

SYNOPSIS OF THE CASE

2020 MT 69: DA-18-0661, AGUSTIN RAMON, Plaintiff and Appellant, v. **DARREN SHORT, in his official capacity as Sheriff of Lincoln County and Administrator of Lincoln County Detention Center, Defendant and Appellee.¹**

The Montana Supreme Court has ruled that holding individuals pursuant to a federal civil immigration detainer request is an arrest under Montana law. And, Montana law does not provide Montana law enforcement officers with the authority to arrest individuals based on federal civil immigration violations through immigration detainer requests. Montana requires an arrest warrant issued by proper judicial authority.

In August 2018, Agustin Ramon (“Ramon”), a resident of Eureka, Montana, was arrested on a charge of burglary and booked into the Lincoln County Jail. When Ramon attempted to post his \$25,000 bond, the jail informed the bail-bondsman that the Lincoln County Sheriff would continue to detain Ramon, even if his bond were paid because the U.S. Customs and Border Protection had sent the jail a civil immigration detainer request.² The Border Patrol had probable cause that Ramon was a removable alien under the federal Immigration and Nationality Act and requested that the Jail hold Ramon for up to 48 hours beyond the time he was entitled to release. As a result of the Border Patrol’s detainer request, Ramon’s bondsman declined to post his bond since it would have been futile, and Ramon was not released. Ramon then filed a complaint in October 2018 alleging the Sheriff violated Montana law in honoring the Border Patrol’s request. In November 2018 the lower court held against Ramon.

On appeal, the Supreme Court reversed the lower court’s decision, holding that Ramon’s continued detention for a new purpose when he was otherwise entitled to release was an arrest under Montana law and that the Lincoln County Sheriff lacked state arrest authority to detain Ramon on the basis of his potential removal under federal immigration law. Arrest authority of Montana law enforcement officers is controlled by Montana law. A detainer request is not an arrest warrant and does not compel the re-arrest of a person otherwise entitled to release.

¹ The Court prepared this synopsis for the reader’s convenience. It constitutes no part of the Opinion of the Court and may not be cited as precedent.

² Use of federal civil immigration detainers in Montana has recently increased. Since 2003, approximately 543 detainers have been issued in Montana and the years 2017, 2018, and 2019, saw a doubling of the previous three years with a total of 190 detainers issued.