

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

ROCÍO ANANI SAUCEDO-CARRILLO)	
and ROSA CARRILLO-VASQUEZ,)	
)	No. _____
Plaintiffs,)	
)	
v.)	
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	

COMPLAINT

INTRODUCTION

1. Plaintiffs Rocío Anani Saucedo-Carrillo and Rosa Carrillo-Vasquez bring this action for the illegal treatment and detention suffered at the hands of the United States of America by the United States Border Patrol Station in Sandusky, Ohio.
2. Plaintiffs seek financial compensation under the Federal Tort Claims Act against the United States of America for false arrest/false imprisonment, assault, deprivation of civil rights through intimidation, negligence, and intentional infliction of emotional distress.

PARTIES

3. Plaintiff Rocío Anani Saucedo-Carrillo is a Hispanic female resident of Norwalk, Huron County, Ohio. She is married with two children. She is a 2005 graduate of Norwalk

High School. She was restrained, interrogated and arrested by a Border Patrol Agent at a Marathon gas station in Norwalk, Ohio, on September 13, 2009.

4. Rosa Carrillo-Vasquez is a Hispanic female resident of Norwalk, Huron County, Ohio. She was restrained, interrogated, and arrested by a Border Patrol Agent at a Marathon gas station in Norwalk, Ohio, on September 13, 2009.
5. Defendant United States of America (“United States”) is the proper defendant for claims brought under the Federal Tort Claims Act.

JURISDICTION AND VENUE

6. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1346(b).
7. On August 30, 2011, the Plaintiffs submitted an administrative claim for damages to the Office of the Chief Counsel, U.S. Customs and Border Protection, and to the Office of the General Counsel, U.S. Department of Homeland Security. *See* 28 U.S.C. §2675. In letters dated April 16, 2012, and April 19, 2012, U.S. Customs and Border Protection denied the administrative tort claims, respectively, of Rocío Anani Saucedo-Carrillo and Rosa Carrillo-Vasquez. This Complaint is filed less than six months from those denials, and is therefore timely under 28 U.S.C. § 2401(b).
8. Venue is proper under 28 U.S.C. § 1402(b) and 28 U.S.C. § 1391(b) because this is the district where Plaintiffs reside and where a substantial part of the acts or omissions giving rise to the claims occurred.

STATEMENT OF FACTS

9. Plaintiff Rocío Anani Saucedo-Carrillo (Rocío) parked her pickup truck at the gasoline pump at a station in Norwalk, Ohio, on September 13, 2009, and went into the station to pay for the gas.

10. As Rocío exited the station and walked toward her pickup truck she saw a Border Patrol vehicle and made eye contact with the Border Patrol Agent, Bradley Shaver, driving the vehicle.
11. Agent Shaver then put on his signal to turn into the gas station.
12. Agent Shaver turned in and parked right in front of the Plaintiffs' truck.
13. There was little room between Rocio's truck and Agent Shaver's vehicle, only enough room for one person to pass between, and the Border Patrol vehicle was blocking Rocio's truck.
14. There were five or six other people at the gasoline pumps, but no other Hispanics.
15. Agent Shaver approached her aggressively and immediately asked Rocio for identification documents.
16. Agent Shaver was in uniform, carried a visible, holstered firearm, and also carried an intermediate force weapon.
17. Agent Shaver never spoke with Rocío from inside his truck.
18. After Rocío gave Agent Shaver her driver's license he starting asking her numerous questions including for her 'papers.'
19. Agent Shaver retained Rocio's driver's license.
20. The conversation between Rocío and Agent Shaver was in English until Agent Shaver asked her for 'papers' in Spanish.
21. After Rocío told Shaver that her papers were at her house, he asked her what type of papers she had and if she was from here.
22. Agent Shaver's questioning of Rocío was very aggressive and the tone was,harsh and unkind.

23. During Agent Shaver's questioning of Rocío he was standing less than one meter away from her.
24. Rocío was afraid of Agent Shaver from the time he pulled in front of her truck and asked questions in a very aggressive manner.
25. Agent Shaver then told her to move her truck and she did so after he moved his.
26. Agent Shaver told Rocío that she and her mother, Plaintiff Rosa Carrillo-Vasquez, must accompany him, and both Plaintiffs were placed in the back of the Border Patrol vehicle by the Agent.
27. Agent Shaver targeted her because she was Hispanic and her evidence of this was that Shaver only put on his turn signal and turned into the gas station after she and Shaver made eye contact.
28. Mrs. Rosa Carrillo-Vasquez ("Rosa") is the mother of Plaintiff Rocío Saucedo-Carrillo.
29. She was riding in the truck with her daughter when Agent Shaver confronted them at the gasoline pumps in Norwalk on September 13, 2009.
30. Rosa was facing the gas station so she did not see the Border Patrol vehicle pull into the gas station.
31. The Border Patrol vehicle stopped in front of the truck and blocked Rocío and Rosa's truck.
32. There was not enough space to drive a car between the Border Patrol vehicle and the Saucedo-Carrillo vehicle.
33. It would not have been possible to pull Plaintiffs' truck forward or around the Border Patrol vehicle.
34. There were White customers at the gas station, but no other Hispanics.

35. Rosa saw Agent Shaver asking her daughter questions without starting the conversation with a greeting but rather in a harsh tone asking for Rocio's identification.
36. Agent Shaver spoke to Rosa's daughter, Rocío, in Spanish and English.
37. After talking to Rocío Agent Shaver asked Rosa in Spanish for identification documents.
38. Rosa gave a health insurance card to Agent Shaver.
39. Agent Shaver then told Rocío to move the truck and park it.
40. After moving the truck Shaver told Rosa that she had to accompany him.
41. Rosa was afraid of Agent Shaver because he was armed and because of his harsh behavior.
42. Agent Shaver was spoke in a harsh tone to Rosa and treated her in a rude manner.
43. Rosa was scared by the way Agent Shaver treated and talked to her pregnant daughter.
44. Agent Shaver targeted Plaintiffs because they are Hispanic and the color of their skin.
45. Plaintiffs were not free to leave the gas station from the time Border Patrol Agent Shaver pulled into the gas station and blocked their truck's path.
46. At all times Border Patrol Agent Shaver was carrying out duties as an employee of the United States of America, Department of Homeland Security, Customs and Border Protection, United States Border Patrol.

FIRST CLAIM FOR RELIEF

Federal Tort Claims Act Claim For Assault

Plaintiffs Rocío Anani Saucedo-Carrillo and Rosa Carrillo-Vasquez against the United States of America

47. Plaintiffs re-allege and incorporate by reference each and every allegation contained in the preceding paragraphs as though fully set forth herein.

48. Border Patrol Agent Shaver intentionally and nonconsensually treated the Plaintiffs in a manner with the intent to cause injury or the intent to create fear of apprehension in the Plaintiffs.
49. The conduct of Border Patrol Agent Shaver was unreasonable in relation to any legitimate law enforcement objective.
50. The actions of Border Patrol Agent Shaver constitute the tort of assault under the laws of Ohio.
51. Under the Federal Tort Claims Act, the United States of America is liable for these actions.

SECOND CLAIM FOR RELIEF

Federal Tort Claims Act Claim For False Imprisonment

Plaintiff Rocío Anani Saucedo-Carrillo and Rosa Carrillo-Vasquez against the United States of America

52. Plaintiffs re-allege and incorporate by reference each and every allegation contained in the preceding paragraphs as though fully set forth herein.
53. Border Patrol Agent Shaver did not have any justification for confining the Plaintiffs.
54. The conduct used by Border Patrol Agent Shaver to keep Plaintiffs Rocío Anani Saucedo-Carrillo and Rosa Carrillo-Vasquez confined was unreasonable in relation to any legitimate law enforcement objective.
55. The actions of Border Patrol Agent Shaver constitute the tort of false imprisonment under the laws of Ohio.
56. Under the Federal Tort Claims Act, the United States of America is liable for these actions.

THIRD CLAIM FOR RELIEF

Federal Tort Claims Act Claim For Intentional Infliction of Emotional Distress

Plaintiffs Rocío Anani Saucedo-Carrillo and Rosa Carrillo-Vasquez against the United States of America

57. Plaintiffs re-allege and incorporate by reference each and every allegation contained in the preceding paragraphs as though fully set forth herein.
58. Border Patrol Agent Shaver engaged in extreme and outrageous conduct, acted intentionally and / or recklessly, and thereby caused severe emotional distress to the Plaintiffs.
59. The actions of Border Patrol Agent Shaver constitute the tort of intentional infliction of emotional distress under the laws of Ohio.
60. Under the Federal Tort Claims Act, the United States of America is liable for these actions.

FOURTH CLAIM FOR RELIEF

Federal Tort Claims Act Claim For Negligent Infliction of Emotional Distress

Plaintiff Rocío Anani Saucedo-Carrillo and Rosa Carrillo-Vasquez against the United States of America

61. Plaintiffs re-allege and incorporate by reference each and every allegation contained in the preceding paragraphs as though fully set forth herein.
62. Border Patrol Agent Shaver engaged in negligent conduct, acted negligently, and thereby caused severe emotional distress to the Plaintiffs.
63. The actions of Border Patrol Agent Shaver constitute the tort of negligent infliction of emotional distress under the laws of Ohio.

64. Under the Federal Tort Claims Act, the United States of America is liable for these actions.

FIFTH CLAIM FOR RELIEF

Federal Tort Claims Act Claim For Deprivation of Civil Rights Through Ethnic Intimidation

Plaintiffs Rocío Anani Saucedo-Carrillo and Rosa Carrillo-Vasquez against the United States of America

65. Plaintiffs re-allege and incorporate by reference each and every allegation contained in the preceding paragraphs as though fully set forth herein.
66. Border Patrol Agent Shaver intentionally and nonconsensually treated the Plaintiffs in an intimidating manner seeking to deprive the Plaintiffs of their civil rights based on Plaintiffs being Hispanic.
67. The force and behaviors used by Border Patrol Agent Shaver were unreasonable in relation to any legitimate law enforcement objective.
68. The actions of Border Patrol Agent Shaver constitute the tort of deprivation of civil rights through ethnic intimidation.
69. Under the Federal Tort Claims Act, the United States of America is liable for these actions.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court:

1. Assert jurisdiction over this matter;
2. Declare that the Plaintiffs' rights were violated by the Defendant;
3. Award compensatory damages as to Defendant;
4. Award reasonable attorneys' fees and costs pursuant to 28 U.S.C. § 2412; and,

5. Grant any other relief the Court deems appropriate.

Respectfully submitted,

By: /s/ Mark Heller
Mark Heller (0027027)

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