

STATE OF NEW MEXICO  
SAN JUAN COUNTY MAGISTRATE COURT IN AZTEC

Keith Harper, Plaintiff(s)

v.

San Juan County Sheriffs Office, Defendant(s)

No. M-147-CV-2020-00366

**ORDER DISMISSING ACTION**

This matter having come before the court on the MTN: FOR DISMISSAL filed by Childress, Ronald and the court having considered the argument presented, finds that:

- the motion should be granted.  
 the above cause of action should be dismissed with prejudice.

IT IS ORDERED that:

- the motion to dismiss the action is denied.  
 this action is dismissed with prejudice.

  
\_\_\_\_\_  
Gary M. McDaniel, Judge

**CERTIFICATE OF SERVICE**

I CERTIFY that a copy of the foregoing was served on 8-13-2020 to:

**FILED IN**

AUG 13 2020

MAGISTRATE COURT  
SAN JUAN DIV. 1

Ronald Childress

Childress Law Firm  
8500 Menaul Blvd NE Suite A-225  
Albuquerque NM 87112

Keith Harper

15 CR 3262  
Aztec, NM 87410

San Juan County Sheriffs Office

211 S OLIVER DR  
Aztec, NM 87410

Paige Miles, Clerk

Distribution 1 copy - Court 1 copy - Defendant 1 copy - Plaintiff [Approved, January 19, 2005, effective March 21, 2005.]

Civil Form 4-3068

Court Information:

San Juan County Magistrate Court 200 Gossett Dr.

Aztec NM 87410 phone 505-334-9479 (fax) 505-334-2178 web site: [www.nmcourts.com](http://www.nmcourts.com)

STATE OF NEW MEXICO  
COUNTY OF SAN JUAN  
IN THE MAGISTRATE COURT

FILED IN

AUG 13 2020

MAGISTRATE COURT  
SAN JUAN DIV. I

KEITH HARPER

Plaintiff,

vs.

No. M-147-CV- 202000366

SAN JUAN COUNTY SHERIFF'S OFFICE,

Defendant.

**DEFENDANT SAN JUAN COUNTY SHERIFF'S OFFICE MOTION TO DISMISS FOR LACK OF JURISDICTION**

COMES NOW the Defendant, San Juan County Sheriff's Office, by and through its attorneys, CHILDRESS LAW FIRM, and pursuant to Rule 2-307 of the New Mexico Rules of Civil Procedure for the Magistrate Courts, submit Defendant's Motion to Dismiss for Lack of Jurisdiction. For and in support of its Motion, Defendant San Juan County Sheriff's Office states as follows:

1. The Civil Complaint filed by the plaintiff seeks damages and injunctive relief against the San Juan County Sheriff's Office for the alleged illegal seizure and retention of a motor home. (*See Complaint at paragraphs 1, 2, and 3*).

2. Defendant San Juan County Sheriff's Office is a local public body to which the terms and provisions of the New Mexico Tort Claims Act apply. *See New Mexico Tort Claims Act, Sections 41-4-1 through 27*.

3. Section 41-4-18(A) of the New Mexico Tort Claims Act identifies the correct jurisdiction for claims for tort damages brought against governmental entities.

4. Section 41-4-18(B) mandates that the proper jurisdiction for claims brought against governmental entities, such as defendant San Juan County Sheriff's Office, "shall be with the district

court in the county in which the principal offices of the governing body of the local public body are located.”

5. The principal offices of the governing body of San Juan County are located in Aztec, County of San Juan, New Mexico.

6. Magistrate Courts in the State of Mexico are courts of limited jurisdiction and the jurisdiction of the Magistrate Courts of the State of New Mexico and limitations thereto are set out in NMSA 1978 35-3-3 (C)(6)-(7) of the statutes of the State of New Mexico and provide that a magistrate does not have jurisdiction in the following areas:

(6) to grant writs for injunction, habeas corpus or extraordinary writs; or

(7) where jurisdiction is vested exclusively in another court.

7. To the extent that the plaintiff may be making a claim for violation of his civil rights, violation of civil rights under federal law may only be filed in federal district courts or in state courts of general jurisdiction.


8. Based on the foregoing, this Court does not have jurisdiction over the Plaintiff's claims for damages and injunctive relief against defendant San Juan County Sheriff's Office.

9. Any claim for the return of the Plaintiff's motor home should be more properly filed in the action pending in the San Juan County District Court in which a district court judge authorized the search warrant in this matter.

10. Due to the nature of this Motion, concurrence from the Plaintiff has not been sought.

WHEREFORE, Defendant San Juan County Sheriff's Office respectfully requests that the Court grant its Motion to Dismiss for Lack of Jurisdiction and for such further relief deemed just and proper under the circumstances.

CHILDRESS LAW FIRM, LLC

By:   
RONALD J. CHILDRESS  
Attorneys for Defendant  
8500 Menaul Blvd. Ste A-225  
Albuquerque, NM 87112  
(505) 883-8555

I hereby certify that true copy of the foregoing was mailed to:

Keith Harper  
15 CR 3262  
Aztec, NM 87410

this 12 day of August, 2020.

  
RONALD J. CHILDRESS

JUL 24 2020

MAGISTRATE COURT  
SAN JUAN DIV. I

Keith Harper, Plaintiff

San Juan Sheriff Office, Defendant  
Address

Aztec, New Mexico, 87410 City, State, Zip

No. M-147-CV-2020-3666  
Case # 2020-20155

CIVIL COMPLAINT

1. Plaintiff or defendant resides, or may be found in, or the cause of action arose in this county
2. Plaintiff claims from Defendant the amount of \$ 10,000 and also claims interest and court costs. Plaintiff claims from Defendant personal property of the value of \$ 10,000 which is described as follows: Requesting an order to Compell - San Juan Sheriff Dep. To Release a 2008 Ford Motor Home - that has been held by SJSO for over 60 days without probable cause or justification. Fees are to cover Rental expenses generated by this vehicle.
3. Plaintiff's claim arises from the following event or transaction:  
Search of Vehicle and failure to return as so specified
4. Trial by jury is (not) demanded. *(If a jury is demanded, an additional cost must be paid upon filing.)*
5.  Plaintiff requests a \_\_\_\_\_ language interpreter.

Dated: July 23, 2020

Keith Harper

KEITH HARPER

Signed

Name (print)

15 CR 3262

Mailing Address (print)

AZTEC, N.M 87410

City, state and zip code (print)

970-325-0100

Telephone number

E-mail address (print)