

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
OCALA DIVISION

RITA COTE, previously known as )  
RITA ENRIQUEZ-PERDOMO, )  
 )  
Plaintiff, )  
v. ) Case No. )  
 )  
GARY S. BORDERS, in his official )  
capacity as Lake County Sheriff, )  
 )  
Defendant. )  
\_\_\_\_\_ )

**COMPLAINT WITH DEMAND FOR JURY TRIAL**

Plaintiff Rita Cote brings this action for violations of federal and state law against Defendant Gary S. Borders, in his official capacity, for detaining her without authority in the Lake County jail for over eight days, as follows:

PARTIES

1. Plaintiff lives in Tavares, Florida, with her husband and four young children. She is a Honduran national and her children and husband are U.S. citizens.
2. Defendant Gary S. Borders is the Lake County Sheriff and the final decision maker for the Lake County Detention Center. Plaintiff sues Defendant in his official capacity.

JURISDICTION AND VENUE

3. This action arises under the Constitution and laws of the United States, and the laws of the State of Florida. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1343 and 1367.
4. Venue is proper in the Ocala Division of the United States District Court

for the Middle District of Florida because the acts alleged occurred in Lake County, Florida.

#### FACTS

5. On February 16, 2009, Plaintiff was acting as an interpreter for her sister, who had called the police after being beaten by her boyfriend. Plaintiff's sister did not speak English but needed to communicate to police what happened. Plaintiff had committed no crime and was not suspected of committing any crime. Nevertheless, the Tavares Police Department (TPD) officers at the scene asked Plaintiff about her immigration status and insisted that she get her passport, even after she provided them with another form of photo identification.

6. Claiming that Plaintiff's name produced a "hit" on the National Crime Information Center (NCIC) database, TPD officers arrested her.

7. The TPD officers had neither a warrant for Plaintiff's arrest nor probable cause to believe she had committed a crime. In fact, the TPD officers had no authority arrest Plaintiff.

8. Notwithstanding the lack of lawful authority for Plaintiff's arrest by TPD, Defendant, as the director of the Lake County Detention Center, took custody of her and detained her for over eight days.

9. Specifically, Defendant took custody of Plaintiff in the afternoon of February 16, 2009, and did not release her until the night of February 24, 2009.

10. At no time while Defendant jailed Plaintiff was she charged with a crime.

11. At no time while Defendant jailed Plaintiff did Defendant bring Plaintiff before a judicial officer.

12. Because Defendant did not bring Plaintiff before a judge as required by law, Plaintiff was not able to have an attorney appointed for her.

13. At no time while Defendant jailed Plaintiff did Defendant allow her to leave the jail.

14. At no time while Defendant jailed Plaintiff did Defendant allow Plaintiff's minor children to visit her.

15. Defendant's booking sheet for Plaintiff indicates that the offense she is alleged to have committed was "Courtesy Hold/ICE." In fact, the Immigration and Customs Enforcement (ICE) agency did not issue a Form I-247, which purports to provide a lawful basis to detain Plaintiff, until the morning of February 18, 2009, almost two days after Defendant took custody of Plaintiff.

16. Moreover, even if the Form I-247 provided a lawful basis to hold Plaintiff, which it did not, it would have only authorized Defendant to detain her for 48 hours. That 48-hour period elapsed in the morning of February 20, 2009. Defendant continued to hold her in jail until February 24, 2009, and released her to ICE only after Plaintiff filed an Emergency Petition for Writ of Habeas Corpus and this court ordered Defendant to show cause why the petition should not be granted. (Case No. 5:09-cv-91-Oc-10GRJ).

17. Only after her transfer to ICE custody could Plaintiff secure her release and return to her family, which she did approximately one week later. She has remained with her family ever since.

18. Defendant's unlawful detention of Plaintiff was extremely traumatic for her because she had three young children whom she knew were suffering without her. She had never been to jail before and as a direct result of Defendant's unlawful detention

has suffered emotional distress, physical inconvenience, humiliation, disgrace, embarrassment, and injury to feelings that continues to this day.

19. Lake County Sergeant John Herrell, Defendant's authorized spokesperson, later admitted during a press conference that Defendant made a "mistake" in detaining Plaintiff and that she "fell through the cracks."

20. In fact, Defendant has a custom, practice, or policy of unlawfully detaining people without warrants and without probable cause to believe they committed any crime. That custom, practice, or policy was the driving force of the unconstitutional detention of Plaintiff.

21. Between March 2007 and March 2009, Defendant detained approximately 230 people without warrants and without probable cause to believe they committed any crime. Upon information and belief, Defendant detained many more such people after March 2009 and its unlawful detention practices continue through the present. Defendant failed to train his employees in a manner that would have avoided Plaintiff's unlawful detention.

22. Defendant has never been delegated authority to enforce federal immigration law by any federal agency.

23. Defendant's employees who booked Plaintiff and detained her as described above were acting within the scope and function of their employment in doing so and in accordance with the custom, practice, or policy of the Lake County Detention Center. By employing such custom, practice, or policy, Defendant ratified the unlawful detention of Plaintiff.

24. By certified letters dated May 4, 2009, Plaintiff has complied with the

notice of claim requirements of Florida Statute § 768.28.

#### CLAIMS

25. Based upon the foregoing, Defendant violated the Fourth Amendment of the U.S. Constitution's prohibition against unreasonable seizures, for which 42 U.S.C. § 1983 provides Plaintiff a remedy.

26. Based upon the foregoing, Defendant deprived Plaintiff of her liberty without due process of law in violation of the Fourteenth Amendment of the U.S. Constitution, for which 42 U.S.C. § 1983 provides Plaintiff a remedy.

27. Based upon the foregoing, Defendant falsely imprisoned Plaintiff, for which Florida Statute § 768.28 provides a remedy.

28. Based upon the foregoing, Defendant was negligent, for which Florida Statute § 768.28 provides Plaintiff a remedy.

#### JURY DEMAND

Plaintiff demands a jury trial on all issues so triable.

#### PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendant for:

- (a) all damages resulting from the conduct described above;
- (b) all court costs, expenses, and reasonable attorneys' fees;
- (c) additional and further relief as is just and proper.

Respectfully submitted,



Glenn M. Katon (Trial Counsel)  
Florida Bar No. 636894  
ACLU Foundation of Florida, Inc.  
P.O. Box 18245  
Tampa, FL 33679-8245  
(813) 254-3314  
(813) 254-0926 fax  
gkaton@aclufl.org

Randall C. Marshall  
Florida Bar No. 181765  
ACLU Foundation of Florida, Inc.  
4500 Biscayne Boulevard, Suite 340  
Miami, FL 33137-3227  
(786) 363-2700  
(786) 363-1108 fax  
rmarshall@aclufl.org

Howard S. Marks (Trial Counsel)  
Florida Bar No. 750085  
Burr & Forman LLP  
369 N. New York Avenue  
Suite 300  
Winter Park, Florida 32789  
(407) 647-4455  
(407) 740-7063 fax  
Howard.Marks@burr.com  
Cooperating Attorney for the ACLU Foundation of Florida, Inc.

COUNSEL FOR PLAINTIFF