



November 19, 2019

Office of the General Counsel  
U.S. Department of Homeland Security  
245 Murray Lane S.W.  
Mail Stop 0485  
Washington, DC 20528-0485  
ogc@hq.dhs.gov

Office of the Principal Legal Advisor  
U.S. Immigration and Customs Enforcement  
500 12th Street S.W.  
Mail Stop 5902  
Washington, D.C. 20536-5902

Office of the Principal Legal Advisor, Detroit  
U.S. Immigration and Customs Enforcement  
Rosa Parks Federal Building  
333 Mt. Elliott Street, 2nd Floor  
Detroit, MI 48207

**RE: Notification of Incident and Claim for Damages Under the Federal Tort Claims Act for Jilmar Ramos-Gomez, Supplement to SF 95 Claim Form**

To Whom It May Concern:

We represent Jilmar Benigno Ramos-Gomez, a U.S. citizen and Marine Corps veteran, in this claim against the United States. Pursuant to 28 U.S.C. § 2675(a) and 28 C.F.R. § 14.2(a), we hereby provide notification under the Federal Tort Claims Act (FTCA) that Mr. Ramos-Gomez is bringing claims against the United States for the actions of Immigration and Customs Enforcement (ICE), the Department of Homeland Security (DHS), ICE Officers Derek Klifman and Matthew Lopez, unidentified ICE employees, and unidentified employees of the Calhoun County Correctional Center, acting on behalf of ICE.

**I. Mr. Ramos-Gomez's Background**

Jilmar Ramos-Gomez is a United States citizen, born and raised in Grand Rapids, Michigan. After graduating from high school, he enlisted in the United States Marine Corps in 2011 and subsequently served for almost three years, including a six-month tour in Afghanistan. During that tour, his team was stationed at remote outposts, where they faced regular enemy attacks and he witnessed casualties. For his service, Mr. Ramos-Gomez received three service

medals in addition to his Afghanistan campaign medal and combat action ribbon. And, like many of his fellow veterans, since returning home he has struggled with mental health consequences as a result of his combat experience, including post-traumatic stress disorder (PTSD).

Following his return from combat in August of 2014, Mr. Ramos-Gomez initially struggled with transitioning to civilian life, but eventually began volunteering at his local humane society, exercising regularly to stay healthy, and spending time with family, friends, and his community—time that he cherished after his long deployment overseas. He was in frequent contact with other veterans, supporting them as they readjusted to civilian life. As discussed below, that changed in November 2018, when he was subjected to shocking mistreatment by his own government.

## **II. ICE’s Unlawful Arrest and Detention of Mr. Ramos-Gomez**

On November 21, 2018, Mr. Ramos-Gomez was suffering a mental health episode related to his PTSD and found himself on the roof of the Spectrum Hospital in Grand Rapids. He was arrested by Grand Rapids Police Department (GRPD) officers and brought to the Kent County Correctional Facility (KCCF). At the time of his arrests, he had with him his U.S. passport, Marine Corps identification tags, and a REAL ID compliant driver’s license (which one cannot get unless one is lawfully present in the United States) that identified him as a veteran. Nevertheless, based solely on Mr. Ramos-Gomez’s Latino appearance and name, an off-duty GRPD commander who learned about his arrest from the media, emailed ICE Officer Derek Klifman asking him to investigate Mr. Ramos-Gomez’s “status.” Captain VanderKooi regularly contacted ICE deportation officers about people of color encountered by the GRPD, including not just individuals in GRPD custody, but also victims of crime.

The next day, November 22<sup>nd</sup>, a KCCF employee sent a routine email to ICE’s Grand Rapids office with the jail’s November 21 arrest log. That log provided basic information, including citizenship information, on jail detainees. The log clearly indicated Mr. Ramos-Gomez’s country of birth as “USA.”

Even though the jail log showed Mr. Ramos-Gomez’s United States citizenship, on November 23<sup>rd</sup>, Officer Klifman forwarded Captain VanderKooi’s request to investigate Mr. Ramos-Gomez’s “status” to Officer Matthew Lopez, a Deportation Officer with ICE’s Enforcement and Removal Operations Division. Less than an hour later, ICE ran a query in the CBP/DHS NNSV database about Mr. Ramos-Gomez, which generated a report that clearly stated Mr. Ramos-Gomez’s place of birth as Michigan, listed his Social Security Number, and noted that he has a REAL ID compliant driver’s license.

Officer Lopez ignored this unequivocal evidence of Mr. Ramos-Gomez’s citizenship; instead, after an interview that lasted less than two minutes—and based on Mr. Ramos-Gomez’s Latino heritage rather than any actual facts—Officer Lopez issued a detainer on the false grounds that Mr. Ramos-Gomez was a foreign national unlawfully present in the United States.

Over the ensuing three weeks, Mr. Ramos-Gomez remained at KCCF in relation to his initial November 21 arrest at the hospital. During this time, ICE was in possession of numerous documents showing that Mr. Ramos-Gomez was a United States citizen. For example, on November 23—the same day ICE issued the detainer—a search run by ICE in the eCISCOR database, maintained by U.S. Citizenship and Immigration Services (USCIS), listed Mr. Ramos-

Gomez's social security number, as well as a military address, further confirming not only that he had legal status, but that he had served his country as a Marine. A few days later, ICE also received police reports from the Grand Rapids Police Department that indicated, among other things, that Mr. Ramos-Gomez had a passport and a pistol permit on him when he was arrested. In the state of Michigan, a pistol permit is *only* available to U.S. citizens and lawful permanent residents. ICE ignored all of this unequivocal evidence of Mr. Ramos-Gomez's United States citizenship, and left the false detainer in place for the next three weeks.

As a result, when Mr. Ramos-Gomez was due to be released from KCCF on December 14, he was instead taken into ICE custody. As Mr. Ramos-Gomez's mother was arriving to KCCF to bring him home, because of the false ICE detainer deputies from the Calhoun County Correctional Facility (CCCF)—which has a contract with ICE to house immigration detainees—were preparing to transport him to their facility. As the van transporting Mr. Ramos-Gomez drove away from KCCF, his mother was trying desperately to find out why he had an immigration hold and why he was not being released.

Mr. Ramos-Gomez spent the next three days in ICE detention, where he and other detainees were ridiculed and mistreated. While in ICE detention, his medical and mental health needs were unmet, and his PTSD worsened to the point where he became utterly non-responsive.

On December 17, after Mr. Ramos-Gomez's attorney forwarded to ICE numerous documents confirming his U.S. citizenship, ICE finally released Mr. Ramos-Gomez. His mental health was so deteriorated that at first he did not seem to recognize his own mother or own home.

The shocking mistreatment by ICE agents discussed above has exacerbated Mr. Ramos-Gomez's PTSD; led to his hospitalization, including weeks of in-patient treatment shortly after his ICE detention; and has had continuing deleterious effects. Mr. Ramos-Gomez now rarely leaves his house. He no longer spends time in the community as he once did. He is afraid of interacting with law enforcement officials again, worried that his own government sees him as an outsider despite his years of dedicated service to his country.

### **III. Liability Under Michigan State Law**

The United States is liable to Mr. Ramos-Gomez under the Federal Tort Claims Act for violations of Michigan state law, including false arrest, false imprisonment, malicious prosecution, intentional infliction of emotional distress, and negligence.

#### **A. False Arrest**

Mr. Ramos-Gomez was arrested and detained by ICE without probable cause. Ample and unequivocal evidence that was in ICE's possession or readily available to ICE demonstrated that he was a United States citizen and a decorated Marine veteran. That evidence included, but is not limited to, the following:

- KCCF provided ICE an arrest log on November 21, 2018 that indicated Mr. Ramos-Gomez's birthplace as "USA".
- A November 23, 2018 query of the CBP/DHS NNSV database by ICE generated a report that clearly stated Mr. Ramos-Gomez's place of birth as Michigan, and showed he had a REAL ID compliant driver's license. It also appears to show that he is a U.S. citizen and has a social security number.

- A November 23, 2018 search run in the eCISCOR database by ICE listed Mr. Ramos-Gomez's social security number, and also clearly showed he was a Marine.
- On November 26, 2018, the GRPD provide ICE with police reports that indicated Mr. Ramos-Gomez had a passport, as well as a Michigan pistol permit, on him when arrested.
- When CCCF officers took Mr. Ramos-Gomez into custody for ICE on December 14, 2018, his REAL ID compliant driver's license, which also identified him as a veteran, traveled with him from KCCF to CCCF, meaning that it was among Mr. Ramos-Gomez's documents when he was booked into the immigration detention facility.
- DHS's TECS database shows that Mr. Ramos-Gomez has a United States passport. TECS lists his passport number, and it states that he was born in the United States.

In sum, the information in ICE's possession made it abundantly clear that Mr. Ramos-Gomez was a United States citizen. There was no probable cause to believe he was unlawfully in the United States. Nevertheless, ICE issued an unlawful detainer resulting in Mr. Ramos-Gomez's false arrest, which caused him great personal harm and suffering.

### **B. False Imprisonment**

As discussed above, Mr. Ramos-Gomez is a United States citizen. ICE had no authority to detain him or hold him for any amount of time based on his immigration status. Because ICE falsely imprisoned him, the United States is liable.

### **C. Negligence**

Under federal laws and regulations, as well as ICE policies and procedures, immigration enforcement officers have a duty to investigate to ensure that U.S. citizens and other persons lawfully present are not unlawfully detained or removed for purported immigration violations. ICE and its agents breached those duties towards Mr. Ramos-Gomez. That is particularly true, where, as here, an individual has an apparent mental health issue. Yet ICE, even when confronted with extensive evidence that Mr. Ramos-Gomez is a U.S. citizen, failed to consider that evidence or to review additional readily available information that would have further corroborated his citizenship. Despite having access to a wealth of information showing Mr. Ramos-Gomez's United States citizenship and military service, including in ICE's own databases, Officers Lopez and Klifman nevertheless detained Mr. Ramos-Gomez and incorrectly represented on various forms that he was not lawfully present in the United States.

ICE also failed to provide necessary medical and mental health care for Mr. Ramos-Gomez while he was incarcerated at the Calhoun County Correctional Facility.

In addition, ICE failed to adequately train or supervise either the individual ICE officers or the CCCF officers involved in this incident. ICE did not sufficiently train and supervise those acting on its behalf about how to properly conduct their investigatory functions, how to properly interview Mr. Ramos-Gomez in light of his mental health concerns, or how to ensure that he received the necessary medical and mental health care he needed while imprisoned.

Defendants were also negligent in their maintenance of records and databases, and in their training and supervision of ICE officers in the use of those databases. An ICE Memorandum of Investigation stated that “[u]pon review of database information,” Mr. Ramos-Gomez was deemed to be amenable to deportation. Additionally, the Form I-200 Warrant for Arrest of Alien issued for Mr. Ramos-Gomez indicates that one source of probable cause for his arrest was “a records check of federal databases that affirmatively indicate” removability. If federal databases indicated that a U.S. citizen was in fact deportable, they are being negligently maintained or used.

Additionally, Mr. Ramos-Gomez’s *own* records were negligently maintained. The I-247A detainer issued by Officer Lopez listed his citizenship as Guatemalan. This incorrect information was subsequently submitted to an FBI database. Indeed, ICE officials had to contact the FBI after Mr. Ramos-Gomez’s attorney intervened to change the relevant information.

In each of these ways, Defendants were negligent. The foreseeable consequence of these negligent acts and omissions, among other things, was the emotional distress and physical suffering and sickness that Mr. Ramos-Gomez endured as a result of the false detainer, unlawful detention, and lack of treatment while incarcerated. That distress, suffering and sickness continues today.

#### **D. Malicious Prosecution and Intentional Infliction of Emotional Distress**

Mr. Ramos-Gomez may also bring claims for malicious prosecution and for intentional infliction of emotional distress. The ICE agents initiated removal proceedings against Mr. Ramos-Gomez without probable cause, and their decision to do so reflected malice. Had he been a non-Latino Caucasian, it is inconceivable that ICE would have ignored all of the evidence of his citizenship, and tried to deport him.

Similarly, the conduct of ICE agents and CCCF officers in this case was outrageous. They had unequivocal evidence that Mr. Ramos-Gomez was a United States citizen and military veteran. Despite this, they either intentionally or recklessly chose to wrongfully detain a United States citizen who has honorably served his country and refused to provide him necessary medical care while detained, causing severe emotional distress to Mr. Ramos-Gomez.

#### **IV. The Effects and Aftermath of Mr. Ramos-Gomez’s Detention**

Damages are owed to Mr. Ramos-Gomez for his unlawful detention and mistreatment, the physical and emotional pain and injury it caused, and its continuing effects on his health and wellbeing.

Defendants’ unlawful detention and mistreatment of Mr. Ramos-Gomez caused him serious injuries and suffering, including a severe deterioration of his mental and physical health and aggravation of his physical illness, including his PTSD symptoms. ICE tried to deport a US military veteran who needed mental health treatment for his combat related trauma. Rather than get him the help he needed, ICE unlawfully detained him as a foreigner, without justification, while his mental and physical health deteriorated so severely that he needed inpatient hospital treatment shortly after he was released.

ICE’s unlawful acts have had lasting and continuing effects on Mr. Ramos-Gomez. A letter from his treatment provider at Pine Rest Christian Mental Health Services, which

summarizes the gravity of his condition and how his experience in immigration detention retraumatized him and worsened the PTSD he suffers as a result of his service, is attached as Exhibit A. Mr. Ramos-Gomez's medical records are voluminous, and can be provided, subject to appropriate confidentiality protections, as the claim is processed.

## V. Conclusion

Enclosed please find Standard Form 95, Mr. Ramos-Gomez's statement authorizing us, as his counsel, to file this complaint, and a list of witnesses. This document should be considered supporting material for questions 1, 8, 10, and 11 on SF-95.

Mr. Ramos-Gomez suffered—and continues to suffer—immeasurable damage as a result of the Defendants' tortious conduct. For the reasons outlined, we submit this claim under the FTCA.

Sincerely,

/s/ Miriam Aukerman  
/s/ Elaine Lewis  
American Civil Liberties Union Fund of Michigan  
West Michigan Regional Office  
1514 Wealthy Street, SE, Suite 260  
Grand Rapids, MI 49506  
O: 616-301-0930  
F: 616-301-0640

/s/ Anand Swaminathan  
/s/ Megan Pierce  
Loevy and Loevy  
311 N. Aberdeen Street  
3<sup>rd</sup> Floor  
Chicago, IL 60607  
O: 312-243-5900  
F: 312-243-5902

/s/ Richard Kessler  
Law Office of Richard Kessler, PC  
4145 Kalamazoo SE  
Grand Rapids, MI 49508  
O: 616-235-4577  
F: 616-235-4723

*Counsel for Jilmar Ramos-Gomez*

Attachments: Witness List; Pine Rest Christian Mental Health Services Treatment Letter;  
Authorization Statement

## Witnesses

| Name  | Address   |
|---|---|
| Claimant  | c/o Loevy & Loevy, 311 N. Aberdeen St., Chicago, IL 60607 |
| Maria Gomez Velasquez   | c/o Loevy & Loevy, 311 N. Aberdeen St., Chicago, IL 60607 |
| Derek Klifman   | c/o ICE Office of the Principal Legal Advisor             |
| Matthew Lopez   | c/o ICE Office of the Principal Legal Advisor             |
| Richard Kessler   | 4145 Kalamazoo Ave SE, Grand Rapids, MI 49508             |
| Deputy Michael Schoop   | 703 Ball Ave NE, Grand Rapids, MI 49503                   |
| Accounting Clerk Deanna Butterworth   | 703 Ball Ave NE, Grand Rapids, MI 49503                   |
| Clerk Darla Westveer  | 703 Ball Ave NE, Grand Rapids, MI 49503                   |
| Clerk April Werdon  | 703 Ball Ave NE, Grand Rapids, MI 49503                   |
| Deputy Wayne Second   | 703 Ball Ave NE, Grand Rapids, MI 49503                   |
| Clerk Jaclyn DeMaagd  | 703 Ball Ave NE, Grand Rapids, MI 49503                   |
| Cadet Bailey Aversano   | 703 Ball Ave NE, Grand Rapids, MI 49503                   |
| Ryan Brundage   | 703 Ball Ave NE, Grand Rapids, MI 49503                   |
| Deputy Crystal Chapin   | 703 Ball Ave NE, Grand Rapids, MI 49503                   |
| Jennifer Kucharczyk   | 703 Ball Ave NE, Grand Rapids, MI 49503                   |
| Captain Kurt VanderKooi   | 1 Monroe Center St NW, Grand Rapids, MI 49503             |
| Detective Adam Baylis   | 1 Monroe Center St NW, Grand Rapids, MI 49503             |
| Danielle Castillo   | 703 Ball Ave NE, Grand Rapids, MI 49503                   |
| Unidentified employees of U.S. Immigration and Customs Enforcement, including employees who interacted with Jilmar Ramos-Gomez at the Calhoun County Jail |   |
| Unidentified Calhoun County Jail employees  | 185 E Michigan Ave, Battle Creek, MI 49014                |
| Unidentified Calhoun County Correctional Facility inmates   |   |
| Unidentified Kent County Correctional Facility employees  |   |

|   |  |
|---|--|
| Unidentified Kent County Correctional Facility inmates  |  |
| Additional witnesses as identified in discovery   |  |
| Treatment providers for Jilmar Ramos-Gomez  |  |
| Medical and mental health staff and providers at Calhoun County Correctional Facility and Kent County Correctional Facility |  |