

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

CLAUDIA RIOS-QUIROZ, FERNANDO)
RUIZ-ESPINOSA, JOEL ALVARADO-)
DEALMONTE, JOSE MARTINEZ-LOPEZ,)
ARTURO LUNA-UTERA, and LEONARDO)
TORRES-DEVORA, on behalf of)
themselves and all others similarly situated,)

Plaintiffs,

v.

WILLIAMSON COUNTY, TENNESSEE,)
Defendants.)

Case No. 3:11-cv-1168
Chief Judge Campbell
Magistrate Griffin

COMPLAINT – CLASS ACTION

FIRST AMENDED CLASS ACTION COMPLAINT

Come now the Plaintiffs, by and through their undersigned attorneys, and having obtained written consent of the Defendant pursuant to Fed. R. Civ. P. 15(a)(2), state for their First Amended Complaint as follows:

INTRODUCTION

1. This is a civil action pursuant to 42 U.S.C. § 1983 for declaratory relief and monetary damages to redress unconstitutional deprivations of Plaintiffs’ liberty.

2. Plaintiffs are Middle Tennessee residents who received misdemeanor citations in lieu of arrest during traffic stops in Williamson County. Upon reporting to the Williamson County Criminal Justice Center (“CJC”) for pre-trial misdemeanor booking, Plaintiffs were detained for a prolonged period and prevented from leaving the CJC while Williamson County Sheriff’s Office (“WCSO”) employees questioned them about their immigration status and communicated with United States Immigration and Customs Enforcement (“ICE”). ICE transmitted to WCSO employees a civil immigration detainer request form for each Plaintiff.

Upon receiving the civil immigration detainer request form, WCSO employees took Plaintiffs into custody. Defendant then detained Plaintiffs in the Williamson County Jail without bail. Since January 1, 2011, Defendant has applied this unconstitutional practice and custom to illegally arrest and detain without bail at least sixteen people.

3. Plaintiffs bring this class action to vindicate their rights and the rights of at least a ten other individuals Defendant unlawfully arrested and detained pursuant to its unconstitutional practice and custom.

PARTIES

4. Plaintiff **Claudia Rios-Quiroz** (“Plaintiff Rios”) is a resident of Fairview, Tennessee. At approximately 8:08 a.m. on July 11, 2011, she reported to the WCSO CJC facility at 408 Century Court in Franklin, Tennessee for pre-trial booking on a misdemeanor traffic citation issued in lieu of custodial arrest. A female WCSO employee questioned Plaintiff Rios about her citizenship and immigration status. At approximately 8:13 a.m., the female WCSO employee informed Plaintiff that she would be detained for ICE. For the next two hours and twelve minutes, Plaintiff was not free to leave the CJC facility. WCSO did not arrest or detain Plaintiff pursuant to any state charge during this two hour and twelve minute period, or at any time thereafter. No earlier than 10:25 a.m. on July 11, 2011, ICE faxed a civil immigration detainer request form for Plaintiff to WCSO. Plaintiff Rios was not an inmate of the Williamson County Jail when WCSO employees received ICE’s fax. At approximately 11:09 a.m., WCSO employees made Plaintiff Rios an inmate of the Williamson County Jail. Plaintiff remained in the Williamson County Jail for three days without bail. She was never detained pursuant to any state charge. WCSO transferred Plaintiff Rios to ICE on July 13, 2011.

5. Plaintiff **Fernando Ruiz-Espinosa** (“Plaintiff Ruiz”) is a resident of Antioch, Tennessee. On December 10, 2011, he reported to the CJC for pre-trial booking on a misdemeanor traffic citation issued in lieu of custodial arrest. One or more WCSO employees questioned Plaintiff Ruiz about his immigration status and communicated with ICE regarding his answers. Plaintiff Ruiz was not free to leave the CJC facility while this questioning took place. He was not arrested or detained pursuant to any state charge during this period, or at any time thereafter. Upon receipt of a civil immigration detainer request form from ICE, WCSO employees made Plaintiff Ruiz an inmate of the Williamson County Jail. Plaintiff Ruiz remained in the Williamson County Jail for three days without bail until his transfer to ICE on December 12, 2011.

6. Plaintiff **Joel Alvarado-Dealmonte** (“Plaintiff Alvarado”) is a resident of Nashville, Tennessee. At approximately 2:00 p.m. on August 4, 2011, he reported to the CJC for pre-trial booking on a misdemeanor traffic citation issued in lieu of custodial arrest. One or more WCSO employees questioned Plaintiff Alvarado about his immigration status and communicated with ICE regarding his answers. During the period when this questioning and communication occurred, Plaintiff Alvarado was not free to leave the CJC facility. He was not arrested or detained pursuant to any state charge during this period, or at any time thereafter. No earlier than 2:51 p.m. on August 4, 2011, ICE faxed a civil immigration detainer request form for Plaintiff to WCSO. Plaintiff Alvarado was not an inmate of the Williamson County Jail when WCSO employees received ICE’s detainer request form. WCSO employees made Plaintiff Alvarado an inmate of the Williamson County Jail upon receiving the civil immigration detainer request form. Plaintiff Alvarado remained in the Williamson County Jail for two days without bail. WCSO transferred Plaintiff Alvarado to ICE on August 5, 2011.

7. Plaintiff **Jose Martinez-Lopez** (“Plaintiff Martinez”) is a resident of Hermitage, Tennessee. On October 22, 2011, he reported to the CJC for pre-trial booking on a misdemeanor traffic citation issued in lieu of custodial arrest. One or more WCSO employees questioned Plaintiff Martinez about his immigration status and communicated with ICE regarding his answers. During the period when this questioning and communication occurred, Plaintiff Martinez was not free to leave the CJC facility. He was not arrested or detained pursuant to any state charge during this period, or at any time thereafter. ICE transmitted a civil immigration detainer request form for Plaintiff to WCSO on October 22, 2011. On information and belief, Plaintiff Martinez was not an inmate of the Williamson County Jail when WCSO employees received ICE’s detainer request form. On information and belief, WCSO employees made Plaintiff Martinez an inmate of the Williamson County Jail upon receiving the civil immigration detainer request form. Plaintiff Martinez remained in the Williamson County Jail for four days without bail. He was not detained pursuant to any state charge during this period. WCSO transferred Plaintiff Martinez to ICE on October 25, 2011.

8. Plaintiff **Arturo Luna-Utrera** (“Plaintiff Luna”) is a resident of Murfreesboro, Tennessee. On June 11, 2011, he reported to the CJC for pre-trial booking on a misdemeanor traffic citation issued in lieu of custodial arrest. One or more WCSO employees questioned Plaintiff Luna about his immigration status and communicated with ICE regarding his answers. During the period when this questioning and communication occurred, Plaintiff Luna was not free to leave the CJC facility. He was not arrested or detained pursuant to any state charge during this period, or at any time thereafter. ICE transmitted a civil immigration detainer request form for Plaintiff to WCSO no earlier than 10:19 a.m. on June 11, 2011. Plaintiff Luna was not an inmate of the Williamson County Jail when WCSO employees received ICE’s detainer request

form. WCSO employees made Plaintiff Luna an inmate of the Williamson County Jail upon receiving the civil immigration detainer request form. Plaintiff Luna remained in the Williamson County Jail for four days without bail. He was not detained pursuant to any state charge during this period. WCSO transferred Plaintiff Luna to ICE on June 14, 2011.

9. Plaintiff **Leonard Torres-Devora** (“Plaintiff Torres”) is a resident of Nashville, Tennessee. On October 29, 2011, he reported to the CJC facility for pre-trial booking on a misdemeanor traffic citation issued in lieu of custodial arrest. One or more WCSO employees questioned Plaintiff Torres about his immigration status and communicated with ICE regarding his answers. During the period when this questioning and communication occurred, Plaintiff Luna was not free to leave the CJC facility. He was not arrested or detained pursuant to any state charge during this period, or at any time thereafter. ICE transmitted a civil immigration detainer request form for Plaintiff to WCSO on October 29, 2011. On information and belief, Plaintiff Torres was not an inmate of the Williamson County Jail when WCSO employees received ICE’s detainer request form. On information and belief, WCSO employees made Plaintiff Torres an inmate of the Williamson County Jail upon receiving the civil immigration detainer request form. Plaintiff Torres remained in the Williamson County Jail for three days without bail. He was not detained pursuant to any state charge during this period. WCSO transferred Plaintiff Torres to ICE on October 31, 2011.

10. Defendant **Williamson County, Tennessee** (“Defendant Williamson County”) is a political subdivision of the State of Tennessee. Defendant Williamson County, by and through its principal law enforcement agency, the Williamson County Sheriff’s Office, operates the Williamson County Jail and CJC, located at 408 Century Court in Franklin, Tennessee.

JURISDICTION AND VENUE

11. This Court has jurisdiction pursuant to 28 U.S.C. § 1331(federal question) and 28 U.S.C. §§ 2201-2202 (declaratory relief). Jurisdiction over Plaintiffs' state-law claims lies pursuant to 28 U.S.C. § 1367. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events giving rise to Plaintiffs' claims occurred in this District.

FACTUAL ALLEGATIONS
FEDERAL IMMIGRATION LAW ENFORCEMENT
AND WILLIAMSON COUNTY'S LIMITED ROLE IN IT

12. State and local law enforcement officers have no general authority to enforce completed violations of federal civil immigration law. Federal law specifically authorizes state officers to assist in immigration enforcement only in narrowly defined circumstances; otherwise, it reserves immigration enforcement authority to the federal government.

13. Defendant Williamson County does not have an agreement with ICE pursuant to 8 U.S.C. § 1357(g) ("287(g) agreement") allowing its law enforcement officers to carry out "function[s] of an immigration officer in relation to the investigation, apprehension, or detention of aliens in the United States."

14. On December 17, 2008, Williamson County Sheriff Jeff Long formally requested that ICE enter into a 287(g) agreement with WCSO "that would permit our trained deputies to perform immigration law enforcement functions."

15. On January 12, 2009, William F. Riley, Acting Director of ICE's Office of State and Local Coordination, effectively declined Sheriff Long's request. He suggested several other potential ICE programs, none of which designates WCSO deputies as federal immigration law enforcement officers.

16. No WCSO official has ever been trained and deputized as a federal 287(g) immigration enforcement officer with interrogation, arrest, or detention power pursuant to 8 U.S.C. § 1357(a).

17. WCSO personnel are not authorized by the federal government to conduct interrogations, arrests, or detentions solely on suspicion of completed federal immigration violations.

18. Nothing in Tennessee State or local law permits or requires WCSO personnel to make arrests or detentions for completed civil violations of federal immigration law.

ICE DETAINER REQUESTS

19. An ICE “detainer” is a notice that ICE issues to Federal, State, and local law enforcement agencies (LEAs) to inform the LEA that ICE intends to assume custody of an individual who is presently in the LEA’s custody. 8 C.F.R. § 287.7(a).

20. “A[n] ICE detainer is not a criminal warrant, but rather a voluntary request that the law enforcement agency ‘advise [DHS], prior to release of the alien, in order for [DHS] to arrange to assume custody.’” *Buquer v. City of Indianapolis*, --- F.Supp.2d ----, 2011 WL 2532935 (S.D. Ind. 2011).

21. An ICE detainer provides no independent legal basis for an LEA to detain an individual who is not already in state custody pursuant to a state criminal arrest.

22. Pursuant to ICE’s Interim Policy No. 10074.1, “Immigration officers shall not issue a detainer unless a L[aw] E[nforcement] A[gency] has exercised its **independent authority** to arrest the alien for a criminal violation. Immigration officers shall not issue detainers for aliens who have been temporarily detained by the LEA (i.e., roadside or *Terry* stops) but not arrested.

This policy, however, does not preclude the temporary detention of an alien by the LEA while ICE responds to the scene.”¹

23. Senior ICE officials have repeatedly confirmed that local law enforcement agencies “are not mandated to honor a detainer, and in some jurisdictions they do not.” According to these officials, a detainer is not a requirement, but is simply “a request.” “There is no penalty if [LEAs] don’t comply.”

WCSO’S UNLAWFUL IMMIGRATION ARREST AND DETENTION OF ALL PLAINTIFFS

24. All Plaintiffs voluntarily reported to the CJC after receiving a misdemeanor citation in lieu of custodial arrest.

25. WCSO employees believed all Plaintiffs to be non-U.S. citizens.

26. WCSO employees prevented all Plaintiffs from leaving the CJC while it communicated with ICE regarding Plaintiffs’ perceived national origin and immigration status.

27. Upon receiving a civil immigration detainer request form from ICE, WCSO employees took all Plaintiffs into WCSO custody and made them inmates of the Williamson County Jail.

28. WCSO’s detention of all Plaintiffs was not pursuant to any state criminal or civil charge.

29. At no time did WCSO afford Plaintiffs an opportunity to challenge their arrest and detention.

30. At no time did WCSO afford Plaintiffs a probable cause hearing.

WCSO’S UNLAWFUL IMMIGRATION ARREST AND DETENTION OF OTHER INDIVIDUALS PURSUANT TO ITS ILLEGAL PRACTICE AND CUSTOM

¹ Available at <http://centerforinvestigativereporting.org/files/ICEdetainerpolicy.PDF> (emphasis added).

31. From January 1, 2011 until December 12, 2011, Defendant arrested at least ten additional individuals pursuant to the practice and custom WCSO employed to arrest and detain Plaintiffs.

CLASS ACTION ALLEGATIONS

32. Pursuant to Fed. R. Civ. P. 23(b)(3), all Plaintiffs bring this action to represent a class of persons seeking declaratory and monetary relief, provisionally defined as follows: *All persons who, since January 1, 2011, (a) have received a misdemeanor citation in lieu of arrest in Williamson County, **and** (b) subsequently reported to the CJC for booking, **and** (c) are or have been detained and/or arrested by the Williamson County Sheriff's Office based solely on the authority of a federal immigration detainer request.*

33. All of the prerequisites to a class action as set forth in Fed. R. Civ. P. 23(a) are present in this case:

a. The proposed class includes at least sixteen (16) known persons who were illegally arrested and detained pursuant to Defendant's unlawful policy. This class is likely to be so numerous, and, given the nature of the immigration detention and removal system, so geographically dispersed, that joinder of all class members is impracticable.

b. There are questions of law and fact common to the proposed class that will yield common answers capable of resolving Plaintiffs' claims. Common questions of law include, but are not limited to: (i) whether the practice and custom complained of herein constitutes enforcement of completed civil violations of federal immigration law that is unlawful and preempted under the Supremacy Clause of the United States Constitution; (ii) whether the practice and custom complained of herein violates the Fourth Amendment, as incorporated through the Fourteenth Amendment, by subjecting

individuals to arrest and detention without probable cause; (iii) whether the practice and custom complained of herein violates the Fourteenth Amendment's Due Process Clause by depriving individuals of their liberty without an opportunity to be heard; (iv) whether the practice and custom complained of herein violates the Fourteenth Amendment's Equal Protection Clause by discriminating against a class of persons based on their perceived national origin; and (v) whether the class was falsely imprisoned without a mittimus in violation of Tennessee common law.

c. The claims of the named Plaintiffs are typical of the claims of proposed class because the exact same practice and custom that led to Plaintiffs' illegal arrest and detention was applied to all members of the proposed class.

d. The named Plaintiffs will fairly and adequately represent the interests of the proposed class. No Plaintiff has any interest antagonistic to the proposed class and the relief sought will benefit all class members.

e. The named Plaintiffs are represented by competent counsel and are fully capable of adequately representing and protecting the interests of the proposed class. Proposed class counsel maintains a practice, unique to this District and this State, which simultaneously focuses on immigration law and the civil rights of immigrants.

34. The proposed class satisfies Fed. R. Civ. P. 23(b)(3) because common questions of law and fact will predominate over the any questions affecting individual class members and pursuing this action as a class action is superior to other available methods.

CLAIMS FOR RELIEF

CLAIM I: VIOLATION OF THE FOURTH AMENDMENT

(42 U.S.C. § 1983 – *Monell*)

**ILLEGAL PRACTICE AND CUSTOM OF WARRANTLESS IMMIGRATION ARRESTS
DURING MISDEMEANOR PRE-TRIAL BOOKING**

35. All of the foregoing allegations are re-alleged and incorporated by reference.

36. Defendant has no legal authority to arrest individuals for suspected completed violations of federal immigration law.

37. Defendant Williamson County, by and through the Williamson County Sheriff's Office, has engaged in an unconstitutional practice and custom of arresting and detaining individuals and unreasonably depriving them of their liberty without probable cause in violation of the Fourth Amendment, as incorporated through the Fourteenth Amendment.

38. Defendant Williamson County, by and through the Williamson County Sheriff's Office, has engaged in an unconstitutional practice and custom of detaining individuals following their warrantless arrest without providing a prompt hearing to determine whether probable cause exists, unreasonably depriving these individuals of their liberty in violation of the Fourth Amendment, as incorporated through the Fourteenth Amendment.

39. As a result of Defendant's unconstitutional practice and custom, all Plaintiffs were illegally arrested and detained in violation of their rights under the Fourth Amendment to the United States Constitution (as incorporated through the Fourteenth Amendment).

40. As a proximate result of Defendant's unconstitutional policy, practice and custom, all Plaintiffs have suffered damages, including, but not limited to violations of their constitutional rights, loss of liberty, humiliation, and emotional distress.

CLAIM II: VIOLATION OF THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT
(42 U.S.C. § 1983 - *Monell*)

**ILLEGAL PRACTICE AND CUSTOM OF DEPRIVING INDIVIDUALS OF THEIR LIBERTY
WITHOUT ANY OPPORTUNITY TO CHALLENGE THE DEPRIVATION**

41. All of the foregoing allegations are re-alleged and incorporated by reference.

42. Defendant Williamson County, by and through the Williamson County Sheriff's Office has engaged an unconstitutional practice and custom of taking into custody and detaining

individuals based solely upon a civil immigration detainer request form without affording those individuals any opportunity to challenge their detentions.

43. As a result of this practice and custom, all Plaintiffs were deprived of their liberty without any opportunity to challenge their detention.

44. As a proximate result of Defendants' actions, Plaintiffs suffered damages, including but not limited to violations of their constitutional rights, loss of liberty, humiliation, and emotional distress.

CLAIM III: VIOLATION OF THE EQUAL PROTECTION CLAUSE OF THE
FOURTEENTH AMENDMENT
(42 U.S.C. § 1983 - *Monell*)
ILLEGAL PRACTICE AND CUSTOM OF DISCRIMINATION
BASED ON PERCEIVED NATIONAL ORIGIN

45. All of the foregoing allegations are re-alleged and incorporated by reference.

46. Defendant Williamson County, by and through the Williamson County Sheriff's Office has engaged an unconstitutional practice and custom of restraining the liberty of individuals who report to the CJC for misdemeanor pre-trial booking whenever WCSO employees perceive that those individuals are foreign-born.

47. This practice and custom expressly discriminates against individuals based upon their perceived national origin (alienage).

48. This practice and custom has the effect of discriminating against individuals, including Plaintiffs, based upon perceived national origin (alienage).

49. All Plaintiffs had their liberty unreasonably and unconstitutionally restrained as a result of Defendant's discriminatory policy.

50. As a proximate result of Defendants' actions, Plaintiffs suffered damages, including but not limited to violations of their constitutional rights, loss of liberty, and emotional distress.

COUNT IV: VIOLATION OF THE SUPREMACY CLAUSE OF THE UNITED STATES CONSTITUTION
(42 U.S.C. § 1983 - *Monell*)

PREEMPTED LOCAL ENFORCEMENT OF FEDERAL IMMIGRATION LAW

51. All of the foregoing allegations are re-alleged and incorporated by reference.

52. Absent special statutory authorization not present in this case, local law enforcement agencies have no power to arrest and detain individuals for completed civil violations of federal immigration law. *United States v. Urrieta*, 520 F.3d 569, 574 (6th Cir. 2008).

53. Defendant, by and through the Williamson County Sheriff's Office, arrested and detained Plaintiffs for suspected violations of federal immigration law in the absence of any cognizable legal authority to do so, in violation the Supremacy Clause, Article VI, Section 2, of the United States Constitution.

54. As a proximate result of Defendants' actions, Plaintiffs suffered damages, including but not limited to violations of their constitutional rights, loss of liberty, and emotional distress.

COUNT V: FALSE IMPRISONMENT
TENNESSEE COMMON LAW TORT CLAIM
(FALSE IMPRISONMENT WITHOUT A MITTIMUS)

55. All of the foregoing allegations are re-alleged and incorporated by reference.

56. Defendant unlawfully deprived each Plaintiff of his or her liberty without any legal justification.

57. As a proximate result of Defendants' actions, Plaintiffs suffered damages, including but not limited to violations of their constitutional rights, loss of liberty, and emotional distress.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs request judgment against Defendant as follows:

- (1) Issue an order certifying this action to proceed as a class action pursuant to Fed. R. Civ. P. 23(b)(3);
- (2) Appoint the undersigned as class counsel pursuant to Fed. R. Civ. P. 23(g);
- (3) Issue a judgment declaring that Defendant's practice and custom described herein is unlawful and violates Plaintiffs' rights under the Fourth Amendment, as incorporated through the Fourteenth Amendment;
- (4) Issue a judgment declaring that Defendant's practice and custom described herein is unlawful and violates Plaintiffs' rights to due process under the Fourteenth Amendment;
- (5) Issue a judgment declaring that Defendant's practice and customs described herein is unlawful and violations Plaintiffs' rights to equal protection under the Fourteenth Amendment;
- (6) Issue a judgment declaring the Defendant's practice and custom described herein is unlawful and violates the Supremacy Clause of the United States Constitution;
- (7) Issue a judgment declaring Plaintiffs were unlawfully detained and falsely imprisoned in violation of Tennessee common law;
- (8) Award Plaintiffs those damages to which it may appear they are entitled by the proof submitted in this cause.

(9) Award Plaintiffs reasonable expenses in this litigation, including costs and reasonable attorney and expert fees, pursuant to 42 USC § 1988 (b) and (c).

(10) Award Plaintiffs all other further and general relief to which it may appear he is entitled.

Date: February 22, 2011

Respectfully submitted,

/s Elliott Ozment

Elliott Ozment (BPR # 4331)

/s R. Andrew Free

R. Andrew Free (BPR # 30513)

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