IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

Carlos Rene Morales, Rosa Vargas Morales, Juan Mijangos Vargas, Juneidy MijangosVargas, D.M.V., J.A.M., Salvador Alfaro, Johana Gutierrez, Y.S.G.R., J.I.G.R., Lesly Padilla Padilla, E.D.N.P, and E.I.N.P.,	)	C/A No.:_____
Plaintiffs,	)	
v.	)	
The United States of America,	)	

6. Plaintiff J.A.M. is a national and citizen of the United States. He permanently resides in Stone Mountain, Georgia, in DeKalb County. He is the nephew of co-Plaintiffs Juan Mijangos Vargas and D.M.V.; he is the great nephew to co-Plaintiff Carlos Rene Morales; he is the daughter of co-Plaintiff Juneidy Mijangos Vargas; and the grandson of co-Plaintiff Rosa Vargas Morales. Plaintiff J.A.M. is a minor; he is three years old. He was one year and five months old at the time of the raid.
7. Plaintiff Salvador Alfaro is a national and citizen of El Salvador. He permanently resides in Norcross, Georgia, in Gwinnett County. He is the husband to co-Plaintiff Johana Gutierrez.
8. Plaintiff Johana Gutierrez is a national and citizen of Honduras. She permanently resides in Norcross, Georgia, in Gwinnett County. She is the wife of co-Plaintiff Salvador Alfaro and the mother of co-Plaintiffs Y.S.G.R. and J.I.G.R.
9. Plaintiff Y.S.G.R. is a United States citizen. Y.S.G.R. permanently resides in Norcross, Georgia, in Gwinnett County. Y.S.G.R. is the child of co-Plaintiff Johana Gutierrez. Y.S.G.R. is a minor; she is 14 years old. She was 12 years old at the time of the raid.
10. Plaintiff J.I.G.R. is a United States citizen. He permanently resides in Norcross, Georgia, in Gwinnett County. J.I.G.R. is the child of co-Plaintiff Johana Gutierrez. J.I.G.R. is a minor; he is ten years old. He was nine years old at the time of the raid.
11. Plaintiff Lesly Padilla Padilla is a national and citizen of Honduras. She permanently resides in Atlanta, Georgia, in DeKalb County. She is the mother of co-Plaintiffs E.D.N.P. and E.I.N.P.
12. Plaintiff E.D.N.P is a national and citizen of Honduras. He permanently resides in Atlanta, Georgia, in DeKalb County. He is the son of co-Plaintiff Lesly Padilla Padilla and the twin

brother of co-Plaintiff E.I.N.P. Plaintiff E.D.N.P. is a minor; he is 11 years old. He was nine years old at the time of raid.

13. Plaintiff E.I.N.P. is a national and citizen of Honduras. He permanently resides in Atlanta, Georgia, in DeKalb County. He is the son of co-Plaintiff Lesly Padilla Padilla, and the twin brother of co-Plaintiff E.D.N.P. E.I.N.P. is a minor; he is 11 years old. He was nine years old at the time of the raid.

14. Defendant United States of America is the appropriate defendant under the Federal Tort Claims Act, 28 U.S.C. § 2671, et seq., for the tort claims in this Complaint.

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FACTS

Operation Border Resolve

20. In December 2015, the United States Department of Homeland Security ("DHS") approved an Enforcement and Removal Operation ("ERO") entitled "Operation Border Resolve." The objective of Operation Border Resolve was to target "Family Units" for deportation.

21. DHS directed its sub-agency, Immigration and Customs Enforcement ("ICE"), to execute Operation Border Resolve.

22. Operation Border Resolve specifically targeted family units from El Salvador, Honduras, and Guatemala living in nine major U.S. metropolitan areas, including Atlanta, Georgia.

23. DHS set a numeric goal for apprehensions and deportations at 400 individuals.

24. DHS encouraged ICE field offices to allocate more agents to each enforcement team than it typically would. DHS allocated funds to cover the cost of the additional agents.

30. On January 2 and 3, 2016, ICE agents conducted this multistate enforcement operation, sweeping into homes across Georgia, North Carolina, and Texas.

31. ICE agents arrested 121 people during Operation Border Resolve and transferred them to an immigration detention facility in Dilley, Texas.

32. The ICE Field Office Director for Atlanta seeks to scare foreign nationals through such raids and searches. He is quoted as saying: "If you're in this country illegally, you should be scared. . . . We're probably going to come knocking at some point." Lee, Vivian, "Please, God, Don't Let Me Get Stopped": Around Atlanta, No Sanctuary for Immigrants, N.Y. Times at A1 (Nov. 26, 2017).

The Vargas Family

33. Plaintiff Rosa Vargas Morales ("Ms. Vargas") lives in the Stone Mountain home with her son Plaintiff Juan Mijangos Vargas; her daughters, Plaintiff Juneidy Mijangos Vargas and D.M.V.; her grandchild J.A.M.; and her brother, Plaintiff Carlos Rene Moran Morales.

34. At approximately 4:00 AM on Saturday, January 2, 2016, the family was awakened by the doorbell ringing, banging on the front door, and flashlights shining through the windows of the home.

35. Plaintiff Carlos Rene Morales ("Mr. Morales") looked out the window and saw approximately nine unmarked and unfamiliar cars outside his home and approximately five officers standing outside. He observed "POLICE" labels on the back of the officers' jackj1rTc-.2

38. They asked Mr. Morales to open the door so they could speak to him, but when he asked for an explanation, they refused to provide any information about why they wanted to speak with him.

39. The officers eventually left.

40. The family was terrified to leave their home that day, but they needed certain food items. Later that morning, Mr. Morales left the house to go to the grocery store.

41. When he returned home, two cars stopped him near the driveway of the house.

42. Two men, wearing jackets labeled “ICE” exited the cars, approached Mr. Morales’ car, and asked to see his driver’s license.

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47. Mr. Morales again—and repeatedly—tried to explain that no one named “Miguel Soto” lived in his home.
48. Mr. Morales observed guns on both agents.
49. Both agents yelled at and threatened Mr. Morales throughout the interaction.
50. Mr. Morales told the agents that he would obtain the identification cards of the people currently present in the home to show that no one named “Miguel Soto” was present there. The agents followed him to his front door.
51. The agents told Mr. Morales that they wanted to enter the home. He asked them if they had a warrant. The agents told him that a judge had signed a warrant and they needed to come in. They never produced or otherwise proved to Mr. Morales that they had a warrant to enter his home.
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58. The two ICE agents ordered the family members to gather in the living room and provide identification.

59. Mr. Morales provided identification for his entire family. After the agents looked at the IDs, Mr. Morales asked the agents why they were still there. They falsely stated that they were waiting on another agent with a scanner to check that the IDs were real. This was a lie, as no agent ever scanned their IDs.

60. Mr. Morales, Ms. Vargas, her two adult children, and her infant grandchild then waited in the room for approximately 40 minutes, until a female agent arrived. D.M.V. remained asleep in her room. During this time, the Vargas Family felt that they were not free to leave the room, where the armed agents were detaining them.

61. At one point, Mr. Morales stood up to relieve discomfort in his back, and an agent pushed him down, telling Mr. Morales to stay seated or he would be arrested.

62. Upon arriving, the female agent read aloud the names of Rosa Vargas Morales, and her children, Juan Mijangos Vargas, Juneidy Mijangos Vargas and D.M.V. She explained that the agents were there to arrest them, because Ms. Vargas had missed an immigration court date. The agent said that Ms. Vargas and all three of her children would need to pack bags and come with them. Mr. Morales stated that Ms. Vargas had not missed a single court date, but the agent responded that she did not want to hear the family's explanations.

63. The agents gave Ms. Vargas and her children bags and instructed them to pack personal belongings for the trip.

64. The agents then asked about D.M.V. Ms. Vargas explained she was downstairs sleeping.

65. Ms. Vargas escorted the female agent to D.M.V.'s bedroom. The agent took the blanket and sheets off D.M.V. and physically shook her awake.

66. D.M.V. woke up terrified and trembling. The agent told D.M.V. they had to leave, grabbed her by the shoulders, and pulled her up. D.M.V. was ten years old at the time.

67. The agents decided not to bring Ms. Vargas's older daughter, Juneidy Mijangos Vargas, with them, because she is the mother of J.A.M. who was an infant at the time. The agents escorted Ms. Vargas, Juan Mijangos Vargas and D.M.V. to a vehicle and drove them to an immigration detention center in Atlanta.

68. During the transport to the Atlanta detention center and while detained there, Ms. Vargas complained of a migraine and asked for water. She was never given water. She asked the detention staff in Atlanta for access to prescription Ibuprofen that she had brought with her other belongings. They refused to give it to her.

69. At the Atlanta detention center, agents pressured Ms. Vargas to sign papers. They refused to explain the nature or content of the documents. She repeatedly refused and requested a phone call to speak with her immigration attorney. They denied her the opportunity to speak with her attorney. Eventually, she succumbed to their pressure and signed the documents.

70. In the evening of that same day, Ms. Vargas and her children were transported by plane to Texas. On the flight, Ms. Vargas again requested her medication and was denied. Ms. Vargas fainted on the plane.

71. A few days after arriving in Texas, the Board of Immigration Appeals granted Ms. Vargas and her two minor children a stay of deportation. However, ICE continued to detain them for several weeks, at detention centers in Texas and Pennsylvania. The Board of Immigration Appeals subsequently vacated the removal orders against them.

72. Ms. Vargas and her children were detained altogether for over a month in ICE detention facilities located in Georgia, Texas, and Pennsylvania.

73. Ms. Vargas and her children returned to their home in Stone Mountain.

74. Plaintiff Rosa Vargas Morales experienced and continues to experience serious emotional pain and suffering as a result of the agents' actions during the raid. Since the raid, she suffers from debilitating mood swings. She often isol

had been an excellent student, she dropped out of high school after the raid. Because ICE did not take Ms. Mijangos Vargas on account of J.A.M., she believed that ICE would take her at a later time, when she was not with her child. Counselors, teachers, and family tried to convince her to go back to school, but she continued to refuse. Her mental anguish has gone untreated.

80. After the raid, Ms. Mijangos Vargas would not leave J.A.M. alone. Before, she was able to leave him with other people. She feels very protective of him. Now, when J.A.M. is around a new person, he is frightened and nervous.

81. After the raid, Mr. Morales suffered mental anguish. He struggles to overcome feelings of anger and helplessness. His mental anguish has gone untreated.

82. ICE agents did not have a warrant that permitted them to enter or search the Vargas Family home or detain Plaintiffs Rosa Vargas Morales, Carlos Rene Morales, Juan Mijangos Vargas, Juneidy Mijangos Vargas, D.M.V., and J.A.M.

83. No exigent circumstances existed that would allow ICE agents to enter or search the Vargas Family home or detain Plaintiffs Rosa Vargas Morales, Carlos Rene Morales, Juan Mijangos Vargas, Juneidy Mijangos Vargas, D.M.V., and J.A.M.

84. Mr. Morales did not give consent for ICE agents to enter or search the Vargas Family home or detain Plaintiffs Rosa Vargas Morales, Carlos Rene Morales, Juan Mijangos Vargas, Juneidy Mijangos Vargas, D.M.V., and J.A.M. Nor did any other occupant or resident give consent to the agents' entry and search of the Vargas Family home.

The Gutierrez Family

85. The Gutierrez Family comprises Plaintiffs Salvador Alfaro, Johana Gutierrez, and her children, Y.S.G.R., and J.I.G.R.

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96. The officers asked for Ms. Ana Mejia Gutierrez, and her son, W.G.M.

97. When Ms. Gutierrez realized that the officers were not police, but rather ICE agents, she tried to get her phone to make a call, but an agent told her not to move.

98. One agent stood between the family in the living room and the front door throughout the raid.

105. The agents took Ms. Ana Mejia Gutierrez and W.G.M. to several detention facilities in different states. The Board of Immigration Appeals subsequently vacated the final removal orders against Ms. Ana Mejia Gutierrez and W.G.M.

106. After the raid, Y.S.G.R. missed school for a week. Y.S.G.R. refused to sleep alone. Y.S.G.R. indicated to a classmate that she was thinking about harming herself. She was reported to a school counselor who referred her to a psychologist. She met with the psychologist and later her pastor to work through the mental anguish and pain as a result of the raid.

107. As a result of the raid, J.S.G.R. has suffered significant emotional pain and distress. J.S.G.R. has met with the family's pastor.

108. As a result of the raid, Ms. Gutierrez has suffered emotional pain and distress. er tvhs

Mr. Alfaro, Y.S.G.R., or J.S.G.R. because the ICE agents gained entry by lying about their purpose for entry and remained after Ms. Gutierrez asserted her rights.

The Padilla Family

113. The Padilla Family comprises Plaintiffs Lesly Padilla Padilla and her minor sons, E.D.N.P. and E.I.N.P, who are twin brothers.

114. From mid-2014 to January 2016, approximately a year and a half, the family lived in a first-floor, two-bedroom apartment in Norcross, Georgia.

115. At approximately 8:00 AM on Saturday, January 2, 2016, officers knocked loudly on Ms. Padilla's door.

116. Ms. Padilla left her bedroom, where her boys were sleeping, and went to the front door. Through the closed door, in Spanish, she asked, "How can I help you?" The officers initially responded in English, then switched to Spanish, stating that they believed a criminal suspect was present in her apartment.

117. Ms. Padilla looked through the peephole. She could see approximately five officers outside of her apartment. She saw "POLICE" on the back of one officer's jacket. The ICE agents did not inform her that they were immigration agents; nor did they present any identification or identify themselves as "ICE" on their clothing.

118. An officer showed her a photo of an African American man, and stated in Spanish that the man in the photo was a criminal suspect named "David." The officer told her that they had been told that the suspect lived at her address.

119. Ms. Padilla told the officers that the man did not live at her apartment and he was not in her apartment.

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128. She told them she was not aware of any deportation order in her case, and that she had an immigration attorney and an ankle monitor. She asked to call her attorney and the ICE agents refused.

129. The agents then told her that she and her children had to come with them. They instructed her to bring extra clothing, but she insisted that they wouldn't need it. Two agents followed Ms. Padilla into her bedroom, with her sons. One of her boys asked, "Why are they taking

135. Ms. Padilla sought mental health treatment for post-raid stress and guilt experienced by herself and her sons, but she could not afford anything beyond an initial consult.

136. Thus, their conditions have gone untreated.

137. Ms. Padilla suffers physical illness when she thinks about raid.

138. The trauma from the 2016 raid has compounded prior trauma experienced by the Padilla Family in their home country, Honduras. They fled Honduras because the father of E.D.N.P. and E.I.N.P. was extremely abusive to Ms. Padilla, and the authorities in Honduras failed to stop the abuse.

139. During her detention, Ms. Padilla lost her apartment and the family possessions located in the apartment.

140. ICE agents did not have a warrant that permitted them to enter or search the Padilla family home or detain Ms. Padilla, E.D.N.P., or E.I.N.P.

141. No exigent circumstances existed that would allow ICE agents to enter or search the Padilla family home or detain Ms. Padilla, E.D.N.P., or E.I.N.P.

142. Ms. Padilla did not give and could not have given knowing or voluntary consent for ICE agents to enter or search the Padilla family home or detain Ms. Padilla, E.D.N.P., or E.I.N.P. because the ICE agents gained entry by lying about their purpose for entry.

143. During all raids of the Vargas Family, the Gutierrez Family, and the Padilla Family, ICE agents were acting within the scope of their employment.

144. During all raids of the Vargas Family, the Gutierrez Family, and the Padilla Family, ICE agents had no judicially issued warrant.

145. During all raids of the Vargas Family, the Gutierrez Family, and the Padilla Family, ICE agents were not engaged in discretionary decision making.

146. During all raids of the Vargas Family, the Gutierrez Family, and the Padilla Family, ICE agents did not exercise due care.

147. During all raids of the Vargas Family, the Gutierrez Family, and the Padilla Family, ICE agents were acting in an investigative or law enforcement role.

148. During all raids of the Vargas Family, the Gutierrez Family, and the Padilla Family, ICE agents violated the Fourth Amendment rights of each plaintiff.

149. As a consequence of the raids of the Vargas Family, the Gutierrez Family, and the Padilla Family, each Plaintiff has suffered harm, including but not limited to emotional distress, pain and suffering, property loss, loss of consortium, either spousal or filial, and trauma.

FIRST CAUSE OF ACTION
(False Imprisonment)

150. Plaintiffs re-allege all facts averred herein as though restated.

151. ICE, through its investigative and law enforcement agents, intentionally and unlawfully deprived each Plaintiff of his or her personal liberty by entering their homes without a judicial warrant or voluntary consent and absent exigent circumstances and by detaining Plaintiffs against their will in violation of O.C.G.A. § 51-7-20; Ferrel v. Mikula, 672 S.E.2d 7, 10 (Ga. App. 2008); Lyttle v. United States, 867 F. Supp. 2d 1256, 1297 (M.D. Ga. 2012).

152. The ICE agents committed these acts as employees of the U.S. while acting within the scope of their employment at all relevant times.

153. The ICE agents were acting in an investigative or law enforcement role at all relevant times.

154. All of the Plaintiffs were detained; they were unable to leave their homes while ICE agents conducted an unlawful, pre-textual search.

155. Plaintiffs' detention was unlawful because:

a.

161. Under the Federal Tort Claims Act, defendant United States of America is liable for these actions.

SECOND CAUSE OF ACTION
(Trespass)

162. Plaintiffs re-allege all facts herein as though restated.

163. The ICE agents were acting within the scope of their employment at all relevant times.

164. The ICE agents were acting in an investigative or law enforcement role at all relevant times.

165. The ICE agents intentionally and unlawfully interfered with Plaintiffs' enjoyment of private property in which Plaintiffs had a possessory interest under O.G.C.A. § 51-9-1.

166. The ICE agents unconstitutionally entered all of Plaintiffs' homes without a judicially issued warrant or voluntary consent and absent exigent circumstances.

167. Further, the ICE agents unconstitutionally entered Plaintiffs' homes by using an unconstitutional "ruse" to gain entry.

168. All such actions violated Plaintiffs' Fourth Amendment rights to be free from unreasonable searches and seizures.

169. Defendant's actions were not discretionary because Defendant has no discretion to act unconstitutionally. Rosas v. Brock, 826 F.2d 1004, 1008 (11th Cir.1987); Mancha v. Immigration & Customs Enf't, No. 106-CV-2650-TWT, 2009 WL 900800, at *4 (N.D. Ga. Mar. 31, 2009).

170. This unconstitutional trespass caused Plaintiffs damages.

171. Those damages include but are not limited to:

a. Property damage and loss;

b. Emotional distress;

180. ICE also breached internal, non-discretionary DHS practices and policies, including but not limited to policies related to the use of "ruses."

181. As a direct and proximate result of Defendant's breaches of duties, Plaintiffs have suffered and continue to suffer damages including, but not limited to:

a. Property damage and loss;

b. Emotional distress;

c. Lost wages;

d. Mental anguish;

e. Loss of consortium, filial and spousal; and

f. Other damages to be proven at trial.

182. Plaintiffs are entitled to damages against the United States for trespass to the full extent allowed under Georgia law and the FTCA, in an amount to be determined by the trier of fact.

183. Under the Federal Tort Claims Act, defendant United States of America is liable for these actions.

FOURTH CAUSE OF ACTION
(Intentional Infliction of Emotional Distress)

184. Plaintiffs re-allege all facts herein as though restated.

185. The ICE agents were acting within the scope of its employment at all relevant times.

186. The ICE agents were acting in an investigative or law enforcement role at all relevant times.

187. The ICE agents acted intentionally or recklessly when they unlawfully entered and searched Plaintiffs' homes. They also acted intentionally and recklessly when they unlawfully detained each Plaintiff.

188. The ICE agents' actions were extreme and outrageous.

189. ICE used racial stereotypes to scare the Gutierrez and Padilla Families into "consenting" to their search.

190. The ICE agents forcefully entered the Vargas' home without requesting or obtaining consent.

191. The ICE agents also entered the Vargas's home by repeatedly threatening arrest for a falsified charge of "obstruction of justice."

192. The ICE agents gained entry into all of the Plaintiffs' homes by deliberately lying about the presence of fictitious criminal suspects in their homes and preying on their fear of safety to unlawfully gain entry into their homes.

193. All such conduct is extreme and outrageous.

194. The ICE agents' outrageous and extreme conduct directly caused Plaintiffs emotional distress and other damages.

195. Those damages include but are not limited to:

a. Property damage and loss;

b. Emotional distress;

Emotionaeare not limited to:

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198. Under the Federal Tort Claims Act, defendant United States of America is liable for these actions.

FIFTH CAUSE OF ACTION

d. Mental anguish;

e. Loss of consortium, filial and spousal; and

f. Other damages to be proven at trial.

211. The emotional distress is severe, lasting, and grave.

212. Plaintiffs are entitled to damages against the United States for negligent infliction of emotional distress to the full extent allowed under Georgia law and the FTCA, in an amount

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