

EXHIBIT 4

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION**

Hispanic Interest Coalition of Alabama, et al.,

Plaintiffs,

v.

Governor Robert Bentley, et al.,

Defendants.

Case No. 5:11-cv-02484-SLB

**Exhibits in Support of
Plaintiffs' Motion For
Preliminary Injunction
And Memorandum In
Support**

Exhibit 38

Declaration of Sheriff Mike Hale

DECLARATION OF MIKE HALE
SHERIFF OF JEFFERSON COUNTY, ALABAMA

I, Mike Hale, hereby make this declaration on my own personal knowledge as follows:

1. I was born in Birmingham, Alabama, and I am a life-long resident of Jefferson County. I have thirty-five years of law enforcement experience. I began my career with the Homewood Police Department in 1973. I transferred to the Sheriff's Office in 1976, and eventually became Captain. As Captain, I commanded every division of the Jefferson County Sheriff's Office. I was elected Sheriff in 1998, 2002, 2006 and 2010. As Sheriff, I am the chief law enforcement officer in Jefferson County.

2. As Sheriff, I am committed to keeping the neighborhoods, schools, and communities safe for all people living and traveling in my jurisdiction, regardless of their ethnicity. I am also bound by my oath of office to uphold the Federal and Alabama Constitutions, as well as any laws enacted by the Alabama Legislature.

3. Jefferson County is home to over 658,000 residents and is Alabama's most populated county. According to the 2010 census figures, of the County's non-Caucasian residents, over forty-two percent identify as African American, almost four percent identify as Latino, nearly one and one half percent identify as

Asian, and two percent identify as belonging to another non-majority race.

Jefferson County is the principal and most populous county in the Birmingham-Hoover metropolitan area, which has over 1,212,000 residents and approximately one-quarter of Alabama's population.

4. I have reviewed HB 56, which was recently passed by the Alabama Legislature. Unfortunately, this legislation is an unfunded mandate. It is the intent of my declaration to outline the issues that I believe will confront my office in our efforts to follow this law. This law mandates that local police officers and deputies determine the immigration status of any person they lawfully stop, detain, or arrest in every case in which there is reasonable suspicion that the person is in the country unlawfully. This mandate applies regardless of the severity of the suspected or actual offense at issue. In such cases, my deputies will be required to detain the target of the stop pending confirmation of the individual's immigration status. If my office does not enforce this immigration law without exception, then it has violated express provisions of the law that requires that it be enforced. The fact that the law expressly requires that law enforcement officials enforce it means that my deputies will have to determine the immigration status of every person they stop, detain, or arrest if they have any reason to suspect that the person is in the country unlawfully.

5. I have several concerns about enforcing this new immigration law: It will impose an additional cost on the Sheriff's Office without providing any additional funding necessary to enforce the new law; it will affect my ability to set law enforcement priorities for the Sheriff's Office; my deputies lack training on enforcing immigration laws; it subjects the Sheriff's Office to the risk of litigation; and it will harm the Sheriff's Office's community policing efforts and, ultimately, Jefferson County's public safety.

6. First, I am concerned about the cost that will be imposed on the Sheriff's Office by HB 56. The cost concern is even more pressing given the problems discussed below, including the threat of litigation. In the event the law stands, the Sheriff's Office will need a significant increase in funding to implement the law.

7. Second, HB 56 undermines my ability to set law enforcement priorities for my office. As the Sheriff, I am responsible for setting the priorities of my office. It is essential for my deputies to be present and visible on the street, so that people are aware that we are close by to help, and to deter crime. HB 56 will undermine our ability to fulfill these priorities since deputies will be required to expend scarce resources on immigration matters at the expense of addressing other municipal and county priorities. Sections Five and Six of the law make clear that my deputies must prioritize immigration enforcement over

everything else. This will cause a direct interference with my office's general work, and its ability to respond to an emergency (such as we did, and are still doing, after the recent tornado).

8. My deputies must prioritize their policing capacity, which is why they have substantial discretion in how to respond to suspected unlawful activity. Often when my deputies encounter a suspected criminal violation that does not pose an ongoing threat to public safety, they will issue a citation, and then promptly return to patrolling the streets. If, in the discretion of the deputy, a suspect poses a continuing threat to public safety, then the suspect will be detained and arrested. However, when an arrest occurs, it takes the officer several hours to book that person into the county jail, document the arrest, and secure any evidence to support the charge. During that time, the officer is unavailable for any other law enforcement need that may exist in Jefferson County.

9. To give one example, when we encounter a large number of individuals who are driving without a valid license, a Class C misdemeanor, my deputies typically handle this situation by issuing a citation and then return to service. For such routine traffic stops, my deputies might spend ten minutes issuing the citation. HB 56 will change this. HB 56 will require my officers to verify the immigration status of those whom they stop or arrest if they have reason to suspect their status could be in question. The law makes clear that the only way

to make such verification is to place an inquiry with the Federal authorities, but we have no guarantee of how quickly such verification will occur. I have reviewed the declaration of David C. Palmatier, Unit Chief of the Law Enforcement Service Center of the Department of Homeland Security, filed in the litigation against Arizona's SB 1070 (after which HB 56 is modeled). I am very concerned about his report that an average inquiry with Federal officials takes over eighty minutes to complete, and possibly much longer if the suspect is not in their database. My deputies will be forced to either detain the suspect on the side of the road while awaiting verification, or book the suspect into our jail until verification is received.

10. Third, I am very concerned about how to train my deputies to enforce this law. My deputies are comfortable establishing the existence of reasonable suspicion as to criminal conduct generally, but they are not familiar with reasonable suspicion as to immigration status. My deputies have not received training on Federal immigration law. I am concerned that any training provided by the State (assuming the State has the funds to provide the necessary training) regarding the meaning of the Federal immigration laws, or the new State immigration law, will not adequately equip my officers with the necessary knowledge and expertise that would allow them to reasonably suspect when someone is in the country unlawfully.

11. I do not believe it is possible to instruct my deputies on how to enforce HB 56 without taking into consideration factors such as the person's appearance and manner of speaking. Sections 2 and 12 of HB 56 contain a list of documents which imply lawful presence, but this list establishes presumptions only and is not dispositive. Furthermore, the list is ambiguous. One item on the list is "[a]ny valid United States federal, state, or local government issued identification document if issued by an entity that requires proof of lawful presence in the United States before issuance." My office has not been trained how to instruct the deputies on which government entities require proof of lawful presence before issuance.

12. Fourth, I am very concerned that the Sheriff's Office, and other agencies across the State, will become embroiled in costly litigation at a time when Jefferson County resources are very limited. HB 56 creates an enormous burden on my deputies. On the one hand, the Sheriff's Office could be sued by citizens for failing to enforce, or being perceived as failing to enforce, those immigration systems. While the law does exempt law enforcement officials from being subject to money damages for failing to enforce the law, there is no such provision applicable to the County Commission. Also, there is no provision which would prevent a lawsuit by a private citizen for injunctive or declaratory relief relative to the Sheriff's Office's enforcement requirements, which would require me to

expend attorney's fees and costs defending such a lawsuit. On the other hand, the Sheriff's Office could be sued by someone who, for example, is stopped and detained by a deputy and has lawful status, but who nevertheless was not carrying the correct identification document or has some indicators of unlawful presence (such as limited English proficiency). Moreover, I am concerned about what effect other courts' decisions to enjoin similar laws would have on my deputies' qualified immunity, since it is possible to lose qualified immunity for enforcing a law that is unconstitutional on its face.

13. Fifth, I am concerned about the effect HB 56 will have on my office's ability to engage immigrant and minority communities throughout Jefferson County, which is essential to keeping our communities safe and to solve crimes that occur here. I, and my office, have spent a substantial amount of time working with neighborhoods that are predominantly Latino, to build up their trust and to encourage them to come to us when it is essential to preventing and solving crimes. HB 56 may result in our deputies being viewed as State immigration officers instead of law enforcement officers trying to protect everyone in the entire Jefferson County.

14. My office will work to enforce all federal and state laws, including HB 56. However, due to the issues discussed above, it will be very difficult for my

office to effectively do so without potentially compromising other objectives that my office is also required by law to perform.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 19th day of July, 2011, in Birmingham, Alabama

A handwritten signature in cursive script that reads "Mike Hale". The signature is written in black ink and is positioned above a horizontal line.

Sheriff Mike Hale