Filed: 8/7/2025 10:27 AM
Monroe Circuit Court 6
Monroe County, Indiana

Monroe County Circuit Court
Cause No. 53C06-2407-PL-001733

State of Indiana ex rel. Todd Rokita, Attorney General of Indiana, *Plaintiff,* *v.* **Ruben Marté,** in his official capacity as Monroe County Sheriff, **Monroe County Sheriff's Office,** *Defendants.*	**DEFENDANTS' ANSWER AND AFFIRMATIVE DEFENSES**

DEFENDANTS' ANSWER AND AFFIRMATIVE DEFENSES

Defendants answer Plaintiff's First Amended Complaint as follows:

Introductory paragraph. The introductory paragraph constitutes Plaintiff's characterization of this action, to which no response is required.

1. Paragraph 1 represents Plaintiff's characterization of the laws and policies of the State of Indiana, to which no response is required. To the extent a response is required, Defendants aver that the policy of the State of Indiana is set forth in the Indiana State Constitution, the United States Constitution, and any consistent laws and policies promulgated by the People of the State of Indiana through their representatives, to which the Court is referred for a full and accurate statement of their contents. To the extent a further response is required, Defendants admit that one provision of the Indiana Code provides that "A governmental body or a postsecondary educational institution may not limit or restrict the enforcement of federal immigration laws to less than the full extent permitted by federal law" but otherwise deny the allegations in Paragraph 1.

2. Defendants admit that Sheriff Marté promulgated the policy attached as Exhibit A to the First Amended Complaint dated June 29, 2024, which speaks for itself. Defendants further aver that the policy has been superseded by an updated policy, such that the document attached as Exhibit A to the First Amended Complaint is no longer in effect. The rest of this Paragraph states a conclusion of law and not a factual averment, to which no answer is required. To the extent that a further response is required, the remainder of Paragraph 2 is denied.

3. To the extent that Paragraph 3 alleges an opinion or view of Attorney General Todd Rokita, Defendants lack knowledge or information sufficient to form a belief as to the truth of the matter asserted. The remainder of paragraph 3 is denied.

4. Paragraph 4 consists of Plaintiff's characterization of this action, to which no response is required.

5. Paragraph 5 consists of legal conclusions, to which no response is required. To the extent that a response is deemed required, Defendants deny that the Court has subject matter jurisdiction over the claims asserted.

6. Admitted.

7. Admitted that Todd Rokita currently holds the office of the Attorney General of Indiana. The remainder of the paragraph sets forth either Plaintiff's characterization of the action or conclusions of law, to which no response is required. To the extent that a response is deemed required, Defendants admit that Ind. Code § 5-2-18.2-5 provides: "If the attorney general determines that probable cause exists that a governmental body or a postsecondary educational institution has violated this chapter, the attorney general shall bring an action to compel the governmental body or postsecondary educational institution to comply with this chapter," but otherwise deny the allegations in the paragraph.

8. Admitted.

9. Paragraph 9 consists of a legal conclusion, not a factual averment, to which no response is required.

10. Defendants admit that they received a letter dated May 14, 2024, bearing Todd Rokita's signature. A copy of the letter is attached as Exhibit B to Sheriff

Marté's Affidavit, submitted in support of Defendants' First Motion to Dismiss or for Summary Judgment on September 4, 2024. The letter speaks for itself, and the Court is respectfully referred to the letter for a full and accurate statement of its contents. To the extent a further response is deemed required, the allegations of this paragraph are denied.

11. Defendants admit that Defendants and Plaintiff had further communications, including the document attached as Exhibit C to Sheriff Marté's Affidavit, submitted in support of Defendants' First Motion to Dismiss or for Summary Judgment on September 4, 2024, to which the Court is respectfully referred for a full and accurate statement of its contents. Defendants lack knowledge or information sufficient to form a belief as to the truth of what the Attorney General learned or determined, and deny the remainder of the allegations in the paragraph.

12. Defendants admit that they promulgated the version of Standard Operating Procedure MCSO-012 dated June 29, 2024, as attached as Exhibit A to the First Amended Complaint, but otherwise deny the allegations in paragraph 12. Defendants further aver that the document attached as Exhibit A to the First Amended Complaint is not currently in effect.

13: The allegations in paragraph 13 are admitted, except that Defendants deny that the document attached as Exhibit A is currently in effect.

14. Paragraph 14 consists of Plaintiff's characterization of the MCSO-12 policy promulgated in June 2024, attached as Exhibit A to the First Amended Complaint, to which the Court is respectfully referred for a complete and accurate statement of its

contents. To the extent that a further answer is required, the allegations in paragraph 14 are denied.

15. Defendants interpret Plaintiff's references to MCSO-12 to be to the version dated June 29, 2024, attached as Exhibit A to the Plaintiff's First Amended Complaint, and thus, unless otherwise specifically stated, Defendants' further answers and references regarding MCSO-12 pertain to the MCSO-12 policy dated June 29, 2024. Defendants admit that the MCSO-12 policy dated June 29, 2024, stated: "Further, it is the policy of this Department to not engage in enforcement of immigration or citizenship status unless required to do so by law."

16. Defendants admit that the MCSO-12 policy dated June 29, 2024, stated:

Employees of the Department will not request or attempt to ascertain (i.e. run) immigration or citizenship status of an individual that they encounter related to their official duties for the Department, unless required to do so in the execution of their official duties." Defendants further aver that the MCSO-12 policy dated June 29, 2024, stated:

> In accordance with the requirements and provisions of Indiana Code 5-2-18.2-3, members of the MCSO will not prohibit, or in any way restrict, any other member from doing any of the following regarding the citizenship or immigration status, lawful or unlawful, of any individual:
> 1. Communicating or cooperating with federal officials.
> 2. Sending to or receiving information from the United States Department of Homeland Security.
> 3. Maintaining information.
> 4. Exchanging information with another federal, state, or local government entity.

17. Admitted.

18. Admitted that the sentence "MCSO shall not enter into any agreement,

including the 287(g) program, with the Department of Homeland Security – Immigration and Customs Enforcement (ICE) for enforcement of immigration or citizenship violations" appears under the statement of policy in the MCSO-12 policy dated June 29, 2024.

19. Denied

20. The allegations contained in Paragraph 20 are legal conclusions, not factual averments, to which no response is required. To the extent that a response is deemed required, Defendants respectfully refer the Court to the provisions of Indiana Code ch. 5-2-18.2, which speak for themselves.

21. The allegations contained in Paragraph 21 are legal statements, not factual averments, to which no response is required. To the extent that a response is deemed required, admitted.

22. The allegations contained in Paragraph 22 are legal statements, not factual averments, to which no response is required. To the extent that a response is deemed required, admitted.

23. The allegations contained in Paragraph 23 are legal statements, not factual averments, to which no response is required. To the extent that a response is deemed required, admitted.

24. Admitted, except that Defendants aver that Section 3 and Section 4 have been subsequently amended.

25. The allegations contained in Paragraph 25 are legal statements, not factual averments, to which no response is required. To the extent that a response is deemed required, admitted.

26. The allegations contained in Paragraph 26 are legal statements, not factual averments, to which no response is required. To the extent that a response is deemed required, admitted.

27. Paragraph 27 consists of legal conclusions, not factual averments, to which no response is required. To the extent a response is deemed required, denied.

28. Paragraph 28 consists of legal conclusions, not factual averments, to which no response is required. To the extent a response is deemed required, denied.

29. Paragraph 29 consists of Plaintiff's characterization of the MCSO-12 policy dated June 29, 2024, and attached as Exhibit A to Plaintiff's First Amended Complaint, to which the Court is respectfully referred for a complete and accurate statement of its contents; and consists of legal conclusions, to which no response is required. To the extent a response is deemed required, denied.

30. Paragraph 30 consists of legal conclusions, not factual averments, to which no response is required; and consists of Plaintiff's characterization of the MCSO-12 policy dated June 29, 2024, and attached as Exhibit A to Plaintiff's First Amended Complaint, to which the Court is respectfully referred for a complete and accurate statement of its contents. To the extent that a further response is required, the allegations in paragraph 30 are denied.

31. Paragraph 31 consists of legal conclusions, not factual averments, to which no response is required. To the extent a response is deemed required, denied.

32. The first sentence of Paragraph 32 consists of Plaintiff's characterization of the MCSO-12 policy dated June 29, 2024, and attached as Exhibit A to Plaintiff's First

Amended Complaint, to which the Court is respectfully referred for a complete and accurate statement of its contents. The second sentence is denied.

33. Paragraph 33 consists of legal conclusions, not factual averments, to which no response is required. To the extent a response is deemed required, denied.

34. The first and third sentences of Paragraph 34 constitute conclusions of law, rather than factual averments, to which no response is required. The second sentence constitutes Plaintiff's characterization of a policy document, to which the Court is respectfully referred for a full and accurate statement of its contents. To the extent a further response is required, Defendants admit that Section 3 says "A governmental body or a postsecondary educational institution may not enact or implement an ordinance, a resolution, a rule, or a policy that prohibits or in any way restricts another governmental body or employee of a postsecondary educational institution, including a law enforcement officer, a state or local official, or a state or local government employee, from taking the following actions with regard to information of the citizenship or immigration status, lawful or unlawful, of an individual: (1) Communicating or cooperating with federal officials. (2) Sending to or receiving information from the United States Department of Homeland Security. (3) Maintaining information. (4) Exchanging information with another federal, state, or local government entity," and otherwise deny the allegations in Paragraph 34.

35. The first sentence of Paragraph 35 is a conclusion of law, rather than a factual averment, to which no response is required. To the extent that a response is deemed required, the first sentence of Paragraph 35 is denied. The second sentence of Paragraph 35 is a conclusion of law, rather than a factual averment, to which no

response is required. To the extent that a response is deemed required, Defendants admit that the Supreme Court has stated that if a state law "only requires state officers to conduct a status check during the course of an authorized, lawful detention or after a detainee has been released, the provision likely would survive preemption—at least absent some showing that it has other consequences that are adverse to federal law and its objectives." *Arizona v. United States*, 567 U.S. 387, 414 (2012). The third sentence of Paragraph 35 constitutes a conclusion of law, rather than a factual averment, to which no response is required. To the extent that a response is deemed required, the third sentence is denied. The fourth sentence is a conclusion of law, rather than a factual averment, to which no response is required. To the extent that a response is deemed required, the fourth sentence of Paragraph 35 is denied.

36. The allegations of Paragraph 36 constitute a conclusion of law, rather than a factual averment, to which no response is required. To the extent that a response is deemed required, denied.

37. The allegations of Paragraph 37 constitute a conclusion of law, rather than a factual averment, to which no response is required. To the extent a response is deemed required, denied.

38. Paragraph 38 contains conclusions of law, rather than averments of fact, to which no response is required. To the extent that a response is required, Defendants admit 8 U.S.C. § 1357(g)(1) provides that "the Attorney General may enter into a written agreement with a State, or any political subdivision of a State, pursuant to which an officer or employee of the State or subdivision, who is determined by the Attorney General to be qualified to perform a function of an

immigration officer in relation to the investigation, apprehension, or detention of aliens in the United States (including the transportation of such aliens across State lines to detention centers), may carry out such function at the expense of the State or political subdivision and to the extent consistent with State and local law." Defendants further aver that Section 1357(g)(9) provides that "[n]othing in this subsection shall be construed to require any State or political subdivision of a State to enter into an agreement with the Attorney General under this subsection."

39. Paragraph 39 contains conclusions of law, rather than averments of fact, to which no response is required. To the extent that a response is deemed required, Defendants admit that "Section 4 does not *require* local authorities to enter into 287(g) agreements with ICE," but otherwise deny the allegations in the Paragraph.

40. Paragraph 40 contains conclusions of law, rather than averments of fact, to which no response is required. To the extent a response is deemed required, Defendants admit that they are free to decide whether to pursue a 287(g) agreement with ICE, but deny the remainder of the allegations in Paragraph 40.

41. Paragraph 41 consists of Plaintiff's characterization of the MCSO-12 policy dated June 29, 2024, and attached as Exhibit A to the First Amended Complaint, to which the Court is respectfully referred for a complete and accurate statement of its contents. To the extent that further response is deemed required, Defendants admit that the MCSO-12 policy dated June 29, 2024, includes a sentence under "POLICY" that states "MCSO shall not enter into any agreement, including the 287(g) program, with the Department of Homeland Security – Immigration and Customs Enforcement

(ICE) for enforcement of immigration or citizenship violations," but otherwise deny the allegations in the paragraph.

42. Defendants admit that the MCSO-12 policy dated June 29, 2024, and attached as Exhibit A to the First Amended Complaint, stated: "Employees of the Department will not request or attempt to ascertain (i.e. run) immigration or citizenship status of an individual that they encounter related to their official duties for the Department, unless required to do so in the execution of their official duties." Defendants further aver that the MCSO-12 policy dated June 29, 2024, stated:

> In accordance with the requirements and provisions of Indiana Code 5-2-18.2-3, members of the MCSO will not prohibit, or in any way restrict, any other member from doing any of the following regarding the citizenship or immigration status, lawful or unlawful, of any individual:
> 1. Communicating or cooperating with federal officials.
> 2. Sending to or receiving information from the United States Department of Homeland Security.
> 3. Maintaining information.
> 4. Exchanging information with another federal, state, or local government entity.

Defendants otherwise deny the allegations in Paragraph 42.

43. Paragraph 43 consists of Plaintiff's characterization of the MCSO-12 policy dated June 29, 2024, and attached as Exhibit A to the First Amended Complaint, to which the Court is respectfully referred for a complete and accurate statement of its contents. To the extent a further response is required, Defendants deny the allegations in Paragraph 43.

44. The allegations in Paragraph 44 constitute legal conclusions, not factual averments, for which no response is required. To the extent a response is deemed required, Paragraph 44 is denied.

45. The first sentence of Paragraph 45 is a legal conclusion, not a factual averment, to which no response is required. To the extent a response is deemed required, the first sentence of Paragraph 45 is denied. The second sentence constitutes legal conclusions, not factual averments, to which no response is required. To the extent that a further response is deemed required, Defendants admit that the Supreme Court has stated a state law that "only requires state officers to conduct a status check during the course of an authorized, lawful detention or after a detainee has been released, the provision likely would survive preemption—at least absent some showing that it has other consequences that are adverse to federal law and its objectives," *Arizona v. United States*, 567 U.S. 387, 414 (2012), and further admit that federal law permits state and local law enforcement officers to provide some types of limited assistance in limited circumstances in response to a federal request, but otherwise deny the remainder of the second sentence. The third sentence is denied.

46. Paragraph 46 contains legal statements, not factual averments, to which no response is required. To the extent that a response is deemed required, admitted.

47. Paragraph 47 contains legal conclusions, not factual averments, to which no response is required. To the extent that a response is deemed required, Defendants admit that Section 4 states that "[a] governmental body or a postsecondary educational institution may not limit or restrict the enforcement of federal immigration laws to less than the full extent permitted by federal law" and otherwise deny the allegations in the paragraph.

48. Paragraph 48 contains legal conclusions, not factual averments, to which no response is required. To the extent that a response is deemed required, denied.

49. Defendants lack knowledge or information sufficient to form an opinion about the truth about Plaintiff's characterization of what may or may not be a "critical mechanism" for federal immigration authorities. The remainder of the paragraph constitutes legal statements, not factual averments, to which no response is required. To the extent a further response is required, Defendants admit that 8 C.F.R. § 287.7(a) provides, in part, "[a] detainer serves to advise another law enforcement agency that the Department seeks custody of an alien presently in the custody of that agency, for the purpose of arresting and removing the alien." 8 C.F.R. § 287.7(a).

50. This Paragraph constitutes legal statements, not factual averments, to which no response is required. To the extent a further response is required, Defendants admit that 8 C.F.R. § 287.7(a) states: "The detainer is a request that such agency advise the Department, prior to release of the alien, in order for the Department to arrange to assume custody, in situations when gaining immediate physical custody is either impracticable or impossible."

51. This Paragraph constitutes legal statements, not factual averments, to which no response is required. To the extent a further response is required, Defendants admit that 8 C.F.R. § 287.7(d) states, in part, that "[u]pon a determination by the Department to issue a detainer for an alien not otherwise detained by a criminal justice agency, such agency shall maintain custody of the alien for a period not to exceed 48 hours…," but deny that the federal regulation imposes a mandatory obligation on state or local governments.

52. Defendants admit that an ICE detainer does not purport to allege the existence of probable cause that a person has committed a criminal offense, admit that an ICE detainer need not be accompanied by a judicial warrant, and admit that a single officer may issue an ICE detainer and administrative warrant without any supervisory or judicial approval. Defendants further admit that Policy No. 10074.2, with an effective date of April 2, 2017, is available at https://www.ice.gov/doclib/foia/policy/10074.2_IssuanceImmDetainers_03.24.2017.pdf, to which the Court is referred for a full and accurate statement of its contents. However, Defendants lack knowledge or information sufficient to form a belief as to whether the 2017 policy is currently in effect, whether the 2017 policy was or is being followed, or any other aspect of the remaining allegations in Paragraph 52, which are therefore denied.

53. This Paragraph constitutes legal conclusions, not factual averments, to which no response is required. To the extent a response is required, denied.

54. This Paragraph constitutes legal conclusions, not factual averments, to which no response is required. To the extent that a response is deemed required, Defendants admit that Ind. Code § 5-2-18.2-4 states: "A governmental body or a postsecondary educational institution may not limit or restrict the enforcement of federal immigration laws to less than the full extent permitted by federal law." Defendants deny the second and third sentences.

55. This Paragraph constitutes statements of law, not facts, to which no response is required. To the extent a response is deemed required, admitted.

56. This Paragraph constitutes statements of law, not facts, to which no response is required. To the extent a response is deemed required, denied.

57. Denied.

58. Paragraph 58 constitutes Plaintiff's characterization of state law and the MCSO-12 policy dated June 29, 2024, to which the Court is referred for a full and accurate statement of their contents. To the extent a further response is required, Defendants admit that Section 3 provides:

> Sec. 3. A governmental body or a postsecondary educational institution may not enact or implement an ordinance, a resolution, a rule, or a policy that prohibits or in any way restricts another governmental body or employee of a postsecondary educational institution, including a law enforcement officer, a state or local official, or a state or local government employee, from taking the following actions with regard to information of the citizenship or immigration status, lawful or unlawful, of an individual:
> (1) Communicating or cooperating with federal officials.
> (2) Sending to or receiving information from the United States Department of Homeland Security.
> (3) Maintaining information.
> (4) Exchanging information with another federal, state, or local government entity,

and that the MCSO-12 policy dated June 29, 2024, provides:

> In accordance with the requirements and provisions of Indiana Code 5-2-18.2-3, members of the MCSO will not prohibit, or in any way restrict, any other member from doing any of the following regarding the citizenship or immigration status, lawful or unlawful, of any individual:
> 1. Communicating or cooperating with federal officials.
> 2. Sending to or receiving information from the United States Department of Homeland Security.
> 3. Maintaining information.
> 4. Exchanging information with another federal, state, or local government entity,

but otherwise deny the allegations of the paragraph.

59. Denied.

60. Paragraph 60 consists of a legal conclusion, not factual averments, to which no response is required. To the extent that a response is deemed required, Paragraph 60 is denied.

61. Denied.

62. Denied.

63. Defendants admit that the language of Section 3 and MCSO-12 § IV(C) are largely the same, but otherwise deny the allegations in the paragraph.

64. The allegations contained in Paragraph 64 constitute legal argument to which no response is required. To the extent that a response is deemed required, the allegations are denied.

65. Defendants repeat and re-assert each of their responses to the foregoing allegations as if set forth herein.

66. Denied.

67. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation in Paragraph 67, except that Defendants deny that there is probable cause to believe that Defendants have violated Indiana Code § 5-2-18.2-3.

68. Defendants admit that they promulgated a policy entitled MCSO-12 on June 29, 2024, and admit that the June 29, 2024, policy was promulgated after communications with the Attorney General and his office, but otherwise deny the allegations in the paragraph.

69. Defendants repeat and re-assert each of their responses to the foregoing allegations as if set forth herein.

70. Denied.

71. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegation in Paragraph 71, except that Defendants deny that probable cause exists to believe that Defendants have violated Indiana Code § 5-2-18.2-4.

72. Defendants admit that they promulgated a policy entitled MCSO-12 on June 29, 2024, and admit that the June 29, 2024, policy was promulgated after communications with the Attorney General and his office, but otherwise deny the allegations in the paragraph.

Answer Relief Requested: The paragraph beneath the heading "RELIEF REQUESTED" sets forth Plaintiff's prayer for relief, to which no response is required. To the extent that a response is deemed required, Defendants deny that Plaintiff is entitled to the relief requested or any other relief.

Except as otherwise admitted or otherwise specifically answered, Defendants deny the allegations set forth in Plaintiff's complaint, and deny that Defendants are entitled to the relief sought or any other relief whatsoever.

AFFIRMATIVE DEFENSES

Defendants further aver that Plaintiff is unable to recover, in whole or in part, due to the following defenses:

1. The Court lacks subject-matter jurisdiction over the claims asserted in the lawsuit.

2. Plaintiff lacks standing to bring this lawsuit because he has not been injured.

3. Plaintiff's claims are moot because the Sheriff's Office has adopted an amended version of MCSO-12.

4. Plaintiff's interpretation of the Indiana Code would render the law in violation of the Fourth Amendment to the United States Constitution and Article I, § 11 of the Indiana Constitution by requiring an unreasonable seizure.

6. Plaintiff's request for injunctive relief is inconsistent with principles of equity, and Plaintiff's request for injunctive relief is barred by equitable defenses.

7. Plaintiff is estopped in whole or in part from advancing the arguments they assert in this litigation that are inconsistent with other statements made by Plaintiff.

8. Plaintiff comes to the court with unclean hands.

Thus, Defendants respectfully request the Court dismiss Plaintiff's First Amended Complaint with prejudice and enter judgment in their favor.

August 7, 2025

Respectfully submitted,

/s/Justin D. Roddye
Justin D. Roddye
31583-53

E. Jeff Cockerill
Justin D. Roddye
MONROE COUNTY LEGAL DEPARTMENT
100 W Kirkwood Ave
Bloomington, IN 47404
(812) 349-2525
jroddye@co.monroe.in.us

Alexandra Lichtenstein
Joseph Mead
INSTITUTE FOR CONSTITUTIONAL ADVOCACY AND PROTECTION
Georgetown University Law Center
600 New Jersey Avenue NW
Washington, DC 20001
(202) 661-6515
alex.lichtenstein@georgetown.edu

CERTIFICATE OF SERVICE

I certify that on August 7, 2025, service of a true and complete copy of the above and foregoing pleading or paper was made upon all counsel of record herein by electronic service using the Indiana E-Filing System:

Aaron M. Ridlen
Trent D. Bennett
Bradley S. Davis
Office of Indiana Attorney General Todd Rokita
Indiana Government Center South, 5th Floor
302 West Washington Street
Indianapolis, IN 46204-2770
Aaron.Ridlen@atg.in.gov

/s/Justin D. Roddye
Justin D. Roddye
31583-53