

Recent Cases of U.S. Citizens Subjected to Unlawful Immigration Detainers

August 20, 2015

California

- **Summary:** **Diego Rojas** is a **U.S.-born citizen**, who in 2014 was arrested on suspicion of burglary and detained at the **Twin Towers Correctional Facility** in Los Angeles. After Mr. Rojas's sister paid his bail, Mr. Rojas was on his way to being released, when officers from Los Angeles County Sheriff's Department, which participates in the 287(g) program, pulled him aside, interrogated him about his citizenship, and threatened to lock him up again if he couldn't prove that he was an American. Mr. Rojas was finally released **14 hours later**, when his sister arrived with his birth certificate. In November 2014, Mr. Rojas filed a claim against the L.A. County Sheriff's Department.
 - **Claim Settlement:** The L.A. County Sheriff's Department agreed to pay Mr. Rojas \$6,000.
 - **Related Media:**
 - **Los Angeles Times:** "[Claim settled for citizen who said deputies threatened him with deportation](#)" (Mar. 13, 2015)
 - **ACLU of Southern California Press Release:** "[U.S. citizen threatened with deportation while detained in jail settles claim with Los Angeles County Sheriff's Department](#)" (Mar. 12, 2015)
 - **ACLU Blog:** "[I spent 14 hours at an L.A. jail because they didn't believe I was American](#)" (Mar. 12, 2015)
- **Summary:** The plaintiffs in this proposed class action seek relief against ICE for violations of the 4th Amendment and the 5th Amendment Due Process Clause, seeking to stop ICE's practice of issuing detainers "without first determining that there is probable cause to believe the subject is removable." The named plaintiffs are **Gerardo Gonzalez** and **Simon Chinivizyan**, both U.S. citizens against whom ICE issued detainers.
 - **Status:** On October 24, 2014, the Court granted defendants' motion to dismiss in part and denied it in part, allowing plaintiffs' suit to move forward. The case is currently in discovery. (*Gonzalez v. ICE*, No. 13-4416 (C.D. Cal. filed June 19, 2013))
 - **Related Media**
 - **ACLU of Southern California Video:** "[Lawsuit filed against ICE over unconstitutional detention of American citizens](#)" (June 19, 2013)
 - **ACLU of Southern California Press Release:** "[ICE lifts immigration hold on US citizen Gerardo Gonzalez](#)" (June 24, 2013)
- **Summary:** **Bernardo Mendia**, a U.S. citizen, was being held in county jail on pretrial detention when ICE agents interviewed him. He told them he was a U.S. citizen, gave them his social security number, and told them he had a valid passport, but refused to answer any more questions. ICE lodged a detainer against him. The detainer made it impossible for him to get a bail bondsman to post bail for him. Eventually, the court granted him release on recognizance, but he chose to remain in jail because he was afraid that he was still subject to an ICE detainer and that ICE would take him into custody and deport him (in fact, ICE had cancelled the detainer by that time). Mr. Mendia sued the ICE agents under Bivens and the United States under the FTCA, seeking damages for the two years he spent in pre-trial detention as a result of the detainer.
 - **Court Decision:** The district court granted the government's motion to dismiss on standing grounds, but the Ninth Circuit reversed, holding that Mr. Mendia's inability to

For more information, please contact Joanne Lin, Legislative Counsel (202-675-2317; jlin@aclu.org).

post bail was directly traceable to ICE, so he had adequately alleged that ICE caused his loss of liberty. The proceedings are currently ongoing at the district court. (*Mendia v. Garcia*, 768 F.3d 1009 (9th Cir. 2014))

- Related Media
 - *Courthouse News Service*: “[9th Circuit Probes Immigration Tactics](#)” (Sept. 29, 2014)

Nebraska

- Summary: **Ramon Mendoza** is a naturalized **U.S. citizen**, who in 2010 was pulled over in Papillion, Nebraska for “windshield obstruction” and then detained for **four days** at the **Sarpy County Correction Center** on an ICE detainer. His wife and children were turned away when presenting Mr. Mendoza’s proof of citizenship which included his social security card, certificate of citizenship, marriage certificate and U.S. passport. Upon release, Mr. Mendoza was taken to a hospital and treated for dehydration and emotional distress. He has been diagnosed with PTSD. Due to the experience, Mr. Mendoza and his family moved out of Nebraska. Mrs. Mendoza has become the financial provider for the family due to Mr. Mendoza’s ongoing health problems. In 2013, the ACLU of Nebraska filed a lawsuit in federal court on behalf of Mr. Mendoza.
 - Court Decision: The district court held that the plaintiff, a U.S. citizen, stated a viable Fourth Amendment claim against ICE officials where he was held on an ICE detainer for four days after posting bond. (The plaintiff also sued County officials, who moved to dismiss only on statute of limitations grounds. The court denied their motion in a separate order. The case is now proceeding to summary judgment. (*Mendoza v. Osterberg*, 2014 WL 3784141 (District of Nebraska, 2014))
 - Related Media:
 - *Associated Press*: “[Lancaster, Sarpy counties ax immigration detainees](#)” (Sep. 10, 2014)
 - *Associated Press*: “[Nebraska jail first to ax immigration detainees](#)” (Jul. 27, 2014)
 - *KETV 7 ABC*: “[Suit filed for man held in Sarpy County jail](#)” (Mar. 1, 2013)
 - *North Platte Post*: “[ACLU Suing Sarpy County for Alleged False Imprisonment of Papillion Man](#)” (Mar. 2, 2013)
 - *Scottsbluff Star Herald*: “[Suit accuses Sarpy of illegally holding man](#)” (Mar. 2, 2013)
 - **ACLU of Nebraska Press Release**: “[Unlawfully Detained: ACLU Files Suit on Behalf of U.S. Citizen Held Illegally by Sarpy County](#)” (Mar. 1, 2013)

Pennsylvania

- Summary: **Ernesto Galarza** is a **U.S.-born citizen**, who in 2008 was mistakenly swept up in a drug arrest by Allentown police aimed at, among others, the construction contractor for whom he worked. Though Mr. Galarza had nothing to do with the crimes and was later found innocent, he was taken into custody and jailed at the **Lehigh County Jail**. Mr. Galarza had his Pennsylvania driver’s license and Social Security Card with him at the time of his arrest. Yet, when he told police officers that he was a U.S.-born citizen, because of his race, the Allentown police investigator called ICE, suggesting that Mr. Galarza might be an undocumented immigrant, and ICE issued an immigration detainer. Due to the detainer, Mr. Galarza was held in jail for the next **3 days**. He was finally released when an ICE agent arrived to interrogate him and confirmed that he was a U.S. citizen. Mr. Galarza lost a part-time job and wages as a result of his imprisonment. In 2010, the ACLU filed a lawsuit on Mr. Galarza’s behalf.

For more information, please contact Joanne Lin, Legislative Counsel (202-675-2317; jlin@aclu.org).

- **Court Decision:** The district court held that the plaintiff, a U.S. citizen, stated a viable Fourth Amendment claim against both ICE and local law enforcement officials where he was held for 3 days after posting bail based on an ICE detainer. After the district court's decision, most of the defendants settled: the federal defendants paid the plaintiff \$25,000, and the City of Allentown also paid the plaintiff \$25,000. However, the district court dismissed the plaintiff's claims against Lehigh County, reasoning that ICE detainers were mandatory orders from the federal government and that Lehigh County could not be held liable for enforcing them. The plaintiff appealed that portion of the district court's decision. On appeal, the Third Circuit reversed the district court's decision as to Lehigh County, holding that ICE detainers are merely non-binding requests, not orders, and that Lehigh County could be held liable for its policy of detaining people on that basis. After the Third Circuit's decision, Lehigh County settled the case for \$95,000 in damages and attorneys' fees, and agreed to adopt a policy of no longer honoring ICE detainers without a court order. (*Galarza v. Szalczyk*, 2012 WL 1080020 (Eastern District of Pennsylvania, 2012), *reversed in part on appeal*, 745 F.3d 634 (3rd Circuit, 2014))
- **Related Media:**
 - **The Morning Call:** "[Lehigh County will ignore federal immigration requests](#)" (May 14, 2014)
 - **The Morning Call:** "[Pennsylvania county jails turning away from immigration role](#)" (Mar. 8, 2015)
 - **WFMZ-TV 69:** "[Lehigh County loses immigration-enforcement lawsuit, leading to prisoner policy change](#)" (May 15, 2014)
 - **Fox News Latino:** "[US Citizen Mistaken for Undocumented and Jailed Wages Court Fight](#)" (Nov. 12, 2012)
 - **ACLU Press Release:** "[Third Circuit Appeals Court Rules That Immigration Detainers Are Non-Binding Requests in Ground-Breaking Case](#)" (Mar. 4, 2014)
 - **ACLU Press Release:** "[ACLU-PA Files Suit on Behalf of US Citizen Illegally Detained by ICE for Three Days](#)" (Dec. 1, 2010)
- **Summary:** A local police officer stopped **Ms. Davila**, a U.S. citizen, for a minor traffic violation in 2011, and detained her and her passenger for 2 hours while calling ICE to check their immigration status and waiting for a response. At ICE's request, the police officer transported them to the Allegheny County Jail in anticipation of a detainer being issued. Ms. Davila was detained overnight. She sued local officials, the Northern Regional Joint Police Board and Allegheny County, and the ICE agent who issued the detainer, seeking damages under the 4th, 5th, and 14th Amendments.
 - **Court Decision/Settlement:** In October 2013, the district court denied the local defendants' motions to dismiss (holding that the complaint adequately alleged a policy of questioning people about their immigration status on the basis of race), but granted the motions of all other defendants. See *Davila v. NRJPB*, 2013 WL 5724939 (W.D. Pa. 2013). In July 2015, Allegheny County settled and adopted a new policy under which it will no longer hold individuals on ICE detainers or administrative warrants.
 - **Related Media**
 - **Pittsburgh's Action News 4:** "[ACLU: Woman held overnights as suspected illegal alien](#)" (Jan. 15, 2013)
 - **Pittsburgh Post-Gazette:** "[West Mifflin woman sues over incorrect immigration arrest](#)" (Jan. 16, 2013)
 - **Fox News Latino:** "[Lawsuit: Police Wrongly Detained US Citizen, Alleging She Was Undocumented](#)" (Jan. 21, 2013)

- **ACLU Press Release:** “[ACLU-PA Files Suit on Behalf of Woman Illegally Detained by ICE](#)” (Jan. 15, 2013)

Rhode Island

- **Summary:** **Ada Morales** is a naturalized **U.S. citizen**, who was erroneously detained by Rhode Island law enforcement officials on immigration detainers not once, but twice—first in 2004, and again in 2009. When Ms. Morales was arrested in 2009 on state charges by state police, a judge ordered her release from the state prisons, but she was held for an **additional 24 hours** on an ICE detainer while immigration officials investigated her immigration status. This was despite the fact that Ms. Morales told ICE officials that she was a U.S. citizen and offered to show them her naturalization certificate and passport. Morales was only released after ICE agents took her into federal custody, transported her to their office, and interviewed her. Ms. Morales filed a lawsuit in April 2012.
 - **Court Decision:** A federal judge in Rhode Island found that Ms. Morales’s complaint stated a viable claim under the Fourth Amendment, holding that mere investigative interest – including investigation into one’s immigration status – is not enough to justify warrantless imprisonment. The First Circuit Court of Appeals affirmed this decision on July 17, 2015. (*Morales v. Chadbourne*, 996 F. Supp. 2d 19 (District of Rhode Island, 2014), *affirmed on appeal*, --- F.3d ----, 2015 WL 4385945 (1st Circuit, July 17, 2015))
 - **Related Media:**
 - **Associated Press:** “[Appeals Court: Immigration Detainers Require Probable Cause](#)” (Jul. 20, 2015)
 - **Providence Journal:** “[ICE officials lose appeal to be dismissed from lawsuit in R.I.](#)” (Jul. 18, 2015)
 - **The Valley Breeze:** “[Court: Immigration officials may be held accountable for unlawful detention of Morales](#)” (Jul. 21, 2015)
 - **ACLU of Rhode Island Press Release:** “[Appeals Court Rules Immigration Officials May Be Held Accountable For Unlawful Detention](#)” (Jul. 17, 2015)
 - **ACLU Blog:** “[Why is Immigration & Customs Enforcement Still Fighting For Its Runaway Detainer Regime?](#)” (Jan. 7, 2015)