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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION**

ISIDRO ANDRADE-TAFOLLA

Plaintiff,

vs.

The UNITED STATES

Defendant.

Case No.

COMPLAINT

Federal Tort Claims Act

INTRODUCTORY STATEMENT

1.

Isidro Andrade-Tafolla is a United States citizen who has lived with his family in Washington County, Oregon, since 1984. On September 18, 2017, as Mr. Andrade-Tafolla and his wife were leaving the Washington County Courthouse and walking towards their pick-up

truck, six undercover Immigration and Customs Enforcement (ICE) agents surrounded him, boxed in his truck with their vehicles, told him that they had his mugshot (which they did not), and aggressively demanded identification. The agents did not have a warrant for Mr. Andrade-Tafolla's arrest, and they lacked reasonable suspicion that he had violated any law. They stopped Mr. Andrade-Tafolla because his race was the same as that of an individual for whom they were searching.

2.

This is an action arising under the Federal Tort Claims Act, challenging the ICE agents' false arrest and imprisonment, and negligent arrest, of Mr. Andrade-Tafolla.

PARTIES

3.

Isidro Andrade-Tafolla is a United States citizen who has lived in Washington County, Oregon, since 1984. He has worked for the County as a Utility Worker for more than 20 years. He is Latino.

4.

The ICE agents described in this Complaint were at all relevant times employees of the Government acting within the scope of their office or employment.

5.

This Court has jurisdiction over Plaintiff's claims under 28 U.S.C. § 1346 and 28 U.S.C. § 1331.

6.

Venue is proper in this district pursuant to 28 U.S.C. § 1391(e) because a substantial part of the events or omissions giving rise to the claim occurred in the district and because Plaintiff resides in the district.

FACTS

7.

On September 18, 2017, Isidro Andrade-Tafolla accompanied his wife, Renee Selden-Andrade, to the Washington County Courthouse in Hillsboro, Oregon. Ms. Selden-Andrade had a court appearance on the 8:30 am DUII diversion docket.

8.

Mr. Andrade-Tafolla and Ms. Selden-Andrade parked their pick-up truck and walked to the courthouse. A crowd of people stood outside, protesting ICE's practice of conducting immigration stops and arrests in and around the courthouse. Mr. Andrade-Tafolla and Ms. Selden-Andrade walked past them, entered the building, and stood outside the courtroom waiting for Ms. Selden-Andrade's attorney. Two ICE agents were also standing in the hallway.

9.

The ICE agents were looking for a different individual whose first name was Arturo.

10.

Mr. Andrade-Tafolla and Ms. Selden-Andrade, along with others on the 8:30 am DUII diversion docket, entered the courtroom. The ICE agents followed and sat down a few rows behind Mr. Andrade-Tafolla. The agents stared at Mr. Andrade-Tafolla. Each person listed on the 8:30 am docket was called by name.

11.

Arturo's name was called, he was present, and the court granted him diversion.

12.

Renee Selden-Andrade's name also was called and her hearing was re-set. Mr. Andrade-Tafolla and Ms. Selden-Andrade left the courtroom. The agents followed. After stopping in the

hallway to speak with Ms. Selden-Andrade's attorney, Ms. Selden-Andrade and Mr. Andrade-Tafolla exited the courthouse.

13.

As Mr. Andrade-Tafolla and Ms. Selden-Andrade walked toward their pick-up truck, an unmarked minivan drove past and parked directly in front of their vehicle, in an area not designated for parking. The two ICE agents from the courtroom exited the minivan and approached Mr. Andrade-Tafolla, who stood at the driver's side of the truck.

14.

The agents stood in front of Mr. Andrade-Tafolla, who was backed up against the pick-up truck. One agent asked Mr. Andrade-Tafolla for his name. She demanded identification but did not identify herself to Mr. Andrade-Tafolla, even after he and Ms. Selden-Andrade asked repeatedly who she was.

15.

A legal observer from the American Civil Liberties Union, who was filming the encounter, asked in a loud voice: "Do you have a warrant? Are you ICE? Do you have a warrant for his arrest?" The agents did not answer.

16.

Given the physical posture of the agents and their aggressive, demanding demeanor, Mr. Andrade-Tafolla did not feel that he was free to leave.

17.

One of the ICE agents showed Mr. Andrade-Tafolla a mugshot on her phone and said, in an accusatory tone, "This picture right here? That's you." The individual in the mugshot did not resemble Mr. Andrade-Tafolla, except that he, like Mr. Andrade-Tafolla, had brown skin. Ms.

Selden-Andrade explained that the man in the mugshot was not her husband. The agent demanded identification from Mr. Andrade-Tafolla.

18.

Two more unmarked vehicles drove up and positioned themselves around Mr. Andrade-Tafolla's truck, blocking him in. One agent exited his vehicle and joined the two who already were standing close to Mr. Andrade-Tafolla. Another retrieved what appeared to be a badge as well as a dark object, which he put into the pocket of his pants. The ACLU observer asked, in a loud voice, whether the agent was getting his gun.

19.

Three more agents approached Mr. Andrade-Tafolla and Ms. Selden-Andrade from the other side, physically surrounding them. One agent was wearing a shirt that said "ICE." Another agent's badge was visible.

20.

One of the newly arrived agents approached the agent who had claimed to have a mugshot of Mr. Andrade-Tafolla on her phone. He looked at the phone and said: "It's not him, let's get out of here." The agents got into their vehicles and drove away.

21.

Mr. Andrade-Tafolla now lives in fear that he will be stopped, picked up, and detained by ICE. He could not sleep for months. He had nightmares. He went to counseling and took time off work. The encounter was widely publicized and drew negative reactions from some community members. Mr. Andrade-Tafolla arrived at work one day to find that someone had left an icepack on top of his belongings, a clear reference to his detention by ICE agents. Ms. Selden-Andrade's

co-worker suggested that she should be fired from her job. Mr. Andrade-Tafolla no longer feels comfortable at his workplace. He worries for his children's safety.

**FIRST CLAIM FOR RELIEF
FALSE ARREST / FALSE IMPRISONMENT
(FEDERAL TORT CLAIMS ACT, 28 U.S.C. §§ 2671, 1346)**

Plaintiff repeats and realleges paragraphs 1 through 21 as though fully set forth herein.

22.

By the acts described above, the ICE agents intentionally confined Plaintiff through actual and apparent physical barriers and/or the assertion of legal authority. Plaintiff did not feel free to end the encounter.

23.

Plaintiff was aware of his confinement and did not consent to it.

24.

The agents had no legal justification for confining Plaintiff. They lacked reasonable suspicion or probable cause that he had violated any law. The agents further lacked legal justification for their actions because they were violating the privilege against civil arrest in and around courthouses.

25.

As a result of the agents' actions, Plaintiff suffered damages, including but not limited to humiliation, emotional distress, psychological harm, and violation of his rights.

**SECOND CLAIM FOR RELIEF
NEGLIGENT ARREST
(FEDERAL TORT CLAIMS ACT, 28 U.S.C. §§ 2671, 1346)**

Plaintiff repeats and realleges paragraphs 1 through 25 as though fully set forth herein.

26.

By the acts described above, the ICE agents negligently confined and interrogated the wrong person. A reasonable person in the agents' position would have known that Plaintiff was not Arturo: Arturo was called by name in open court, in the agents' presence, and the photo of Arturo did not look like Plaintiff. Yet the agents ignored those clear and obvious indications and instead confined and interrogated Plaintiff based on race. Their actions unreasonably created a foreseeable risk to a protected interest of the kind of harm that befell Plaintiff.

27.

As a result of the agents' actions, Plaintiff suffered damages, including but not limited to humiliation, emotional distress, psychological harm, and violation of his rights.

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WHEREFORE, Plaintiff requests that this Court enter judgment in his favor and award the following relief:

1. Award compensatory damages;
2. Award the costs of this action and reasonable attorney fees; and
3. Grant all other relief as this Court deems just and proper.

Respectfully submitted this 12th day of August, 2020.

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