Defendant

18. Defendant Michael McPherson is the Section Chief of the International Terrorism Operations Section I, Counterterrorism Division of the Federal Bureau of Investigations (“FBI”). At all times relevant to the events at issue in this case, Defendant McPherson was employed by the FBI. As such, he was acting under color of law. Defendant McPherson wrongfully labelled Mr. Emad a terrorist and a danger to national security and conveyed that false label to ICE. He is sued here in his official capacity.

FACTUAL ALLEGATIONS

ICE Targeted Mr. Emad Because It Received False Information from the FBI

19. Mr. Emad was born in Riyadh, Saudi Arabia, but does not hold any citizenship or nationality from Saudi Arabia because his parents fled Palestine, specifically Gaza, in 1948 in the midst of war and resettled in Saudi Arabia as refugees. Mr. Emad entered the United States in 1994 on a student visa. For the past 25 years he lived and worked in the Milwaukee Wisconsin metropolitan area, and for the last four years in Milwaukee’s “Eastside” community.

20. Mr. Emad applied for Legal Permanent Residence based on his marriage to his wife Shanna (Emad) Long. However, although they were married for six years and together for more than 16 years, they separated prior to the adjudication of Mr. Emad’s application for status. Due to substandard legal representation, Mr. Emad was not granted status.

21. Mr. Emad was socially active and well known in Milwaukee's Eastside community. He was a frequent and well known patron of the Rochambo Coffee House, which attracts a wide range of customers, including college professors, students, laborers, and others with diverse backgrounds. He was also active in his local Mosque, especially during Ramadan. Religion plays a large role in his daily life. Mr. Emad has no criminal record.

22. For the last ten years prior to his detention, Mr. Emad worked at William Ho's Chinese restaurant, where he was either a delivery driver or carry out host—he often stepped in to fill a manager role whenever the owner of the restaurant needed his help.

23. While working at William Ho's, Mr. Emad became acquainted with 23-year-old Samy Hamzeh, a delivery driver for the restaurant. Mr. Emad and Mr. Hamzeh were only casual acquaintances as a result of their professional relationship. Mr. Emad rarely saw Mr. Hamzeh outside of work—they occasionally saw each other at the coffee shop, and the Hamzeh family invited Mr. Emad over to their home for a meal once or twice. Mr. Hamzeh worked at the restaurant with Mr. Emad for only a few months.

24. For reasons unknown, the FBI identified Mr. Hamzeh as a person of interest in a terrorist investigation beginning in September 2015. After surveilling him for months with the help of two paid confidential informants, the FBI arrested Mr. Hamzeh on January 26, 2016, and charged him with possessing firearms not registered to him after orchestrating the sale of two machine guns and a silencer to Mr. Hamzeh and one of the confidential informants.

25. According to Mr. Hamzeh's defense team, the FBI sent the two paid informants—identified only as Steve and Mike—to befriend Mr. Hamzeh and pressure him to buy the firearms. Steve was a longtime friend of Mr. Hamzeh and had motivations to set him up. Steve was undocumented and the FBI agents helped him get immigration benefits, specifically deferred

action, which allowed him to remain in the country until March 2016, when he returned to Jordan. The agents paid Steve's hotel expense. Shortly after Mr. Hamzeh's arrest, Steve was hospitalized for mental health issues. The second informant, Mike, who has worked for the FBI before and since, was directed by the FBI to get close to Mr. Hamzeh. The agents planted Mike in the restaurant where Mr. Hamzeh worked—William Ho's—in the fall of 2015. The FBI paid Mike thousands of dollars and gave him a new phone after Mr. Hamzeh's arrest.

26. Mr. Hamzeh's criminal case is still pending, but he is currently out on bond.

27. Sometime after the FBI arrested Mr. Hamzeh, the agents briefly questioned Mr. Emad about Mr. Hamzeh at the restaurant. The FBI agents told Mr. Emad that they wanted to talk to him because Mr. Hamzeh worked at the restaurant with him. Mr. Emad explained his professional relationship with Mr. Hamzeh and denied any knowledge of Mr. Hamzeh's suspected activities. The FBI agents also asked Mr. Emad for his opinions on the Palestinian-Israeli conflict. The FBI agents never implied to Mr. Emad, however, that they suspected him of anything. The FBI agents never asked Mr. Emad if he was involved in any terrorist activity.

28. One FBI agent told Mr. Emad that they knew he was undocumented, and said that he should let them know if he needed any help. They also asked Mr. Emad if he knew anybody from his mosque that he thought was suspicious or involved with a terrorist group. Mr. Emad replied that if he knew or heard of anything suspicious he would have come forward and been cooperative with law enforcement.

29. That conversation was the first and only time that Mr. Emad spoke to FBI agents.

30. Two years later on February 28, 2018—and a year into President Trump's administration—Defendant Michael McPherson, Section Chief of the International Terrorism Operations Section I of the FBI, sent a memorandum on Mr. Emad to Defendant Paul

D'Agostino, Section Chief of ICE (the "FBI memo"). In this FBI memo, Defendant McPherson asserted that Mr. Emad "is the subject of a national security investigation." McPherson claimed that Mr. Emad: (1) had multiple contacts with subjects of counter-terrorism investigations; (2) was aware of a plan by Mr. Hamzeh, "a close personal associate," to "conduct jihad through an attack of violence in the United States"; (3) is supportive of ISIS; (4) "made statements in conversation advocating gun violence as a means for Muslim individuals to retaliate against non-Muslims"; (5) influenced local Muslim children to assault other children for being Christian and/or American; and (6) "wanted to strap a suicide vest to himself and blow up a particular bar known to be frequented by homosexuals." Defendant McPherson provided no evidence to substantiate or corroborate these allegations. All these allegations were credited to "per source reporting" or "it has been alleged."

31. The FBI never asked Mr. Emad about the allegations in the FBI memo. Neither Defendant McPherson nor anyone else in the FBI gave Mr. Emad an opportunity to refute or challenge the allegations asserted in the memo. The FBI never identified the source of its allegations against Mr. Emad.

32. Upon information and belief, the source of the FBI's allegations against Mr. Emad is Mike, the paid informant that the FBI planted in William Ho's to surveil Mr. Hamzeh. The FBI knows that the information Mike provided to them regarding Mr. Emad is false and/or unreliable. Nevertheless, the FBI communicated the false information to ICE.

33. On March 12, 2018, Mr. Emad was arrested by ICE because of the FBI memo. The FBI memo caused ICE to prioritize Mr. Emad for deportation. When the ICE agents arrested Mr. Emad, however, they did not inform him of the FBI memo nor allow him any opportunity to contest the allegations in the memo.

34. Mr. Emad did not become aware of the FBI memo until a bond hearing in immigration court. The government used the FBI memo to support its contention that Mr. Emad is both a danger to the community and a flight risk.

35. Mr. Emad vehemently denies the allegations in the FBI memo. Not only are the allegations not true, but they are the antithesis of his character. He is accepting of all religions and social backgrounds, is a peaceful man, and finds jihad and ISIS inconsistent with his Islamic faith. Mr. Emad's character is verified by many people in the community, including his ex-wife and partner of sixteen years (who is Christian), university professors, and friends of all races, religious backgrounds, and sexual orientations. Mr. Emad had a number of witnesses provide live testimony at his bond hearing and also presented 18 letters of support from members of the community.

36. On April 19, 2018, the immigration judge relied solely on the FBI memo to deny Mr. Emad bond. The immigration judge said that the memo raises significant safety and national security concerns about Mr. Emad, and therefore found that he poses a danger to the community. But for the FBI memo, Mr. Emad would have been granted bond, as he met all the necessary criteria for an immigration bond.

Mr. Emad is Receiving Deficient Mental Health Care at Dodge County Jail

37. After ICE arrested Mr. Emad on March 12, 2018, they took him to Dodge County Detention Facility, where he remains today.

38. As a result of an injury that occurred while Mr. Emad was playing soccer, Mr. Emad requires two medications that he had been taking every day for around six years prior to him being detained. The first is Duloxetine, which he takes to treat the nerve pain that resulted from an injury as well as depression. The second is Lorazepam, which he takes to treat his

anxiety. Mr. Emad was also consistently seeing a psychiatrist. His medications and psychiatrist helped Mr. Emad control his panic attacks, blackouts, and night terrors.

39. When Mr. Emad arrived at Dodge County Jail, he informed the medical staff that he required these medications, but they refused to allow him to take the medications. He made multiple requests and was denied for weeks.

40. About three weeks after arriving at the Jail, Mr. Emad suffered a severe panic attack as a result of being off his medications.

41. Shortly after this panic attack, the medical staff finally allowed him to take Duloxetine. However, the medical staff refused and continues to refuse to allow him to take Lorazepam.

42. Mr. Emad repeatedly told medical staff that he would pay for the Lorazepam out of his own pocket, and he also offered to have a friend call the pharmacy and deliver the medication to the Jail, but his offers were rejected.

43. For around five years, Mr. Emad took Lorazepam three times a day. He has now been off Lorazepam for over a year, and as a result his mental health has severely deteriorated. He suffers from anxiety and high blood pressure. Since being off of Lorazepam, he has experienced an increase in nightmares, and he often times wakes up with difficulty breathing. He fears that he will suffer from another severe panic attack if he continues to remain off of his medication.

44. Mr. Emad requested to speak to a mental health counselor to receive treatment for his anxiety, but to this date he has not seen a mental health professional at the Jail.

45. As Health Administrator, Defendant Wollin is aware of her staff's refusal to provide Mr. Emad his necessary medication and treatment for his mental illness, and has failed

to correct these rights violations and instead tolerates and encourage the practices of medical staff that allow these rights violations to occur.

Mr. Emad is Not Allowed to Freely Exercise his Religion

46. Mr. Emad is a devout Muslim and salah (“prayer”) is one of the Five Pillars of Islam and an obligatory religious duty for every Muslim. Mr. Emad prays five times every day at prescribed times.

47. Islam advises that salah be performed in a ritually clean environment. Mr. Emad’s cell at the Jail cannot be considered a clean environment because there is a toilet in the cell—praying next to the toilet is a sign of disrespect in Islam. However, Mr. Emad is forced to pray every day in his cell because Jail staff have told him that he is prohibited from praying in open spaces in his pod at the Jail like the library or the gym.

48. Jumu’ah, also known as Friday Prayer or Congregational Prayer, is an obligatory prayer that Muslims must do every Friday just after noon in place of the daily afternoon prayer. Jumu’ah is the most important prayer of the week. Muslims are required to do Jumu’ah with two or more people in a clean space.

49. Since arriving at the Jail, Mr. Emad has repeatedly requested to do Jumu’ah with other Muslim detainees in a clean room. He has explained to staff that Jumu’ah is a sacred ritual that cannot be performed in a room that has a toilet. At least one other Muslim detainee has also requested multiple times to be allowed to conduct Jumu’ah. Mr. Emad has made multiple verbal requests as well as written requests through the grievance process. All his requests have been denied.

50. The correctional staff’s initial response to Mr. Emad was that the facility could not accommodate his request because there was no room available for him and other Muslims to

use for Jumu'ah.

51. Mr. Emad responded by asking to use the room that Christian detainees use for Bible study. The correctional staff allow Christian detainees to use a room for religious activities like Bible study three times a week, including on Sunday. The staff refuses, however, to let Mr. Emad use the same room that they allow Christian detainees to use for religious purposes.

52. The correctional staff also allow some Christian detainees to practice religious activities out in common areas of the pods, but they refuse to allow Mr. Emad and other Muslims to pray out in the common areas.

53. Mr. Emad has offered other suggestions to correctional staff in an attempt to make them more comfortable with allowing him and other Muslims to do Jumu'ah in the room Christian detainees use. He has offered to complete Jumu'ah in 20 minutes, even though it is supposed to last 30 minutes. He has offered to have a correctional officer present in the room while they pray. He has also offered to conduct the prayer in English instead of Arabic. Despite his best efforts to be accommodating, correctional staff continues to refuse to allow him and other Muslims to do Jumu'ah.

54. Correctional staff have also told Mr. Emad that because no religious leader has volunteered to come to the Jail to lead Jumu'ah, staff cannot allow him and other Muslims to do Jumu'ah in a common room. Staff have told him that if he can get a leader or imam to come to the Jail, then maybe they will allow him and others to do Jumu'ah. However, Jumu'ah does not require an official religious leader or imam; Mr. Emad and other Muslims can do Jumu'ah themselves together. Mr. Emad has attempted to explain this to correctional staff, to no avail.

55. Because Mr. Emad is not allowed to use a clean room to pray with other Muslims on Friday, and instead has to pray alone in his cell, he is not meeting his religious obligation of

Jumu'ah.

56. Upon information and belief, Defendants Jail Administrator Brugger and Sheriff Schmidt are aware that Mr. Emad has been denied adequate mental health care and the ability to freely exercise his religion, yet they have failed to correct these rights violations and instead tolerate and encourage the practices of Jail staff that allow these rights violations to occur.

57. Mr. Emad has also filed a written grievance with ICE about his inability to receive adequate mental health care and his inability to freely exercise his religion, putting Defendant Director Wong on notice of his rights violations. However, Mr. Emad has not received a response from ICE.

ICE Refuses to Release Mr. Emad From Detention Because of his Religion and National Origin

58. An immigration judge ordered that Mr. Emad be removed from the United States on October 17, 2018. It has since been over 180 days since Mr. Emad was ordered removed.

59. Mr. Emad cannot be removed from the country because he is stateless. Neither Saudi Arabia nor Israel will accept him.

60. Ordinarily, after 180 days in custody from the date of the removal order, if an individual is stateless and cannot be removed, ICE will release that person from custody on an order of supervision rather than detain the person indefinitely.

61. Despite this general practice, ICE is refusing to release Mr. Emad from custody solely because he is Muslim and Palestinian. ICE knows that the information in the FBI memo is false and that Mr. Emad is not a terrorist or a danger to national security, yet they continue to detain him because of this administration's discriminatory animus towards Muslims and Palestinians. ICE knows the FBI memo is a pretextual justification to keep Mr. Emad detained indefinitely because: 1) the memo was drafted years after surveillance on Mr. Emad began—if

he was indeed a threat, he would have been detained at the same time as his co-worker Mr. Hamzeh was detained; 2) the memo contained no evidence or support for its conclusions and instead only asserted baseless accusations; and 3) numerous community members testified at Mr. Emad's bond hearing and 18 people of diverse backgrounds submitted letters of support, all attesting to his character and vehemently affirming that Mr. Emad is in no way a terrorist or danger to national security.

62. As demonstrated by President Trump's fight for the Muslim Ban and his incessant anti-Muslim propaganda that he has promulgated since his campaign launched, the administration's hostility and animus towards Muslims is undeniable. Throughout his campaign and his time in office, President Trump has repeatedly associated Muslims with terrorists, claimed that our country has "a Muslim problem," refused to distinguish between Islam and radical Islamic terrorism, claimed that "Islam hates us," and claimed that Muslims cheered the 9/11 attacks.

63. The Trump administration issued three iterations of the Muslim Ban—in January 2017, March 2017, and September 2017—and was ultimately successful in blocking travel to the United States from six predominantly Muslim countries.

64. The administration desires not only to ban Muslims from entering the country, but also to restrict the rights of Muslims currently in the country. Trump has made this desire evident through his repeated comments calling for "drastic measures" against Muslims, including increased surveillance, calling for a Muslim registry, stating that he wants to close mosques, and stating that there is no choice but to profile Muslims.

65. In line with these policy goals and motivated by the Trump administration's racial and ethnic animus, ICE, upon information and belief, will detain Mr. Emad indefinitely. ICE is

using the terrorist label as a pretextual guise for their real motivations to keep Mr. Emad detained.

**COUNT I – FAILURE TO PROVIDE MENTAL HEALTH CARE
(Fourteenth/Fifth Amendment Claim Against Defendants Wong, Schmidt, Brugger,
Wellpath, and Wollin)**

66. Mr. Emad repeats and realleges the preceding paragraphs as if fully set forth in this Count.

67. Count I is alleged against Defendants Director Wong, Sheriff Schmidt, Administrator Brugger, Health Administrator Wollin, and Defendant Wellpath.

68. Mr. Emad was deprived and continues to be deprived of his rights under the Fourteenth and Fifth Amendments to be provided with adequate mental health treatment and care while at the Dodge County Jail.

69. The Defendants' failed to take appropriate steps to provide Mr. Emad with adequate treatment for his very serious mental health needs, as described more fully in the preceding paragraphs. The Defendants' made an intentional decision with regard to Mr. Emad's mental health care that put Mr. Emad at substantial risk of suffering serious harm. The Defendants did not take reasonable available measures to abate the risk, even though a reasonable medical provider in the circumstances would have appreciated the high degree of risk involved—making the consequences of the Defendants' conduct obvious.

70. The Defendants failed to train and supervise staff to follow policies requiring detainees' access to medication and mental health care, and by tolerating their violations of these policies, Mr. Emad was denied access to his necessary medication and mental health care.

71. As a result of the Defendants' failure to provide Mr. Emad adequate mental health treatment, Mr. Emad suffered damages, including but not limited to, pain, suffering, mental

distress, anguish, fear, and emotional distress.

72. Mr. Emad also seeks injunctive and declaratory relief against Defendants Director Wong, Sheriff Schmidt, Administrator Brugger, and Health Administrator Wollin in their official capacities as well as Defendant Wellpath to prevent the continued violation of his constitutional rights.

**COUNT II – FREE EXERCISE OF RELIGION
(First Amendment Claim Against Defendants Wong, Schmidt, and Brugger)**

73. Mr. Emad repeats and realleges the preceding paragraphs as if fully set forth in this Count.

74. Count II is alleged against Defendants Director Wong, Defendant Sheriff Schmidt, and Defendant Administrator Brugger.

75. As described more fully above, the Defendants substantially burdened and continue to burden Mr. Emad's right to the free exercise of his religion by prohibiting him from engaging in Jumu'ah and forcing him to do salah in his cell, without any legitimate penological rationale, in violation of the First Amendment to the United States Constitution.

76. The Defendants failed to train and supervise Jail staff to follow policies requiring that Muslim detainees be given the right to freely exercise their religion, and tolerated the staff's violations of these policies.

77. As a result of Defendants' conduct, Mr. Emad suffered damages, including but not limited to, pain, suffering, mental distress, anguish, fear, humiliation, and emotional distress.

78. Mr. Emad also seeks injunctive and declaratory relief against Defendants Director Wong, Sheriff Schmidt, and Administrator Brugger in their official capacities to prevent the continued violation of his constitutional rights.

**COUNT III – RELIGIOUS LAND USE AND INSTITUTIONALIZED PERSONS ACT
(RLUIPA Claim Against Defendants Schmidt and Brugger)**

79. Mr. Emad repeats and realleges the preceding paragraphs as if fully set forth in this Count.

80. Count III is alleged against Defendants Sheriff Schmidt and Administrator Brugger in their official capacities.

81. As described more fully above, the Defendants substantially burdened and continue to burden Mr. Emad's exercise of his religion by prohibiting him from engaging in Jumu'ah and forcing him to do salah in his cell, in violation of the Religious Land Use and Institutionalized Persons Act ("RLUIPA"). The restrictions to which Mr. Emad was and is subjected to are not the least restrictive means of advancing any compelling government interest.

82. Mr. Emad seeks injunctive and declaratory relief against Defendants Sheriff Schmidt and Defendant Administrator Brugger in their official capacities to prevent the continued violation of his rights under RLUIPA.

**COUNT IV – RELIGIOUS FREEDOM RESTORATION ACT
(RFRA Claim Against Defendant Wong)**

83. Mr. Emad repeats and realleges the preceding paragraphs as if fully set forth in this Count.

84. Count IV is alleged against Defendant Director Wong in his official capacity.

85. As described more fully above, the Defendants substantially burdened and continue to burden Mr. Emad's exercise of his religion by prohibiting him from engaging in Jumu'ah and forcing him to do salah in his cell, in violation of the Religious Freedom Restoration Act ("RFRA"). The restrictions to which Mr. Emad was and is subjected to are not the least restrictive means of advancing any compelling government interest.

86. Mr. Emad seeks injunctive and declaratory relief against Defendant Director Wong in his official capacity to prevent the continued violation of his rights under RFRA.

**COUNT V – EQUAL PROTECTION
(Fourteenth/Fifth Amendment Claim Against Defendants Wong, Schmidt, and Brugger)**

87. Mr. Emad repeats and realleges the preceding paragraphs as if fully set forth in this Count.

88. Count V is alleged against Defendants Director Wong, Defendant Sheriff Schmidt, and Defendant Administrator Brugger.

89. As described more fully above, the Defendants allow Christian detainees to pray out in common areas and to hold Bible study in a room at the Jail, but refuse to allow Mr. Emad to pray out in common areas or use a room for Jumu'ah. Therefore, Defendants are intentionally discriminating against Mr. Emad on the basis of religion by not affording him the same ability to practice his religion as they do Christian detainees, in violation of the Fourteenth and Fifth Amendments.

90. As a result of Defendants' conduct, Mr. Emad suffered damages, including but not limited to, pain, suffering, mental distress, anguish, fear, humiliation, and emotional distress.

91. Mr. Emad also seeks injunctive and declaratory relief against Defendants Director Wong, Sheriff Schmidt, and Administrator Brugger in their official capacities to prevent the continued violation of his constitutional rights.

**COUNT VI – DENIAL OF DUE PROCESS
(Fifth Amendment Claim Against Defendants Wong, McPherson, and D'Agostino)**

92. Mr. Emad repeats and realleges the preceding paragraphs as if fully set forth in this Count.

93. Count VI is alleged against Defendants Director Wong, McPherson, and

D'Agostino in their official capacities.

94. As explained in detail above, the FBI falsely labeled Mr. Emad a terrorist and shared the false label with ICE, who in turn shared the false label with the immigration court.

95. As explained in detail above, the FBI relied on information it knew to be false or unreliable from a paid confidential informant to label Mr. Emad a terrorist and danger to national security.

96. Mr. Emad is not and has never been a terrorist or a danger to national security.

97. Knowing that the FBI had no reliable evidence against Mr. Emad, Defendant McPherson nevertheless wrote a memo to Defendant D'Agostino where he wrongly informed ICE that Mr. Emad is a terrorist and a danger to national security.

98. Mr. Emad was never notified by the FBI that they considered him a terrorist and a danger to national security. The FBI never confronted him with evidence that he was a terrorist and a danger to national security before labeling him as such in the memo. The FBI never gave Mr. Emad an opportunity to contest the false terrorist label. Mr. Emad had no way to challenge the false terrorist label.

99. Upon information and belief, ICE also knew that the information the FBI relied on was false and/or unreliable, and did not give Mr. Emad an opportunity to challenge the false terrorist label before they arrested and detained him.

100. The FBI and ICE know that labeling someone a terrorist is stigmatizing and harmful to their reputation.

101. If the FBI had not labeled Mr. Emad a terrorist and shared that false information with ICE, Mr. Emad would not have been targeted and prioritized by ICE for removal and he would not now be detained.

102. As a result of the false terrorist label, Mr. Emad was denied bond and forced to remain in custody. ICE fought for his denial of bond and continued detention despite knowing that the terrorist label is false.

103. The actions of the Defendants described herein violated Mr. Emad's Fifth Amendment due process rights.

104. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally, with malice and knowing disregard for Mr. Emad's clearly established constitutional rights.

105. Mr. Emad seeks injunctive and declaratory relief against Defendants Wong, McPherson, and D'Agostino in their official capacities to prevent the continued violation of his constitutional rights.

COUNT VII – EQUAL PROTECTION
(Fifth Amendment Claim Against Defendants Wong and D'Agostino)

106. Mr. Emad repeats and realleges the preceding paragraphs as if fully set forth in this Count.

107. Count VII is alleged against Defendants Director Wong and D'Agostino in their official capacities.

108. The Defendants are intentionally discriminating against Mr. Emad on the basis of his religion and national origin, in violation of the equal protection component of the Due Process Clause of the Fifth Amendment. As explained in detail above, the Defendants made the decision to keep Mr. Emad in detention, past 180 days from the date of his ordered removal, solely because he is Muslim and Palestinian. ICE's decision to prolong Mr. Emad's detention was based upon discriminatory animus.

109. Mr. Emad also seeks injunctive and declaratory relief against Defendants Wong

and D'Agostino in their official capacities to prevent the continued violation of his constitutional rights.

**COUNT VIII – INDEMINIFICATION
(State Law Claim Against Dodge County)**

110. Mr. Emad repeats and realleges the preceding paragraphs as if fully set forth in this Count.

111. Count VIII is alleged against Defendant Dodge County.

112. Wisconsin law provides that public entities are directed to any judgment for damages for which employees are liable within the scope of their employment activities.

113. The Dodge County Defendants are or were employees of Dodge County who acted within the scope of their employment in committing the misconduct described above.

114. Defendant Dodge County is thus liable under the theory of indemnification.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff Mohamed Salah Mohamed Ahmed Emad requests that this Court enter judgment in his favor against Defendants in the following manner:

1. Adjudge and declare that the policies, practices, and conduct described in this Complaint are in violation of the rights of Mr. Emad under the First, Fifth, and Fourteenth Amendments to the United States Constitution, the Religious Land Use and Institutionalized Persons Act, and the Religious Freedom Restoration Act.

2. Enjoin the Defendants from subjecting Mr. Emad to the unlawful policies, practices, and conduct described in this Complaint.

3. Retain jurisdiction of this case until such time as the Defendants have fully complied with all orders of the Court, and there is reasonable assurance that the Defendants will continue to comply in the future with these orders.

4. Award Mr. Emad compensatory and punitive damages.
5. Award Mr. Emad reasonable attorneys' fees, costs, and expenses pursuant to 42 U.S.C. § 1988.
6. Award Mr. Emad such other and further relief as this Court may deem appropriate and just.

JURY DEMAND

Plaintiff demands trial by jury.

Dated: April 25, 2019

Respectfully submitted,

MOHAMED SALAH MOHAMED AHMED EMAD

By: /s/ Vanessa del Valle
One of his attorneys

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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

Place an "X" in the appropriate box (required): Green Bay Division Milwaukee Division

I. (a) PLAINTIFFS

Mohamed Salah Mohamed Ahmed Emad

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Roderick & Solange MacArthur Justice Center
375 East Chicago Avenue
Chicago, IL 60611; (312) 503-1271

DEFENDANTS

Ricardo Wong, Paul D'Agostino, Michael McPherson, Dodge County, Dodge County Sheriff Dale Schmidt, Jail Administrator Anthony Brugger, Wellpath, Health Administrator Tammy Wollin

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument 150 <input type="checkbox"/> Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation - Transfer
- 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 U.S.C. § 1983

Brief description of cause:

Deprivation of Plaintiff's constitutional rights

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No

VIII. RELATED CASE(S)

IF ANY

(See instructions):

JUDGE Judge Lynn Adelman

DOCKET NUMBER 19-cv-00580

DATE

04/25/2019

SIGNATURE OF ATTORNEY OF RECORD

/s/ Vanessa del Valle

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING FFP

JUDGE

MAG. JUDGE

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INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box. Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C.
Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.