

3. This is a civil rights action arising under 42 U.S.C. §§ 1983 and 1988, and the Fourth and Fourteenth Amendments to the United States Constitution. The Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343.

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

Parties

5. Plaintiff Nicole Bolden is a 34-year-old African-American woman, a single mother of five minor children, and a resident of St. Louis County, Missouri.

6. Defendant City of Foristell is a municipal corporation organized under the laws of the State of Missouri. The Defendant operates the Foristell Municipal Court and houses its detainees at the St. Charles County Jail.

7. Defendant St. Charles County is a political and geographic subdivision of the State of Missouri, existing pursuant to Missouri law. Defendant St. Charles County operates the St. Charles County Jail, and houses detainees on behalf of the City of Foristell.

Factual Background

Arrest and Detention by Florissant, Dellwood, Hazelwood, and St. Louis County

8. On or about the morning of March 19, 2014, Ms. Bolden was involved in a traffic accident in the City of Florissant in St. Louis County.
9. Ms. Bolden had just dropped off her older two children at school and was driving with her two-and-a-half-year-old daughter and fourteen-month-old son.
10. Ms. Bolden was not at fault, but a responding officer conducted a warrant check and discovered that Ms. Bolden had arrest warrants in three separate jurisdictions including Dellwood and Hazelwood in St. Louis County, and Foristell in St. Charles County.

11. Each of Ms. Bolden's warrants was for an alleged Failure to Appear in court or Failure to Pay fines for traffic tickets.
12. The officer who discovered the warrants instructed Ms. Bolden to contact someone to come pick up her children. Fortunately, Ms. Bolden was near her mother's house and was able to reach her sister. Ms. Bolden was permitted to wait with her children until her sister arrived on the scene in a taxi.
13. At that point, the officer handcuffed Ms. Bolden and placed her in a police car in the presence of her children. The officer then transported her to the Florissant Police Department.
14. Between March 19, 2014, and March 23, 2014, Ms. Bolden was passed between three jails, first in the City of Florissant, then to the City of Hazelwood, and finally to the St. Louis County Justice Center on behalf of the City of Dellwood.
15. Although Ms. Bolden could not afford to pay the cash bonds demanded by each city in order to buy her freedom, she did everything in her power to secure the money. She used funds that she had recently received for child support to pay the Hazelwood bond; for the Dellwood bond, she borrowed money from a relative.
16. Even after posting the Dellwood bond, Ms. Bolden was not released; instead, officials at the St. Louis County Justice Center detained her on a warrant from the City of Foristell.
17. A St. Louis County officer told Ms. Bolden that Foristell would probably not come to pick her up and that the longest she would be held on the Foristell warrant would be twelve hours.

18. In fact, Ms. Bolden remained jailed in the St. Louis County Justice Center on the Foristell warrant for eighteen hours until Foristell came to pick her up at around 4:00 am on Sunday, March 23. At that point, she had already spent four days in jail for traffic tickets.
19. Foristell officers transported Ms. Bolden to the St. Charles County Jail.
20. A St. Charles County Jail officer told Ms. Bolden that she would have to pay a \$1,758.00 bond to the City of Foristell to secure her freedom.
21. The officer further stated that Ms. Bolden did not have a court date until May and that she would be held either until her court date or until she could pay her bond.
22. Knowing that she could not afford to pay the bond, Ms. Bolden broke down in tears. This prompted a nurse to ask Ms. Bolden if she was going to hurt herself. Ms. Bolden replied that she was tired and that she had not slept in four days. In response, jail officials put her on suicide watch and placed her in isolation.

St. Charles County Jail Conditions

23. St. Charles County jail officials kept Ms. Bolden in isolation for a day and a half.
24. After lunch on Monday, March 24, jailers removed her from isolation and placed her in general population with another inmate who bonded out later that day.
25. The next day, Ms. Bolden shared a cell with a heroin addict who was suffering from severe symptoms of withdrawal, including vomiting on herself and on the floor.
26. Not only did the jailers refuse to move Ms. Bolden to another cell, but they also refused to clean up after the woman, insisting that the convulsing woman had to clean up the mess herself.

27. Ms. Bolden and the heroin-addicted woman sat in the cell, filthy with vomit and rank with the sour smell, for over two hours. Then the jailers provided Ms. Bolden with gloves and supplies to clean up the mess.
28. This was not Ms. Bolden's only experience with heroin addicts exhibiting symptoms of withdrawal, as she had other cellmates who exhibited the same symptoms throughout her time in the jail.
29. The showers in the St. Charles County Jail were dirty and had drains that were filled with gnats and other small insects. When Ms. Bolden was finally allowed to shower, small swarms of gnats ascended from the drain and encircled her for the duration of her shower. The conditions were so severe that Ms. Bolden was dissuaded from using the shower again while in the jail.
30. St. Charles County charged Ms. Bolden more than \$1.00 per pill of Tylenol, which she needed for pain stemming from the March 19th car accident. Jail officials did not inform Ms. Bolden of the charge initially; once informed, she was unable to treat her pain because she could not afford it.
31. Jailers did not permit Ms. Bolden to go outside or provide the opportunity to exercise beyond walking in a small circle in the area where food was served.

Foristell Court Appearance

32. While Ms. Bolden was incarcerated, her attorney, Michael-John Voss, filed a motion for bond reduction to be heard at the next Foristell Municipal Court date. This date landed on April 2, 2014, more than ten days after Ms. Bolden was taken to the St. Charles County Jail by the Foristell Police Department.

33. For her court appearance, Ms. Bolden was forced to wear the same dirty clothes that she had been wearing at the time of her arrest. The clothes, which had been stored in an air-tight plastic bag, were severely wrinkled and had developed a musty odor.
34. After some delay in starting, the judge called Ms. Bolden's name. Ms. Bolden informed the judge that her lawyer was on his way, and that she and her lawyer had tried to negotiate a payment plan. The judge stated that the court would only accept payment in full.
35. The judge asked Ms. Bolden how much money she had and Ms. Bolden told him that she had nothing and that her family could no longer help her.
36. At this point, the judge asked his clerk when the next court date was. The clerk stated that the next court date was in two weeks. The judge told Ms. Bolden that she would have to go back to the jail for another two weeks until the next court date.
37. Foristell officers escorted Ms. Bolden out of the courtroom and into the nearby Foristell Police Station.
38. Shortly thereafter, Mr. Voss arrived at the courthouse and asked to see his client.
39. Ms. Bolden was not allowed back into the courtroom. Instead, officers showed her to a closet in the courthouse building, where she proceeded to have a private conversation with Mr. Voss.
40. After speaking with Ms. Bolden about the ordeal that she had endured over the past two weeks, Mr. Voss requested, and was granted permission, to approach the bench and speak with the municipal judge.
41. Mr. Voss could only convince the court to reduce Ms. Bolden's bond to \$700. Ms. Bolden was still not able to pay this amount, and was taken back to jail that night.

42. On April 3, 2014, Ms. Bolden's mother borrowed \$700 from her life insurance policy in order to secure Ms. Bolden's release from custody. The City of Foristell finally released Ms. Bolden from the St. Charles County Jail around 7:00 PM on April 3rd.

Past and Continuing Harms to Ms. Bolden

43. The Defendants City of Foristell and St. Charles County caged Ms. Bolden in the St. Charles County Jail for a total of approximately 14 days because Ms. Bolden was too poor to pay a cash bond for alleged municipal traffic violations.

44. The Defendants confined and set a bond amount for Ms. Bolden without taking her before a judge and without any inquiry into her ability to pay, despite Ms. Bolden's continued protests that she was unable to pay.

45. Ms. Bolden's mother died before Ms. Bolden was able to repay her the money borrowed against her life insurance policy. It took Ms. Bolden months to pay back her cousin, which caused significant negative impact to Ms. Bolden's financial status and family relationships.

46. Ms. Bolden's fourteen-month-old son suffered from the sudden and extended detachment from his mother, and to this day demonstrates separation anxiety whenever Ms. Bolden has to leave him for any period of time.

47. When Ms. Bolden returned from jail, she learned that her older children, who were twelve and thirteen at the time, had not attended school for a week.

48. Now, whenever she leaves the house, Ms. Bolden's children ask her where she is going and if she is coming home. Her children's anxiety causes her to suffer emotionally and limits her ability to go about her daily life as usual.

49. Ms. Bolden had scheduled a job interview at a restaurant for the day that she was arrested. Her detention deprived her of any opportunity to work and earn income both while in jail and for a period of time following.

50. Ms. Bolden continues to fear that she might be stopped, arrested, and locked in a cage at any time solely because she is too poor to pay a monetary penalty.

The City of Foristell's Policies and Practices

51. The City of Foristell is 5.6 square miles in size and includes a speed trap straddling 2.8 miles of Interstate 70 along the St. Charles County and Warren County divide in the State of Missouri.

52. Foristell has a population of around 500 people.

53. Foristell issued an average of 612 arrest warrants per year from 2011 to 2015.

54. During the same five-year period, the city filed 17,790 cases in its municipal court, 13,192 of which were for non-drug or alcohol related traffic offenses.

55. The municipal court fines assessed by the City also make up a substantial portion of Foristell's revenue. Between 2011 and 2015, Foristell collected an average of \$588,226.33 per year and a total of \$2,941,131.65 through its municipal court. This amounts to nearly \$5,900 per resident.

56. In 2014, the year in which the events in this suit occurred, the City collected \$604,635 in court fines and fees and forfeited bond payments, down from more than \$621,000 in 2012. The cost to operate the Foristell Municipal Court, by contrast, was an average of around \$96,000 and a total of \$481,825 from 2011 through 2015. This city of 500 residents thus netted a total of \$2,459,306.65 in court revenue in five years. Foristell has no single greater source of revenue.

57. It is the policy and practice of the City of Foristell to use its municipal court and the St. Charles County Jail as significant sources of revenue generation for the city.
58. Decisions regarding the operation of the court and the jail—including but not limited to the assessment of fines, fees, costs, and surcharges; the availability and conditions of payment plans; the setting of amounts required for release from jail; the issuance and withdrawal of arrest warrants; and the non-appointment of an attorney—are significantly influenced by and based on maximizing revenues collected rather than on legitimate considerations.
59. Foristell projects the amount of revenue to be raised through ticketing and fines during its budgeting process.¹ In a December 31, 2014 Financial Report submitted by the City of Foristell to the Missouri State Auditor’s office, the City reported “[t]he City projects \$1,092,842 in the revenue for the General Fund for the 2015 budget. Court revenues represents approximately 52% of this total.”² As a result, the entire municipal government apparatus, including municipal court officials and the City’s police department, have a significant and corrupting incentive to operate the court and the jail in a way that maximizes revenues, not justice.
60. The City has engaged in underreporting to avoid state requirements that traffic violation revenue more than 30% of general operating revenue be remitted to the State.
61. A December 2015 audit of Foristell by the Missouri State Auditor’s Office found that the City had underreported its traffic violation revenue amount, “not[ing] the municipal division did not include fines collected for certain traffic violation offenses (seatbelt and

¹ The City uses the money collected through these procedures to help fund the City jail, to pay Municipal Court judicial salaries, to pay City Attorney’s Office salaries, and to fund other portions of the City budget.

² *Financial Report (Audited): Year Ended December 31, 2014*, City of Foristell, Missouri, at 9 (Available at http://app.auditor.mo.gov/Local/SearchPolysubFinancialReports.aspx?_ga=1.93032281.534940425.1476821547).

financial responsibility) or court costs and other fees retained by the city that are not designated by statute for a specific purpose.”³

62. The same Audit found that Foristell was charging illegal “warrant cancellation” fees, requiring individuals to pay money not only to have their warrants recalled, but to be given a court date to appear in court and the chance to contest the underlying charges, as well.⁴

63. Over the past five years, Foristell has, per its public records, earned at least \$2,940,000 from its municipal court fines, fees, costs, and surcharges. Interestingly, a proportional per capita revenue stream from municipal court fees for the entire Saint Louis metropolitan region would be more than *Sixteen Billion Dollars*.

64. The impact of Foristell’s ticketing and warrant-issuance practices falls disproportionately on black residents and black motorists like Ms. Bolden. Black drivers have been significantly more likely to be stopped, searched, and arrested than white drivers, even though whites are more likely to possess illegal contraband when searched. While black residents are only 3.3% of the City’s population, 9.4% of vehicle stops and 16.5% of arrests conducted by Foristell in 2014 involved a black motorist. Black motorists are arrested at two times the rate of white motorists.

³ *City of Foristell Municipal Division Management Advisory Report – State Auditor’s Findings*, Eleventh Judicial Circuit, Missouri State Auditor’s Office, Report No. 2015-131 at 9 (December 2015).

⁴ *Id.* In addition to violating state law due to profit generating purpose, “warrant cancellation” fees violate due process, insofar as they require that a person pay an illegal fee to obtain access to the courts and hopefully to justice. For example, the person is not arraigned on any new charge for failure to appear prior to the “warrant cancellation” fee being assessed against them, and the person is not given a meaningful opportunity to present a defense to the elements of a failure to appear charge. The fee is simply added to the person’s debts. Warrant cancellation fees violate equal protection insofar as such fees deny access to the courts based on an individual’s inability to pay a fee. Finally, warrant cancellation fees demonstrate the City’s profit driven policies and procedures.

65. Ms. Bolden's deplorable treatment was caused by and is representative of the City's policies and practices concerning collecting unpaid fines, fees, costs, and surcharges relating to traffic tickets and other minor offenses for at least the past five years.

Claims for Relief

COUNT I

**DEFENDANT CITY OF FORISTELL'S
DETENTION OF MS. BOLDEN ON THE BASIS OF HER INDIGENCE
VIOLATED EQUAL PROTECTION AND DUE PROCESS**

66. Ms. Bolden incorporates by reference the allegations in the preceding paragraphs as if fully set forth herein.

67. The Fourteenth Amendment's Due Process and Equal Protection Clauses have long prohibited imprisoning a person for the failure to pay money owed to the government if that person is indigent and unable to pay.

68. Defendant City of Foristell violated Ms. Bolden's rights by imprisoning her when she could not afford to pay the debts she allegedly owed from traffic and other minor offenses, and by forcing her to make payments to avoid jail, even where indigent.

69. Defendant City of Foristell violated Ms. Bolden's rights by imprisoning her, ordering to imprison her, and/or contracting to imprison her, and by threatening to imprison her, without conducting any inquiry into her ability to pay and without conducting any inquiry into alternatives to imprisonment as required by the United States Constitution.

70. A wealthier person in Ms. Bolden's position could have paid a sum of cash and been released from jail.

71. Ms. Bolden suffered damages pursuant to Defendant City of Foristell's violation of her rights under the Fourteenth Amendment, including but not limited to: being seized and deprived of her freedom; being detained in custody for a total of 16 days, and for nearly

14 days on a Foristell warrant; embarrassment; hopelessness; exposure to inhumane jail conditions; extortion; disrespect; indignity; fear; apprehension; depression; anxiety; consternation; emotional distress; violation of her constitutional rights; interference with her family relationships; interference with her professional and employment relationships; loss of employment opportunities; lost time; lost wages; and loss of faith in society.

72. Ms. Bolden suffered all of these damages solely because she was too poor to pay a monetary penalty in violation of the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the United States Constitution.

73. Defendant City of Foristell's policy and practice of keeping individuals in its jail unless and until they are able to pay arbitrarily determined and constantly-shifting sums of money, as applied to Ms. Bolden, violates the Fourteenth Amendment.

COUNT TWO
**DEFENDANT CITY OF FORISTELL'S USE OF
INDEFINITE AND ARBITRARY DETENTION AGAINST MS. BOLDEN
VIOLATED EQUAL PROTECTION AND DUE PROCESS**

74. Ms. Bolden incorporates by reference the allegations in the preceding paragraphs of this Complaint.

75. The Due Process Clause of the Fourteenth Amendment prohibits Defendant from jailing Plaintiff indefinitely and without any meaningful legal process through which she can challenge her detention by keeping her confined in jail unless or until she could make arbitrarily-determined cash payments, or until City employees decided to release her for free.

76. The Equal Protection and Due Process Clauses prohibit the City's arbitrary and indeterminate post-arrest detention as a result of the City's use of a pre-fixed cash bail

schedule whereby initial cash release amounts were arbitrarily set without any inquiry into a person's ability to pay.

77. As a result, those arrestees able to pay are released immediately while those who cannot pay are detained indefinitely without any meaningful legal process to inquire into their ability to pay the amounts demanded by the City.

78. Ms. Bolden suffered damages pursuant to Defendant City of Foristell's violation of her rights under the Fourteenth Amendment, including but not limited to: being seized and deprived of her freedom; being detained in custody for a total of 16 days, and for nearly 14 days on a Foristell warrant; embarrassment; hopelessness; exposure to inhumane jail conditions; extortion; disrespect; indignity; fear; apprehension; depression; anxiety; consternation; emotional distress; violation of her constitutional rights; interference with her family relationships; interference with her professional and employment relationships; loss of employment opportunities; lost time; lost wages; and loss of faith in society.

79. Ms. Bolden suffered these damages solely because she was too poor to pay a monetary penalty in violation of the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the United States Constitution.

COUNT THREE
THE DEPLORABLE CONDITIONS IN THE
ST. CHARLES COUNTY JAIL VIOLATED DUE PROCESS AND
CONSTITUTED IMPERMISSIBLE PUNISHMENT

80. Plaintiffs incorporate by reference the allegations in the preceding paragraphs of this Complaint.

81. The unsafe, unsanitary, inhumane, and dangerous conditions of confinement in the St. Charles County Jail constituted impermissible punishment unrelated to serving any criminal judgment.
82. Ms. Bolden was denied pain medication because she could not afford to pay for it; denied a shower because of the unsanitary condition of the showers at the facility; housed with a detoxing heroin addict; caged in close proximity to that individual's vomit and its stench and forced to either tolerate the stench or clean the woman and the cell herself; housed with other detoxing women; and subjected to other inhumane conditions.
83. If imposed after valid conviction, the conditions would constitute cruel and unusual treatment. The deplorable and excessively harsh conditions in the Defendants' jail are unnecessary to accomplish any legitimate government objective and shock the conscience of any reasonable person concerned with human dignity and liberty.
84. Ms. Bolden suffered damages pursuant to Defendant St. Charles County and Defendant City of Foristell's violation of her rights under the Fourteenth Amendment, including but not limited to: pain; embarrassment; hopelessness; extortion; disrespect; indignity; fear; apprehension; depression; anxiety; consternation; emotional distress; violation of her constitutional rights; and loss of faith in society.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs request that this Court issue the following relief:

- a. A Declaratory Judgment that Defendant City of Foristell violated Ms. Bolden's Fourteenth Amendment Due Process and Equal Protection rights by imprisoning her because she could not afford to pay the City of Foristell and by imprisoning her

without conducting any meaningful inquiry into her ability to pay or into alternatives to incarceration;

- b. A Declaratory Judgment that Defendant City of Foristell violated Ms. Bolden's rights by holding her indefinitely in jail independent of any formal legal process;
- c. A Declaratory Judgment that Defendants St. Charles County and Defendant City of Foristell violated Ms. Bolden's rights by subjecting her to unconstitutional jail conditions;
- d. A Judgment compensating Ms. Bolden for damages she suffered as a result of Defendant St. Charles County's and Defendant City of Foristell's unconstitutional and unlawful conduct in imprisoning her in violation of law;
- e. A Judgment compensating Ms. Bolden for damages she suffered and restitution for money paid to the City as the result of unlawful fines, fees, costs, or from cases in the Foristell Municipal Court in which she was not provided a meaningful opportunity to claim or demonstrate indigence; and
- f. 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.

Dated: December 5, 2016

Respectfully submitted,

By: /s/ Edward Hall

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