

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

Luis Roberto Rodriguez Trevino  
c/o Gerhardstein & Branch, Co. LPA  
617 Vine Street Suite 1409  
Cincinnati, OH 45202

Plaintiff,

v.

RICHARD K. JONES,  
Sheriff  
Butler County Sheriff's Office  
705 Hanover Street  
Hamilton, OH 45011

Individually and in his official capacity as  
an employee of Butler County County

and

ROBERT E. MEDELLIN  
Butler County Sheriff's Office  
705 Hanover Street  
Hamilton, OH 45011

Individually and in his official capacity as  
an employee of Butler County County

and

DANIEL BERTER  
Butler County Sheriff's Office  
705 Hanover Street  
Hamilton, OH 45011

Individually and in his official capacity as  
an employee of Butler County

and

BUTLER COUNTY, OHIO  
315 High Street  
Hamilton, OH 45011,

: Case No. 1:08-cv-339

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: Judge Weber

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: Magistrate Judge

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: COMPLAINT AND JURY DEMAND

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**Defendants.**

**I. PRELIMINARY STATEMENT**

1. This case challenges the profiling of Hispanic workers by Defendant Sheriff K. Jones and his employees. Defendants tricked plaintiff when two county officials pretended to exercise federal immigration authority and then prosecuted plaintiff without probable cause and without respecting his right to due process. Plaintiff was acquitted of the crime alleged by Defendants but now faces separation from his children and wife through deportation after many years as a productive, taxpaying worker. The plaintiff seeks compensation for his injuries and hopes through this lawsuit to ensure that no other Hispanic workers are subject to such humiliating and dishonest tactics.

**II. JURISDICTION**

2. This court has subject matter jurisdiction under 28 U.S.C. §§ 1331, 1343(3) and 1343(4).

**III. PARTIES**

3. Plaintiff Luis Roberto Rodriguez Trevino (hereafter “Mr. Rodriguez”) was at all times relevant to this action, a resident of Warren County, Ohio. Mr. Rodriguez’s national origin is Mexican; he is a citizen of Mexico and his ethnicity is Hispanic.
4. Defendant Richard K. Jones was at all times relevant to this action, Sheriff of Butler County, Ohio. Defendant Jones is white and is sued in his individual and official capacities.

5. Defendant Robert Medellin was at all times relevant to this action, an employee of Butler County, Ohio, assigned to work under the Butler County Sheriff. Defendant Medellin is Hispanic and is sued in his individual and in his official capacities.
6. Defendant Daniel Berter was at all times relevant to this action, an employee of Butler County, Ohio, assigned to work under the Butler County Sheriff. Defendant Berter is white and is sued in his individual and in his official capacities.
7. Butler County is a unit of local government organized under the laws of the State of Ohio.

#### **IV. STATEMENT OF FACTS**

##### **A. Plaintiff Rodriguez is a Hardworking Taxpayer**

8. Plaintiff Luis Rodriguez is married and has two minor children. He has been married for eighteen years. He has lived in Ohio for eleven years. His children were born in Mexico and attend school in Warren County, Ohio.
9. Mr. Rodriguez has worked in Ohio for many years and regularly paid income taxes on his wages. Mr. Rodriguez is one of approximately twelve million foreign born undocumented workers who provide important services to this nation.
10. In 1995 Congress recognized the value of taxpayers such as Mr. Rodriguez by establishing the ITIN program through which undocumented workers can pay taxes without a social security number. Mr. Rodriguez supports this Country by paying his taxes under the ITIN program.
11. Mr. Rodriguez seeks to remain in the United States to avoid the religious persecution he and his family would face in Mexico; to avoid the drug violence in his community in Mexico; to avoid the inadequate schools and health care in his community in

Mexico and because his home in Mexico has been occupied by squatters and he would have no place to live should he return.

12. Immigration laws are enforced in this country by the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE).
13. Typically, federal ICE investigators who enter jobsites verify a worker's status by examining the I-9 Employment Eligibility Verification document on file with an employer.
14. At all times relevant to this lawsuit, state and local government employees were not authorized by federal law to investigate immigration status or require employers to produce I-9 forms.

**B. Defendants Conducted an Illegal Raid on Working Hispanics**

15. On January 2, 2007, plaintiff was working as a laborer on a construction site at 8514 Port Union Road in Hamilton, OH.
16. On that date, Defendant Medellin was a civilian working as an immigration specialist in the Butler County Sheriff's office.
17. On that date, Defendant Berter was a deputy sheriff working in the Butler County Sheriff's Office.
18. At Approximately 10:00 a.m. on January 2, 2007, Defendant Medellin, in civilian clothes, carrying a sidearm and a badge that improperly identified him as a Deputy Sheriff of Butler County, and Berter, in uniform, entered the construction worksite at 8514 Port Union Road.

19. Defendants Medellin and Berter instructed all Hispanic persons, including Mr. Rodriguez, gather in a construction trailer. These persons were addressed as a group and interviewed individually.
20. Defendants Medellin and Berter demanded identification papers from all of the Hispanic workers.
21. Defendant Medellin interrogated Mr. Rodriguez in Spanish and stated that he had 30 years experience in immigration enforcement.
22. Plaintiff Rodriguez reasonably believed that Defendant Medellin and Berter were authorized to enforce federal immigration laws.
23. Plaintiff Rodriguez also reasonably believed that he was not free to leave the worksite while the officers were proceeding with their investigation.
24. Defendants Medellin and Berter did not provide any *Miranda* warnings to Mr. Rodriguez before proceeding with an interrogation of Mr. Rodriguez.
25. Under interrogation, Mr. Rodriguez produced a valid Ohio driver license as identification.
26. Defendant Medellin pressed further and directly asked Mr. Rodriguez if he was “illegal” and Mr. Rodriguez answered “yes.”
27. Due to the continued questioning, Mr. Rodriguez provided to Defendant Medellin two additional documents, a resident alien card and a social security card, stating to Defendant Medellin that the documents were fake and that he had purchased them from a third person.
28. Mr. Rodriguez was not using the resident alien card or social security card for work as he employed a valid driver license and an ITIN number.

29. Defendants nonetheless charged Mr. Rodriguez with a felony of the Fifth degree, forgery, and arrested him.

30. Defendant Berter failed to protect Mr. Rodriguez from the violations imposed by Defendant Medellin.

31. Plaintiff Rodriguez was acquitted of the criminal charges on February 4, 2008.

32. Plaintiff has nonetheless been referred to the federal ICE authorities and is facing separation from his family and deportation.

**C. Defendants' Policy of Discrimination and Failure to Act on Probable Cause**

33. Defendants acted without probable cause in entering the worksite and questioning the Hispanic workers including Mr. Rodriguez.

34. The actions of Defendants Jones, Medellin, Berter, and Butler County were motivated by a discriminatory animus directed to persons, including plaintiff, of Hispanic ethnicity and/or Mexican national origin.

35. Defendants Medellin and Berter and Jones acted pursuant to the policies, practices, customs and usages of Butler County and Sheriff Jones with respect to their conduct in this case.

36. Defendants acted negligently, intentionally, recklessly, knowingly, maliciously, willfully, callously and with deliberate indifference to the rights of plaintiff Rodriguez.

37. The conduct of Defendants in tricking plaintiff into thinking Defendant Medellin exercised authority as a federal agent and then proceeding with a prosecution on these facts represents an abuse of power and shocks the conscience.

38. Defendant Jones, in his official and individual capacity as the Sheriff of Hamilton County, did act and became responsible for the actions of Defendants Medellin and Berter when he failed to discipline them following this incident, ratified their conduct, and failed to properly train them appropriately in investigations.
39. Butler County has also ratified the conduct of Defendants Medellin and Berter and is liable for failing to properly train its employees in appropriate investigations.
40. At all times relevant to this action, Butler County has maintained or constituted a program or activity that receives federal financial assistance for the United States Department of Justice. Thus, defendant County is subject to the requirements of 42 U.S.C. §2000d *et seq.* and 28 CFR §42.101 *et.seq.* Plaintiff is an intended beneficiaries of such program or activity.

**D. Injuries**

41. As a result of the actions by Defendants, plaintiff was detained at the Butler County Jail; incurred extensive attorney fees, lost wages, humiliation, embarrassment, mental suffering, and is facing deportation, including permanent separation from his wife and minor children.

**V. FIRST CAUSE OF ACTION - 42 U.S.C. § 1983**

42. The defendants, acting under the color of state law, subjected Mr. Rodriguez to a violation of his right to equal protection, a violation of his right not to incriminate himself, a violation of his right to due process of law, a violation of his right not to be searched or seized without probable cause, all protected by the Fourth, Fifth and Fourteenth Amendments to the United States Constitution.

**VI. SECOND CLAIM – TITLE VI,  
FEDERAL CIVIL RIGHTS ACT AND REGULATIONS**

43. The defendant Butler County has violated rights secured to the members of the plaintiff class by 42 U.S.C. §2000d *et seq.* and 28 CFR §42.101 *et.seq.*

**VII. THIRD CAUSE OF ACTION – ABUSE OF PROCESS**

44. Defendants employed the criminal process against plaintiff with malice and for an improper purpose, causing injury to the plaintiff.

**VIII. FOURTH CAUSE OF ACTION – MALICIOUS PROSECUTION**

45. Defendants initiated the criminal proceedings for forgery against plaintiff without probable cause, and out of malice, hatred, and ill will toward plaintiff for the purpose of harassing and embarrassing him, and caused him injury.

**IX. JURY DEMAND**

46. Plaintiff hereby demands a trial by jury of all issues triable by a jury.

**X. PRAYER FOR RELIEF**

WHEREFORE, plaintiff demands that this Court:

- A. Award compensatory damages against defendants in an amount to be shown at trial;
- B. Award punitive damages against the individual defendants (not the County) in an amount to be shown at trial;
- C. Award plaintiff reasonable attorney's fees, costs, and disbursements;
- D. Grant plaintiff such additional relief as the Court deems just and proper.

Respectfully submitted,

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