

On October 30, 2018, Agustin Ramon (Ramon) applied to the Montana Nineteenth Judicial District Court for a temporary restraining order and preliminary injunction enjoining Sheriff Bowe “from relying on immigration

detainers.” (Appl. TRO, Prelim. Inj., and Order to Show Cause (Oct. 30, 2018) (Ex. 1).) The parties briefed the issue and, following an expedited hearing, District Court Judge Matthew J. Cuffe denied Ramon’s application for injunctive relief holding:

. . . an immigration detainer falls within the authority of MCA §7-32-2201(3) as confinement of persons upon civil process and/or confinement of persons upon civil process and/or confinement of by other authority of law. The court finds the Lincoln County Detention Center does have the authority under Montana law to detain Plaintiff on a civil immigration detainer.

(Order Den. Appl. TRO and Prelim. Inj. (Nov. 16, 2018) (Ex. 2).)

On November 21, 2018, Ramon appealed Judge Cuffe’s Order. Following his request for expedited consideration, which this Court denied, the Court agreed to the parties’ request to stay briefing on Ramon’s appeal pending consideration of this Motion to Dismiss said the appeal. (*See* Order (Mar. 26, 2019).)

On February 14, 2019, Judge Cuffe issued a Judgment and Sentence in *State of Montana, Plaintiff vs. Agustin Ramon*, Defendant, DC-18-101. (Aff. Jeff Zwang (Apr. 30, 2019) (Ex. 3) ¶ 2, Ex. A.) Ramon was sentenced to the Montana Department of Corrections for six years with six years suspended and given credit for the 203 days he was incarcerated prior to the sentence. (Ex. 3 ¶ 2, Ex. A.) Ramon was ordered released from confinement on February 11, 2019. (Ex. 3 ¶ 3, Ex. B.)

II. ARGUMENT

A. Ramon's Application for Injunctive Relief is Moot

In *Bouma v. Bynum Irrigation District*, 139 Mont. 360, 364 P.2d 47 (1961), this Court held: “An injunction will not issue to restrain an act already committed. Injunction is not an appropriate remedy to procure relief for past injuries, it is to afford preventive relief only.” *Bouma*, 139 Mont. at 364, 364 P.2d at 49 (internal citations omitted); *see also Billings Assoc. Plumbing, Etc. v. State Bd.*, 184 Mont. 249, 255, 602 P.2d 597, 601 (1979) (where the entire injury is in the past, an injunction cannot issue).

Ramon sought to enjoin former Lincoln County Sheriff Roby from “refusing to release Plaintiff from custody based on an immigration detainer when he posts bond, completes his sentence, or otherwise resolves his criminal case.” (Pl.’s Br. Appl. TRO, Prelim. Inj., and Order to Show Cause (Oct. 30, 2018) (Ex. 4) at 2.) The criminal case against Ramon has been resolved and he is no longer incarcerated in the Lincoln County Detention (LCDC). (Ex. 3 ¶¶ 2-3.) Simply put, there is nothing to enjoin.

B. Roby Bowe is No Longer the Lincoln County Sheriff

Secondarily, enjoining former Sheriff Bowe from relying on immigration detainers would serve no purpose. As of January 1, 2019, Darren Short is the duly elected Sheriff of Lincoln County. (Ex. 3 ¶ 4.)

CONCLUSION

For the reasons stated herein, Bowe respectfully requests Ramon's appeal be dismissed as moot.

DATED this 30th day of April 2019.

MACo Defense Services

/s/ Maureen H. Lennon
Maureen H. Lennon