County Decision Will Help Immigrants

Barron Jones SUN Staff Writer

Rio Arriba County Officials memorialized an administrative decision made several months ago to stop violating the civil rights of suspected undocumented immigrants.

County commissioners approved a resolution Sept. 25 that provides a legal foundation for not honoring immigration detainers issued by U.S. Immigration and Customs Enforcement Officials.

Tierra Amarilla Detention Center Director Larry DeYapp said the resolution is designed to facilitate standard operating procedures in response to a federal court ruling that determined the detainer requests aren't legally binding.

"This resolution is to update our policies in response to the Third Circuit Court of Appeals opinion in Galarza v. Szalcyk," DeYapp said. "This resolution identifies how the County will respond to immigration detainers, from this point forward, it will be in the policy."

In July, County officials agreed to administratively stop the process, but without the resolution demanding policy changes, there was no way to ensure the detainers wouldn't persist.

The Circuit Court ruled that the United States Code of Federal Regulations that allows immigration detainers, "does not compel state or local law enforcement agencies to detain suspected aliens subject to removal pending release to immigration officials."

DeYapp said County jail authorities will honor detainers or holds only if the inmate faces charges.

"Only way we will hold an



(SUNfoto by Barron Jones)

Detention Center Director Larry DeYapp said his department was detaining inmates without proper authority. A federal court has ruled detaining inmates without order for arrest is a violation of the Constitution.

inmate is, if there are criminal charges pending, or if they are sentenced," DeYapp said.

He said those requests must be accompanied by the proper paperwork such as an arrest or bench warrant.

Rio Arriba resident and recently documented Mexican immigrant Jose Gonzales, 32, who was held on an illegal detainer, said he believes the resolution is a long time coming. He supports the County's move because it would keep families from being torn apart.

"I am really excited and proud that they (the County) made this possible," Gonzales said. "There are families with kids who are separated form their parents and they're not going to get the opportunity to be successful in school and in life."

Gonzales came to New Mexico with his parents when he was nine. Since then, he started a family, bought property and established a financially viable farming operation.

He said he was in the County

jail for two months after he was initially cleared by a judge for a 2012 traffic violation.

Gonzales said his nightmare started shortly after a New Mexico State Police officer arrested him for running a stop sign. While at the station, the officer started asking routine questions and the interview took an unexpected turn.

"It was terrible," Gonzales said. "Once I was in the State Police he passed me the phone and it was ICE (Immigration and Customs Enforcement). They asked me about Social Security and where I am from. The officer filed all the paperwork and took me to TA (Tierra Amarilla), I was in jail for about two months."

Somos Un Pueblo Unido community organizer Elsa Lopez said Rio Arriba County joins several other of the state's counties have formerly rebuked the process, that her organization says trounces individuals' civil rights. She estimates that approximately 250 governmental bodies and policing agencies nationwide have stopped the detentions.

Lopez said the County's decision lets taxpayers off the hook for various costs associated with the detentions.

"When you are part of the criminal alien program, the jail is responsible not only financial but legally, because if there are legal problems like civil rights violations, the liable party isn't ICE," Lopez said. "It is the local government."

It's a notion seconded by Rio Arriba County Manager Tomas Campos. He said the immigration holds were the result of convoluted policy questions that amounted to the County incurring unnecessary costs to feed and house inmates on questionable immigration holds.

"We aren't going to make them call you (immigration) and we aren't going to deliberately hold them," Campos said. "Anyone that wants us to hold inmates in detention can pay us."

He said immigration doesn't

pay the County. DeYapp said he hasn't kept count but over the years, he estimates the jail encountered a case every four months. Most of those held couldn't produce Social Security numbers.

Albuquerque attorney Ryan Villa initiated a wave of such declarations from Counties across the state after he filed a tort claim this spring.

He said part of the confusion stems from a misunderstanding by many local law enforcement agencies that the immigration holds are mandatory.

"If the judge says, 'Hold a person,' fine, but if the federal government asks to hold someone it is just a request," Villa said.

Sheriff's Son's Testimony Ripped Apart

By Wheeler Cowperthwaite SUN Staff Writer

Thomas Rodella Jr. had his credibility shredded Sept. 25, when he took the stand to defend

joining the Army National Guard. While he was training, he was hit in the head, resulting in a traumatic brain injury and a lost tooth. He also suffers from post-startles easily. traumatic stress disorder.

medical documents, she asked him if he has reported he has poor concentration, severe irritability, anger outbursts and if he

He said he had

March 11 incident, Rodella Jr. said he made sure to stay at least three car lengths behind Tafoya's Mazda, citing the rule of one car length for every 10 mph.

Tafoya testified that Rodella

Sheriff Will Be Sentenced Dec. 26

can," McShan said.

querque courtroom.

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A posse surrounded and escorted her as she left the courthouse. Male members accosted cameramen before a black Jeep nearly slammed into the reporters standing on the street. The sound of its squealing brakes bounced off the tall city buildings. Posse members rushed her into the vehicle.

The first charge, violating Michael Tafoya's civil rights, carries a penalty of 0 to 10 years and the second, brandishing a firearm, carries a mandatory sentence of seven years, which must be served after the sentence for the civil rights violation has been served.

Rodella had his son, Thomas Rodella Jr., in his personal Jeep, chase down Tafoya on March 11. Rodella then pulled Tafoya from his car and had him arrested.

Rodella Jr. was originally charged with the same charges as his father, but the charges were dropped before trial.

Jurors found Rodella satisfied all the requirements listed in the civil rights violation, except for one: they did not find Rodella caused Tafoya substantial bodily harm after he jammed his badge into Tafoya's eye.

Rodella is tentatively set to be sentenced on Dec. 26.

Slated for appeal

Rodella's attorney, Robert Gorence previously said he would appeal. He did not return messages requesting information on what grounds he will file the appeal.

Before the five-day trial, Gorence filed a letter stating he will seek a Hyde Amendment remedy because, he alleged, Rodella's prosecution was politically motivated.

Gorence wrote Rodella's prosecution followed an alleged threat made in May, during a meeting with New Mexico's U.S. Attorney Damon Martinez. If Rodella did not kowtow to Martinez's request to both deputize and not interfere with U.S. Forest Service law-enforcement officers, Martinez allegedly would have him arrested and prosecuted.

District Attorney Angela Pacheco filed a petition Tuesday to have Rodella officially ejected from the position of Rio Arriba County sheriff, following the felony conviction.

"The Rio Arriba County Commissioners are hesitant to take action in recognizing or filling the vacancy, in accordance with their powers under (state statute) without a Court order or formal interpretation of law," Pacheco wrote in the motion.

Pacheco asked for an expedited hearing.

"It is imperative that the Court act quickly as the powers and duties of the Rio Arriba Sheriff's Office are in question and the health, welfare and safety of the citizens of Rio Arriba County are in jeopardy, while this position remains vacant," she wrote.

Rio Arriba County Manager Tomas Campos said the commissioners asked Rodella to resign. He refused.

"If we go ahead and just appoint James, somebody could challenge it," Campos said.

Once Rodella is officially removed, the Commission will appoint Lujan to the position, he said.

"They don't want to beat him (Rodella) up anymore," Campos said.

He said he had a meeting with deputies Monday.

"It was just for me to assure the deputies we're behind them," he said.

Sentencing

U.S. Attorney Damon Martinez said when Rodella is sentenced, he will give prosecutor Tara Neda "great deference," but he has the ultimate say on what sentence the prosecutors will ask the judge to impose.

"I will have to know what the (pre-sentence report) says," Martinez said. "I do not have a vendetta against him."

He said the prosecution is part of a conscious push by his office, since 2010, to go after civil rights violators by either working jointly with the Civil Rights Division of the U.S. Attorney's Office or prosecuting the cases themselves. Martinez said he could not discuss the issue of Rodella's scholarship fund.

his father's actions during a traffic altercation on March 11, in La Mesilla.

Rodella's lawyer, Robert Gorence, called Rodella Jr. to testify. The latter disputed the victim, Michael Tafoya's, testimony of the chase leading up to the altercation.

Once prosecutor Tara Neda took the podium to cross-examine him, his testimony and recollection of events remained constant, but she tore his credibility to shreds.

Rodella Jr., in an oversized gray suit, said he has only been taking one medication for headaches.

Neda said Rodella Jr. had been taking at least two medications, neither of them for headaches.

She brought out more than 400 pages of documents from Rodella Jr.'s Veterans Affairs medical records, including reports by his psychiatrist, of what he said while in sessions and during evaluations.

Rodella Jr. said he was deployed to Kosovo in 2011, after

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When Neda asked him, Rodella Jr. admitted he has actually been taking at least three medications. She latched onto one, an anti-depressant called bupropion. He has also been taking mirtazapine, an anti-depressant also used to treat mood disorders.

Neda said bupropion is used to treat "psychiatric disorders."

"Did you know it is used for (treating) major depression?" she asked.

She also asked if he knew that the drugs he was taking during the March 11 altercation cause confusion.

"Are you aware bupropion causes delusions, hallucinations?" she asked.

Rodella Jr. said he did not know.

While the jury was out of the courtroom, Gorence raised an objection to Neda's questions. The side-effects she was referencing are considered to be "rare," and affect only 0.1 percent to 0.01 percent of those who take the drug.

Referencing Rodella Jr.'s

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"Do you have troubles controlling frustration?" She asked.

"I had troubles at the beginning, yes," he said.

Neda continued to reference his medical history.

"Do you have poor frustration tolerance?" She asked.

"At one point I did," he said. "As early as January 2014, did you report angry outbursts without provocation and unprovoked irritability that led to violence?"

He said yes, at the time, he did.

Neda, citing Rodella Jr.'s medical records, asked if he sleeps with his gun under his pillow because of his hyper vigilance. He said he did.

Disputed testimony Immediately prior to the Jr. tailgated him after he pulled on to the state road and he slammed on his brakes, in order to brake check the Rodellas, almost causing a collision.

Tafoya said he pulled into a turn-out before a bridge, following the brake check.

Rodella Jr. said Tafoya pulled over at a different point after he nearly crashed into an elderly woman driving a white car.

In Tafoya's telling, the Rodellas drove 200 yards past his parked car, stopped and reversed 200 yards on the traffic-free state road.

Rodella Jr. was originally charged with the same offenses as his father, but all the charges were dropped Sept. 5, for "medical" reasons.

Neda said during the trial, she dropped the charges because Rodella Jr. was not mentally competent.

Rodella previously threatened to arrest Forest Service officers if they made traffic stops, without probable cause, outside of federal

forest boundaries. County attorney Ted Trujillo did not return calls requesting information.

Sheriff-elect James Lujan did not return calls requesting comment.

Moving forward

Sheriff's Office spokesman Quintin McShan said Undersheriff Vince Crespin is in charge of the office until the County Commission appoints someone to fill the role of sheriff. Maj. Mathew Vigil is serving as undersheriff.

McShan said the FBI treated Rodella differently. When federal District Judge James Browning remanded Rodella into the custody of the U.S. Marshals before sentencing, it came as a shock. "We'll pull together as best we

Past incidents

This is the first time Rodella has been convicted of a felony, but a State Police internal affairs investigation concluded he had tickets tossed out of court to help his wife's 1992 campaign for the state legislature. He resigned from his State Police position in 1995.

In July 1994, Jicarilla Apache Game and Fish officers caught Rodella shooting at a decoy deer from his patrol car. He settled the case by paying a \$2,500 fine, the maximum allowable.

In 2010, the state supreme court removed him from the magistrate court bench and banned him from being a judge for life after it found he acted improperly on several occasions.



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