

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

LAWRENCE J. MARTINEZ, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	Case No. 15-CV-9344
v.)	(Class Action)
)	
THE CITY OF DODGE CITY, and FORD COUNTY)	
)	
Defendant.)	
)	

CLASS ACTION COMPLAINT

Introduction

This case is about Dodge City’s wealth-based post-arrest detention scheme, which operates to jail some of Dodge City’s poorest residents solely because they cannot pay an arbitrary amount of money. Named Plaintiff Lawrence Martinez was arrested yesterday and is currently imprisoned in the county jail solely because he is too poor to pay the amount of money generically set by the fixed “bail schedule” used by Dodge City.

In Dodge City, arrestees face two different outcomes depending on their wealth status. Wealthy arrestees purchase their freedom by paying an arbitrary amount set by the bail schedule. Poor arrestees are stuck behind bars for 48 hours simply because they cannot afford to pay the City’s pre-determined sum of money. The amount of the bond is fixed and predetermined for each offense, ranging from \$250–\$2,500. Those arrestees who are too poor to afford several hundred dollars remain in jail because of their poverty for at least two days, at which time Dodge City typically releases them for free. In Defendants’ wealth-based detention scheme, the sole criterion determining whether a pretrial arrestee walks free or sits in jail is the amount of money she has.

On behalf of the many other arrestees subjected to the City's unlawful and ongoing wealth-based detention scheme, the named Plaintiff in this action challenges the use of an unlawful generic "bail schedule" that operates to detain poor arrestees while letting rich arrestees free. Dodge City's wealth-based detention scheme has no place in a system that promises equal justice under law, and it violates the Due Process and Equal Protection Clauses of the Constitution.

By and through his attorneys and on behalf of himself and all others similarly situated, the named Plaintiff seeks in this civil action the vindication of his fundamental rights, injunctive relief assuring that his rights and the rights of the other Class members will not continue to be violated, compensatory damages for injuries suffered, and a declaration that the City's wealth-based detention practices are unlawful.

Nature of the Action¹

1. It is the policy and practice of the City of Dodge City to refuse to release arrestees from jail unless they pay a generic and arbitrary "bond" amount. That amount is between \$250 and \$2,500 for the minor misdemeanor cases prosecuted by the City.² Because this sum is set generically by reference to the alleged offense of arrest, no individualized factors are considered, and anyone who cannot afford to pay is held in jail for at least two days. Plaintiff seeks declaratory, injunctive, and compensatory relief.

Jurisdiction and Venue

2. This is a civil rights action arising under 42 U.S.C. § 1983 and 28 U.S.C. § 2201, *et seq.*, and the Fourteenth Amendment to the United States Constitution. This Court has

¹ Plaintiff makes the allegations in this Complaint based on personal knowledge as to matters in which he has had personal involvement and on information and belief as to all other matters.

² Felony arrestees are not subject to the jurisdiction of the City of Dodge City and are instead processed according to policies adopted by the County.

jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343.

3. Venue in this Court is proper pursuant to 28 U.S.C. § 1391.

Parties

4. Named Plaintiff Lawrence Martinez is a 33-year-old Native American resident of Dodge City. He represents himself as an individual and represents a Class of similarly situated people all subject to the City's wealth-based post-arrest detention scheme.

5. Defendant City of Dodge City is a municipal corporation organized under the laws of the State of Kansas. The City operates the Dodge City Police Department and the Dodge City Municipal Court.

6. Defendant Ford County operates the Ford County Jail. It instructs indigent arrestees such as Plaintiff that they must remain in jail unless they can pay the generically scheduled cash bond.

Factual Background

A. The Named Plaintiff's Arrest

7. Mr. Martinez was arrested by Dodge City police on October 20, 2015, in Dodge City, Kansas. He was charged with disorderly conduct, a misdemeanor.

8. Mr. Martinez was taken to the Ford County Jail, where jail employees told him that he would be released if he paid cash to the City of Dodge City in the amount of \$250, or if a corporate surety bond was posted for him in that amount. He was told that he would be kept in jail unless he paid this amount. *See Exhibit 1, Declaration of Lawrence Martinez.*

9. Mr. Martinez is indigent. He has recently gained employment that is now in jeopardy due to his arrest and confinement.

10. None of Mr. Martinez's friends or family members is able to buy his release.

11. Mr. Martinez was not told when he would be brought to court and has not been brought to court for an initial appearance. Pursuant to City policy, the earliest that Mr. Martinez would be brought to court for a first appearance is October 22, 2015 — two days after his arrest, because the City only holds court on Tuesdays and Thursdays.

12. Mr. Martinez was told that he will be released from jail after 48 hours — at 3pm on Thursday, October 22, 2015 — if he has still not paid the \$250 sought from him.

B. The City's Policies and Practices

13. The named Plaintiff would be released immediately by the City of Dodge City if he or a family member paid the amount of cash generically set by the City.

14. The treatment of the named Plaintiff and other Class members is caused by and is representative of the City's wealth-based post-arrest detention policies and practices.

15. As a matter of policy and practice, when the Dodge City Police Department makes an arrest for a minor offense, officers inform the arrestee at booking that the person will be released immediately if the person pays money set by a fixed schedule. Exhibit 2, Bail Schedule. The arrestee is told that the arrestee will remain in jail if the arrestee is not able to make that payment.

16. Those arrestees unable to pay for release are, as a matter of policy, released for free after a period of two days without ever having appeared in court. Because arrestees are released after two days anyway, Dodge City's money bail system is designed not to ensure appearance in court but to extort money from indigent people while under the threat of continued confinement. As a matter of policy, any money paid to secure immediate release prior to the two-day release time is automatically applied to court fines, fees, and costs without any inquiry into indigence. Exhibit 3, Bond Rules.

17. The City holds court only twice per week, on Tuesdays and Thursdays.

18. After an arrest, Dodge City police do not deviate from their “bail schedule.” *See* Exhibit 2, Bail Schedule.

19. Unlike many other cities, the City does not allow immediate post-arrest release on recognizance or with an unsecured bond (in which a person would be released by promising to pay the scheduled amount if the person later does not appear). Instead, City officials require that the cash payment amount be made up front. Irrationally, the City allows for exactly such recognizance release if it has not been able to extract money from the person within two days.

20. The City makes approximately five to ten arrests every day. In a typical week, there are several people unable to make the money bail payment required by the City and who therefore sit in jail until they can come up with the general bail amount or until the City releases them for free after 48 hours.

21. Dodge City’s wealthier arrestees are released immediately if they make payment of the scheduled amount of cash. Others remain detained for varying lengths of time until they or their families are able to borrow sufficient amounts of money or arrange for third-party payment. Others, like the named Plaintiff, who are too poor even to find anyone to pay the money bond for them, are kept in jail until City officials decide to release them for free pursuant to their typical policy of releasing arrestees who have not paid after two days.

22. Because of Dodge City’s unusual and illegal policies, it is difficult for the public to obtain accurate details concerning how many impoverished Dodge City arrestees are unable to buy their immediate release each week.

Class Action Allegations

23. The named Plaintiff brings this action, on behalf of himself and all others

similarly situated, for the purpose of asserting the claims alleged in this Complaint on a common basis.

24. A class action is a superior means, and the only practicable means, by which the named Plaintiff and unknown Class members can challenge the City's unlawful wealth-based detention scheme.

25. This action is brought and may properly be maintained as a Class action pursuant to Rule 23(a)(1)–(4) and Rule 23(b)(2) of the Federal Rules of Civil Procedure.

26. This action satisfies the numerosity, commonality, typicality, and adequacy requirements of those provisions.

27. The Plaintiff proposes one Class seeking declaratory and injunctive relief. The Declaratory and Injunctive Class is defined as: all arrestees unable to pay for their release pursuant to Dodge City's fixed bail schedule who are or who will become in the custody of Dodge City.

A. Numerosity — Fed. R. Civ. P. 23(a)(1)

28. The City of Dodge City Police Department made approximately 1,874 arrests in 2013. Each arrestee is presented with the City's standard cash bond choice of pay or jail.

29. Rich arrestees pay money and walk free immediately, while poor arrestees wait in jail for 48 hours.

30. The number of current and future arrestees subjected to this policy — if it is not enjoined — is well into the hundreds.

B. Commonality — Fed. R. Civ. P. 23(a)(2)

31. The relief sought is common to all members of the Class, and common questions of law and fact exist as to all members of the Class. The named Plaintiff seeks relief concerning

whether the City's policies, practices, and procedures violate the rights of the Class members and relief mandating the City to change its policies, practices, and procedures so that the constitutional rights of the Class members will be protected in the future.

32. These common legal and factual questions arise from one central scheme and set of policies and practices: the City's wealth-based detention schedule. The City operates this scheme openly and in materially the same manner every day. The material components of the scheme do not vary from Class member to Class member, and the resolution of these legal and factual issues will determine whether all of the members of the class are entitled to the constitutional relief that they seek.

Among the most important, but not the only, common questions of fact are:

- Whether Dodge City has a policy and practice of using a fixed "bail schedule" to determine the amount of money necessary to secure post-arrest release;
- Whether Dodge City requires that scheduled amount of money to be paid up front before it will release a person from jail;
- What standard post-arrest procedures Dodge City performs on misdemeanor arrestees.

33. Among the most important common question of law are:

- Whether a fixed "bail schedule" setting standard amounts of cash required up front to avoid post-arrest detention violates the Fourteenth Amendment's Due Process and Equal Protection Clauses.
- Whether the City's action in detaining its poorest arrestees solely based on their inability to pay an arbitrary amount of money violates the Fourteenth Amendment's Due Process and Equal Protection Clauses.

C. Typicality — Fed. R. Civ. P. 23(a)(3)

34. The named Plaintiff's claims are typical of the claims of the other members of the Class, and he has the same interests in this case as all other members of the Class that he represents. Each of them suffers injuries from the failure of the City to comply with the basic constitutional provisions: they are each confined in jail because they could not afford to pay the

City's fixed cash bond amount. The answer to whether the City's scheme of policies and practices is unconstitutional will determine the claims of the named Plaintiff and every other Class member.

35. If the named Plaintiff succeeds in the claim that the City's policies and practices concerning wealth-based detention violate his constitutional rights, that ruling will likewise benefit every other member of the Class.

D. Adequacy — Fed. R. Civ. P. 23(a)(4)

36. The named Plaintiff is an adequate representative of the Class because his interests in the vindication of the legal claims that he raises are entirely aligned with the interests of the other Class members, who each have the same basic constitutional claims. He is a member of the Class, and his interests coincide with, and are not antagonistic to, those of the other Class members.

37. There are no known conflicts of interest among members of the proposed Class, all of whom have a similar interest in vindicating their constitutional rights in the face of their unlawful treatment by their local government.

38. Plaintiffs are represented by attorneys from Equal Justice Under Law and Garcia & Antosh, who have experience in litigating complex civil rights matters in federal court and extensive knowledge of both the details of the City's scheme and the relevant constitutional and statutory law. Counsels' relevant qualifications are more fully set forth in the accompanying Motion for Class Certification.

39. The combined efforts of Class counsel have so far included extensive investigation into fixed money bail schemes over a period of months, including numerous interviews with witnesses, court employees, jail inmates, families, attorneys practicing in

municipal courts throughout the region, community members, statewide experts in the functioning of municipal courts, and national experts in constitutional law, post-arrest procedure, law enforcement, judicial procedures, criminal law, pretrial services, and jails.

40. Class counsel has a detailed understanding of state law and practices as they relate to federal constitutional requirements. Counsel have studied the way that these systems function in other cities in order to investigate the wide array of lawful options in practice for municipalities.

41. As a result, counsel have devoted enormous time and resources to becoming intimately familiar with the City's scheme and with all of the relevant state and federal laws and procedures that can and should govern it. Counsel has also developed relationships with many of the individuals and families most victimized by the City's practices. The interests of the members of the Class will be fairly and adequately protected by the Plaintiffs and their attorneys.

E. Rule 23(b)(2)

42. Class action status is appropriate because the City, through the policies, practices, and procedures that make up its wealth-based detention scheme has acted in the same unconstitutional manner with respect to all class members. Dodge City has created and applied a simple scheme of wealth-based detention and release: it charges a several hundred dollars (based on a publicly available chart) for arrestees to purchase their immediate release. The City releases those who can pay and detains those who cannot. The detained arrestees are released pursuant to City policy of releasing detainees for free after two days.

43. The Class therefore seeks declaratory and injunctive relief to enjoin the City from continuing in the future to detain impoverished arrestees who cannot afford cash payments. Because the putative Class challenges the City's scheme as unconstitutional through declaratory

and injunctive relief that would apply the same relief to every member of the Class, Rule 23(b)(2) certification is appropriate and necessary.

44. Injunctive relief compelling the City to comply with these constitutional rights will similarly protect each member of the Class from being subjected to the City's unlawful policies and practices. A declaration and injunction stating that the City cannot use a fixed cash "bail schedule" that jails indigent arrestees but frees arrestees with financial means would provide relief to every member of the Class. Therefore, declaratory and injunctive relief with respect to the Class as a whole is appropriate.

45. Plaintiff seeks the following relief and hereby demands a jury in this cause for all matters so appropriate.

Claims for Relief

Count One: Defendants City of Dodge City and Ford County Violate Plaintiff's Rights by Jailing Him Because He Cannot Afford a Monetary Payment.

46. Plaintiff incorporates by reference the allegations in paragraphs 1–45.

47. The Fourteenth Amendment's Due Process and Equal Protection Clauses have long prohibited imprisoning a person because of the person's inability to make a monetary payment. Defendants violate Plaintiff's rights by placing and keeping him in jail solely because he cannot afford to pay the amount of cash set by the generic fixed bail "schedule" used by Dodge City.

Request for Relief

WHEREFORE, Plaintiff and the other Class members request that this Court issue the following relief:

- a. A declaratory judgment that Defendants violate the named Plaintiff's and Class members' constitutional rights by jailing them and keeping them in jail solely because they cannot pay a generically set amount of money to secure release after

- an arrest;
- b. An order and judgment preliminarily and permanently enjoining Defendants Dodge City and Ford County from enforcing unconstitutional wealth-based detention policies and practices against the named Plaintiff and the Class of similarly situated people that he represents;
 - c. A judgment individually compensating the individual named Plaintiff for the damages that he suffered as a result of Defendants' unconstitutional and unlawful wealth-based detention scheme, including damages resulting from his confinement in jail;
 - d. An order and judgment granting reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988, and any other relief this Court deems just and proper.

Respectfully submitted,

/s/ Peter Antosh

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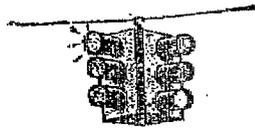
10/21/15

I am Lawrence J. Martinez. I am 33 years old. I was arrested on Tuesday afternoon October 20. The charge was Disorderly conduct. I was informed of a bond of \$250.00 cash surety however I did not have the money to pay for my release. The guard also informed me that I would then have to stay in jail for 48 hours. I do have work today and yesterday but am not able to go.

I declare under penalty of perjury that the above and foregoing is true and correct

10/21/15

Lawrence J. Martinez
Lawrence J. Martinez



Bridge City

MUNICIPAL COURT FINE BOND SCHEDULE



ACCIDENT INVOLVING DAMAGE TO VEHICLE OR OTHER PROPERTY	\$ 500.00
ACCIDENT INVOLVING DEATH OR PERSONAL INJURIES	\$ 750.00
DRIVING COMMERCIAL MOTOR VEHICLE UNDER THE INFLUENCE	\$ 500.00
DRIVING IN VIOLATION OF RESTRICTIONS	\$ 250.00
DRIVING UNDER THE INFLUENCE 1ST OFFENSE	\$ 1,000.00
DRIVING UNDER THE INFLUENCE 2ND OFFENSE	\$ 2,000.00
DRIVING WHILE LICENSE CANCELED, SUSPENDED OR REVOKED	\$ 500.00
DUTY TO GIVE INFORMATION AND RENDER AID	\$ 500.00
DUTY TO REPORT ACCIDENTS	\$ 500.00
DUTY UPON STRIKING UNATTENDED VEHICLE OR OTHER PROPERTY	\$ 500.00
FALSE REPORTS	\$ 500.00
FLEEING OR ATTEMPTING TO ELUDE A POLICE OFFICER	\$ 750.00
IGNITION INTERLOCK DEVICES: TAMPERING	\$ 500.00
ILLEGAL TAG	\$ 250.00
INTERFERENCE WITH OFFICIAL TRAFFIC-CONTROL DEVICES OR RAILROAD SIGNS OR SIGNALS	\$ 250.00
NO DRIVER'S LICENSE	\$ 350.00
NO DRIVER'S LICENSE ON PERSON	\$ 250.00
NO PROOF OF INSURANCE	\$ 300.00
OPERATION OF A MOTOR VEHICLE WHEN A HABITUAL VIOLATOR	\$ 750.00

Breath test refusal per Judge Cardine

9500.00

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PEDESTRIAN UNDER THE INFLUENCE	\$ 250.00
POSSESSION OF DRUG PARAPHERNALIA	\$ 250.00
POSSESSION OF MARIJUANA	\$ 250.00
RACING ON HIGHWAYS	\$ 250.00
RECKLESS DRIVING	\$ 500.00
TRANSPORTATION OF AN OPEN CONTAINER	\$ 350.00
UNAUTHORIZED MINORS	\$ 350.00
UNAUTHORIZED OPERATOR	\$ 350.00
UNLAWFUL USE OF LICENSE	\$ 250.00

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DODGE CITY



MUNICIPAL COURT CRIMINAL BOND SCHEDULE

ASSAULT	\$	250.00
ASSUALT (LEO)	\$	500.00
BATTERY	\$	500.00
BATTERY (DV)	\$	500.00
BATTERY (LEO)	\$	1,000.00
BATTERY (SEXUAL)	\$	1,000.00
BREACH OF PRIVACY	\$	500.00
CARRYING CONCEALED EXPLOSIVE	\$	750.00
CONTRIBUTING TO A CHILD'S MISCONDUCT	\$	1,000.00
CRIMINAL DAMAGE	\$	500.00
CRIMINAL DEFAMATION	\$	500.00
CRIMINAL DEPRIVATION OF PROPERTY	\$	500.00
CRIMINAL DISPOSAL OF FIREARMS	\$	1,000.00
CRIMINAL POSSESSION OF FIREARMS	\$	1,000.00
CRIMINAL TRESPASS	\$	500.00
CRIMINAL USE OF A FINANCIAL CARD	\$	750.00
CRIMINAL USE OF A WEAPON	\$	1,000.00
DEFACING IDENTIFICATION MARKS OF A FIREARM	\$	750.00
DISORDERLY CONDUCT	\$	250.00
DRAWING A WEAPON UPON ANOTHER	\$	1,000.00
EAVESDROPPING	\$	500.00
ENDANGERING A CHILD	\$	1,000.00
FALSE IMPERSONATION	\$	500.00
FALSELY REPORTING AN OFFENSE	\$	500.00

17500

Tracy Peters

Stalking

FURNISHING ALCOHOLIC LIQUOR OR CEREAL MALT BEVERAGE TO A MINOR	\$	500.00
INTERFERENCE: CONDUCT, PUBLIC BUSINESS IN PUBLIC BUILDING	\$	500.00
INTERFERENCE: ADMINISTRATION OF JUSTICE	\$	500.00
INTERMIT TO PERMANENTLY DEPRIVE	\$	500.00
LEWD, LASCIVIOUS BEHAVIOR	\$	750.00
MAINTAINING A PUBLIC NUISANCE	\$	750.00
MINOR IN POSSESSION OR CONSUMPTION	\$	300.00
MISTREATMENT OF CONFINED PERSON	\$	500.00
OBSTRUCTION OF LEGAL PROCESS	\$	1,000.00
PATRONIZING A PROSTITUTE	\$	750.00
PERFORMANCE OF UNAUTHORIZED OFFICIAL ACT	\$	500.00
PERMITTING A PUBLIC NUISANCE	\$	750.00
PROMOTING PROSTITUTION	\$	750.00
PROSTITUTION	\$	750.00
REMAINING AT AN UNLAWFUL ASSEMBLY	\$	250.00
RIOT	\$	750.00
SELLING, GIVING, OR FURNISHING CIGARETTES OR TOBACCO PRODUCTS TO A MINOR	\$	500.00
SIMULATING LEGAL PROCESS	\$	500.00
TAMPERING WITH A PUBLIC NOTICE	\$	500.00
TAMPERING WITH A PUBLIC RECORD	\$	500.00
TAMPERING WITH A TRAFFIC SIGNAL	\$	250.00
TAMPERING WITH A LANDMARK	\$	250.00
THEFT	\$	750.00
THEFT OF LOST PROPERTY	\$	750.00
THEFT OF MOTOR FUEL	\$	750.00
THEFT OF SERVICES	\$	750.00
TRESPASSING ON RAILROAD PROPERTY	\$	500.00

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UNLAWFUL ADMINISTRATION OF A SUBSTANCE	\$	750.00
UNLAWFUL AIDING, ABETTING	\$	500.00
UNLAWFUL ASSEMBLY	\$	250.00
UNLAWFUL DISCHARGE OF FIREARMS	\$	1,000.00
UNLAWFUL INTERFERENCE WITH FIREFIGHTER	\$	500.00
UNLAWFUL MANUFACTURE OR DISPOSAL OF FALSE TOKENS	\$	500.00
UNLAWFUL RESTRAINT	\$	500.00
UNLAWFUL USE OF A NON-FIREARM	\$	750.00
UNLAWFULLY HOSTING MINORS CONSUMING ALCOHOLIC LIQUOR OR CEREAL MALT BEVERAGE	\$	500.00
VIOLATION OF A PROTECTIVE ORDER	\$	750.00
VIOLATION OF PROTECTION FROM ABUSE ORDER	\$	750.00
WITHHOLDING POSSESSION OF PUBLIC PROPERTY	\$	250.00

ADD BONDS TOGETHER

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5/1/2012

RULE 5: APPEARANCE BONDS

- a) The Municipal Court's rules regarding Appearance bonds are controlled by K.S.A. 12-1403 et. seq.
- b) Any person arrested and charged with operating or attempting to operate a motor vehicle while under the influence of alcohol and/or drugs will be held by the Ford County jail up to a maximum of six (6) hours from the time of the offense in order to allow the person time to become sober enough to longer pose a danger to himself or others and to be able to understand the obligations he or she has to the Court upon release from custody upon such charge, unless a sober person can pick the arrestee up and sign for his or her release.
- c) Any person charged with a Domestic Violence crime or any other crime that involves an offense against a person shall have as a condition of the release, whether on surety bond, OR bond, or cash bond, a prohibition from having contact with the alleged victim in the offense. This no contact condition continues in effect until the bond is terminated or until waived or modified by the Municipal Judge.
- d) If unable to post bond after 48 hours, a person arrested on new charges for Municipal Court will be released and given a Notice to Appear. Such person will not be released from custody if, in addition to the arrest on new charges for Municipal Court, the person has an outstanding warrant either from Municipal Court or from some other jurisdiction.
- e) A cash receipt for a "cash only" bond will be issued only to the person being released on bond. Any person posting cash for another person is hereby placed on notice that any cash posted as a bail bond is the property of the accused person and may be forfeited, applied to payment of court ordered financial obligations, or refunded to the arrested party. When an accused person who has posted a cash bond is discharged from all appearances and financial obligations to the Court and provides identification to the clerk, the portion of the cash bond not allocated to court ordered financial obligations shall be refunded to the accused if the accused has not failed to appear for any court proceeding. Any arrangements to furnish bond money are between the lender and the accused person.
- f) For Appearance Bonds for appeals from conviction in Municipal Court, see Rule 18.