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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS, TEXAS

FRANCISCO JAIMES VILLEGAS,

§

§

PLAINTIFF,

§

§

VS.

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UNITED STATES CUSTOMS AND BORDER
PROTECTION OFFICERS ANTONIO GARIBAY
III AND JOHN DOE

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DEFENDANTS

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COMPLAINT

JURY TRIAL DEMANDED

CIVIL NO. _____

Plaintiff, Francisco Jaimes Villegas ("Mr. Jaimes"), through counsel, alleges as follows:

INTRODUCTION

1. This is a civil rights action brought to redress an objectively unreasonable and unlawful seizure and arrest of Mr. Jaimes and offensive acts taken in connection therewith. Mr. Jaimes brings constitutional claims under the Fourth Amendment pursuant to Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971), against two officers of the United States Customs and Border Protection agency ("CBP"), Antonio Garibay III and an as yet unidentified John Doe, in their individual capacity.
2. Defendants Garibay and Doe seized and arrested Mr. Jaimes without reasonable suspicion or probable cause that Mr. Jaimes had violated or was violating any law over which the officers had jurisdiction and without any warrant for the arrest of Mr. Jaimes or any reason to believe that Mr. Jaimes would flee prosecution for any alleged violation of the law.
3. Furthermore, Defendants targeted Mr. Jaimes for seizure based on ethnicity and race, pursuant to their and their agency's regular practice and policy of willful, unlawful and abusive traffic stop-type seizures of Hispanics in and

around central, south-central, west-central and north Texas, far from the border with Mexico.

4. CBP patrol agents, including Defendants, regularly seize persons of Hispanic appearance off the roads and highways in Texas in plain violation of clearly established constitutional, statutory, and regulatory law against unlawful racial profiling.

5. In addition to and apart from Mr. Jaimes, victims of this illegal practice have included United States citizens, lawful permanent resident aliens, and other persons.

6. Applicable constitutional, statutory and regulatory law constrains the Defendants' actions for the purpose of protecting citizens and non-citizens equally from unreasonable searches and seizures.

7. In this action, Mr. Jaimes seeks nominal, compensatory and punitive damages for the harm he has suffered and seeks to hold Defendants responsible for the complained-of conduct.

JURISDICTION AND VENUE

8. This Court has jurisdiction over this federal civil rights action pursuant to the Fourth Amendment to the United States Constitution and 28 U.S.C. § 1331 (federal question).

9. Venue lies in this District, pursuant to 28 U.S.C. §§ 1391(b)(2) and (e)(2), because this is the judicial district in which a substantial part of the events or omissions giving rise to the claim occurred and Defendants are federal officers whose complained-of actions were taken under color of legal authority.

THE PARTIES

10. Mr. Jaimes is Hispanic.

11. Defendants are patrol agents of CBP. Mr. Jaimes brings suit under Bivens against Defendants in their individual capacity.

12. Defendants are “law enforcement officer[s]” within the meaning of 8 U.S.C. § 2860(h).

THE FACTS

13. Mr. Jaimes was seized and arrested on or about January 30, 2012 by Defendants in an act of egregious racial profiling.

14. At the time of these events, Mr. Jaimes was located about 200 air miles from the nearest point along the U.S/Mexico border.

15. Mr. Jaimes was driving on Highway 84 (also known as U.S. Route 84) just outside Santa Anna, Texas, heading north towards Abilene, Texas, in a location which is over 100 miles north-east of San Angelo.

16. This road is travelled by hundreds, if not thousands, of law-abiding persons daily, a large percentage of whom are Hispanic, consistent with the racial and ethnic diversity of the area.

17. The overwhelming majority of persons travelling this road travels it for lawful purposes.

18. The overwhelming majority of persons travelling this road consists of U.S. citizens or non-citizens in lawful immigration status.

19. Mr. Jaimes was driving a white Ford pick-up truck with four doors and four wheels (hereinafter, the "Truck").

20. This type of truck is extremely common in Texas.

21. The Truck was traveling in accordance with applicable state traffic rules and regulations.

22. The Truck was uncovered and carried a tool box and a light generator in the rear.

23. The Truck was not altered in any fashion so as to carry heavier loads or for any other special purpose.

24. The Truck was not unusually dirty, as compared to other trucks on the road.

25. The Truck was not unusually clean, as compared to other trucks on the road.

26. The Truck's windows were not tinted or otherwise altered so as to obscure visibility into the cab.

27. Visibility into the cab through the windows was clear and unobstructed.

28. A Hispanic co-worker of Mr. Jaimes was sitting in the front seat of the Truck on the passenger side.

29. Another Hispanic co-worker was in the rear seat behind him.

30. Mr. Jaimes was driving normally and in accordance with the traffic law.

31. At the same time, Defendants were on CBP roving patrol duty in a single CBP vehicle.

32. At that time, Defendants were not patrolling the U.S./Mexico border or its functional equivalent.

33. At that time, Defendants were not patrolling the U.S./Mexico border or its functional equivalent for the purpose of preventing the illegal entry of aliens into the United States.

34. Defendants have no lawful authority, in their capacity as Border Patrol agents, to enforce state laws that regulate highway use.

35. Defendants saw the Truck, saw that it contained Hispanic men and decided, based upon that fact that it contained Hispanic men, to stop the Truck and interrogate its occupants as to their immigration status.

36. The Defendants pulled their CBP vehicle behind the Truck.

37. Mr. Jaimes kept driving normally, looking forward as is required to drive safely.

38. Neither Mr. Jaimes nor anyone else in the Truck made any bodily movements out of the ordinary for persons driving lawfully on the road.

39. The Defendants turned on their emergency lights.

40. That action required Mr. Jaimes to bring the Truck to a stop on the shoulder of the road.

41. In response, Mr. Jaimes brought the Truck to an orderly and prompt stop on the side of the road and he turned off its engine as required by law.

42. This stop constituted a seizure within the meaning of the Fourth Amendment to the U.S. Constitution.

43. At the time of this seizure, Defendants were aware that applicable constitutional, statutory and regulatory law required that they have objectively reasonable suspicion, based on specific articulable facts, that the persons seized were engaged in an offense against the U.S. or were aliens illegally in the U.S.

44. At the time of this seizure, Defendants were aware of no facts indicating that:

- i. Mr. Jaimes or his companions were violating or had violated any law, the enforcement of which is within the jurisdiction of CBP;
- ii. the Truck was being driven in a manner in violation of any state traffic law;
- iii. the Truck's appearance was indicative of illegal conduct;
- iv. the Truck was being driven in a manner indicative of any illegal conduct;
- v. Mr. Jaimes or his companions had entered the United States illegally from a foreign contiguous territory;

- vi. Mr. Jaimes or his companions had come recently from a border area;
- vii. Mr. Jaimes or his companions were aliens;
- viii. Mr. Jaimes or his companions were aliens present in violation of any immigration law;
- ix. Mr. Jaimes or his companions were then involved in or had been involved in alien smuggling;
- x. Mr. Jaimes or his companions were then involved in or had been involved in drug smuggling; or that
- xi. Mr. Jaimes or his companions were then involved in or had been involved in any other illegal activity.

45. At the time of this seizure, the Defendants did not think or believe that:

- i. the Truck in which Mr. Jaimes was travelling was being driven in a manner in violation of any state traffic law;
- ii. the Truck in which Mr. Jaimes was travelling was being driven in a manner indicative of any illegal conduct;
- iii. the Truck's appearance was indicative of illegal conduct;

- iv. Mr. Jaimes or his companions had come recently from a border area or foreign contiguous territory;
- v. Mr. Jaimes or his companions were then involved in or had been involved in alien smuggling;
- vi. Mr. Jaimes or his companions were then involved in or had been involved in drug smuggling; or that
- vii. Mr. Jaimes or his companions were then involved in or had been involved in any other illegal smuggling activity.

46. At the time of this seizure, Defendants were aware that it was illegal, and that they lacked lawful authority, to stop a vehicle based solely or principally on the fact that it contained a Hispanic or Hispanics inside.

47. At the time of this seizure, the behavior and comportment of Mr. Jaimes and his companions were consistent with lawful activity.

48. At the time of this seizure, Defendants had received from their agency or otherwise no prior information or reports relating to the Truck, Mr. Jaimes or his companion.

49. At the time of this seizure, Defendants had received from their agency no prior information or reports relating to the Truck, Mr. Jaimes or his companions indicative of any possible illegal conduct.

50. At the time of this seizure, Defendants were aware of no reports from their agency relating to any specific allegations of possible illegal activity along the same portion of road upon which Mr. Jaimes was seized.

51. At the time of this seizure, the behavior and comportment of Mr. Jaimes or his companions were not indicative of unlawful activity.

52. At no time during this event did Mr. Jaimes or his companions attempt to hide themselves from view.

53. At no time during this event did the Truck make movements out of the ordinary for a vehicle traveling in full accordance with state traffic rules.

54. At no time during this event did the Truck speed up or slow down or change lanes or swerve or change its position in response to the appearance of the Defendants' vehicle or in response to the Defendants' emergency lights, other than to bring the Truck to an orderly and prompt stop on the side of the road.

55. Subsequent to bringing the Truck to a stop, the Defendants then got out of their vehicle and walked up alongside the truck, one officer on each side.

56. Defendant Doe walked up on the driver's side of the Truck.

57. Defendant Garibay walked up on the passenger side of the Truck.

58. At this time, neither Defendant feared for his safety based upon anything specific to Mr. Jaimes or his companions.

59. Mr. Jaimes had made no movements and had taken no other actions suggesting he would flee the scene.

60. Mr. Jaimes' companions had made no movements and had taken no other actions suggesting they would flee the scene.

61. Mr. Jaimes had made no movements and had taken no other actions suggesting he was a physical threat to Defendants.

62. Mr. Jaimes' companions had made no movements and had taken no other actions suggesting they were a physical threat to Defendants.

63. There were no weapons of any sort in the Truck.

64. There was nothing within the cab of the Truck that could be used as a weapon.

65. Defendants saw nothing within the cab of the Truck that could be used as a weapon.

66. At no time did Mr. Jaimes or any of his companions disobey any verbal commands or requests from Defendants.

67. Defendant Doe, before even asking any questions, handcuffed Mr. Jaimes to the person sitting to his rear in an excessively tight manner such as to cause considerable discomfort.

68. Similarly, Defendant Garibay, before saying anything, handcuffed Mr. Jaimes' co-worker (to himself) sitting in the front seat.

69. The act of placing handcuffs on Mr. Jaimes in this manner constituted an arrest within the meaning of Fourth Amendment jurisprudence.

70. Defendants had no warrant for the arrest of any person.

71. After everyone in the Truck was handcuffed, Defendant Doe interrogated them as to whether they had any "papers," subsequent to which, the officers pulled all three of them out of the Truck and put them into their own CBP vehicle.

72. At no time during this seizure did Defendants search the Truck for drugs, illegal contraband, or anything else.

73. At no time during this seizure did Defendants communicate with their agency for the purpose of determining whether the agency had any existing records or information relating to the Truck or Mr. Jaimes.

74. At no time during this seizure did any officer of CBP communicate with Defendants by phone or otherwise about the Truck or Mr. Jaimes.

75. At no time during this seizure did Defendants undertake any investigation specific to Mr. Jaimes into whether Mr. Jaimes was likely to escape before an arrest warrant could be obtained.

76. The Defendants then spent some time driving around looking for other Hispanics in vehicles to stop and arrest.

77. When they were done, the Defendants transported Mr. Jaimes and the others to an office.

78. Mr. Jaimes was subsequently questioned by one of the same officers who arrested him.

79. Mr. Jaimes was placed into removal proceedings and assigned alien registration number A200-205-446.

80. There are no characteristics particular to the portion of road in which this seizure took place that make it more likely than other roads within Texas to be used as a route for illegal activity.

81. There is nothing about the traffic patterns particular to the portion of the road in which this seizure took place that make it more likely that Mr. Jaimes or his companions in their Truck were involved in any form of illegal activity.

82. As a result of Defendants' actions, committed intentionally, maliciously, recklessly, negligently, and with a callous disregard for, or indifference to Mr. Jaimes' civil rights and those of his companions, Mr. Jaimes was unlawfully seized, assaulted, detained, mentally and emotionally distressed, physically abused and humiliated. He suffered physical harm, a loss of liberty,

humiliation, mental and emotional distress, and a violation of his Constitutional rights.

83. Defendants' actions were in accordance with and done pursuant to the regular pattern and practice of CBP patrol agents in central, south-central, west-central and north Texas of driving roads and highways and stopping people who look Hispanic to interrogate them about their immigration status without objectively reasonable suspicion that such affected persons are violating or have violated any law within the enforcement jurisdiction of CBP.

84. Other persons that CBP officers have seized in this same illegal fashion off Texas highways and roads far from the border with Mexico, include:

- i. Jose ORDOÑEZ-SALANEC, A088-018-337;
- ii. Melchor RODRIGUEZ, A089-768-564
- iii. Juan SALGADO, A089-768-567;
- iv. Damian CECILIANO, A089-715-522;
- v. Miguel COSOJAY-SUTUJ, A089-108-963;
- vi. Israel HERNANDEZ, A089-768-605;
- vii. Josue HERNANDEZ-CARRANCO, A089-715-599;
- viii. Luis Pablo PEREZ, A089-715-604;
- ix. Jaime Javier ZALDAÑA, A089-768-616;

- x. Daniel FRIAS, A087-521-104;
- xi. Alejandro GARCIA DE LA PAZ, A200-889-127; and
- xii. three brothers, Cristo Uvaldo DE LA HOYA QUIROGA, A205 665 306, Juan Roman DE LA HOYA QUIROGA, A205 665 307, and Emmanuel DE LA HOYA QUIROGA.

85. Jose ORDOÑEZ-SALANEC, A088-018-337:

- i. On March 19, 2007, Jose Ordoñez-Salanec was driving alone on the freeway, Loop 410 West, in San Antonio in the late afternoon in an Isuzu Rodeo SUV vehicle when he was stopped by CBP officer Rolando Salinas.
- ii. He was stopped, according to the relevant Form I-213 (which is an official Department of Homeland Security form used by the arresting officer to memorialize an arrest), for "always looking straight ahead" while driving, looking "nervous" and "switching lanes quickly."
- iii. Mr. Salinas questioned him about his immigration status, arrested him, and later placed him into removal proceedings.
- iv. Under oath, during Mr. Ordoñez' immigration removal proceeding, Mr. Salinas testified that he stopped people based

on their facial expressions and how they reacted to the BP vehicle.

- v. He claimed he could tell that Mr. Ordoñez was nervous because of the way in which he was "clenching" the steering wheel.
- vi. The Immigration Judge ("IJ") found the officer's testimony regarding how he might distinguish one Hispanic person from an "illegal alien" given the high Hispanic population in San Antonio to be nonresponsive.
- vii. The IJ found the Mr. Salinas' testimony to be not credible given its "nonresponsive, inconsistent and vague nature."
- viii. The IJ concluded "that the only basis for the agent's stop was that [Mr. Ordoñez] 'looked like an alien'" and that, in arresting Mr. Ordoñez pursuant to an act of racial profiling, the CBP officer had "deliberately violated the law or acted in conscious disregard of the Constitution."
- ix. The IJ excluded the I-213 as evidence based upon the illegality of the arrest and terminated the removal proceedings.

86. Melchor RODRIGUEZ, A089-768-564:

- i. On November 25, 2008, Melchor Rodriguez was with three other Hispanic men in a double-cab Ford F-250 truck on Interstate Highway 10 just outside San Antonio when he was stopped and arrested by CBP officers, including Rolando Salinas, who had previously arrested Jose Ordoñez (discussed previously), and an officer named Francisco Delgado, who would later arrest Juan Salgado (discussed below).
- ii. Mr. Salinas was undeterred by the IJ's prior decision in the case of Mr. Ordoñez, which had found his prior conduct to be in deliberate violation or conscious disregard of the law.
- iii. According to the Form I-213, signed by Mr. Delgado, he and Mr. Salinas arrested Mr. Rodriguez and the other men in the truck because they appeared to be "stoic and ... nervous."
- iv. Mr. Rodriguez was granted relief from removal in immigration court in October of 2012.

87. Juan SALGADO, A089-768-567:

- i. In December of 2008, Mr. Delgado arrested Juan Salgado in the same fashion using the same excuse as in the case of Melchor Rodriguez.

- ii. Juan Salgado was a passenger, being driven with two Hispanic family members in a four-door truck on Highway 151 outside San Antonio.
- iii. They were observing state traffic law.
- iv. CBP officers, including Mr. Delgado, saw them, pulled behind them, flashed their lights and pulled them over.
- v. One of the officers walked up to the truck on the passenger side and, prior to speaking any words, placed his left hand on the truck door and his right hand on Mr. Salgado's forearm.
- vi. The stated reason for the stop on the Form I-213 was that Mr. Salgado and the others appeared "stoic and nervous" - exactly the reason given previously for the arrest of Mr. Ordoñez.
- vii. Mr. Salgado was placed into removal proceedings.
- viii. The removal case was later terminated upon joint motion of the parties.

88. Damian CECILIANO, A089-715-522:

- i. On January 15, 2009, Damian Ceciliano was in a double-cab truck with four other Hispanic men when they were stopped

by CBP officer John W. Finney III without any apparent lawful cause on Highway 87 outside San Angelo.

- ii. When Damian asked officer Finney why he was stopped, Mr. Finney told him that it was because of the stuff he had in his truck and because he looked "Mexican."
- iii. The related Form I-213 gives no stated reason whatsoever for his stop.
- iv. In his removal proceedings, subsequent to the taking of all evidence, the IJ found no other reason for the stop beyond "[Mr. Ceciliano's] Hispanic appearance," warranting suppression of the evidence and termination of proceedings.

89. Miguel COSOJAY-SUTUJ, A089-108-963:

- i. On May 12, 2009, Miguel Angel Cosojay-Sutuj and two others were driving within the speed limit in a covered truck on Interstate Highway 20, heading west near Abilene.
- ii. They were driving in accordance with state traffic law.
- iii. Two CBP officers, including John W. Finney III, travelling in a CBP vehicle, pulled Mr. Cosojay and his companions off the freeway without any apparent lawful reason.

- iv. The officers then interrogated them as to their immigration status and arrested Mr. Cosojoy.
- v. The related Form I-213 gives no stated reason for the stop.
- vi. The IJ found that the arresting officers did not have reasonable suspicion when they stopped Mr. Cosojoy, in violation of the Fourth Amendment.
- vii. Mr. Cosojay's removal proceedings were later terminated upon joint motion of the parties.

90. Israel HERNANDEZ, A089-768-605:

- i. On May 15, 2009, Israel Hernandez and his friend Cesar ate breakfast at a restaurant in San Antonio.
- ii. Then they got into their double cab Dodge truck and drove onto Interstate Highway 10 East in the direction of Seguin, Texas.
- iii. They did not get very far before being stopped by CBP officers, including officer Salinas, who had previously arrested Jose Ordoñez and Melchor Rodriguez (discussed previously).
- iv. Mr. Hernandez and his companion were questioned as to their immigration status and arrested.

- v. The officers claimed that Mr. Hernandez was stopped because he and his companion had an "uncomfortable looking forward stare" and because they "appeared very nervous."
- vi. Subsequent to the taking of all evidence in the removal case, the IJ found no other explanation other than "[Mr. Hernandez's] Hispanic appearance as the cause for the stop," warranting suppression of the evidence and termination of proceedings.

91. Josue HERNANDEZ-CARRANCO, A089-715-599:

- i. On the morning of November 5th, 2009, Josue Hernandez was a passenger in the front seat of a Ford F150 double-cab truck.
- ii. His father was driving. A friend was sitting in the rear seat.
- iii. They were traveling in a westerly direction to San Angelo, Texas on Highway 84.
- iv. At a point just east of Brownwood, Texas and about 95 miles east of San Angelo, they stopped at a gas station to use the restroom.

- v. They parked in front of the store. As they were about to get off of their truck, two white male Border Patrol officers quickly approached the vehicle.
- vi. One stood in front of the driver's side door and the other stood in front of the passenger side door.
- vii. The officer on Josue's side immediately opened the door, grabbed him by his right arm and then he asked him in Spanish: "Tienes Papeles"? This means, in English: "Do you have any papers?"
- viii. Josue showed the officer his valid Texas license.
- ix. Upon seeing the license, the officer replied in Spanish, "Eso no sirve," meaning something approximate to, "That's no good" or "That's not sufficient."
- x. The officer then cuffed Josue on one wrist, pulled him out of the truck by the cuffed arm, then handcuffed both of Josue's wrists together.
- xi. Josue was placed into removal proceedings, which are ongoing, and he has brought a federal lawsuit to vindicate his rights.

92. Luis Pablo PEREZ, A089-715-604:

- i. On December 04, 2009, Luis Pablo Perez was on Highway 87 leaving San Angelo heading towards San Antonio.
- ii. He was in a four-door flat bed truck with 6 others, all but one of whom were Latino, when they were stopped by CBP officer John W. Finney III (who had previously arrested Miguel Angel Cosojay and Damian Ceciliano, discussed supra) for no apparent lawful reason.
- iii. In a deposition taken in connection with a federal lawsuit, Officer Finney testified that "most of the illegal aliens that [the CBP San Angelo substation catches are] apprehend[ed] on roving patrol... tend to be part of work crews that are traveling through [the San Angelo area], either traveling to or from work sites in San Angelo or points north or points south. And the majority of these aliens are domiciled in San Antonio, Austin, and Houston."
- iv. He also testified that the majority of persons seized by the San Angelo substation are not persons who had recently entered the country.

- v. He also testified that he often stops persons and pulls them off the road to question them about their immigration status based upon his perception of their facial expressions.
- vi. Mr. Perez' removal proceedings were administratively closed by joint motion of the parties.
- vii. In Mr. Perez' federal lawsuit, a financial settlement was reached between the parties and the case was closed.

93. Jaime Javier ZALDAÑA, A089-768-616:

- i. In January of 2010, Javier Zaldaña (A089-768-616) was driving on Interstate Highway 35 North in Schertz, Texas.
- ii. Schertz is located just north of San Antonio and about 166 miles from the U.S./Mexico border.
- iii. Mr. Zaldaña was in a red double cab truck with two other Hispanic co-workers.
- iv. He was driving in accordance with state traffic law.
- v. There was nothing visually unusual or suggestive of illegal activity about Mr. Zaldaña, his passengers or his truck.
- vi. Nevertheless, CBP officers Salinas, Delgado and Leija, in two separate CBP vehicles, acting in concert, pulled him over,

questioned him and his companions about their immigration status, and arrested them.

- vii. The officers claimed in the I-213, as in the other cases, that the body posture and facial expressions of Mr. Zaldaña and his companions gave them a lawful basis to stop them.
- viii. Mr. Zaldaña was ordered removed.
- ix. He filed suit against the Border Patrol officers involved in his illegal arrest. A financial settlement was reached between the parties and the case was closed.

94. Daniel FRIAS, A087-521-104:

- i. On April 28, 2010, Daniel Frias and a co-worker were travelling from Fort Worth towards Baird, Texas on I-20 Highway West.
- ii. They were in a white four-door flat-bed 2007 Dodge Ram.
- iii. Near Cisco, Texas, which is about 100 miles west of Fort Worth, he was stopped by immigration officers for no apparent lawful reason and questioned about his immigration status.
- iv. Mr. Frias' removal proceedings were terminated upon joint motion of the parties.

95. Alejandro GARCIA DE LA PAZ, A200-889-127:

- i. On October 11, 2010, Mr. Garcia De La Paz was a passenger driving in an extended-cab truck with three other Hispanic men.
- ii. They were driving east on Ranch Road 337, just past the intersection of Ranch Road 337 and Ranch Road 187, a location northwest of San Antonio, Texas.
- iii. They were driving in accordance with state traffic law.
- iv. Two CBP officers pulled over their vehicle without lawful cause, physically prevented them from leaving, interrogated them and then arrested Alejandro.
- v. Mr. Garcia had no prior contact with any immigration officers.
- vi. He remains in removal proceedings and he has brought a federal lawsuit to vindicate his rights.

96. Cristo Uvaldo DE LA HOYA QUIROGA, A205 665 306, Juan Roman DE LA HOYA QUIROGA A205 665 307, and Emmanuel DE LA HOYA QUIROGA:

- i. On December 17, 2012, these three brothers were in a Ford F-350 truck driving on I-20 through Midland, Texas, on their way to work.

- ii. Emmanuel, who is a U.S. citizen, was driving the truck.
- iii. They were travelling at the posted speed limit when they passed a CBP vehicle on the median.
- iv. The CBP officer immediately started following them and after a short while, the officer pulled them over by using his emergency lights.
- v. The brothers had been driving normally and in accordance with the law.
- vi. Emmanuel pulled over to the side of the road as required.
- vii. The CBP officer stopped his own vehicle and approached the truck on the passenger side where Juan Roman was sitting.
- viii. Emmanuel lowered the window.
- ix. The CBP officer immediately starting asking them questions such as whether they had papers and where they had been born.
- x. The CBP officer arrested Cristo Uvaldo and Juan Ramon and issued them Notices to Appear, which forms indicate that they would be placed in removal proceedings.

97. Defendants' supervisors knew, or reasonably should have known of Defendants' regular pattern and practice of driving roads and highways far from the U.S./Mexico border and stopping people who look Hispanic to interrogate them about their immigration status without objectively reasonable suspicion that such affected persons are violating or have violated any law within the enforcement jurisdiction of CBP.

98. Defendants' supervisors knew, or reasonably should have known of the manner in which Defendants performed their CBP roving patrol duties.

99. Defendants' supervisors are aware of their conduct relating to the seizure of Mr. Jaimes and these supervisors approve of this conduct.

100. Defendants' supervisors are aware of how Defendants conduct their CBP roving patrol duties and these supervisors approve of that conduct.

101. Defendants have not been given recent training regarding the circumstances under which vehicles may lawfully be stopped or vehicle occupants interrogated.

102. Defendants have not been given recent training regarding their authority to detain and arrest persons.

103. CBP has failed to establish up-to-date written policies and procedures that ensure that CBP agents like Defendants understand the circumstances under which persons may be detained or arrested.

104. CBP has not enacted any formal or informal procedure requiring or encouraging its officers to document in writing the factual bases of reasonable suspicion for all roving patrol vehicular stops, regardless of whether they result in an arrest.

105. CBP has not enacted any formal or informal procedure requiring or encouraging its officers to document in writing the factual bases of reasonable suspicion for all roving patrol vehicular stops that do not result in an arrest.

106. This encourages and allows officers like Defendants to stop vehicles on the basis of nothing other or little more than the ethnic or racial appearance of the vehicles' occupants.

**CLAIM UNDER BIVENS AGAINST DEFENDANTS FOR
UNREASONABLE SEIZURE IN VIOLATION OF THE FOURTH
AMENDMENT TO THE UNITED STATES CONSTITUTION**

1. Mr. Jaimes realleges the preceding paragraphs as if fully set forth herein.

2. Mr. Jaimes has a constitutionally protected right under the Fourth Amendment to the United States Constitution to be free from unreasonable seizure.

3. Defendants violated Mr. Jaimes' Fourth Amendment rights by: (i) seizing the Truck and Mr. Jaimes within it without reasonable suspicion that Mr. Jaimes had violated or was violating any law over which Defendants had jurisdiction; (ii) arresting Mr. Jaimes without probable cause; (iii) and by arresting Mr. Jaimes without a warrant and without any reason to believe that Mr. Jaimes would flee prosecution for any alleged violation of the law prior to obtaining a warrant.

4. The Defendants' aforementioned acts constitute gross violations of the Fourth Amendment and Mr. Jaimes was damaged thereby.

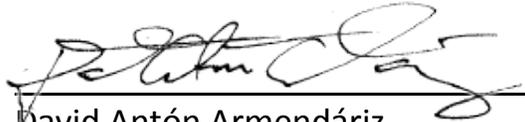
JURY DEMAND

5. Pursuant to the Federal Rule of Civil Procedure 38(b), Mr. Jaimes demands a trial by jury as to all issues so triable.

PRAYER

Wherefore, Mr. Jaimes requests judgment against Defendants for nominal, compensatory, punitive damages, costs and attorney fees and such other and further relief as deemed just and appropriate at law and in equity.

Respectfully submitted,



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