

2013 WL 6361177 (Wash.Super.) (Trial Order)  
Superior Court of Washington.  
Pierce County

Samuel RAMIREZ-RANGEL, Leticia Gonzales-Santiago, and Jose Solis-Leon, Plaintiff,  
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.  
August 16, 2013.

\*1 Dept. 13  
August 16, 2013, 10:30 a.m.

**Court's Order Granting Plaintiffs' Cross-Motion for Summary Judgment and Denying Defendants' Cr 56 Motion for Entry of Final Judgment**

Approved as to Form:

Neil R. Wachter, Ione S. George, WSBA No. 18236, Chief Deputy Prosecuting Attorney, Neil R. Wachter, WSBA No. 23278, Senior Deputy Prosecuting Attorney, Attorneys for Defendants Kitsap County, Scott Jensen and Justin Childs.

Approved as to Form:

Karin D. Jones, Maren R. Norton, WSBA No. 35435, Karin D. Jones, WSBA No. 42406, Skylee Robinson, WSBA No. 42419, Stoel Rives, LLP, Attorneys for Plaintiffs

La Rond Baker, Sarah A. Dunne, WSBA No. 34869, Nancy Talner, WSBA No. 11196, Larond Baker, WSBA No. 43610, Aclu of Washington Foundation, Attorneys for Plaintiffs

Kathryn J. Nelson, Judge.

THIS MATTER having come before the undersigned Judge of the above-entitled Court for hearing on August 7, 2013 upon Defendants' CR 56 Motion for Entry of Final Judgment and Plaintiffs' Cross-Motion for Summary Judgment, the Court has read the files and records herein and is fully advised on the premises.

**I. CR 56(h) DOCUMENTS AND EVIDENCE**

1. Declaration of Defendant Justin T. Childs, dated January 20, 2013 and filed February 15, 2013;
2. Declaration of Defendant Scott C. Jensen, dated January 19, 2013 and filed February 15, 2013;
3. Declaration of Undersheriff Dennis Bonneville in Support of Defendants' Motion for Summary Judgment, filed February 15, 2013;
4. Declaration of Paula Galivan, filed February 15, 2013;<sup>1</sup>

<sup>1</sup> Replaced with Notice of Errata re Declaration of Paula Galivan, filed February 21, 2013.

5. Declaration of Cathy Barker, filed February 15, 2013;
6. Declaration of Skylee Robinson in Support of Plaintiffs' Opposition to Defendants' Motion for Summary Judgment, filed March 18, 2013;
7. Declaration of Jose Solis-Leon in Support of Plaintiffs' Opposition to Defendants' Motion for Summary Judgment, filed March 18, 2013;
8. Declaration of Samuel Ramirez in Support of Plaintiffs' Opposition to Defendants' Motion for Summary Judgment, filed March 18, 2013;
9. Declaration of Stephanie C. Browning, filed March 25, 2013;
10. Declaration of Karin D. Jones in Support of Plaintiffs' Opposition to Defendants' Motion for Entry of Final Judgment, filed May 29, 2013;
11. Plaintiffs' Opposition to Defendants' CR 56 Motion for Entry of Final Judgment and Plaintiffs' Cross-Motion for Summary Judgment, filed June 14, 2013;
12. Defendants' Response to Plaintiffs' Cross-Motion for Summary Judgment, filed July 26, 2013;
13. Reply to Defendants' Response to Plaintiffs' Cross-Motion for Summary Judgment, filed August 2, 2013; and
14. Motion for Entry of Final Judgment filed May 16, 2013.

Paragraphs 3 through 13 are subject to the Court's rulings on Defendants' motion to strike.

## **II. FINDINGS AND CONCLUSIONS**

The Court FINDS AND CONCLUDES that:

1. Based on the Declarations of Deputies Childs and Jensen, there are no genuine issues of material fact;
2. Plaintiffs' Complaint sufficiently gave Defendants notice that declaratory judgment was sought in this matter;
3. The Plaintiffs are entitled to declaratory judgment as a matter of law: Plaintiffs have standing to bring this action under the Uniform Declaratory Judgments Act, RCW Ch. 7.24. This case presents a justiciable controversy, and in addition, important public interests support this Court's consideration of Plaintiffs' claims, particularly as there is a likelihood that the underlying conduct could recur;
- \*2 4. Defendants as local law enforcement officers, under the facts of this case, do not have the authority to enforce federal immigration law nor prolong a detention to question individuals about their immigration status, citizenship status and/or country of origin, even if the officers have a reasonable suspicion or probable cause to seize and/or detain individuals for violations of law that the officers are authorized to enforce and, having determined not to arrest the plaintiffs, they prolonged the detention solely to question Plaintiffs about their immigration status.; and
5. Defendants violated Plaintiffs' rights conferred by the Washington State Constitution, Article I, Section 7, when on February 2, 2010 they prolonged the detention to question the Plaintiffs about their immigration status, citizenship status and/or country of origin.

## **III. ORDER**

Therefore, IT IS HEREBY ORDERED that:

1. Defendants' CR 56 Motion for Entry of Final Judgment is hereby DENIED;
2. Plaintiffs' Cross-Motion for Summary Judgment is hereby GRANTED; and
3. The Court hereby DECLARES that Article 1, § 7 of the Washington State Constitution forbids local enforcement officers from prolonging a detention to investigate or engage in questioning about an individual's immigration status, citizenship status and/or national origin.

ORDERED this 16th day of August, 2013.

<<signature>>

The Honorable Kathryn J. Nelson

Pierce County Superior Court Judge

APPROVED AS TO FORM:

/s Neil R. Wachter

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Chief Deputy Prosecuting Attorney

NEIL R. WACHTER, WSBA No. 23278

Senior Deputy Prosecuting Attorney

Attorneys for Defendants Kitsap County,

Scott Jensen and Justin Childs.

APPROVED AS TO FORM:

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