

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA

ADALBERTO ANDRADE
Plaintiff,

Versus

JAMES HAYES, SHERIFF OF ETOWAH COUNTY,

SCOTT HASSELL, CHIEF OF ETOWAH COUNTY
DETENTION CENTER,

EDDIE BLYTHE, SGRT. UNIT MANAGER OF
ETOWAH COUNTY DETENTION CENTER,
Respondent.

COMPLAINT UNDER THE CIVIL ACT 42 U.S.C. SECTION
1983 FOR COMPENSATORY AND PUNITIVE RELIEF

Comes now, Plaintiff Andrade, Adalberto ("Andrade")
Pro-Se in the above styled case and respectfully moves this
Honorable Court to issue this complaint under the Civil Act
42 U.S.C. section 1983.

This Honorable Court should liberally and broadly
contrue Andrade's complaint, since he is acting Pro-Se. See
Haines v. Kerner, 404 U.S. Ct. 519 (1972), and Conley v. Gibson,
355 U.S. Ct. 41 (1957).

JURISDICTION

1. This Court's jurisdiction under Count one (I) of Andrade's complaint, is pursuant to Title 42 U.S.C. section 1983.

PARTIES

2. Plaintiff, Andrade is an Immigration detainee currently detained at Etowah County Detention Center ("E.C.D.C."), in Gadsden, Alabama. He is the complaint for the negligent loss of his legal documents, and for intentional infliction of pain and suffering, and for emotional distress.
3. Defendant James Hayes ("Mr. Hayes"), is the Sheriff of Etowah County, in Gadsden, Alabama, he is legally responsible for the overall operation of Etowah County Detention Center.
4. Defendant, Scott Hassell ("Mr. Hassel"), is the Chief of Etowah County Detention Center He is legally responsible for the operation housed in Etowah County Detention Center, having being contracted by Department Homeland Security to house Immigration Customs Enforcement Detainees.
5. Defendant, Eddie Blythe ("Mr. Blythe"), by his official designated Title as a Sergeant in the Etowah County, Sheriff office, he is responsible for the daily overseeing and coordination of all activities related to all immigration detainees at the Etowah County Detention Center. As such and among other

things he is in charge of ICE detainees welfare, complaints, disciplinary proceedings greivances, legal mails etc.

OVERT ACTS

6. On or about May 2004, Andrade requested the Clerk's office of the Fifth Circuit of Appeals in New Orleans, Louisiana to send him all the Records of his Appeals in Court's possession in order for him to prepare his Reply Brief on his Appeal that is now pending in that Court.

7. The Records reflects that on or about June 9, 2004, the Fifth Circuit Court of Appeals forwarded a record on Appeal to Andrade at the Etowah County Detention Center for use in preparing and in filing of his Brief on Appeal, in his case currently pending before the Fifth Circuit Court of Appeal.

8. Meanwhile, the Record excerpts on Appeal had been sent by the Fifth Circuit Clerk to Andrade, in care of the Etowah County Detention Center. The Etowah County Detention Center record refer that the package from the Fifth Circuit send via U.P.S. was recieved at the Etowah County Detention Center mail center/room and signed for on;

9. By July 2004 the package had not been delivered to Andrade. Andrade then filed his response Brief without the benefit of the Records.

10. At the time the Records was delivered to the Etowah County Detention Center ("E.C.D.C.") via U.P.S. mail, the records reflects that Andrade, was in segregation for allegedly participation in or inciting a group demonstration.

11. On or about June 18, 2004 andrade received a letter from Fifth Circuit Court of Appeals requesting that he Return the original Records on Appeals and Supplemental Record.

12. On or about June 21, 2004 Andrade responded to Fifth Circuit Court of Appeals informing the Court that he did not have any Records on Appeals to submit to the Court.

13. On or About July 3, 2004 again Andrade received a letter from the Fifth Circuit Court of Appeals advising him that his case cannot proceed until the records on Appeal is returned.

14. On or about July 3, 2004 Andrade again responded to the Court letter advising the Court that he had received the requested Records from the Court.

15. On or about July 9, 2004, around two P.M. Andrade asked Sergeant Blythe the Unit Manager here at Etowah County Detention Center ("E.C.D.C.") for assistance in locating the package from the Fifth Circuit with the Records on Appeal. Sergeant Blythe later informed Andrade that a lady officer at the facility signed for the package, but he did not know what had happened

to the package, with Record on Appeal after it was signed for.

16. On or about July 15, 2004 again Andrade wrote a letter to the Fifth Circuit Court of Appeal to inform that the Records were indeed sent to the facility and received by the institution via U.P.S. mail.

17. On or about July 16, 2004 Andrade also wrote a greivance letter to the Chief of Etowah County Detention Center regarding the missing Andrade's Court package, with the Records on Appeal, sent by the Fifth Circuit Court of Appeal.

18. On or about July 19, 2004 Andrade received an answer from the Chief of Etowah County Detention Center Mr. Scott Hassell stating that the Records has been lost.

19. On or about July 22, 2004 again Andrade received a letter from the Fifth Circuit od Appeals, advising him that it will be necessary for the Records on Appeal to be reconstructed in accordance with the docket entries of the District Court.

20. Andrade believes the staff at Etowah County Detention Center intentionally and delibrately declined to deliver the package to him or to return it to the Court as retaliation, due to some problems Andrade was experiencing with facility regarding the prison condition and tretment of detainees at E.C.D.C..

21 Specifically on June 2, 2004, following a peacefull demonstration over the bad food and conditions at the facility, Andrade was segregated along with two others detainees and was accused of engaging in or inciting a group demonstration.

22. While Andrade was in segregation Srgt. Blythe, the E.C.D.C. Unit Manager Requested to know Andrade's case status. Andrade then explained to Sgrt. Blythe that he was waiting for some Records from the Fifth Circuit Court of Appeal to prepare and file his Reply Brief.

23. The Records also reflects that a few days after the food incident, the package with Records on Appeal was received at the Etowah County Detention Center.

24. As a result of Andrade's peacefull demonstration over the bad food at the facility the E.C.D.C has been trying to obstruct justice in Andrade's case, in an attempt to effectuate Andrade's removal from the United States.

25. As futher consequences of the loss of Andrade's three(3) volume Records on Appeal, Andrade could not properly Brief his Appeals or provide sufficient evidence in support of his Appeal.

26. As a consequence of this retaliatory and deliberate and willful Act of wanter negligence Andrade's has been experiencing elevated blood pressure for which he is currently been treated.

27. The wilfull and deliberated retaliatory actions by the Etowah staff has impacted Andrade's entire litigation efforts.

28. This has caused Andrade to spend additional time, longer than is necessary incarcerated.

29. This action has caused Andrade negligent (deliberate) infliction of emotional distress.

30. Deprivation of Andrade's Constitutional right to legal materials.

31. ~~Effectively impeded~~ ^{Andrade's} access to the Court.

32. All of the foregoing and ~~as~~ as this Honorable Court deems just and proper.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Andrade respectfully prays that this Honorable Court;

1. Grant unto Plaintiff Andrade general, irreparable, consequential and lost expectations damages in amount of US\$ 200.000.00 against each defendant, and Punitive damages in the Amount of US.\$ 200.000.00 against each defendant,

2. Issue a writ of mandamus compelling the defendants to promptly compensate the defendants to promptly compensate Andrade for his damage.

3. Award Plaintiff Andrade his Cost in this action; and

4. Grant such other and further relief as this Honorable Court may deem just and proper.

Signed this 16th, day of August 2004.

By

Adalberto Andrade

Adalberto Andrade, Plaintiff,
pro se
A76-487-012
Etowah County Detention Center
827 Forrest Avenue
Gadsden, AL 35901