

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ANGELICA DAVILA,)	
)	
Plaintiff,)	CIVIL ACTION No. _____
)	
v.)	
)	
NORTHERN REGIONAL JOINT POLICE BOARD; PATROLMAN ANDREW BIENEMANN, Northern Regional Police Department; SERGEANT JOHN SICILIA, Northern Regional Police Department; SPECIAL AGENT BRIANNA TETRAULT, U.S. Bureau of Immigration and Customs Enforcement; and ALLEGHENY COUNTY,)	JURY TRIAL DEMANDED
)	
Defendants.)	
)	

COMPLAINT

PRELIMINARY STATEMENT

1. Plaintiff Angelica Davila is a U.S. citizen who was born in Mexico. Local and federal officials nonetheless collaborated to detain her by the side of the road for several hours and imprison her at the Allegheny County Jail for eleven hours based on the groundless belief that she might be an undocumented and deportable alien. Plaintiff brings this action under the Fourth, Fifth and Fourteenth Amendments to the United States Constitution, 42 U.S.C. § 1983 and the authority of *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971).

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this Complaint under the Fourth, Fifth and Fourteenth Amendments to the United States Constitution and 28 U.S.C. § 1331 (federal question) and § 1343 (civil rights).

3. Venue is proper in this District under 28 U.S.C. §§ 1391 and 1402(b) because the acts at issue in this lawsuit occurred within the District.

PARTIES

4. Plaintiff Angelica Davila, 28, was at all times relevant to this Complaint a resident of West Mifflin, Pennsylvania.

5. Defendant Northern Regional Joint Police Board is a local governmental agency organized pursuant to the laws of the Commonwealth of Pennsylvania with an address of 230 Pearce Mill Road, Wexford, Allegheny County, Pennsylvania 15090 and is vested with the responsibility of enforcing the laws and providing police services within four municipalities: Pine, Richland and Marshall Townships and Bradford Woods Borough in Allegheny County, Pennsylvania. The Northern Regional Joint Police Board is vested with the management and administration of law enforcement in Pine Township, by and through its agency, the Northern Regional Police Department, in which it is further vested with the supervision of the Department's police officers.

6. Defendant Andrew Bienemann was at all times relevant to this Complaint a patrolman police officer employed by the Northern Regional Joint Police Board by and through its agency, the Northern Regional Police Department. He is sued in his individual capacity.

7. At all times relevant to this Complaint, Defendant Bienemann was acting within the scope and course of his employment with the Northern Regional Joint Police Board.

8. Defendant John Sicilia was at all times relevant to this Complaint a police sergeant employed by the Northern Regional Joint Police Board by and through its agency, the Northern Regional Police Department. He is sued in his individual capacity.

9. At all times relevant to this Complaint, Defendant Sicilia was acting within the scope and course of his employment with the Northern Regional Joint Police Board.

10. Defendant Brianna Tetrault was at all times relevant to this Complaint an Agent employed by the United States Immigration and Customs Enforcement (“ICE”). She is sued in her individual capacity.

11. At all times relevant to this Complaint, Defendant Tetrault was acting within the scope and course of her employment with ICE, an executive agency of the United States.

12. Defendant Allegheny County is a political subdivision of the Commonwealth of Pennsylvania that can sue and be sued in its own name. Defendant Allegheny County includes, operates and is responsible for the Allegheny County Jail.

FACTUAL ALLEGATIONS

Defendant Bienemann Executes Vehicle Stop of Plaintiff and Contacts ICE

13. Plaintiff Angelica Davila is a United States citizen who was born in Mexico on June 25, 1984.

14. Davila has lived in the Pittsburgh region for five years.

15. Davila’s given name is Angelica Elizabeth Davila Garza, following the Spanish tradition of giving children the last names of both parents. She uses Davila as her last name.

16. Davila’s Pennsylvania driver’s license, social security card, and Certificate of Citizenship list her name as Angelica Elizabeth Davila.

17. Davila's permanent resident card lists her name as Angelica Elizabeth Davila Garza.

18. Davila legally immigrated to the United States from Mexico with her parents when she was two years old.

19. Davila's father was born in Texas and is a U.S. citizen.

20. Davila's mother became a U.S. citizen through naturalization in 1997.

21. Davila became a lawful permanent resident on April 30, 2001, at the age of 16.

22. Under Title I of the Child Citizenship Act of 2000, 8 U.S.C. § 1431, Davila automatically became a U.S. citizen when she received her permanent resident card.

23. The Child Citizenship Act grants automatic citizenship to the minor children of U.S. citizen parents who are residing in the United States in the legal and physical custody of the citizen parent pursuant to a lawful admission for permanent residence.

24. Davila applied for a Certificate of Citizenship on June 9, 2010. Her application was granted, and a Certificate of Citizenship was issued to her on December 20, 2011. The Certificate of Citizenship states that Davila became a citizen of the United States on April 30, 2001.

25. Davila is a Hispanic woman of Mexican heritage.

26. Davila speaks both English and Spanish.

27. On Saturday, January 22, 2011, Davila had dinner with her friend Joel Garrete at a restaurant on McKnight Road in the Wexford area of Allegheny County, Pennsylvania.

28. After dinner, Davila and Garrete drove to a Mexican grocery store, Los Campos, located at 11566 Perry Highway in Pine Township, Pennsylvania.

29. At approximately 5:45 p.m., Davila and Garrete exited the Los Campos parking lot onto Perry Highway heading north.

30. Davila, a licensed Pennsylvania driver, was driving, and Garrete was in the passenger seat.

31. At that time, Defendant Officer Andrew Bienemann was in the parking lot of the Wexford Professional Building.

32. The Wexford Professional Building, located at 11676 Perry Highway, is adjacent to the small shopping center where Los Campos is located.

33. Davila had driven approximately 250 feet on Perry Highway after exiting the parking lot of Los Campos when Defendant Bienemann pulled up behind her in his police car with his siren on, indicating that he wanted her to stop her car.

34. Davila turned left into the parking lot of Patron's Mexican Grill, located at 11675 Perry Highway.

35. Defendant Bienemann followed Davila into the parking lot and executed a vehicle stop of Davila and her passenger Garrete.

36. Defendant Bienemann informed Davila that he had stopped her because her headlights were off and asked Davila for her license, proof of registration, and insurance.

37. Davila provided all of the requested documents to Defendant Bienemann.

38. Defendant Bienemann had no reason to question the authenticity of any of the documents Davila provided to him.

39. Defendant Bienemann also asked for Garrete's identification.

40. Garrete did not speak English. He is a native of Honduras who spoke only Spanish. He is and appears to be Hispanic.

41. Because Garrete did not speak English, Defendant Bienemann asked Davila to translate for him.

42. Davila complied with Defendant Bienemann's request to translate.

43. Garrete provided his name and date of birth.

44. Defendant Bienemann then asked Garrete if he had any identification with him, such as a visa or passport.

45. Garrete provided Defendant Bienemann with his pay stub, which showed his address.

46. Defendant Bienemann asked whether Garrete was legally present in the United States.

47. Davila translated Defendant Bienemann's question, and Garrete answered "no."

48. Defendant Bienemann returned to his car, where he called the police department's dispatcher to request that the dispatcher check both Davila's and Garrete's immigration status with the U.S. Bureau of Immigration and Customs Enforcement (ICE).

49. Defendant Bienemann had no reason to suspect that Davila was not a lawful resident of the United States.

50. Defendant Bienemann made the request to check Davila's immigration status on the basis of her ethnicity and the ethnicity of her passenger.

51. Defendant Bienemann also called ICE but was initially unable to reach anyone.

52. After approximately twenty minutes, two additional police cars arrived at the scene.

53. Defendant Bienemann returned to Davila's car and informed Davila and Garrete that he was waiting for a call from ICE.

54. Defendant Bienemann then directed Davila to move her car to another parking lot because her car was blocking traffic, and she complied with that request.

55. Defendant Bienemann was eventually put into contact with ICE Special Agent Brianna Tetrault through the police dispatcher and communicated with her via his cell phone.

56. Defendant Tetrault asked to speak with Davila.

57. Defendant Bienemann then approached Davila's car with a cell phone and told Davila that an immigration officer was on the phone.

58. Davila provided Defendant Tetrault with her name, date of birth, and country of origin.

59. Defendant Tetrault then asked Davila if she had a visa, and Davila told Defendant Tetrault that she was a lawful permanent resident.

60. From the information Davila provided to Defendant Tetrault, there was no probable cause to believe that Davila was not legally present in the United States.

61. During her conversation with Davila, Defendant Tetrault never questioned Davila's status as a lawful permanent resident or suggested to Davila that her immigration status was under investigation.

62. Defendant Tetrault told Davila that the reason she was asking Davila questions about her immigration status was because she wanted to use Davila as an interpreter to speak with Garrete.

63. Davila agreed to interpret for Garrete.

64. At no time after being pulled over by Defendant Bienemann was Davila free to leave.

65. Davila asked the officers several times if she could use the restroom but her requests were refused.

66. Despite the fact that there was no probable cause to believe that Davila was properly subject to detention, Defendant Tetrault requested that Defendant Bienemann detain Davila and Garrete and transport them to the Allegheny County Jail “if possible.”

67. Defendant Tetrault advised Defendant Bienemann that she would complete immigration detainers for Davila and Garrete and fax them to the police station.

68. Defendant John Sicilia approved Defendant Tetrault’s request that Defendant Bienemann transport Davila and Garrete to the Allegheny County Jail.

69. Defendant Sicilia then asked Davila and Garrete to step out of the car and asked Davila if there was someone she could call to pick up her car.

70. Approximately two hours after the initial vehicle stop, Davila and Garrete were handcuffed, placed in Defendant Bienemann’s vehicle, and transported to the Northern Regional Police Department station in Pine Township, Pennsylvania.

71. At the police station, Davila asked why she was being held. She was told that immigration had told the officers to take her in.

72. Davila explained that she was legally present in the United States, that she is employed by a company in Pittsburgh, and that she had applied for a certificate showing her U.S. citizenship.

73. Davila then overheard a phone call in which Defendant Bienemann stated that Davila was asking why she had been taken to the police station and Bienemann asked the person on the other end of the line what he should tell Davila.

74. Defendant Bienemann then told Davila that she must have something in her record for immigration to ask him to detain her. He suggested that her permanent resident card may have expired or contained errors.

75. Upon information and belief, Northern Regional Police Department officers ask passengers for identification when they stop drivers for minor traffic infractions if the passengers appear Hispanic.

76. Upon information and belief, Northern Regional Police Department officers detain all persons in vehicles stopped for minor traffic violations if they appear Hispanic in order to check their immigration status.

77. Upon information and belief, Northern Regional Police Department officers comply with ICE requests to detain persons when ICE issues immigration detainers.

78. Upon information and belief, the roadside seizure of Davila resulted from the custom, policy, practice and/or deliberate indifference of the relevant policymaking officials of the Northern Regional Joint Police Board. Specifically:

- a. the Northern Regional Joint Police Board has a custom, policy, or practice of detaining persons on the basis of their ethnicity for the purpose of contacting ICE or is deliberately indifferent to the risk thereof; and
- b. the Northern Regional Joint Police Board has a custom, policy, or practice of complying with ICE detainer requests.

Defendant Tetrault Issues Immigration Detainers for Davila and Garrete

79. Defendant Tetrault signed detainers for Davila and Garrete and faxed them to Defendant Bienemann. They are attached as Exhibit 1.

80. The immigration detainer issued by Defendant Tetrault for Davila misspelled her last name as Devila-Garcoa.

81. According to ICE records, the alien registration number that Tetrault listed on the detainer issued for Davila had a classification of “family fairness granted.”

82. This classification provides for relief from deportation, and the granting of employment authorization, to an eligible immigrant who is the spouse or unmarried child of a legalized alien holding temporary or permanent residence pursuant to sections 210 or 245A of the Immigration and Nationality Act.

83. The alien registration number listed on the detainer issued for Davila classifying her immigration status as “family fairness granted” was not the same number listed on Davila’s permanent resident card. Under that number, she was classified as an IR-7, which is an immigration classification used for a legal permanent resident of the United States who is the child of a U.S. citizen.

84. Davila had that alien registration number since at least 1997.

85. As a U.S. citizen, Davila no longer needs an alien registration number.

86. Davila’s application for a Certificate of Citizenship, a document showing proof of her status as a U.S. citizen, was pending as of January 22, 2011.

87. Davila and Garrete were held at the Northern Regional Police Department station for about fifteen to twenty minutes.

88. Defendant Bienemann transported Davila and Garette to Allegheny County Jail at about 8:30 p.m.

89. After dropping Davila and Garrete off at the Allegheny County Jail, Defendant Bienemann contacted the police dispatcher and was told that ICE Special Agent Jason Kenwood wished to speak with him.

90. Special Agent Kenwood requested that Defendant Bienemann view a photo and confirm whether or not the photo depicted Davila.

91. Defendant Bienemann viewed the photo on his e-mail and confirmed that the photo was of Davila.

92. Special Agent Kenwood then informed Defendant Bienemann that a mistake had been made regarding Davila's identity and that she may have been incorrectly detained.

93. Agent Kenwood stated that he would contact Defendant Tetrault and advise her of the error.

94. At 9:50 pm, Defendant Bienemann received confirmation from ICE that Davila was legally present in the United States.

95. Defendant Bienemann, however, took no steps to have Davila released from the Allegheny County Jail.

96. Davila was not released from the Allegheny County Jail until 7:30 a.m. the next morning.

97. Davila did not receive a citation or any other charge for driving without headlights.

98. Davila was never charged with any criminal offense.

Plaintiff Is Held Overnight in Allegheny County Jail on an Unlawful Immigration Detainer

99. The Allegheny County Jail imprisoned Davila on an immigration hold.

100. Upon arrival at the Allegheny County Jail, Davila was subjected to a pat down search.

101. Davila was given a wristband that said "Devila-Garcca."

102. Davila attempted to inform several different guards that the name on her wristband was incorrect, but her efforts were ignored.

103. Davila was then placed into a processing room with three other women and several telephones.

104. Davila called a guard on the intercom to ask if she could look at her cell phone contacts so that she could use the telephones in the processing room to call someone.

105. The guard answered the intercom in Spanish and laughed. The guard told Davila that she would have to wait for the next shift.

106. When the next shift began at 11:30 pm, Davila again asked a guard to allow her to look at her phone to get phone numbers she could use to call friends or family using the telephones in the processing room.

107. Her request was refused.

108. Davila was ultimately able to remember the phone number of her uncle who resides in Texas. Davila called her uncle and was able to get the cell phone numbers of both her mother and brother.

109. Davila then called her mother in Texas and was able to obtain the phone number of a friend who resides in Pittsburgh, Antonia Galota. She then called Galota.

110. Galota went to the Allegheny County Jail to determine why Davila was being held there and was told she would have to speak to a judge.

111. The judge told Galota that there was nothing he could do and that Davila would have to stay in jail until Sunday morning or Monday.

112. The judge suggested that Galota go to the immigration office on East Carson Street in Pittsburgh when it opened on Monday morning.

113. Davila's photo and fingerprints were taken at approximately 3 a.m.

114. Davila asked a guard what her charges were and the guard responded that there were no charges and that Davila was in jail for an immigration hold.

115. Davila explained to the guard that she was legally present and that she did not understand why she was being held on an immigration detainer.

116. After she was returned to the holding cell, a guard called through the intercom and asked her to interpret for Garrete. The guard asked her if she spoke "Honduras."

117. While she was interpreting for Garrete, Davila heard guards tease Garrete and make fun of him for not speaking English.

118. One of the guards called Davila to see the nurse – a step that takes place before inmates are transferred from the holding area of the jail and placed in jail cells – but another guard intervened and said Davila did not need to see the nurse because she would be released tomorrow.

119. Davila attempted to sleep on the floor of the holding room because there were no beds, only chairs.

120. At 7:30 am, Davila was called out of her cell by the guards and told that ICE had changed its mind and she could leave.

121. At 8:15 am, Davila was picked up from the jail by Galota and taken home.

122. Garrete was transferred to the ICE Detention Facility in York, Pennsylvania, and deported to Honduras.

**The Roadside Detention of Plaintiff Was Unlawful
and Based on the Ethnicity of Plaintiff and Her Passenger**

123. On January 22, 2011, Defendant Bienemann unlawfully detained Plaintiff during a roadside vehicle stop far beyond the time necessary to advise her that her headlights were not on and/or write a citation for that infraction.

124. Any detention beyond the few minutes needed to write a citation for the headlight violation was based on her ethnicity and that of her passenger.

125. Because the purpose of this seizure was to contact ICE, the seizure was unlawful unless Officer Bienemann had probable cause to believe that Plaintiff was an alien subject to detention and removal from the United States.

126. There was no such cause for the seizure and it was based on the ethnicity of Plaintiff and her passenger.

**Plaintiff's Imprisonment Pursuant to an ICE Detainer Was Unlawful
and Based on Her Ethnicity**

127. On January 22, 2011, Defendants Bienemann and Tetrault unlawfully caused an immigration detainer to be lodged against Plaintiff.

128. Because the detainer was intended to cause and did cause Plaintiff's imprisonment, it could not lawfully be issued on less than probable cause that Plaintiff was an alien subject to detention and removal from the United States.

129. There was no such cause for issuance of an immigration detainer against Plaintiff. The immigration detainer was issued against Plaintiff based on the ethnicity of Plaintiff and her

passenger and despite ready evidence in the form of her Pennsylvania driver's license that she was lawfully present in the United States.

Plaintiff's Continued Imprisonment once Defendants Bienemann and Tetrault Received Official Confirmation that She Was a Lawful Permanent Resident Was Unlawful

130. Defendants Bienemann and Tetrault were informed at or before 9:50 p.m. on January 22, 2011, that Davila was legally residing in the United States.

131. That information imposed a duty on Defendants Bienemann and Tetrault to secure the release of Davila from imprisonment within a reasonable time period.

132. Davila's imprisonment for more than nine hours after Bienemann and Tetrault ascertained that she was not subject to detention or deportation because she was legally residing in the United States was not reasonable.

Prison Officials Have No Authority to Imprison Individuals on Less than Probable Cause; Plaintiff's Imprisonment by Allegheny County Was Unlawful

133. An immigration detainer is merely a "request," not a legally enforceable command, to hold an alien subject to removal for up to 48 hours (excluding weekends and holidays). 8 C.F.R. § 287.7(a). Under the "anti-commandeering" doctrine, a federal official is constitutionally barred from asserting authority to order a state or local official to exercise sovereign authority to imprison. *Printz v. United States*, 521 U.S. 898, 910 (1997). This distinguishes immigration "detainers" from other "detainers" which are routinely received by the prison. Criminal detainers are notices of criminal charges or unserved sentences pending against a prison inmate given by law enforcement or prosecuting officials to prison authorities. They are issued only when there is probable cause to believe that the inmate has committed a crime or the inmate has been convicted of a crime.

134. The detainer was the sole reason that Plaintiff was imprisoned at the Allegheny County Jail.

135. Defendant Tetrault intended and expected the detainer to imprison Plaintiff at the Allegheny County Jail.

136. The detainer does not purport to have been issued upon probable cause or give any other basis on which to believe that Davila was an alien subject to detention and removal from the United States.

137. Upon information and belief, Allegheny County Jail officials did not inquire into the basis for Davila's detainer, pursuant to a policy and custom of Allegheny County of accepting detainers from ICE without investigation and with deliberate indifference to whether the detainers are based upon probable cause.

138. Consequently, Allegheny County prison officials agreed to imprison Davila on less than probable cause.

139. Allegheny County continued to imprison Davila for at least nine hours after ICE confirmed that Davila was a lawful resident who was not subject to detention or deportation.

Defendants' Actions Unlawfully Harmed Plaintiff.

140. As a direct and proximate result of the conduct of Defendants Bienemann, Sicilia, and Tetrault, and the policies and practices of Northern Regional Joint Police Board and Allegheny County, Plaintiff suffered substantial damages, including emotional distress and harm, embarrassment, and lost liberty.

141. Defendants' actions deprived plaintiff of her liberty and thus amounted to a seizure of her person.

142. Defendants' actions deprived plaintiff of her liberty with reckless indifference to the absence of a basis on which to detain her.

143. Defendants' actions were arbitrary and capricious and had no legitimate or rational basis.

144. Defendants' actions were based on the ethnicity of Plaintiff and her passenger.

145. At all times relevant to this Complaint, the conduct of Defendants was in willful, reckless and callous disregard of Plaintiff's rights under federal law.

146. At all times relevant to this Complaint, all Defendants acted under color of state law.

CAUSES OF ACTION

Count I

Fourth Amendment (42 U.S.C. § 1983)

(Unreasonable Seizure)

Plaintiff v. Defendant Bienemann and Northern Regional Joint Police Board

147. Plaintiff incorporates by reference the allegations in the paragraphs above as though fully set forth here.

148. Defendant Bienemann lacked probable cause to detain Plaintiff during the roadside vehicle stop for the purpose of contacting ICE because he had no reason to suspect that she was not lawfully present in the United States.

149. That detention constituted an unreasonable seizure in violation of Plaintiff's rights under the Fourth Amendment.

150. Plaintiff's unlawful detention resulted from the custom, policy, practice and/or deliberate indifference of the relevant policymaking officials of the Northern Regional Joint Police Board.

151. Plaintiff seeks compensatory and punitive damages against Defendant Bienemann and seeks compensatory damages against the Northern Regional Joint Police Board for violation of her right to be free from unlawful seizure.

Count II
Fourth Amendment (42 U.S.C. § 1983)
(Unreasonable Seizure)
Plaintiff v. Defendants Bienemann, Sicilia, Tetrault, and Northern Regional Joint Police Board

152. Plaintiff incorporates by reference the allegations in the paragraphs above as though fully set forth here.

153. Defendants Bienemann and Tetrault caused an unlawful immigration detainer to issue against Plaintiff, which was intended to cause and did cause a deprivation of Plaintiff's liberty. The immigration detainer was issued without probable cause to believe that Davila was an alien subject to removal and deportation. Both Bienemann and Tetrault had information that clearly established for any reasonable official that Davila was not subject to detention or deportation.

154. Defendant Sicilia approved the transfer of Plaintiff to the Allegheny County Jail pursuant to the unlawful immigration detainer.

155. The issuance of the immigration detainer and subsequent transfer of Plaintiff to the Allegheny County Jail constituted an unreasonable seizure in violation of Plaintiff's rights under the Fourth Amendment.

156. Defendants Bienemann's and Sicilia's actions in detaining Plaintiff and transferring her to the Allegheny County Jail resulted from the custom, policy, practice and/or deliberate indifference of the relevant policymaking officials of the Northern Regional Joint Police Board.

157. The issuance of the detainer was the result of concerted action by Defendants Bienemann, Tetrault, and the Northern Regional Joint Police Board, making each defendant liable for the actions of the others.

158. Plaintiff seeks compensatory and punitive damages against Defendants Bienemann, Sicilia, and Tetrault and seeks compensatory damages against the Northern Regional Joint Police Board for violation of her right to be free from unlawful seizure.

Count III
Fifth Amendment (*Bivens*)
(Equal Protection)
Plaintiff v. Defendant Tetrault

159. Plaintiff incorporates by reference the allegations in the paragraphs above as though fully set forth here.

160. Issuance of an immigration detainer against Plaintiff based on her Hispanic ethnicity violated her right to be free from discrimination on the basis of ethnicity under the equal protection component of the Fifth Amendment.

161. Plaintiff seeks compensatory and punitive damages against Defendant Tetrault for violation of her right to be free from discrimination on the basis of ethnicity.

Count IV
Fourteenth Amendment (42 U.S.C. § 1983)
(Equal Protection)
Plaintiff v. Defendant Bienemann and Northern Regional Joint Police Board

162. Plaintiff incorporates by reference the allegations in the paragraphs above as though fully set forth here.

163. The roadside detention of Plaintiff was carried out in order to check her immigration status and was based on Plaintiff's Hispanic ethnicity.

164. Detaining Plaintiff on the basis of her Hispanic identity violated her rights under the equal protection clause of the Fourteenth Amendment.

165. Plaintiff's unlawful detention resulted from the custom, policy, practice and/or deliberate indifference of the relevant policymaking officials of the Northern Regional Joint Police Board.

166. Plaintiff seeks compensatory and punitive damages against Defendant Bienemann and seeks compensatory damages against the Northern Regional Joint Police Board under Section 1983 for deprivation under color of state law of her violation of her right to be free from discrimination on the basis of ethnicity.

Count V
Fourth Amendment (42 U.S.C. § 1983)
(Unreasonable Seizure and False Imprisonment)
Plaintiff v. Defendants Allegheny County, Tetrault, and Bienemann

167. Plaintiff incorporates by reference the allegations in the paragraphs above as though fully set forth here.

168. Allegheny County's imprisonment of Plaintiff pursuant to an immigration detainer, issued on less than probable cause to believe that Plaintiff was a deportable non-citizen, constituted an unreasonable seizure and false imprisonment in violation of Plaintiff's rights under the Fourth and Fourteenth Amendments.

169. Imprisonment of Plaintiff pursuant to the unlawful detainer was the result of concerted action by Defendants Allegheny County, Bienemann, and Tetrault, making each defendant liable for the actions of the others.

170. Imprisonment of Plaintiff pursuant to the unlawful detainer resulted from the custom, policy, practice and/or deliberate indifference of the relevant policymaking officials of Allegheny County.

171. Plaintiff seeks compensatory damages against Defendant Allegheny County and compensatory and punitive damages against Defendants Bienemann and Tetrault for violation of her right to be free from unlawful seizure and false imprisonment.

Count VI
Fourth Amendment (42 U.S.C. § 1983 and *Bivens*)
(False Imprisonment)
Plaintiff v. Defendants Allegheny County, Tetrault, and Bienemann

172. Plaintiff incorporates by reference the allegations in the paragraphs above as though fully set forth here.

173. Defendants Bienemann, Tetrault, and Allegheny County had a duty under the Fourth Amendment to release Plaintiff from imprisonment upon receipt of information from ICE that she was a lawful resident who was not subject to detention or deportation.

174. The continued imprisonment of Davila for more than nine hours after ICE provided information regarding Plaintiff's lawful status violated Plaintiff's Fourth Amendment right to be free from false imprisonment.

WHEREFORE, Plaintiff respectfully requests:

- A. Compensatory damages against Defendants Northern Regional Joint Police Board, Allegheny County, Bienemann, Sicilia and Tetrault;
- B. Punitive damages against Defendants Bienemann, Sicilia, and Tetrault;
- C. Reasonable attorneys' fees and costs; and
- D. Such other and further relief as may appear just and appropriate.

Plaintiff hereby demands a jury trial as to all claims stated in this Complaint.

January 15, 2013

Respectfully submitted,

s/ Witold J. Walczak

Witold J. Walczak
PA ID No. 62976

s/ Sara J. Rose

Sara J. Rose
PA ID No. 204936

ACLU Foundation of Pennsylvania
313 Atwood Street
Pittsburgh, PA 15213
(412) 681-7864
vwalczak@aclupa.org
srose@aclupa.org

s/ Thomas J. Farrell

Thomas J. Farrell
PA ID No. 48796
200 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
412-894-1380
TFarrell@farrellreisinger.com