

**UNITED STATES DISTRICT COURT
FOR EASTERN DISTRICT OF MICHIGAN**

KEVIN LINDKE
and all those similarly situated,
Plaintiffs,

Case No.: 22-cv-111767
Honorable _____

v.

**COMPLAINT
JURY DEMANDED**

COUNTY OF ST. CLAIR,
TIMOTHY DONNELLON, in his official
and personal capacities, and MAT KING,
in his official and personal capacities,
Defendants

**** CLASS ACTION ****

_____ /

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COMPLAINT

NOW COMES Plaintiff KEVIN LINDKE, by and through counsel, and complains as follows:

INTRODUCTION

1. There is no more fundamental understanding in the law than the notion that individuals should never be imprisoned for longer than what is legally mandated.

2. This class action case is filed to vindicated those who have been imprisoned, detained, and/or incarcerated in the St. Clair County jail for criminal contempt longer than permitted by Michigan law due to a long-standing and illegal County Sheriff policy that denies individuals serving certain types of criminal sentences of entitled “good-time” credits—the right to sentence reductions belonging to all jailed individuals.

PARTIES

- 3. Plaintiff KEVIN LINDKE is a resident of the State of Michigan.
- 4. Defendant COUNTY OF ST. CLAIR is a municipal entity formed and the laws of the State of Michigan.

5. Defendant TIMOTHY DONNELLON is the former sheriff of St. Clair County and is sued in his official and personal capacities.

6. Defendant MAT KING is the current sheriff of St. Clair County and is sued in his official and personal capacities.

7. Defendants are state actors.

JURISDICTION

8. This Court has jurisdiction pursuant to 28 U.S.C. § 1331, which authorizes federal courts to decide cases concerning federal questions; 28 U.S.C. § 1343, which authorizes federal courts to hear civil rights cases; 28 U.S.C. § 2201, which authorizes declaratory judgments via the Declaratory Judgment Act; and 28 U.S.C. § 1367 for the supplemental state law claims.

9. Venue is proper in this Court as Defendants conduct or have conducted their business in the Eastern District of Michigan.

GENERAL ALLEGATIONS

10. Under Michigan law, “every prisoner whose record shows that there are no violations of the rules and regulations shall be entitled to a reduction from his or her sentence as follows: 1 day for each 6 days of the sentence.”

11. This is commonly known as Michigan’s “Good-Time Credit” statute.

12. Michigan courts interpreting the Good-Time Credit statute have been clear that “there is nothing in the statute to suggest that [a] sheriff has [] discretion to set a rule on whether a prisoner is eligible to earn such credit in the first instance” because all individuals confined to the St. Clair County jail are eligible by statute.

13. Moreover, Michigan’s jurisprudence has been clear for decades that any trial court imposing a criminal sentence is not permitted to circumvent or nullify the statutory scheme by taking away good-time credits in advance. E.g. *People v Cannon*, 206 Mich App 653, 655; 522 NW2d 716 (1994).

14. Despite the clear directives of Michigan’s appellate courts, Defendants have operated a system, by its own custom or policies, that refuses and/or refused to apply the good-time credit for certain case types (i.e. criminal contempt), which resulted in jailed individuals being kept in and confined to the St. Clair County jail longer than what Michigan criminal sentences can permit and thereby being an over-detention.

15. A long-standing County Sheriff policy, which has been implemented with the supposed consent of various chief judges of the 31st Circuit Court, provides that prisoners serving certain types of sentences are not entitled to earn good-time.

16. This policy is contrary to well-established law and definitive interpretations of that law.

17. As recently reconfirmed by the local trial court, any sentencing orders that noted the foreclosing good-time credit was simply “recognizing” this policy because such was never part of a sentence because it never could have been.

Kevin Lindke

18. A St. Clair County trial court sentenced Plaintiff Kevin Lindke on March 30, 2021, June 22, 2021 and July 29, 2021 for criminal contempt resulting from personal protection orders, which involved non-threatening online speech and is the subject of other litigation.

19. Plaintiff Kevin Lindke was intentionally not provided the various good-time credits for each six-day period of his sentences, which he was entitled to the same and despite his unheeded demand for the same.

20. Plaintiff Kevin Lindke regularly attempted to call to the attention of the Sheriff (and those under his command) to the right to good-time credit and such was refused to be heard or was otherwise ignored.

21. Defendants, contrary to law and constitutional-protections, unlawfully extended Plaintiff Kevin Lindke’s time being confined to the St. Clair County jail in excess of what his actual confinement should have been under Michigan law.

CLASS ALLEGATIONS

22. This action is brought on behalf of all individuals during the relevant statutorily-limited time period who were imprisoned, detained, or incarcerated longer than permitted by Michigan law due to Defendants’ long-standing and illegal policy that arbitrarily denies individuals of good-time credit when serving criminal contempt sentences.

23. The number of injured individuals who have been constitutionally injured is sufficiently numerous to make class action status the most practical method to secure redress for injuries sustained and class wide equitable relief.

24. There are clear questions of law and fact raised are common to, and typical of, those raised by the Class.

25. The violations of law and resulting harms alleged are typical of the legal violations and harms suffered by all Class members.

26. Plaintiff Kevin Lindke, as Class representative, will fairly and adequately protect the interests of the Class members and will vigorously prosecute the suit on behalf of the Class; and is represented by sufficiently experienced counsel.

27. The maintenance of the action as a class action will be superior to other available methods of adjudication and will promote the convenient administration of justice, preventing possible inconsistent or varying adjudications with respect to individual members of the Class and/or one or more of the Defendants.

28. Defendants have acted, failed to act, and/or are continuing to act on grounds generally applicable to all members of the Class, necessitating declaratory and injunctive relief for the Class.

COUNT I
FOURTH AMENDMENT VIOLATION(S)
42 U.S.C. § 1983

29. The prior allegations are realleged herein.

30. By the actions, customs, and policies of Defendants, acting individually and/or in conspiracy with others, Defendants wrongfully refused to apply the entitlement of good-time credit, which resulted in individuals who have served their actual sentence, like Plaintiff Kevin Lindke and the Class members, to be and/or have been unlawfully kept in and confined to the St. Clair County jail longer than what Michigan criminal sentences permit.

31. Defendants' intentional non-compliance with well-established state sentencing law(s) regarding good-time violates the Fourth Amendment to the United States Constitution as unreasonable seizures.

32. Plaintiff Kevin Lindke and the Class members have suffered damages as a result thereof.

33. Defendants' denial of good-time is a policy, custom, and/or practice of Defendants sufficient to impose damages and other relief pursuant to *Monell v. New York City Department of Social Services* and its progeny.

34. Plaintiff Kevin Lindke and Class members have experienced injury by the unconstitutional processes and procedures undertaken by a policy, custom, and/or practice of Defendants.

35. Defendants' conduct was wanton, intentional, and/or grossly negligent, or otherwise indicated active malice toward Plaintiff Kevin Linke and the members of the Class (or at least a reckless and deliberate disregard for and indifference to constitutional rights) that justifies an award of punitive damages in addition to the actual damages which Plaintiff and the Class are entitled to recover.

COUNT II
UNREASONABLE SEIZURE(S)
MICHIGAN CONSTITUTION, ART I, § 11

36. The prior allegations are realleged herein.

37. The same allegations as outlined in Count I also constitute violation(s) of Article I, Section 11 of the Michigan Constitution, which protects the “persons” of Plaintiff Kevin Lindke and the Class members from unreasonable seizures.

38. Plaintiff Kevin Lindke and the Class members have suffered damages as a result of Defendants’ violation(s) of Article I, Section 11 of the Michigan Constitution.

COUNT III
FOURTEENTH AMENDMENT SUBSTANTIVE DUE PROCESS VIOLATION
42 U.S.C. § 1983

39. The prior allegations are realleged herein.

40. By the actions, customs, and policies of Defendants, acting individually and/or in conspiracy with others, Defendants wrongfully refused to apply the entitlement of good-time credit, which resulted in individuals who have served their actual sentence, like Plaintiff Kevin Lindke and the Class members, to be and/or have been unlawfully kept in and confined to the St. Clair County jail longer than what Michigan criminal sentences permit.

41. Defendants’ intentional non-compliance with well-established state sentencing law(s) regarding good-time violates the Fourteenth Amendment to the United States Constitution by arbitrarily and capriciously denying liberty rights in a manner that inter alia shocks the conscience.

42. Plaintiff Kevin Lindke and the Class members have suffered damages as a result thereof.

43. Defendants’ arbitrary and capricious denial of good-time is a policy, custom, and/or practice of Defendants sufficient to impose damages and other relief pursuant to *Monell v. New York City Department of Social Services* and its progeny.

44. Plaintiff Kevin Lindke and Class members have experienced injury by the unconstitutional processes and procedures undertaken by a policy, custom, and/or practice of Defendants.

45. Defendants’ conduct was wanton, intentional, and/or grossly negligent, or otherwise indicated active malice toward Plaintiff Kevin Linke and the members of the Class (or at least a reckless and deliberate disregard for and indifference to constitutional rights) that justifies an award of punitive damages in addition to the actual damages which Plaintiff and the Class are entitled to recover.

COUNT IV
SUBSTANTIVE DUE PROCESS VIOLATION
MICHIGAN CONSTITUTION, ART I, § 17

46. The prior allegations are realleged herein.

47. The same allegations as outlined in Count III also constitute violation(s) of Article I, Section 17 of the Michigan Constitution which protects the Plaintiff Kevin Lindke and the Class members from being “deprived of life, liberty or property, without due process of law.”

48. Plaintiff Kevin Lindke and the Class members have suffered damages as a result of Defendants’ violation(s) of Article I, Section 17 of the Michigan Constitution.

COUNT V
FOURTEENTH AMENDMENT PROCEDURAL DUE PROCESS VIOLATION
42 U.S.C. § 1983

49. The prior allegations are realleged herein.

50. By the actions, customs, and policies of Defendants, acting individually and/or in conspiracy with others, Defendants deprived Plaintiff Lindke and the Class members of their liberty rights (i.e. the right to be free of state-controlled confinement) without predeprivation notice and/or the opportunity to be heard whereby keeping in and confining individuals to the St. Clair County jail longer than what Michigan criminal sentences permit.

51. Defendants’ intentional non-compliance with well-established state sentencing law(s) regarding good-time violates the Fourteenth Amendment to the United States Constitution by denying Plaintiff Lindke and the Class members their liberty rights without any due process or the required due process of law.

52. Plaintiff Kevin Lindke and the Class members have suffered damages as a result thereof.

53. Defendants’ arbitrary and capricious denial of good-time is a policy, custom, and/or practice of Defendants sufficient to impose damages and other relief pursuant to *Monell v. New York City Department of Social Services* and its progeny.

54. Plaintiff Kevin Lindke and Class members have experienced injury by the unconstitutional processes and procedures undertaken by a policy, custom, and/or practice of Defendants.

55. Defendants’ conduct was wanton, intentional, and/or grossly negligent, or otherwise indicated active malice toward Plaintiff Kevin Linke and the members of the Class (or at least a reckless and deliberate disregard for and indifference to constitutional rights) that justifies an award of punitive damages in addition to the actual damages which Plaintiff and the Class are entitled to recover.

**COUNT VI
PROCEDURAL DUE PROCESS VIOLATION(S)
MICHIGAN CONSTITUTION, ART I, § 17**

56. The prior allegations are realleged herein.

57. The same allegations as outlined in Count V also constitute violation(s) of Article I, Section 17 of the Michigan Constitution which protects the Plaintiff Kevin Lindke and the Class members from being “deprived of life, liberty or property, without due process of law.”

58. Plaintiff Kevin Lindke and the Class members have suffered damages as a result of Defendants’ violation(s) of Article I, Section 17 of the Michigan Constitution.

**COUNT VII
FOURTEENTH AMENDMENT EQUAL PROTECTION VIOLATION(S)
42 U.S.C. § 1983**

59. The prior allegations are realleged herein.

60. By the actions, customs, and policies of Defendants, acting individually and/or in conspiracy with others, Defendants deprived Plaintiff Lindke and the Class members of their equal protection of law by denying good-time credit to those individuals serving a sentence related to criminal contempt when all others were granted good-time credits under Michigan law despite Michigan law not providing any such differing in treatment.

61. The denial of good-time credit to those serving a term of confinement due to criminal contempt (as opposed to all other criminal sentences) resulted in individuals being unlawfully kept in and confined to the St. Clair County jail longer than what Michigan criminal sentences permit.

62. Defendants’ intentional non-compliance with well-established state sentencing law(s) regarding good-time violates the Fourteenth Amendment to the United States Constitution by denying Plaintiff Lindke and the Class members the equal protection of law.

63. Plaintiff Kevin Lindke and the Class members have suffered damages as a result thereof.

64. Defendants’ arbitrary and capricious denial of good-time credit is a policy, custom, and/or practice of Defendants sufficient to impose damages and other relief pursuant to *Monell v. New York City Department of Social Services* and its progeny.

65. Plaintiff Kevin Lindke and Class members have experienced injury by the unconstitutional processes and procedures undertaken by a policy, custom, and/or practice of Defendants.

66. Defendants' conduct was wanton, intentional, and/or grossly negligent, or otherwise indicated active malice toward Plaintiff Kevin Linke and the members of the Class (or at least a reckless and deliberate disregard for and indifference to constitutional rights) that justifies an award of punitive damages in addition to the actual damages which Plaintiff and the Class are entitled to recover.

**COUNT VIII
EQUAL PROTECTION VIOLATION(S)
MICHIGAN CONSTITUTION, ART I, § 2**

67. The prior allegations are realleged herein.

68. The same allegations as outlined in Count VII also constitute violation(s) of Article I, Section 2 of the Michigan Constitution which protects the Plaintiff Kevin Lindke and the Class members from the unequal protection of law.

69. Plaintiff Kevin Lindke and the Class members have suffered damages as a result of Defendants' violation(s) of Article I, Section 2 of the Michigan Constitution.

RELIEF REQUESTED

70. WHEREFORE, Plaintiff Kevin Lindke, individually and on behalf of members of the prospective Class, respectfully requests this Court to:

- a. Enter an order certifying this case as a class action;
- b. Enter an order declaring the conduct of Defendants as being unconstitutional;
- c. Award any and all economic, non-economic, and nominal damages and/or appropriate compensation as is deemed proper against any/all Defendants;
- d. Award punitive damages against Defendants Timothy Donnellon and Mat King in their personal capacities as is deemed proper;
- e. Enter an order for an award of interest;
- f. Enter an order for an award of attorney fees and expenses pursuant to all applicable laws, rules, or statutes; and
- g. Enter an order for all such other legal and equitable relief which the Court deems proper, just, or warranted.

JURY DEMAND

71. For all triable issues, a jury is hereby demanded.

Date: August 1, 2022

RESPECTFULLY SUBMITTED:

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