



Written by [R. Cort Kirkwood](#) on April 10, 2020

## Colorado Judge Nixes ACLU Open-borders Lawsuit

A district judge in Teller County, Colorado, has tossed a lawsuit that sought to block the county sheriff from cooperating with Immigration and Customs Enforcement.

The American Civil Liberties Union, a hired gun for the open-borders lobby, filed the lawsuit on behalf of six plaintiffs, all county taxpayers, who sued Sheriff Jason Mikesell for signing a 287(g) agreement with ICE in 2018.



Those agreements between local law enforcement and ICE help the federal agency enforce immigration law, which the plaintiffs claimed is illegal. Thus, they claimed Mikesell was misusing tax money, which harmed them because their tax dollars support the operations of Mikesell's department.

Judge Scott Sells dismissed the claim because the agreement and enforcement do not harm the plaintiffs. And, he ruled, they did not have standing to sue.

### The Claim

The lawsuit opened by stating that the six plaintiffs are Teller County taxpayers whose "taxes are used in part to fund the Teller County General Fund, and the TCSO budget draws funds from the Teller County General Fund."

[Their complaint was this](#): The sheriff "is diverting taxpayer funds and taxpayer resources from their intended purposes in order to pay for and launch an unlawful program that he lacks Colorado authority to carry out."

In 2017, the lawsuit noted, Mikesell "began honoring ICE's requests to keep certain individuals in custody beyond the time when they were entitled to release," then inked the 287(g) in 2018. Those agreements allow for ICE to train local cops to help perform immigration enforcement.

But Mikesell's cooperation with ICE and his signing the 287(g) pact are unconstitutional, claimed ACLU, because courts have "ruled that sheriffs violate the Colorado Constitution when they grant ICE's requests to hold prisoners who would otherwise be released."

"Sheriff Mikesell has diverted and will continue to divert substantial amounts of local tax revenue collected from Teller County residents, including Plaintiffs, in order to implement the 287(g) agreement," the lawsuit claimed. The lawsuit provided an eight-item list of those taxpayer expenditures.

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The 287(g) agreement, the [lawsuit claimed](#), "cannot legalize what the Colorado Constitution and Colorado law forbids," the lawsuit claims, and "Colorado law provides no authority ... to enter into such an agreement for the purpose of identifying and targeting individuals for removal under federal immigration law."

Those claims are rooted in a lawsuit the [ACLU won](#) against El Paso County in 2018. The case against Mikesell cited that ruling as precedent, and noted that the state legislature codified that decision by



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requiring a judge's signature to hold illegal aliens beyond their eligible release date.

## The Ruling

Still, Judge Sells did not agree, and for good reason.

While "plaintiffs assert Teller County taxpayer dollars are expended directly or indirectly at the jail," which administers the immigration enforcement the sheriff has taken on, "the funding for the Jail is different from the funding for the Teller County Sheriff's Office," [he wrote](#).

Citing the testimony of the county administrators and county financial records, he concluded that the sheriff was not spending tax money for the program.

That testimony showed that "the Teller County Jail does not receive any revenue from Teller County taxpayers and no taxpayer money is used to pay for the salaries, benefits and training expenses for jail deputies," [Sells wrote](#).

The records showed "zero dollars from tax revenues" for the jail, which is, instead, supported by fees from inmates, which aren't taxes.

The judge cited three precedents, including a major abortion case, to show the plaintiffs did not have standing to sue. That included a case in which a court ruled that the sheriff's using tax dollars to cover incidental expenses does not "constitute an injury sufficient to establish taxpayer standing."

Thus, [Sells ruled](#), the plaintiffs "do not have taxpayer standing. They have not suffered an injury in fact to a legally protected interest."

## Appeal Coming?

"The program is paid for by ICE," [Mikesell told](#) KOAA News5. "There's not been a dime spent on this program at this time, locally."

Even so, the plaintiffs' claim they suffered injury was a stalking horse to conscript the courts into stopping immigration enforcement.

One divulged his real concern to the NBC affiliate:

One of the plaintiffs in the case, Michael Stewart, said we need a fair and humane immigration system. He said they are suing for a number of reasons, including "what they're doing with taxpayer money and how they're treating other human beings. All humans are created equal," said Stewart.

Teller County and its attorney might as well prepare for an appeal.



*R. Cort Kirkwood is a long-time contributor to The New American and a former newspaper editor.*



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