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7 UNITED STATES DISTRICT COURT
8 FOR THE EASTERN DISTRICT OF WASHINGTON
9

10 SHAWN HUSS, a single man, and)
11 others similarly situated.)

Case No.:

12 Plaintiffs,)

COMPLAINT FOR VIOLATION OF
CIVIL RIGHTS

13 vs.)

CLASS ACTION

14 SPOKANE COUNTY, a municipal)
15 corporation.)

16 Defendants.
17

18 **I. INTRODUCTION**

19 1. This class action seeks declaratory and injunctive relief and monetary damages
20 against Defendant SPOKANE COUNTY for violations of the Plaintiff's, and
21 others similarly situated, civil rights guaranteed under the Fifth and Fourteenth
22 Amendments through their jail intake booking fee policy pursuant to 28 U.S.C.
23 §§ 1983 and 1988. Spokane County's policy regarding the reimbursement of
24 jail intake fees is illegal in that it violates Mr. Huss's, and others similarly
25

1 situated, clearly established constitutional rights under the Fifth and Fourteenth
2 Amendments not to be deprived of his property without due process of law.
3 Further, R.C.W. § 70.48.390 is facially unconstitutional.
4

5 **II. JURISDICTION & VENUE**

- 6 2. This court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and
7 1361, 28 U.S.C. § 2201, and 5 U.S.C. § 702.
8
9 3. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b)(2), (e)(2)-(3).
10 4. This action is brought pursuant to the Fifth, and Fourteenth Amendments to the
11 United States Constitution, R.C.W. 70.48.390, 42 U.S.C. 1983, 1988.
12
13 5. All acts complained of herein occurred in Spokane County, Washington.

14 **III. PARTIES**

- 15 6. Plaintiff, SHAWN HUSS, is a single man and residing in Spokane County,
16 which is within the Eastern District of Washington and has been at all times
17 relevant herein. He is a real party in interest in this case.
18
19 7. Defendant, SPOKANE COUNTY is a municipal corporation and is located
20 within the Eastern District of Washington.

21 **IV. FACTS**

- 22 8. On or about May 14, 1999 the Washington legislature passed RCW 70.48.390
23 amending RCW 70.48, which authorized city, county, and regional jails to
24 take a \$10.00 booking fee from the person of each individual booked. (S.H.B.
25 1143, (1999)).

1 9. On or about May 7, 2003, the 58th legislature of Washington amended R.C.W. §
2 70.48.390 to allow counties to collect “jail’s actual booking costs or one
3 hundred dollars, whichever is less.” (S.H.B. No 1232 (2003)).
4

5 10. On or about November 19, 2003, Lt. Edee Hunt and Tim O’Brien, the Deputy
6 Prosecuting Attorney sent a memorandum to the Spokane Board of County
7 Commissioners regarding the collection of booking fees.
8

9 11. On or about February 24, 2004 the Spokane County Board of Commissioners
10 passed resolution 04-0160 which authorized the Spokane County Jail to develop
11 and implement a procedure to collect a booking fee from persons booked in the
12 Spokane County Jail in accordance with RCW 70.48.390.
13

14 12. The Spokane County Jail adopted a policy which authorizes the collection of an
15 intake fee. Federal inmates are charged the federal daily rate, while non-federal
16 inmates are charged the jail intake fee which was \$89.12 as of August, 2004.
17

18 13. The official policy allows fees to be taken from the person of the inmate at the
19 time of booking. If the person does not have adequate fees on their person at
20 the time of booking, a charge is assessed to the persons account.
21

22 14. Inmates booked for housing only, while in transit, or who are transferred
23 between facilities are not charged.
24

25 15. The policy does not provide for a pre-deprivation hearing, nor any other
opportunity for the inmate to contest the seizure of his/her money.

1 16. Spokane County adopted a reimbursement policy which places the burden on
2 the inmate to prove that the criminal charges were dropped or that he was
3 acquitted in order to redeem his funds. Specifically, the policy states "*it is your*
4 *responsibility to provide the proof from the Courts that your charges have been*
5 *dismissed or you have been acquitted*" and that only upon an investigation by
6 the Spokane County Jail Staff may the individual receive his funds back.
7

8
9 17. Captain Collins announced the implementation of this official policy, as
10 described above, effective on or about May 5, 2004.

11 18. On or about October 31, 2004, the Plaintiff was arrested based on a frivolous
12 domestic violence complaint.
13

14 19. He was taken to the Spokane County Jail.

15 20. Upon being booked, his wallet was seized as personal property that would be
16 returned to him upon release. Unbeknownst to Mr. Huss, Spokane County
17 seized \$37.00 from Mr. Huss' wallet for the County's use and benefit.
18

19 21. At the time of the property seizure, Spokane County did not inform Mr. Huss
20 that it was charging him a booking fee, that the statute mandated return of the
21 fee upon dismissal of charges, or the process for obtaining a refund.
22

23 22. While in jail Mr. Huss was informed by other inmates that he should not to
24 expect to get any money that was in his wallet back when he was released.
25

1 23. Mr. Huss was subsequently released from the Spokane County Jail, and all
2 charges were dropped.

3
4 24. Upon release, his funds were not returned to him.

5 25. At the time of his release, Mr. Huss was not provided with Spokane County
6 Jail's Reimbursement Form or any other means to get his funds back.

7 26. Mr. Huss, lives on a limited income, and was dependant on the \$37.00 to feed
8 and provide for his family until his next pay check.

9
10 27. To date, Spokane County has not to refunded Mr. Huss's money.

11 28. Pursuant to Spokane County's reimbursement policy, Mr. Huss must waive his
12 rights to any due process in order to redeem his property.

13
14 29. Upon belief, since May 5, 2004, Spokane County has seized thousands of
15 dollars from hundreds of inmates at the Spokane County Jail under the same
16 procedures used with Mr. Huss; including failure to provide adequate notice
17 and an adequate pre-deprivation hearing.

18
19 30. Upon belief, dozens, if not hundreds of those inmates were entitled to receive
20 reimbursement of their seized monies after the criminal proceedings against
21 them were terminated in their favor.

22
23 31. All actions taken in regards to the seizure and collection of cash described in
24 the foregoing paragraphs were undertaken according to official county practice
25 and policy as approved by the County Commissioners and other policy makers.

1 **V. CLASS ACTION ALLEGATIONS**

2 32.Mr. Huss brings this action on behalf of himself, and all others who are
3 similarly situated, pursuant to Fed. R. Civ. P. 23(a) and 23(b)(2), (3). The
4 Plaintiff provisionally proposes the following class definition:
5

6 All individuals who have been charged an intake fee by
7 the Spokane County Jail without an adequate notice
8 and/or hearing, in violation of their due process rights
under the law.

9 33.This is an appropriate class action because the proposed class is so numerous
10 that joinder of all members is impracticable.

11 34.There are questions of law and fact common to the class, including whether
12 Defendant's actions violate their due process rights under the Fifth and
13 Fourteenth Amendments of the U.S. Constitution.
14

15 35.The claims of the Plaintiff are typical of the claims of the class.

16 36.The named Plaintiff will fairly and adequately protect the interest of the class.
17

18 37.The named Plaintiff has available competent counsel with experience in civil
19 rights, and prisoners' rights who are willing and able to protect the interests of
20 the class.
21

22 38.The Defendants have acted or refused to act on grounds generally applicable to
23 the class, thereby making appropriate final declaratory and injunctive relief, and
24 monetary damages with respect to the class as a whole.
25

1 **VI. CAUSES OF ACTION**

2 **A. CIVIL RIGHTS — VIOLATION OF FIFTH AND**
3 **FOURTEENTH AMENDMENT**

4 39. Plaintiff realleges all matters set forth in paragraphs 9 through 38, above.

5 40. The actions of defendant Spokane County, complained of above in paragraphs 8
6 through 38, above, were taken under color of state law. These actions constitute
7 clearly established violations of the Fifth and Fourteenth Amendments right to
8 be free unlawful takings of property without due process of law.

9
10 41. The Defendant's official intake fee collection policy violates Plaintiff's rights
11 under the Fifth and Fourteenth Amendment of the U.S. Constitution for several
12 reasons:

- 13
14 1) it does not provide him with adequate notice of the seizure of his
15 property and his attendant rights;
- 16
17 2) it does not provide an opportunity to object to the taking of his property,
18 and to assert a reason, such as indigent status or exempt source of funds,
19 that may prevent the County from taking his money;
- 20
21 3) it does not provide any type of hearing prior to taking the property; and
22 4) impermissibly places the burden on Mr. Huss to get his money back.

23 Furthermore, there are no procedural safeguards guaranteeing that Mr.
24 Huss's property will be returned in the event that that he is not charged,
25

1 or if he is acquitted. Therefore, Spokane County has violated Mr. Huss's
2 due process rights.

3
4 42. The Defendant's actions constitute an unlawful taking in violation of Mr. Huss's
5 Fifth Amendment Rights. Mr. Huss has a clear property right in his personal
6 money. The taking and keeping of his personal property without a hearing
7 violates his right to be free from unlawful government takings and subjects the
8 Defendant to a higher level of scrutiny in order to justify its actions.

9
10 43. Plaintiff is entitled to declaratory relief pursuant to 28 U.S.C. § 2201 that
11 Defendants Resolution 04-0160 and RCW 70.48.390 are unconstitutional.

12
13 44. Plaintiff is entitled to a preliminary and permanent injunction under the
14 traditional equitable criteria: 1) there is a strong likelihood that Plaintiff will
15 succeed on the merits, 2) there is a possibility of irreparable injury to the
16 plaintiff, and other's similarly situated if injunctive relief is not granted, and 3)
17 the hardship placed on the Plaintiff by Defendant's Resolution 04-0160 and
18 RCW 70.48.390 outweigh the public interest of maintaining the Defendant's
19 policy.

20
21 45. Defendants acted intentionally, knowingly, and/or with reckless or careless
22 disregard and/or deliberate indifference to Plaintiff's constitutional rights.

23
24 46. Defendants are liable for damages, punitive damages, costs and attorneys' fees
25 under 42 U.S.C. §§ 1983, 1988.

B. MUNICIPAL LIABILITY

1. Plaintiff realleges all matters set forth in paragraphs 8 through 46, above.
2. Defendant Spokane County explicitly adopted and implemented a policy, custom, or practice permitting its employees to collect booking fees from the person of individuals at the time they are booked without a pre-deprivation hearing pursuant to Spokane County Resolution 04-0160 and RCW 70.48.390 these policies, customs, or practices explicitly allow, condone, ratify, and afford the reckless, careless, and erroneous field decisions by its personnel so as to make mistakes or act willfully, wantonly and/or recklessly.
3. Defendant Spokane County, individually or through its agencies, is a “person” within the meaning of 42 U.S.C. § 1983. All actions taken by Spokane County in relation to the Plaintiffs were taken under the color of law.
4. In violation of the Fifth, and Fourteenth Amendments to the United States Constitution, Defendant Spokane County’s illegal actions have deprived Plaintiff of his Constitutionally-protected rights against:
 - a. Taking Property without due process of law; and
 - b. Taking Property without just compensation.
5. By its conduct as described herein, Spokane County proximately caused the constitutional violations described above.

1 6. By this conduct, Spokane County violated Plaintiffs' federal constitutional and
2 statutory rights under 42 U.S.C. § 1983.

3
4 **DAMAGES**

5 47. Spokane County's illegal seizure of money from Mr. Huss and other class
6 members proximately caused special damages in the amount of money, taken,
7 pre-judgment interest in an amount to be proven at trial, consequential damages
8 in an amount to be proven at trial, and nominal damages.

9
10 **VII. REQUEST FOR RELIEF**

11 Wherefore, the Plaintiff asks this Court to grant the following relief:

12 48. Certify this case as a class action under FRCP 23(b)(2), (3);

13
14 49. Issue a declaratory judgment, declaring that Defendants Resolution 04-0160
15 and RCW 70.48.390 violate Plaintiffs' due process and equal protection rights
16 under the Fifth and Fourteenth Amendments and is unconstitutional;

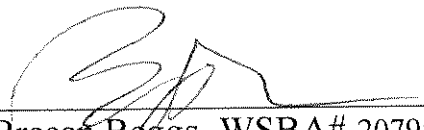
17
18 50. Issue preliminary and permanent injunctions prohibiting the collection of
19 inmate booking fees at the Spokane County Jail pursuant to either Spokane
20 County Resolution 04-0160 or RCW 70.48.390;

21
22 51. Award Plaintiff all special, general damages resulting directly and proximately
23 from Defendant's conduct, as set forth above, in an amount to be determined at
24 trial;

25 52. For all prejudgment and post judgment interest as allowed by law;

1 53. Award Plaintiffs all reasonable costs and attorney's fees incurred in connection
2 with this lawsuit, pursuant to 42 U.S.C. § 1988, or any other applicable law; and
3
4 54. For any further or additional relief which the court finds equitable, appropriate,
5 or just.
6

7 Respectfully submitted this 8 day of June, 2005
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10 
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