

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Diane Marie WILLIAMS,)
Plaintiff;)
v.) No. _____
United States of America,)
Defendant.)

PLAINTIFF’S ORIGINAL COMPLAINT UNDER
THE FEDERAL TORT CLAIMS ACT; And,
FOR DECLARATORY JUDGMENT

COMES NOW, DIANE MARIE WILLIAMS, Plaintiff in the above-styled and numbered cause, and for cause of action would show unto the Court the following:

1. The Plaintiff, DIANE MARIE WILLIAMS, was arrested, detained and deported from the United States by the Department of Homeland Security-Immigration and Customs Enforcement (DHS-ICE), in violation of law. She was and is a natural born citizen of the United States. 8 U.S.C. § 1401(a). She brings this action under the Federal Tort Claims Act, 28 U.S.C. § 2671 *et seq.*, to recover damages for the common law torts of negligence, false imprisonment, intentional

infliction of emotional distress, malicious prosecution, abuse of process, assault, and malpractice.

2. This action is also brought seeking declaratory relief on behalf of the Plaintiff, specifically that she is declared a national and citizen of the United States and entitled to all the rights and privileges deriving thereof. 8 USC §§ 1401(a), 1503 and 28 USC § 2201.

PARTIES

3. Plaintiff Diane Marie WILLIAMS is a native and citizen of the United States of America. She was born to Juliette Marie Brunet and Michael Joseph Williams (both citizens of the United States) on August 23, 1974, in Metairie, Louisiana.
4. Defendant United States of America is a sovereign nation responsible for the enforcement operations, investigations, arrests, detentions and deportations executed by the officers, agents and employees of the Department of Homeland Security-Immigration and Customs Enforcement (DHS-ICE), and by the United States Public Health Service.

JURISDICTION

5. This action arises under 28 U.S.C. § 1331 (federal question jurisdiction), 28 U.S.C. §§ 1346(b) & 2671 *et seq.* (federal tort claims), and 28 U.S.C. §§ 2201 & 2202 (declaratory judgment).

Jurisdiction also vests under the Fourth and Fifth Amendments to the United States Constitution.

VENUE

6. Venue is proper in this court, pursuant to 28 U.S.C. § 1402(b), in that this is a tort claim against the United States, brought in the judicial district where the events or omissions giving rise to Plaintiffs' claim occurred, and where the Plaintiff resides. More specifically, the underlying events and omissions occurred in Houston, Texas.
7. Plaintiff WILLIAMS has filed timely administrative claims with the Department of Homeland Security, Immigration and Customs Enforcement, and the U.S. Public Health Service in July of 2009. Immigration and Customs Enforcement denied her claim by letter dated January 25, 2010, making jurisdiction in this Honorable Court appropriate pursuant to 28 U.S.C. § 2675(a).

STATEMENT OF FACTS

8. Plaintiff Diane Marie WILLIAMS was born to Juliette Marie Brunet and Michael Joseph Williams (both citizens of the United States) on August 23, 1974, in Metairie, Louisiana.
9. Plaintiff is not a citizen or lawful resident of any country other than the United States of America.
10. On or about January 18, 2009, a Special Agent of the Department of Homeland Security-Immigration and Customs Enforcement

(hereinafter “ICE”) by the name of Rolando Jimenez, and other unidentified ICE agents arrested Plaintiff at her home in Houston, Texas.

11. Plaintiff was at that time in possession of a copy of her birth certificate issued by the State of Louisiana and she presented said document to the ICE officers at that time.
12. Nevertheless, Plaintiff was arrested by said ICE officers and taken to a detention center operated by Corrections Corporation of America by contract with the Department of Homeland Security.
13. Plaintiff repeatedly informed the arresting officers that she was a United States citizen and offered the names and contact numbers of several family members who could confirm her identity and citizenship status.
14. The ICE officers made no attempt whatsoever to verify the Plaintiff’s claim to U.S. citizenship.
15. While detained Plaintiff was denied Service necessary medications for seizures, asthma and emotional disorders prescribed by a licensed physician at the University of Texas Harris County Psychiatric Center by officials of the Public Health Service.
16. After 72 hours Plaintiff was given medications for asthma and for seizures, but was denied the medications for her emotional disorders by officials of the Public Health Service.
17. Plaintiff was interviewed in a hostile, threatening and aggressive manner by various ICE officers including Rolando Jimenez, Tak Wong, and other unidentified officers.

18. She was awakened and interrogated in the middle of the night, denied food and water, and held in holding cells at extremely low temperatures and without functional plumbing for hours.
19. Plaintiff was told by Officer Rolando Jimenez and Officer Tak Wong that she would be jailed for four years and still deported if she refused to admit that she was “Angelique Bethany Cortez Rodriguez,” and a citizen of Honduras.
20. After initially refusing to sign, but out of fear of jail and in an unstable mental state due to the denial of her medications, Plaintiff signed a statement, “Notice of Intent to Issue a Final Administrative Removal Order” with the name provided to her by the ICE officers, on or about January 18, 2009.
21. Plaintiff was removed to Honduras approximately 21 days after she signed that document.
22. She was never interviewed by any officials from the Honduran Consulate as to her citizenship status in that country, nor is it clear that ICE followed official procedures in verifying her identity through the Honduran Consulate.
23. Plaintiff did not have legal representation at any point during this process, and was effectively denied from seeking counsel due to her detention and repeated placement in solitary confinement.
24. Shortly after arrival in Honduras Plaintiff was arrested by officials of the Honduran government as an alien and held in custody in that country for approximately three weeks.
25. While detained by Honduran officials, she was denied bathing facilities, slept on the floor, was fed irregularly and was sexually assaulted by an officer of the Honduran government.

26. On March 31, 2009, the U.S. Embassy in Honduras issued Plaintiff a U.S. passport after receiving her birth certificate from her family in the United States and investigating to their satisfaction her claim to U.S. citizenship.
27. She was given a loan by the U.S. Embassy in Honduras for half of the purchase price of a ticket to the United States (her family paid the other half), and returned legally to the United States through the Miami port of entry on March 31, 2009.
28. After returning to the United States Plaintiff has been subject to continuing harassment and abuse by officers acting under the authority of ICE and other government agencies, in spite of demonstrating evidence of her status as a citizen of the United States, including the continued existence of an immigration warrant encouraging her arrest by any law enforcement agency in the United States.
29. The actions, omissions and intentional conduct of agents of the United States government as set forth above constitute egregious violations of the Plaintiff's rights under law and have caused her deprivation of liberty without due process of law, lost wages, past and future mental pain and anguish, post-traumatic stress disorder, seizures, pain and suffering and loss of enjoyment of life.
30. At all times relevant to this action, the officers, employees and agents of ICE and the Public Health Service identified or described above were acting in their official capacities, within the scope of their employment, and under the authority of Defendant United States of America.

CAUSES OF ACTION

First Cause of Action—Federal Tort Claims Act-Negligence

31. Plaintiff repeats and realleges each allegation contained in sections 1 through 30 of this Complaint.
32. The wholesale refusal to conduct an investigation of the Plaintiff's easily verifiable claim to U.S. citizenship by Defendant United States' agents of ICE has caused Plaintiff to suffer physical and emotional damages, and she brings this action to recover those damages from Defendant United States of America pursuant to the Federal Tort Claims Act.
33. The failure by Defendant United States' officials of the Public Health Service to provide Plaintiff the medications prescribed to her by a licensed physician caused Plaintiff to suffer physical and emotional damages, and she brings this action to recover those damages from Defendant United States of America pursuant to the Federal Tort Claims Act.

Second Cause of Action—Federal Tort Claims Act-False Imprisonment

34. Plaintiff repeats and realleges each allegation contained in sections 1 through 30 of this Complaint.
35. The intentional actions of Defendant United States' agents of ICE in falsely arresting and imprisoning Plaintiff as an illegal alien, and failing to release her after her claims to U.S. citizenship could have been easily verified, have caused Plaintiff to suffer damages, and she

brings this action to recover those damages from Defendant United States of American pursuant to the Federal Tort Claims Act.

Third Cause of Action—Federal Tort Claims Act-Intentional Infliction of Emotional Distress

36. Plaintiff repeats and realleges each allegation contained in sections 1 through 30 of this Complaint.
37. The intentional actions of Defendant United States' agents and officers towards the Plaintiff in harassing her, threatening her, depriving her of sleep, depriving her of necessary medications, placing her in isolation at extreme temperatures, and physically expelling her from her native country, is conduct that would shock the conscience of the average person and has caused the Plaintiff to suffer damages, and she brings this action to recover those damages from Defendant United States of America pursuant to the Federal Tort Claims Act.

Fourth Cause of Action—Federal Tort Claims Act-Malicious Prosecution

38. Plaintiff repeats and realleges each allegation contained in sections 1 through 30 of this Complaint.
39. The intentional actions of Defendant United States' agents in instituting and prosecuting the Plaintiff as an illegal alien, while she was in fact a U.S. citizen and said agents had been placed on notice of this fact, and where she was returned to the United States after recognition by Defendant as a citizen, yet remained for months subject to an arrest warrant by agents of Defendant United States, has caused the Plaintiff to suffer damages, and she brings this action

to recover those damages from Defendant United States of America pursuant to the Federal Tort Claims Act.

Fifth Cause of Action—Federal Tort Claims Act-Abuse of Process

40. Plaintiff repeats and realleges each allegation contained in sections 1 through 30 of this Complaint.
41. The intentional actions of Defendant United States' agents in arresting and detaining the Plaintiff as an illegal alien, while she was in fact a U.S. citizen, based on suspect information and for ulterior motives has caused the Plaintiff to suffer damages, and she brings this action to recover those damages from Defendant United States of America pursuant to the Federal Tort Claims Act.

Sixth Cause of Action—Federal Tort Claims Act-Assault

42. Plaintiff repeats and realleges each allegation contained in sections 1 through 30 of this Complaint.
43. The intentional actions of Defendant United States' agents in arresting a U.S. citizen and the subsequent hostile, aggressive and threatening interrogations conducted by those agents placed Plaintiff in fear for her personal safety and has caused her to suffer damages, and she brings this action to recover those damages from Defendant United States of America pursuant to the Federal Tort Claims Act.

Seventh Cause of Action—Federal Tort Claims Act-Malpractice

44. Plaintiff repeats and realleges each allegation contained in sections 1 through 30 of this Complaint.

45. The intentional actions of Defendant United States' officers in denying Plaintiff her properly prescribed and medically necessary medication has caused her to suffer damages, and she brings this action to recover those damages from Defendant United States of America pursuant to the Federal Tort Claims Act.

PRAYER

46. WHEREFORE, PREMISES CONSIDERED, in view of the arguments and authority noted herein, Plaintiff respectfully prays that upon due consideration, the Court enter an order:

- (a) Award Plaintiff actual and compensatory damages, in an amount to be determined at trial, against Defendant United States of America for claims arising under the Federal Tort Claims Act;
- (b) Declaring that the Plaintiff has shown, by a preponderance of the evidence, that she is a citizen of the United States by birth;
and
- (c) Granting such other relief at law and in equity as justice may require.

Respectfully submitted,

/s/Lawrence E. Rushton
The Rushton Law Firm
Counsel for Plaintiff
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(713)838-8500
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CERTIFICATE OF SERVICE

I, Lawrence E. Rushton, hereby certify that a true and correct copy of the foregoing "Plaintiff's Original Complaint for Writ of Habeas Corpus, Declaratory Judgment and Temporary Restraining Orders", including all attachments, will be served on Defendants via US Postal Service Certified mail addressed as follows:

Eric Holder
Attorney General
US Department of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530-0001

Jose A. Moreno
US Attorney
Southern District of Texas
PO Box 61129
Houston, TX 77208

On the 19th day of July 2010.

Respectfully submitted,

/s/Lawrence E. Rushton
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