

THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION

MARCOS MARTINEZ and )  
STEPHANIE MARTINEZ, on behalf of )  
herself and her minor children, A.M.M., )  
A.I.M., and E.A.M., )

Plaintiffs; )

v. )

CIV. A. NO. \_\_\_\_ F Y + 6 2 - & \*

HANCOCK COUNTY, MISSISSIPPI, )  
MILTON ARIC LATSCHAR, in his )  
individual capacity, ABE LONG, in his )  
individual capacity, WILLIAM )  
COVINGTON, in his individual capacity, )  
JOHN DOE #1, in his individual capacity, )  
JOHN DOE #2, in his individual capacity, )

DEMAND FOR JURY TRIAL

Defendants. )

COMPLAINT FOR DAMAGES

PRELIMINARY STATEMENT

1. Plaintiffs, a Latino and Native American family living in South Carolina, were driving through Mississippi on their way to take vacation last year when they were unlawfully detained by Defendants for several hours and subjected to extensive interrogation, threats and multiple unlawful searches because of their perceived race, ethnicity and national origin.

2. Marcos and Stephanie Martinez and their minor children, A.M.M., A.I.M., and E.A.M. (collectively, "Plaintiffs"), were unlawfully stopped by Defendant Milton Aric Latschar, a deputy with the Hancock County Sheriff's Office ("HCSO"), while driving through Hancock County, Mississippi on June 3, 2017. Upon stopping the Martinez family, Defendant Latschar immediately asked whether the occupants of the vehicle were U.S. citizens. He then confiscated

the U.S. passports, lawful permanent residency cards and valid immigration documents belonging to Plaintiffs and other occupants of the vehicle, threatened Marcos Martinez with the loss of his lawful permanent residency, made baseless accusations that the family was engaged in criminal activity, and conducted an invasive search of the family's belongings—all because he perceived the family to be Latino and of Mexican descent.

3. For approximately two hours, Defendant Latschar detained Plaintiffs by the side of Interstate 10 while he interrogated them, threatened them, searched their belongings, and inspected their vehicle. Although no evidence of illegal activity was found, Defendant Latschar

of everyone in Plaintiffs' vehicle, Defendant Latac attempted to act as an immigration agent, though he had no authority to do so. The HCSO has an agreement with the federal government giving the HCSO authority to enforce federal immigration law.

7. Regardless, all occupants of the family's vehicle had lawful status: Marcos Martinez is a lawful permanent resident of the United States who was born in Mexico, and Stephanie Martinez and their three children are U.S



Taylor, South Carolina. Stephanie Martinez brings this action on her own behalf and on behalf of A.M.M., A.I.M., and E.A.M., who are minor children ages 9, 12, and 14, respectively.

Stephanie Martinez is a United States citizen of Mexican American descent and A.M.M., A.I.M., and E.A.M. are United States citizens of Mexican and Native American descent.

16. Plaintiff Marcos Martinez is a resident of Taylor, South Carolina. He is married to Stephanie Martinez and is the father of A.M.M., A.I.M., and E.A.M. He is a lawful permanent resident of the United States who was born in Mexico.

#### Defendants

17. Hancock County, Mississippi, is a political subdivision of the state of Mississippi. The Hancock County Sheriff's Office does not exist as a separate government entity apart from Hancock County.

18. Milton Aric Latschar, sued in his individual capacity, is a deputy employed by the Hancock County Sheriff's Office in Hancock County, Mississippi. At all times relevant to this Complaint, Defendant Latschar was acting within the course and scope of his employment and under color of law. His actions, as set forth in this Complaint, were in reckless disregard of the safety and well-being of each of the Plaintiffs, who were not engaged in criminal activity at the time of any of the injuries alleged in this Complaint. Defendant Latschar is subject to the personal jurisdiction of this Court.

19. Abe Long, sued in his individual capacity, is a deputy employed by the Hancock County Sheriff's Office in Hancock County, Mississippi. At all times relevant to this Complaint, Defendant Long was acting within the course and scope of his employment and under color of law. His actions, as set forth in this Complaint, were in reckless disregard of the safety and well-being of each of the Plaintiffs, who were not engaged in criminal activity at the time of any of

the injuries alleged in this Complaint. Defendant is subject to the personal jurisdiction of this Court.

20. William Covington, sued in his individual capacity, a lieutenant employed by the Hancock County Sheriff's Office in Hancock County, Mississippi. At all times relevant to this Complaint, Defendant Covington was acting within the course and scope of his employment and under color of law. His actions, as set forth in this Complaint, were in reckless disregard of the safety and well-being of each of the Plaintiffs. He also was not engaged in criminal activity at the time of any of the injuries alleged in this Complaint. Defendant Covington is subject to the personal jurisdiction of this Court.

21. John Doe #1, sued in his individual capacity, a deputy employed by the Hancock County Sheriff's Office in Hancock County, Mississippi. At all times relevant to this Complaint, Defendant Doe #1 was acting within the course and scope of his employment and under color of law. His actions, as set forth in this Complaint, were in reckless disregard of the safety and well-being of each of the Plaintiffs, wh



28. On the afternoon of June 3, 2017, the Martinez family was driving on Interstate 10 ("I-10") through Hancock County, Mississippi, driving west in the right lane of the two-lane highway. Mr. Martinez was driving the van.

29. Defendant Latschar, wearing an officer uniform, was driving a marked police car belonging to the HCSO in the lane to the immediate left of the Martinez family. Defendant Latschar pulled up next to the Martinez family's vehicle and looked at the family's vehicle.

30. Defendant Latschar immediately merged to the right behind the Martinez family's van and activated his lights, indicating that he wanted Mr. Martinez to stop the van.

31. Mr. Martinez, complying with Defendant Latschar's signal, pulled over onto the right-hand shoulder of the highway and stopped. Defendant Latschar followed and parked behind Mr. Martinez.

32. When the family was pulled over, then-10 year old J.M., who had been diagnosed with autism spectrum disorder and anxiety disorder, became frightened and began to cry and wail.

33. At the moment he stopped the Martinez family's van, defendant Latschar did not have reasonable suspicion to believe that any illegal activity had occurred or was about to occur in connection with the Martinez family's van or any occupant of the van.

34. Police records claim that the Martinez family was stopped for careless driving. However, prior to being stopped by Defendant Latschar, Mr. Martinez had not violated Mississippi's careless driving statute. Miss. Code Ann. § 63-3-1213. He was driving carefully and in a prudent manner, with due regard for the width, grade



35.

vehicle or any occupant of the vehicle. Yet Defendant Latschar did not let Plaintiffs leave the roadside.

40. There was no basis to suspect that any of the Plaintiffs or the other occupants of the van were not lawfully present in the United States. Indeed, Defendant Latschar held in his hands documents that proved they were lawfully present.

41. At the time Defendant Latschar stopped the Martinez family, the HCSO did not have any agreements with the federal government authorizing the HCSO to detain individuals based on suspicion that they are not lawfully present in the United States.

42. Defendant Latschar asked Plaintiffs for passports and immigration documents solely because he perceived the occupants of the vehicle to be Latino and non-U.S. citizens.

43. Upon information and belief, Defendant Latschar had investigated the immigration status of Caucasians who were traveling along I-10 and who were similarly situated to Plaintiffs.

44. Upon information and belief, Defendant Latschar had stopped and detained Caucasian motorists, who were similarly situated to Plaintiffs, absent reasonable suspicion that illegal activity had occurred or was about to occur.

45. By the time Defendant Latschar completed his computer checks, sufficient time had elapsed for him to determine whether to issue a traffic ticket to Mr. Martinez or any other occupant of the vehicle, and to issue any such ticket. Defendant Latschar never issued a ticket to Mr. Martinez or any other occupant of the Martinez family's vehicle.

46. After completing the computer checks, and without any reason to believe any illegal activity had occurred in connection with the van or its occupants, Defendant Latschar returned to the Martinez family's van.

47. Defendant Latschar, who carried a gun on his person, directed Mr. Martinez to step out of the van. Mr. Martinez complied with the command. Defendant Latschar escorted Mr. Martinez to the back of the van, in front of the police car. Defendant Latschar still possessed the passports, residency card, and immigration documents belonging to Mr. Martinez and his family members. Mr. Martinez did not feel free to leave the scene, and a reasonable person would understand the situation to be a restraint on his freedom.

command and exited the van. Ms. Martinez did not feel free to leave the scene, and a reasonable person would understand the situation to be an arrest on her freedom.

52. Defendant Latschar then told Ms. Martinez that he was looking for drugs and “illegals” and that his job involved catching people who were trafficking immigrants. Defendant Latschar asked Ms. Martinez if there were drugs in the van. Ms. Martinez said that the only drugs she had were medications prescribed by a doctor to treat his autism spectrum disorder, anxiety disorder, and attention deficit hyperactivity disorder. Ms. Martinez showed Defendant Latschar the bag containing the prescribed medicine.

53. Defendant Latschar asked Ms. Martinez if he could search the back of the van. Ms. Martinez said yes. By this time, approximately 20 minutes, at least, had elapsed since Defendant Latschar’s computer checks came back clear.

54. Defendant Latschar never informed Ms. Martinez that she had the right to refuse consent to the search. Ms. Martinez believed she could not refuse consent to search the van. At this time, Defendant Latschar was still in possession of Mr. Martinez’s residency card, the



63. Defendant Latschar took photographs of parts of the front end of the Martinez family's van. Defendant Latschar then told Mr. Martinez that he thought someone had done shoddy work on the drive shaft of the vehicle and that it appeared to be newer than the year of the van's manufacture. Defendant Latschar accused Mr. Martinez of hiding money and repeated that if Mr. Martinez cooperated, there would be fewer criminal penalties and he would not lose his residency.

64. Defendant Latschar returned to the passenger-side window and directed Ms. Martinez to exit the van again. Defendant Latschar told Ms. Martinez that he believed the drive shaft had been modified by someone who was not a professional. Ms. Martinez said that her family had not modified the drive shaft, and that she had no knowledge of any such modifications.

65. Defendant Latschar told Ms. Martinez that if she told him "the truth," she would not go to jail and she would not have to figure out what to do with her children. Ms. Martinez began to cry after Defendant Latschar threatened to separate her from her children.

66. A.I.M.'s cries continued and Ms. Martinez asked Defendant Latschar if they could leave, pointing out that A.I.M. was very upset. Defendant Latschar said that the family was not free to leave until they told him "the truth." Ms. Martinez told Defendant Latschar that she was telling him the truth. At this point, Defendant Latschar was still in possession of the passports, residency cards, and immigration documents belonging to the Plaintiffs and the van's other occupants.

67. The drive shaft on the Martinez family's van had been modified and did not appear to be modified. No reasonable officer, inspecting the underside of the Martinez family's vehicle, would believe that the drive shaft had been modified or tampered with. Indeed,

as set forth below, the HCSO itself later determined that the drive shaft had not been tampered with.

68. Defendant Latschar detained the Martinez family inside of I-10 for approximately two hours while holding their important personal documents and searching and inspecting the van. Throughout the course of this roadside stop and detention, on multiple occasions, Defendant Latschar threatened Mr. Martinez with revoking his permanent residency if he was not truthful or cooperative.

69. Throughout the roadside detention, Plaintiffs believe that if they attempted to leave, Defendant Latschar would use force to continue detaining Plaintiffs.

70. A.I.M. cried throughout most of the roadside detention. He remained inconsolable even after Ms. Martinez gave him an anti-anxiety medication which he had been prescribed by his doctor.

71. Upon information and belief, Defendant Latschar sub

74. After Defendant Latschar inspected the undercarriage of Plaintiffs' vehicle, Hancock County Sheriff's Deputy Abe Long, wearing an officer uniform, arrived to the roadside in a marked vehicle belonging to the HCSO.

75. Defendant Latschar asked Defendant Long to corroborate his claims about the van's drive shaft. Defendant Long knelt under the van and inspected the undercarriage.

76. Defendant Long, together with Defendant Latschar, aided Plaintiffs on the side of I-10 for at least 15 minutes following Defendant Long's arrival on the scene. Throughout the time he was present, Defendant Long could hear crying in the backseat of the Martinez family's van.

77. Although a drug detection dog was present in at least one of the HCSO vehicles, at no point during the roadside detention was the dog used to inspect the Martinez family's van.

78. Based on the words and actions of Defendants Latschar and Long, the Martinez family did not believe they were free to leave at any point during the roadside detention.

#### Detention at the Hancock County Sheriff's Office

79. After Defendant Long arrived at the scene of the traffic stop of the Martinez family, Defendants Latschar and Long contacted Detective William Covington, a lieutenant employed by the HCSO. Defendant Latschar sent photos of the undercarriage of the Martinez family's van to Defendant Covington. Defendants Covington, Latschar, and Long decided that Defendants Latschar and Long should transport the Martinez family, the van's other occupants, and the van itself to the HCSO to conduct another search of the vehicle for evidence of criminal activity.

80. No warrant existed for a search of Plaintiffs' van, and there was no probable cause to believe that the vehicle contained evidence related to illegal conduct. Plaintiffs were not



asked for their consent for another search of the vehicle, and no Plaintiff or other occupant of the vehicle consented to this search.

81. Defendant Latschar told Mr. Martinez that he and his family were required to go with Defendants Latschar and Long to the HCSO. Defendant Latschar ordered Mr. Martinez to follow Defendant Latschar's vehicle. Defendant Latschar pulled his vehicle in front of the Martinez family's van and Defendant Long pulled his vehicle behind the van to ensure that the Martinez family would be forced to follow Defendant Latschar's car. Defendants Long and Latschar then escorted the Martinez family to the HCSO.

82. Mr. Martinez drove the van behind Defendant Latschar to the HCSO under duress. During this time, Defendant Latschar maintained possession of Mr. Martinez's permanent residency card, Ms. Martinez's passport, passports belonging to the Martinez children, and the immigration documents of the occupants of the van. Defendant Latschar had also repeatedly threatened the Martinez family with severe legal consequences, including jail, separation of Ms. Martinez from her children, and stripping Mr. Martinez of his legal permanent residency. Mr. Martinez and Ms. Martinez reasonably believed that if they refused to follow Defendants Latschar and Long to the HCSO, the Defendants would have used force to require them to travel to the HCSO.

83. At this point, and at all times during the events described in this Complaint, no warrant existed for the arrest of any of the Plaintiffs or any other occupant of the Martinez family's vehicle.

84. At this point, and at all times during the events described in this Complaint, no reasonable suspicion or probable cause existed for the detention of any of the Plaintiffs or any other occupant of the Martinez family's vehicle.

85. At this point, and at all times during the events described in this Complaint, no warrant or probable cause existed for the search of the Martinez family's vehicle.

86. The drive to the HCSO lasted between 10 and 20 minutes. During this time, A.I.M. continued to cry.

87. During the drive to the HCSO, Ms. Martinez contacted the family's immigration lawyer, Rachel Efron Sharma, to say that the family is being taken to the HCSO.

88. Mr. Martinez drove behind Defendant Latschar's vehicle. Defendant Latschar entered the back of the HCSO building into an area surrounded by a fence. Defendant Latschar drove through a gate into the fenced area. The area is located at 3603(d)-0.980927( )-30.550663Tarch4t I26(f)3264(t) TJ 23(a)s

Martinez tried to comfort her family even though she was also worried about what would happen to them and to her husband.

94. While the Martinez family was being detained at the HCSO, Ms. Effron Sharma called the HCSO and spoke to an official employee of the HCSO. Ms. Effron Sharma challenged the legality of the family's detention and demanded that they be released. The official said he had authorized the search of the family's vehicle. Ms. Effron Sharma asked what provided probable cause for the search, and the official did not answer her question. Upon information and belief, the official to whom Ms. Effron Sharma spoke was Defendant Covington.

95. After being detained in the room for more than an hour, Ms. Martinez called 9-1-1. She informed 9-1-1 dispatch that she was in Hancock County Sheriff's Office and she and her family were locked in a room and could not leave, and that they wanted to leave. Soon after Ms. Martinez called 9-1-1, Defendant Latschar unlocked the door to the room and informed Ms. Martinez that they were free to leave. Prior to that moment, none of the Plaintiffs had been told that they were free to leave.

96. While Ms. Martinez and her children were being escorted to the room, Defendant Latschar directed Mr. Martinez to stay inside the family's van.

97. Defendant Latschar told Mr. Martinez that if Mr. Martinez told him what Mr. Martinez had and where it was hidden, the consequences would be less severe for Mr. Martinez. Mr. Martinez replied again that he did not have anything illegal.

98. Defendant Latschar directed Mr. Martinez to drive to an area that appeared to be a garage. After parking the van inside the garage, Mr. Martinez was escorted by deputies to an area



105. The HCSO concluded that the drive shaft on the ~~Maz~~ family's van had not been tampered with.

106.

Plaintiffs Suffered Loss of Freedom and Emotional Distress

114. As a direct, proximate result of the unlawful actions of Defendants, Plaintiffs suffered loss of freedom, significant emotional distress, and other injuries.

115. Plaintiffs suffered loss of freedom as a result of being unlawfully detained by Defendants for a total of approximately four hours, including by the side of I-10, while driving to the HCSO, and at the HCSO.

116. Plaintiffs suffered pain and suffering, emotional distress, humiliation, and mental anguish as a result of being unlawfully detained by Defendants, and as a result of the unlawful search of their vehicle by Defendant Latschar.

117. Plaintiffs experienced distress and fear based on threats of revocation of Mr. Martinez's legal residency and potential separation from his family, as well as threats by Defendant Latschar that Ms. Martinez would be separated from her children if she did not agree with his allegations that the family was engaged in criminal conduct.

118. Following the June 3, 2017 incident, the entire family has become fearful and mistrustful of law enforcement. The Martinez children have experienced increased anxiety and fear when traveling. They have expressed fear that their father could be deported by law enforcement officers.

119. Since June 3, 2017, Ms. Martinez worries frequently that her husband's permanent residency could be at risk as the result of another abuse of authority by law enforcement. Ms. Martinez has lost her peace of mind as well as her trust in law enforcement.

120. All of the damages alleged in this Complaint are the result of the Defendants' unlawful actions.







133.

139.

145. Defendants Latschar, Long and Covington caused the transportation of Plaintiffs and their vehicle to the HCSO, and27

Count VI  
Fourth and Fourteenth Amendments to the U.S. Constitution—  
Unreasonable Seizure/False Arrest in Detaining Plaintiffs at the HCSO  
(42U.S.C. § 1983)  
On Behalf of Plaintiffs Stephanie Martinez, A.M.M., A.I.M., and E.A.M.  
Against Defendant John Doe #1

151. The detention of Plaintiffs Stephanie Martinez, A.M.M., A.I.M., and E.A.M. in a room in the HCSO, as set forth in paragraphs 89 through 95 above, constituted a seizure within the meaning of the Fourth Amendment. Plaintiffs' seizure constituted an arrest for which probable cause was required.

152. Defendant Doe #1 caused the seizure and detention of Plaintiffs Stephanie Martinez, A.M.M., A.I.M., and E.A.M. in a room at the HCSO when he escorted Plaintiffs to the room and locked the door.

153. Defendant Doe #1 did not have objectively reasonable suspicion or probable cause to believe that an offense had been or was being committed by any of these Plaintiffs, or probable cause to believe the Martinez family's vehicle contained evidence of illegality. It was not reasonable for Defendant Doe #1 to believe that reasonable suspicion or probable cause existed for Plaintiffs' detention.

154. Defendant Doe #1's actions in causing Plaintiffs' d

155. When Plaintiff Marcos Martinez was directed to sit in the backseat of a HCSO vehicle, and when he was guarded while in the vehicle and while using the bathroom, as set forth in paragraphs 100 through 107 above, Mr. Martinez w

160. As set forth in paragraphs 23 through 113, Defendant Latschar purposefully discriminated against Mr. Martinez, A.I.M., E.A.M. and A.M.M. based on their race, color, national origin, and ethnicity, and he purposefully discriminated against Ms. Martinez based on his perception of her race, color, national origin and ethnicity and her association with Mr. Martinez and their children.

161. As set forth in paragraphs 23 through 113, Defendant Latschar detained, questioned, and searched Plaintiffs because he perceived them to be Latino and of Mexican descent. During his extended detention of Plaintiff, Defendant Latschar questioned Plaintiffs regarding their immigration status, demanded and inspected documents reflecting their lawful presence in the United States, stated that he was looking for "illegals," and repeatedly threatened Mr. Martinez by telling him that he would lose his lawful permanent residency if he did not cooperate.

162. Defendant Latschar did not subject Caucasian men who were similarly situated to Plaintiffs, to detentions as lengthy or as invasive as that to which he subjected Plaintiffs.

163. By purposefully detaining, questioning, and searching Plaintiffs and subjecting them to different, burdensome and injurious treatment because of their actual or perceived race, color, national origin, and ethnicity, Defendant Latschar violated Plaintiffs' clearly-established rights under the Equal Protection Clause of the Fifth Amendment to the U.S. Constitution.

164. Defendants Latschar, Long, Covington, Doe #1 and Doe #2 caused Plaintiffs to be falsely imprisoned, in violation of Mississippi common law, while these Defendants were acting in the course and scope of their employment by HCSO.

165. Hancock County, Mississippi is responsible for the actions of its employees under the Mississippi Tort Claims Act. Miss. Code Ann. § 13-46-1 et seq

166. Defendant Latschar falsely imprisoned Plaintiffs by detaining them on the roadside of I-10 for approximately two hours without reasonable suspicion or probable cause to believe that an offense had been or was being committed, as set forth in paragraphs 23 through 80 above.

167. Defendant Latschar falsely imprisoned Plaintiffs by transporting them to the HCSO and causing them to be detained there for approximately two hours, without reasonable suspicion or probable cause to believe that an offense had been or was being committed, as set forth in paragraphs 79 through 113 above.

168. Defendant Long falsely imprisoned Plaintiffs by detaining them on the roadside of I-10, transporting them to the HCSO, and causing them to be detained at the HCSO for approximately two hours, without reasonable suspicion or probable cause to believe that an offense had been or was being committed, as set forth in paragraphs 74 through 113 above.

169. Defendant Covington falsely imprisoned Plaintiffs by deciding, together with Defendants Latschar and Long, to transport Plaintiffs to the HCSO and causing their continued detention there for approximately two hours, without probable cause to believe that an offense

170. Defendant Doe #1 falsely imprisoned Ms. Martinez, M.A.M., A.I.M., and E.A.M. by detaining them in a room in the HCSO, as set forth in paragraphs 89 through 95 above, without probable cause to believe that an offense had been or was being committed.

171. Defendant Doe #2 falsely imprisoned Mr. Martinez by detaining him at the HCSO, as set forth in paragraphs 100 through 107 above, without probable cause to believe that an offense had been or was being committed.

172. During each of the aforementioned detentions by Defendants Latschar, Long, Covington, Doe #1 and Doe #2, Plaintiffs were subjected to reasonable apprehended force. Defendants' words and actions during Plaintiffs' detention made clear to Plaintiffs that they were not free to leave the scene.

173. The actions of Defendants Latschar, Long, Covington, Doe #1 and Doe #2 in detaining Plaintiffs were objectively unreasonable in their nature, purpose, extent and duration.

174. In falsely imprisoning Plaintiffs, Defendants Latschar, Long, Covington, Doe #1 and Doe #2 acted in reckless disregard of the safety and well-being of Plaintiffs, who were not engaged in criminal activity.

Count X  
False Arrest  
(Mississippi Common Law and Mississippi Tort Claims Act)  
On Behalf of All Plaintiffs Against Defendant Hancock County, Mississippi



177. Defendants Latschar, Long and Covington caused the arrest of Plaintiffs by causing them to be transported to the HCSO and held there for approximately two hours, without probable cause to believe that an offense had been or was being committed, as set forth in paragraphs 79 through 113 above.

178. Defendant Doe #1 falsely arrested Plaintiffs A.M., M.I.M., E.A.M., and Ms. Martinez by detaining them in a room at the HCSO, as set forth in paragraphs 89 through 95 above, without probable cause to believe that an offense had been or was being committed.

179. Defendant Doe #2 falsely arrested Mr. Martinez by detaining him at the HCSO, as set forth in paragraphs 100 through 107 above, without probable cause to believe that an offense had been or was being committed. w.5113(b)-07348(e)3.13603( )250]TJ -249.128 -27.6 Td [(h)19.0571(a)3.13603(d)-0.97. n

- E. Reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988 and 28 U.S.C. § 1920 and as otherwise permitted by law; and
- F. Such other and further relief that the Court may deem just.

Dated: November 7, 2018

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