

2012 WL 10003518 (Wash.Super.) (Trial Pleading)
Superior Court of Washington.
Pierce County

Samuel RAMIREZ-RANGEL, Leticia Gonzalez-Santiago, and Jose Solis-Leon, Plaintiffs,
v.
KITSAP COUNTY, Justin T. Childs, in his official capacity as a Kitsap County Sheriff's Deputy, and Scott C. Jensen, in his official capacity as a Kitsap County Sheriff's Deputy, Defendants.

No. 122095944.
January 31, 2012.

Complaint for Damages and Declaratory Relief

Aclu of Washington Foundation, Attorneys for Plaintiffs, Sarah A. Dunne, WSBA # 34869, Nancy Talner, WSBA # 11196, La Rond Baker, WSBA # 43610, Aclu of Washington Foundation, 901 5th Avenue, Suite 630, Seattle, WA 98164-2008, Telephone: (206) 624-2184, dunne@aclu-wa.org, talner@aclu-wa.org, lbaker @aclu-wa.org.

Matt Adams, WSBA # 28287, Northwest Immigrant Rights Project, 615 Second Avenue, Suite 400, Seattle, WA 98104, matt@nwirp.org.

Maren R. Norton, WSBA # 35435, Karin D. Jones, WSBA # 42406, Skylee Robinson, WSBA # 42419, Stoel Rives, LLP, 600 University Avenue, Suite 3600, Seattle, WA 98101, mnrorton@stoel.com, kdjones@stoel.com, sjrobinson@stoel.com, Attorneys for Plaintiffs.

I. INTRODUCTION

This Complaint arises out of the unlawful seizure, detention, and arrest of Samuel Ramirez-Rangel, Leticia Gonzalez-Santiago, and Jose Solis-Leon; acts which constitute violations of state tort law and Article I, Section 7 of the Washington State Constitution.

II. JURISDICTION AND VENUE

This is an action for damages for state tort law violations, and for declaratory relief under Article I, Section 7 of the Washington State Constitution.

3. Jurisdiction and venue are proper in this Court because the incidents complained of occurred in Kitsap County, RCW 4.12.020, and because Defendants reside in Kitsap County, RCW 4.12.025.

III. PARTIES

4. Plaintiff Samuel Ramirez-Rangel is an individual who identifies as Latino and who at all pertinent times worked in Kitsap County, Washington, Plaintiff Leticia Gonzalez-Santiago is an individual who identifies as Latina, who at all pertinent times worked in Kitsap County, Washington: and Plaintiff Jose Solis-Leon is an individual who identifies as Latino, who at all pertinent times worked in Kitsap, Washington. Collectively Plaintiffs Ramirez-Rangel, Gonzalez-Santiago, and Solis-Leon will hereinafter be referred to as "Plaintiffs".

5. Defendant Kitsap County is a governmental entity that employs Sheriff's Deputies to enforce local and state laws. At all

times relevant to this Complaint, Defendant Kitsap County employed Defendants Childs and Jensen as Deputies and authorized them to act as its agents.

6. Defendant Justin T. Childs is, and at all times relevant to this Complaint was, employed as a Deputy for the Kitsap County Sheriff's Department and acted as Kitsap County's agent.

7 Defendant Scott C. Jensen, is and at all times relevant to this Complaint was, employed as a Deputy for the Kitsap County Sheriff's Department and acted as Kitsap County's agent.

8 On, or about, August 10, 2011, Plaintiffs provided the Kitsap County Board of County Commissioners with notice of their tort claims pursuant to R.C.W. 4.96.020.

IV. FACTS

9 On the night of February 1-2, 2010, Plaintiff Ramirez-Rangel drove Plaintiffs Gonzalez-Santiago and Solis-Leon and another colleague to a beach at Gamble Bay to engage in the commercial gathering of oysters, pursuant to a valid commercial license.

10 Plaintiffs were traveling in a Ford F350 truck owned by their employers.

11. Unbeknownst to Plaintiffs, Defendants Childs and Jensen conducted surveillance on them as they gathered shellfish.

12 As Defendants Childs and Jensen observed Plaintiffs, they noted that fluent Spanish could be heard spoken from the Plaintiffs on the beach.

13 Defendants Childs and Jensen continued to watch as Plaintiffs gathered oyster clusters and placed them in five gallon buckets and a large bag.

14. While Plaintiffs were still on the beach gathering oysters, Defendants Childs and Jensen ran the license plate number of the truck in which Plaintiffs travelled and determined that it was registered to a white male named Donald DeNotta.

15. Upon information and belief, after observing Plaintiffs for an undisclosed period of time, and in order "to further investigate", Defendants Childs and Jensen returned to their cars and each parked at a distance from the truck on either side of a street, thereby requiring Plaintiffs to drive by either Defendant Childs or Jensen as they left the beach in the early morning of February 2, 2010.

16 As the truck passed Defendant Jensen's patrol car, he noticed that one of the headlights of the truck was defective.

17 Upon information and belief, Defendant Jensen relied on the defective headlight as a pretextual basis to stop and investigate Plaintiffs.

18 Defendant Jensen seized Plaintiffs by conducting a traffic stop. When Plaintiffs pulled over and stopped in response to the police show of authority, Defendant Jensen made contact with Plaintiff Ramirez-Rangel. Jensen advised Plaintiff Ramirez-Rangel that the headlight was defective, and Plaintiff Ramirez-Rangel stated that he was aware of that and would get it fixed. Defendant Jensen did not issue a citation for the defective headlight, nor did he initiate the process for issuing a citation.

19. Instead, after advising Plaintiff Ramirez-Rangel that one of the headlights was defective, Defendant Jensen asked Plaintiff Solis-Leon, who was sitting in the rear passenger seat on the driver's side of the truck, for identification. Plaintiff Solis-Leon did not have his identification with him, but he verbally identified himself by his name and birthdate.

20 After Defendant Jensen asked Plaintiff Solis-Leon for his identification, Plaintiff Ramirez-Rangel produced his driver's license and gave it to Defendant Jensen along with a valid commercial shellfishing license. Plaintiff Ramirez-Rangel also

showed Defendant Jensen the commercial tags on the bags and buckets of shellfish that Plaintiffs collected at the Port Gamble Bay beach.

21 Defendant Jensen verified Plaintiff Ramirez-Rangel's commercial shellfishing license and observed his valid driver's license.

22. Upon information and belief, Defendant Jensen knew or should have known at that time that there was no probable cause to believe the passengers were engaged in illegal poaching.

23. At the same time, Defendant Childs interrogated Plaintiff Gonzalez-Santiago and the other passenger about their identities.

24 After observing the shellfishing license and commercial tags on the bags and buckets of shellfish, Defendant Jensen ran a background search on Plaintiffs Ramirez-Rangel and Solis-Leon. Neither of their background checks returned a warrant.

25 Defendant Childs ran a background search on Ms. Gonzalez-Santiago and the other passenger. Neither of their background checks returned a warrant.

26. Upon information and belief, at that time, Defendants Jensen and Childs knew or should have known that there was no probable cause to believe that any of Plaintiffs had committed or were committing any crime.

27 After Defendants Childs and Jensen completed the background searches of the Plaintiffs and other passenger, Defendant Jensen made Plaintiff Ramirez-Rangel step away from the truck and asked him questions about his immigration status. While Defendant Jensen questioned Plaintiff Ramirez-Rangel, Defendant Childs interrogated the three other passengers about their immigration statuses.

28 Defendants Childs and Jensen directed Plaintiff Ramirez-Rangel to return to the truck and then directed all the Plaintiffs to remain in the truck's cab. Defendants Childs and Jensen confiscated the keys to the truck and Plaintiff Ramirez-Rangel's driver's license. Defendants Childs and Jensen then told Plaintiffs: "Don't move. If you try to get out, we'll arrest you."

29. Defendant Jensen called U.S. Customs and Border Patrol and informed it that he had stopped four individuals whom he suspected might have immigration issues. Defendant Jensen also assured Border Patrol that Defendants Jensen and Childs would detain the Plaintiffs until a Border Patrol official arrived at the scene.

30. Defendant Childs requested other law enforcement officers to assist. Two officers from the Suquamish and Port Gamble law enforcement agencies responded. The officers were armed and in marked cars.

31 Without any probable cause or reasonable suspicion to believe Plaintiffs had engaged in, or were engaging in, any criminal activity, Defendants Childs and Jensen detained Plaintiffs in the truck for more than an hour, the length of time that it took for a Border Patrol official to arrive at the scene.

32. During the time that Plaintiffs remained detained in the truck, Defendants Jensen and Childs, assisted by the other officers, kept the truck surrounded at all times by at least four armed police officers

V. CAUSES OF ACTION

First Cause of Action: Violations of Washington State Constitution Article I, Section 7

33. Plaintiffs reallege and incorporate by reference herein all the allegations of paragraphs 1 through 32 above.

34 Defendants Childs' and Jensen's stop of Plaintiffs' vehicle on a pretext violated Article I, Section 7 of the Washington State Constitution. Article I, Section 7 of the Washington State Constitution "forbids the use of pretext as a justification for a

warrantless search or seizure[.]” *State v Ladson*, 138 Wn.2d 343, 352, 979 P.2d 833 (1999). Defendants violated Plaintiffs’ constitutional rights under Article I, Section 7 when they used pretextual reasons to seize Plaintiffs, and subjected them, under threat of arrest, to an unlawfully prolonged detention that lasted for over an hour.

35. Defendants’ pretextual stop of Plaintiffs caused Plaintiffs harm and a loss of liberty and constituted an invasion of their individual privacy rights in violation of Article I, Section 7 of the Washington State Constitution.

36. Defendants Childs and Jensen seized Plaintiffs Gonzalez-Santiago and Solis-Leon, who were passengers in the truck, when they requested identification from them without an independent cause, separate from the pretextual reason for the stop, and questioned them about their identity, immigration status, and/or presence in the truck. Plaintiffs’ individual freedom of movement was restrained by this request, and Plaintiffs did not believe that they were free to leave the scene or to decline a request, because Defendants Childs and Jensen used a display of authority to make the request.

37. Article I, Section 7 of the Washington State Constitution protects Plaintiffs’ privacy interest and “prohibits law enforcement officers from requesting identification from passengers for investigative purposes unless there is an independent reason that justifies the request.” *State v Rankin*, 151 Wn.2d 698, 700, 92 P.3d 202 (2004).

38. Defendants Childs’ and Jensen’s use of a display of authority, and an implicit threat of force, to obtain identification from Plaintiffs, without an independent reason justifying the request, caused Plaintiffs harm and loss of liberty, invaded their privacy, and constituted a violation of Article I, Section 7 of the Washington State Constitution

39 Defendant Jensen’s order for Plaintiff Ramirez-Rangel to stop the truck carrying Plaintiffs Gonzalez-Santiago and Solis-Leon resulted in the warrantless seizure of all Plaintiffs. Neither the defective headlight nor Defendants’ investigation of a possible shellfishing violation provided any lawful basis for seizing Plaintiffs in the first instance. Even if these constituted a lawful basis for the stop, these reasons could not justify continuing the seizure after Plaintiff Ramirez-Rangel was warned of the headlight and Defendants Childs and Jensen observed his shellfishing license. Article I, Section 7 of the Washington State Constitution guarantees individuals the right to be free from prolonged detention by police officers where there is no lawful basis to continue the detention. *State v Duncan*, 146 Wn.2d 166, 174-75, 43 P.3d 513 (2002). Defendants Childs and Jensen caused Plaintiffs harm and loss of liberty, invaded their privacy, and violated Article I, Section 7 by measurably extending the duration of the stop by inquiring into matters unrelated to the justification for the stop and by restraining Plaintiffs for the time it took for Border Patrol officials to arrive.

Second Cause of Action: False Arrest

40 Plaintiffs reallege and incorporate by reference herein all the allegations of paragraphs 1 through 39 above

41 Defendants Childs and Jensen seized Plaintiffs when they engaged in the pretextual stop of the truck in which Plaintiffs travelled. Defendants Childs and Jensen continued the warrantless seizure for more than an hour, until a Border Patrol official arrived. Defendants Childs and Jensen restrained Plaintiffs’ movements, and interfered with their liberty, by a show of force and by a showing of Defendants’ authority as Kitsap County Deputies, when they ordered Plaintiffs to stay in the truck, further threatened Plaintiffs by stating that there would be consequences if Plaintiffs exited the truck, and surrounded the truck with two other law enforcement officers flanked by marked law enforcement vehicles.

42 Defendants Childs’ and Jensen’s prolongation of the detention of Plaintiffs constituted a violation of state tort law of false arrest.

43 Defendants’ actions, which were unlawful under Article I, section 7, were not carried out pursuant to any statutory duty and were not reasonable.

44 Plaintiffs suffered harm, loss of liberty, and an invasion of their privacy as a result of the false arrest to which they were subjected by Defendants Childs and Jensen.

Third Cause of Action: Respondeat Superior

45 Plaintiffs reallege and incorporate by reference herein all the allegations of paragraphs 1 through 44 above.

46. On February 2, 2010, Defendants Childs and Jensen, while acting within the scope of their employment, used the authority Kitsap County granted them as Deputies to stop, falsely arrest, and prolong the detention of Plaintiffs in violation of state tort law and Article I, Section 7 of the Washington State Constitution.

47. As their employer, Defendant Kitsap County is liable for the actions of Defendants Childs and Jensen, under the theory of respondeat superior, that constituted violations of state tort law that caused Plaintiffs to be harmed and to suffer a loss of liberty and an invasion of their privacy.

VI. RELIEF REQUESTED

WHEREFORE, Plaintiffs Samuel Ramirez-Rangel, Leticia Gonzalez-Santiago, and Jose Solis-Leon pray for relief as follows:

A. Damages against Defendants in an amount to be determined at trial;

B A declaration that Defendants are not authorized to enforce federal immigration law.

C. A declaration that Defendants do not have authority to prolong a detention to interrogate the individuals detained about their immigration status.

D. For such other and further relief as the Court may deem just and equitable. DATED this 31st the day of January, 2012.

ACLU OF WASHINGTON FOUNDATION

By: /s/ La Rond Baker

Attorneys for Plaintiffs

Sarah A. Dunne, WSBA # 34869

Nancy Talner, WSBA # 11196

La Rond Baker, WSBA # 43610

ACLU of Washington Foundation

901 5th Avenue, Suite 630

Seattle, WA 98164-2008

Telephone: (206) 624-2184

dunne@aclu-wa.org

talner@aclu-wa.org

lbaker@aclu-wa.org

Matt Adams, WSBA # 28287

NORTHWEST IMMIGRANT RIGHTS PROJECT

615 Second Avenue Suite 400

Seattle, WA 98104

matt@nwirp.org

Marlen R. Norton, WSBA # 35435

Karin D. Jones, WSBA # 42406

Skylee Robinson, WSBA #42419

STOEL RIVES, LLP

600 University Avenue, Suite 3600

Seattle, WA 98101

mrnorton@stoel.com

kdjones@stoel.com

sjrobinson@stoel.com

Attorneys for Plaintiffs
