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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Angel Mendivil Perez,

Plaintiff,

vs.

The United States Of America

Defendant.

Case No.: CV-21-0051-TUC-EJM

AMENDED COMPLAINT  
(Federal Tort Claims Act)

Assigned to:  
Honorable

Plaintiff alleges:

1. This Court has jurisdiction to hear this Complaint pursuant to 28 U.S.C. § 1346 (b)(1). Venue is proper within the District of Arizona pursuant to 28 U.S.C. § 1402 (b) because acts referred to herein occurred within the District of Arizona or because the plaintiff resides in this judicial district.

1           2.     The plaintiff Angel Mendivil Perez is a citizen of the United State  
2 residing in Tucson, Arizona. The acts complained of herein were committed by  
3 an employee of the United States of America while acting within the scope of  
4 his office or appointment.

5  
6           3.     Pursuant to 28 U.S.C. § 2675(a) the plaintiffs mailed a claim by  
7 Certified or Registered mail to the U.S. Customs and Border Protection and the  
8 Department of Homeland Security. The claim was received on January 15, 2020  
9 by the Department of Homeland Security and on January 16, 2020 by U.S.  
10 Customs and Border Protection. Plaintiff has not received a formal denial of his  
11 claim and more than six months has passed. The Border Patrol is an agency  
12 within the U.S. Customs and Border Protection agency, which itself is located  
13 within the Department of Homeland Security.

14  
15           4.     On or about February 7, 2019 while driving a vehicle from Nogales,  
16 Arizona into the Republic of Mexico at the DeConcini Port of Entry, Angel  
17 Mendivil Perez was shot in the back of his head by Rainer Negron, an agent of  
18 the United States employed by the U.S. Customs and Border Protection agency.

19  
20           5.     On information and belief Mr. Mendivil had been requested by the  
21 government agent to produce his driver's license to the agent when instead of  
22 doing so Mr. Mendivil drove away intending to cross into Mexico, whereupon  
23 Border Patrol Agent Rainer Negron promptly fired his pistol at Mr. Mendivil  
24 which bullet passed through the back window of the vehicle into the top of his  
25 head.

1           6.     The use of deadly force against Mr. Mendivil was unreasonable and  
2 excessive and was unjustified to defend against bodily injury or deadly force.

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4           7.     The firing of the shot was a battery committed in Arizona without  
5 justification.

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7           8.     After being shot in his head and rendered unconscious, Mr.  
8 Mendivil's vehicle continued into the Republic of Mexico where, it struck  
9 another vehicle and a barrier before encountering any Mexican border officials.

10  
11          9.     Patrol Agent Rainer Negron was acting within the scope of his  
12 employment thereby giving rise to liability of the United State, pursuant to the  
13 principles of respondeat superior and by act of Congress pursuant to 28 U.S.C §  
14 1346

15  
16          10.    Although believed to be dead at the scene Mr. Mendivil survived and  
17 has severe permanent injuries proximately caused by the bullet to his brain. He  
18 has suffered general and special damages and will continue to do so in the  
19 future.

20  
21          11.    Plaintiff requests monetary damages pursuant to the Federal Tort  
22 Claims Act.

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24          12.    At the time of shooting Border Patrol Agent Negron was not in  
25 danger of bodily harm from Plaintiff sufficient to justify the use of deadly force  
26 nor was Plaintiff using a deadly weapon against anyone.

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RELIEF

Wherefore, Plaintiff respectfully requests relief as follows:

13. Damages pursuant to the Federal Tort Claims Act in an amount to be proven at trial.

14. Costs and reasonable attorney fees.

15. Such other relief as the Court deems just and equitable.

DATED this 13<sup>th</sup> day of August, 2021.

**RISNER & GRAHAM**

By /s/ William J. Risner  
William J. Risner  
Attorney for Plaintiffs