

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

DR. BOB RAJCOOMAR  
and DOROTHY RAJCOOMAR,

Plaintiffs,

v.

UNITED STATES OF AMERICA,  
TRANSPORTATION SECURITY  
ADMINISTRATION, SHAWN  
McCULLERS and SAM MUMMA,  
agents of the Transportation Security  
Administration sued in their individual  
capacities

Defendants.

CASE NO:

**COMPLAINT**

**Jurisdiction**

1. This action is brought pursuant to Federal Tort Claims Act, 28 U.S.C. § 2671, and the Fourth and Fifth Amendments to the United States Constitution, 28 U.S.C. §§ 1331 and 1346(b).

2. On September 18, 2002, Plaintiffs submitted an Administrative Claim for the claim set forth below to the Transportation Security Administration, formerly part of the Department of Transportation and now part of the Department of Homeland Security (“TSA”).

3. Six months having elapsed, all conditions precedent to a Federal Tort

Claims Act have been met.

4. Venue is properly within this District under 28 U.S.C. § 1402(b) as the acts complained of occurred in the Eastern District of Pennsylvania.

#### **Parties**

5. Plaintiffs are residents of Palm Beach County, Florida.

6. Both the United States of America and its Transportation Security Administration are appropriate defendants under the Federal Tort Claims Act.

7. Defendants Shawn McCullers and Sam Mumma are TSA agents and are sued in their individual capacities.

#### **Facts**

8. On August 31, 2002, Dr. Rajcoomar and his wife, Dorothy, traveled on Delta Airline Flight 442, from Atlanta to Philadelphia.

9. During that flight, Dr. Rajcoomar was seated in Row 1D. Mrs. Rajcoomar was seated further back.

10. Approximately 30 minutes before the plane landed, TSA agents McCullers and Mumma responded to a passenger's disturbance in coach class.

11. Dr. Rajcoomar, having not left his seat since the plane's departure from Atlanta, was unaware of the nature of the disturbance.

12. He was made aware both of the disturbance and the TSA agents' presence on that flight when the agents utilized the seat next to him in order to restrain the passenger from the rear of the plane. Not wishing to remain seated next to the restrained

individual, Dr. Rajcoomar requested and received from flight attendants a change of seat. As a result, he was relocated to a seat which had been vacated by one of the agents.

13. During the next 30 minutes, the TSA agents trained their firearms on the passengers while threatening all of the passengers with bodily injury should they so much as move. Dr. Rajcoomar complied with all of the agents' directions.

14. Dr. Rajcoomar, Mrs. Rajcoomar, and, on information and belief, the rest of the passengers on Flight 442 experienced terror caused by the extreme and unwarranted conduct of the TSA agents.

15. Upon arriving at the gate of the Philadelphia airport, Dr. Rajcoomar remained seated while the TSA agents removed the individual who had been involved in the disturbance.

16. At that point, Dr. Rajcoomar assumed he would be permitted to disembark. Yet before he was even permitted to rise, he was instructed, without any further explanation, by one of the TSA agents to lean forward and place his hands on his head. Notwithstanding the fact that he began to comply with this request, one of the TSA agents pushed him forward. As soon as his hands were on his head, he was handcuffed (causing the breaking of his wrist watch), and immediately thereafter taken off the plane.

17. Dr. Rajcoomar was then led roughly down to the tarmac where he was forced to endure the cursing of Philadelphia police officers before being placed in a police van. Prior to being placed in the van, he asked for, yet received absolutely no explanation from either the TSA agents or Philadelphia police as to why he was being

treated in such fashion.

18. Transported to a Philadelphia police station, Dr. Rajcoomar was booked; his personal possessions such as wallet, briefcase (both of which were completely searched without his consent), and cell phone were taken from him. He was then deposited in a foul-smelling cell where he remained for the next four hours. During that time, he again repeatedly asked for an explanation as to why he was being detained. The only explanation ever provided by the TSA agents consisted of the following two statements:

- (i) “We didn’t like the way you look,” and
- (ii) “We didn’t like the way you looked at us.”

19. Neither of these assertions could provide legal justification for Dr. Rajcoomar’s arrest and detention.

20. A TSA spokesperson quoted by the *Philadelphia Inquirer* essentially confirmed this second assertion, stating that Dr. Rajcoomar “had been observing too closely.” See “Profiling charged on ‘nightmare’ flight,” September 19, 2002.

21. Dr. Rajcoomar denies making such observation which, even having occurred, would not have provided legal justification for his arrest and detention.

22. Increasing Dr. Rajcoomar’s emotional turmoil, which his arrest and detention had inflicted, was the fear that his wife would have no idea as to what had become of him. Indeed, during his detention, he could hear his cell phone repeatedly ringing. Convinced that it was his wife who was calling to ascertain his condition and

whereabouts, Dr. Rajcoomar repeatedly asked permission to answer his phone. These requests were continuously denied.

23. At the end of four hours, without apology or explanation from either TSA agent or the police, Dr. Rajcoomar's property was returned and he was told that he was free to go. At this point, he requested that the TSA agents provide him their names. This request was refused and the TSA agents hastily left the police station.

24. As a Lieutenant Colonel in the United States Army Reserves, and a physician in private practice for the last 20 years, this entire situation was enormously demoralizing, physically abusive and has taken a psychological toll, leaving Dr. Rajcoomar with difficulty sleeping at night and concentrating during the day. It has shattered the sense of personal security which he had enjoyed as a citizen of the United States.

25. The actions of the TSA agents were undertaken because of the race and ethnicity of Dr. Rajcoomar in violation of the laws of the Commonwealth of Pennsylvania and the Fourth and Fifth Amendments to the United States Constitution.

#### **First Cause of Action**

26. The warrantless detention and searches by the TSA agents constitute false arrest, assault, battery, false imprisonment, unlawful search, and unlawful invasion of privacy of Dr. Rajcoomar and also constitute intentional or negligent infliction of emotional distress of Dr. and Mrs. Rajcoomar under the laws of the Commonwealth of

Pennsylvania.

27. Under the Federal Torts Claims Act, defendants United States of America and TSA are liable for the above described actions of agents McCuller and Mumma as they were acting within the scope of their employment as law enforcement officers for the United States of America and its Transportation Security Administration.

### **Second Cause of Action**

28. The actions and conduct of defendants, Shawn McCullers and Sam Mumma, violated the rights of Dr. Rajcoomar to be free from unreasonable detention, search and seizure under the Fourth Amendment and to equal protection and due process of law under the Fifth Amendment and the liberty interests of Mrs. Rajcoomar in not being deprived of the marital companionship of her husband without due process under the Fifth Amendment.

29. These defendants acted with recklessness, callous indifference to or disregard for the rights of Plaintiffs.

WHEREFORE, plaintiffs request this Court to award compensatory damages against the United States of America and compensatory and punitive damages against Shawn McCullers and Sam Mumma in their individual capacities and such other and further relief as appears reasonable.

Respectfully Submitted,

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Stefan Presser, Esq.  
Bar No. 43067  
Legal Director  
American Civil Liberties Union  
of Pennsylvania  
125 South Ninth Street  
Suite 701  
Philadelphia, PA 19107  
(215) 592-1513 ext. 116

Seth Kreimer, Esq.  
3400 Chestnut Street  
Philadelphia, PA 19104

James K. Green, Esq.  
Esperante, Suite 1630  
222 Lakeview Avenue  
West Palm Beach, FL 33401  
(561) 659-2029

Reginald Shuford, Esq.  
American Civil Liberties Union  
Foundation  
125 Broad Street  
New York, NY 10004  
(212) 549-2613

Randall Marshall, Esq.  
American Civil Liberties Union  
of Florida  
4500 Biscayne Boulevard  
Miami, FL 33137  
(305) 576-2337

*Counsel for Plaintiffs*