

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ANDRES RAMIREZ-MARTINEZ, MANUEL
URIOSTEGUI, and ERICSON GONZALES,

Plaintiffs,

vs.

UNITED STATES IMMIGRATION AND CUSTOMS
ENFORCEMENT; THOMAS S. WINKOWSKI,
Principal Deputy Assistant Secretary of the
U.S. Immigration and Customs Enforcement;
UNITED STATES DEPARTMENT OF HOMELAND
SECURITY; JEH JOHNSON, Secretary of
Homeland Security; NATHALIE R. ASHER,
Director of the Seattle Field Office of U.S.
Immigration and Customs Enforcement,

Defendants.

NO.

COMPLAINT FOR INJUNCTIVE AND
DECLARATORY RELIEF

I.
INTRODUCTION

1. The Plaintiffs are being held at the Northwest Detention Center under the custody of Defendant Immigration and Customs Enforcement ("ICE").

2. Plaintiffs, who are without any economic or social power, sought to exercise their First Amendment rights of free speech and petitioning the government about this

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF - 1 of 13

()
[100086128.docx]

LAW OFFICES
GORDON THOMAS HONEYWELL LLP
1201 PACIFIC AVENUE, SUITE 2100
TACOMA, WASHINGTON 98402
(253) 620-6500 - FACSIMILE (253) 620-6565

1 country's immigration policies and the conditions of their forced detentions at the
2 Northwest Detention Center.

3 3. ICE, and its parent agency, Defendant Department of Homeland Security
4 ("DHS") have retaliated against and acted arbitrarily towards Plaintiffs for exercising
5 their right of free speech and their right to petition the government.
6

7
8 **II.**
JURISDICTION

9 4. This Court has subject-matter jurisdiction over this matter under 28 U.S.C.
10 § 1331 (federal question) and 28 U.S.C. §§ 2201 and 2202 (declaratory relief).

11
12 **III.**
VENUE

13 5. Venue is proper in the Western District of Washington under 28 U.S.C.
14 §§ 1391(b) and (e) because a substantial part of the events and omissions giving rise to
15 Plaintiffs' claims occurred, and continue to occur, in this District.

16
17 **IV.**
PARTIES

18 6. Plaintiff Andres Ramirez-Martinez is being held in custody at the Northwest
19 Detention Center in Tacoma, Washington by ICE.

20 7. Plaintiff Manuel Uriostegui is being held in custody at the Northwest
21 Detention Center in Tacoma, Washington by ICE.

22 8. Plaintiff Ericson Gonzales is being held in custody at the Northwest
23 Detention Center in Tacoma, Washington by ICE.

24 9. Defendant ICE is a federal law enforcement agency within DHS. ICE is
25 responsible for the criminal and civil enforcement of the immigration laws, including the
26 detention, incarceration and removal of immigrants. ICE discharges its responsibility for

1 incarceration of immigrants by (1) promulgating detention standards to be followed in
2 the facilities in which immigrants are held pending removal hearings, and (2) contracting
3 with the government entities and private corporations that operate detention facilities,
4 including the Northwest Detention Center. Enforcement and Removal Operations
5 ("ERO"), a division of ICE, manages and oversees the immigration detention system. ICE
6 contracts with the GEO Group, Inc. to handle the daily operations for the Northwest
7 Detention Center.
8

9 10. Defendant Thomas S. Winkowski is the Principal Deputy Assistant
10 Secretary of ICE. As Principal Deputy Assistant Secretary, Defendant Winkowski is
11 responsible for ICE's policies, practices and procedures, including those relating to the
12 detention of immigrants during their removal procedures.

13 11. Defendant DHS is the arm of the federal government responsible for the
14 enforcement and administration of immigration laws.

15 12. Defendant Jeh Johnson is the Secretary and highest-ranking member of
16 DHS. As Secretary of DHS, Defendant Johnson is responsible for DHS's policies,
17 practices, and procedures and exercises authority and oversight over ICE.
18

19 13. Defendant Nathalie R. Asher is the Field Office Director for the Seattle Field
20 Office of ICE. The Seattle Field Office is responsible for carrying out ICE's immigration
21 detention and removal operations in Alaska, Oregon, and Washington State. As Director,
22 Defendant Asher oversees the Seattle Field Office's functions and implementations of its
23 detention standards.

24 14. Defendants Winkowski, Johnson, and Asher are sued only in their official
25 capacities.
26

V.
FACTS

15. On Friday, March 7, 2014, some of the detainees incarcerated in the Northwest Detention Center in Tacoma, Washington went on a hunger strike to express their strong beliefs that this country's immigration laws and policies result in injustices upon many immigrant families and communities. Through hunger striking they also sought to raise awareness about conditions in the Northwest Detention Center ("NWDC").

16. By March 21, 2014 many detainees had ended their hunger strikes, except for two detainees who had been placed in medical isolation.

17. Beginning Monday, March 24, 2014, a number of the detainees in the F-3 unit of the NWDC went on another hunger strike to raise awareness about concerns they have with national immigration policies and conditions at the NWDC.

18. Upon information and belief, the detainees voluntarily engaged in the hunger strikes and did not force others to join them.

19. The hunger strike was peaceful and did not disrupt the operation of the NWDC.

20. On Thursday, March 27, 2014 several corrections officers entered the F-3 unit. They took one of the detainees for what they said was a meeting with an assistant warden.

21. The corrections officers returned to take other detainees to the "meeting." Many of the detainees participating in the hunger strike asked the officers if they could join the meeting because they wanted to tell the assistant warden about their concerns and grievances. The officers took those detainees from F-3 to participate in the "meeting" with the assistant warden. There was never going to be a meeting with the

1 assistant warden. Instead, the detainees were immediately incarcerated in
2 administrative segregation.

3 22. Defendants never told Plaintiffs that if they engaged in a hunger strike that
4 they would be placed in solitary confinement.

5 23. ICE's policy on hunger strikes does not permit NWDC to place hunger
6 striking detainees in solitary confinement for reasons other than medical observations.

7
8 **A. Plaintiff Ericson Gonzales**

9 24. Plaintiff Gonzales was one of the detainees who voluntarily participated in
10 the hunger strike in order to express his views.

11 25. Mr. Gonzales did not ask to attend the "meeting" with the assistant
12 warden. Nonetheless, a guard ordered Mr. Gonzales to go.

13 26. As soon as Mr. Gonzales was out of the F-3 unit, he was handcuffed and
14 placed in administrative segregation.

15 27. Mr. Gonzales has remained in solitary confinement since March 27, 2014.

16 28. Since March 27, 2014 Mr. Gonzales has spent 23 hours a day, in isolation,
17 in a cell that only has a bed, a toilet, and a sink.

18 29. Mr. Gonzales has only been let out of the isolation cell for one hour a day to
19 go to a small "yard."

20 30. Mr. Gonzales has only been allowed to shower three times a week.

21 31. Mr. Gonzales is prohibited from participating in any programming activities.

22 32. Mr. Gonzales was given an "Administrative Detention Order" on March 27,
23 2014. Attached as Exhibit "A" is a copy of the Order.

24 33. The Order states that Mr. Gonzales "is a security risk to him/herself or the
25 security of the facility."
26

1 34. The Order provides, as details: "You have been identified by staff as a
2 principle [sic] party to intimidating others into not eating. Therefore for the security and
3 safety of the detainees in the affected housing units, you are being placed in Protective
4 Custody."

5 35. ICE's administrative segregation policy 2.12 at 183 provides that "all
6 memoranda, medical reports and other relevant documents shall be attached to the
7 administrative segregation order." No documents were attached to the Administrative
8 Detention Order.

9 36. ICE policy provides, regarding protective custody that: "A detainee shall be
10 placed in 'protective custody' status in administrative segregation only when there is
11 documentation and supervisory approval that it is necessary to protect a detainee from
12 harm and that no reasonable alternatives are available." No documents were attached
13 to the Administrative Detention Order to support Mr. Gonzales's placement in
14 administrative segregation for protective custody.

15 37. Mr. Gonzales was never given any information as to what he allegedly did
16 to intimidate others to go on a hunger strike. Mr. Gonzales never intimidated anyone to
17 do so. Mr. Gonzales has not been given an opportunity to challenge this allegation or to
18 challenge his being kept in solitary confinement.

19 38. No one has told Mr. Gonzales how long he will be in solitary confinement.

20 39. No one has told Mr. Gonzales what he has to do to return to the general
21 population. Once he was thrown into solitary confinement, Mr. Gonzales stopped
22 engaging in his free speech and petitioning the government activities. Despite doing so,
23 he is still in solitary confinement.
24
25
26

1 **B. Plaintiff Manuel Uriostegui**

2 40. Beginning Monday, March 24, 2013 Plaintiff Uriostegui went on a hunger
3 strike to express his concerns about the national immigration policies and the conditions
4 at the Northwest Detention Center.

5 41. On Thursday, March 27, 2014 Mr. Uriostegui was asked to attend to attend
6 a meeting with the assistant warden so he could express his concerns and grievances.

7 42. As soon as the officers had Mr. Uriostegui outside of F-3 they put him in
8 handcuffs and placed him in administrative segregation.

9 43. Since March 27, 2014 Mr. Uriostegui has spent 23 hours a day, in
10 isolation, in a cell that only has a bed, a toilet, and a sink.

11 44. Mr. Uriostegui has only been let out of the isolation cell for one hour a day
12 to go to a small "yard."

13 45. Mr. Uriostegui is only allowed to shower three times a week.

14 46. Mr. Uriostegui is prohibited from participating in any programming
15 activities.

16 47. Mr. Uriostegui was given an "Administrative Detention Order" on March 27,
17 2014. Attached as Exhibit "B" is a copy of the Order.

18 48. The Order states that Mr. Uriostegui "is a security risk to him/herself or the
19 security of the facility."

20 49. The Order provides, as details: "You have been identified by staff as a
21 principle [sic] party to intimidating others into not eating. Therefore for the security and
22 safety of the detainees in the affected housing units, you are being placed in Protective
23 Custody."
24
25
26

1 50. ICE's administrative segregation policy 2.12 at 183 provides that "all
2 memoranda, medical reports and other relevant documents shall be attached to the
3 administrative segregation order." No documents were attached to the Administrative
4 Detention Order.

5 51. ICE policy provides, regarding protective custody that: "A detainee shall be
6 placed in 'protective custody' status in administrative segregation only when there is
7 documentation and supervisory approval that it is necessary to protect a detainee from
8 harm and that no reasonable alternatives are available." No documents were attached
9 to the Administrative Detention Order to support Mr. Uriostegui's placement in
10 administrative segregation for protective custody.

11 52. Mr. Uriostegui was never given any information as to what he allegedly did
12 to intimidate others to go on a hunger strike. Mr. Uriostegui never intimidated anyone to
13 go on a hunger strike. Mr. Uriostegui has not been given an opportunity to challenge this
14 allegation or to challenge his being kept in solitary confinement.

15 53. No one has told Mr. Uriostegui how long he will be in solitary confinement.

16 54. No one has told Mr. Uriostegui what he has to do to return to the general
17 population.

18 55. Once he was thrown into solitary confinement, Mr. Uriostegui stopped
19 engaging in his free speech and petitioning the government activities. Despite doing so,
20 he is still in solitary confinement.

21
22
23 **C. Plaintiff Andres Ramirez-Martinez**

24 56. Beginning Monday, March 24, 2014 Plaintiff Ramirez-Martinez went on a
25 hunger strike to express his concerns about this nation's immigration policies and laws
26 and the conditions of imprisonment at the Northwest Detention Center.

1 57. Mr. Ramirez-Martinez was a food porter in unit F-3.

2 58. Mr. Ramirez-Martinez never coerced any other detainee to go on a hunger
3 strike. In fact, during the time that Mr. Ramirez-Martinez was on a hunger strike, he still
4 served meals to detainees where were not engaging in a hunger strike.

5 59. On Thursday, March 27, 2014, when the guards were taking detainees to
6 the "meeting" with the assistant warden, Mr. Ramirez-Martinez went and sat on his bed.
7 A guard pointed to Mr. Ramirez-Martinez and directed him to join the group.

8 60. As soon as the guards had Mr. Ramirez-Martinez outside of unit F-3, they
9 handcuffed him and placed him in administrative segregation.

10 61. Since March 27, 2014 Mr. Ramirez-Martinez has spent 23 hours a day, in
11 isolation, in a cell that only has a bed, a toilet, and a sink.

12 62. Mr. Ramirez-Martinez has only been let out of the isolation cell for one hour
13 a day to go to a small "yard."

14 63. Mr. Ramirez-Martinez is only allowed to shower three times a week.

15 64. Mr. Ramirez-Martinez is prohibited from participating in any programming
16 activities.

17 65. Mr. Ramirez-Martinez was given an "Administrative Detention Order" on
18 March 27, 2014. Attached as Exhibit "C" is a copy of the Order.

19 66. The Order states that Mr. Ramirez-Martinez "is a security risk to
20 him/herself or the security of the facility."

21 67. The Order provides, as details: "You have been identified by staff as a
22 principle [sic] party to intimidating others into not eating. Therefore for the security and
23 safety of the detainees in the affected housing units, you are being placed in Protective
24 Custody."
25
26

1 68. ICE's administrative segregation policy 2.12 at 183 provides that "all
2 memoranda, medical reports and other relevant documents shall be attached to the
3 administrative segregation order." No documents were attached to the Administrative
4 Detention Order.

5 69. ICE policy provides, regarding protective custody that: "A detainee shall be
6 placed in 'protective custody' status in administrative segregation only when there is
7 documentation and supervisory approval that it is necessary to protect a detainee from
8 harm and that no reasonable alternatives are available." No documents were attached
9 to the Administrative Detention Order to support Mr. Ramirez-Martinez's placement in
10 administrative segregation for protective custody.

11 70. Mr. Ramirez-Martinez was never given any information as to what he
12 allegedly did to intimidate others to go on a hunger strike. Mr. Ramirez-Martinez never
13 intimidated anyone to do so. Indeed, just the opposite: Ramirez-Martinez served
14 detainees who were not engaged in a hunger strike. Mr. Ramirez-Martinez has not been
15 given an opportunity to challenge this allegation or to challenge his being kept in solitary
16 confinement.

17 71. No one has told Mr. Ramirez-Martinez what he has to do to return to the
18 general population. No one has told Mr. Ramirez-Martinez how long he will be in solitary
19 confinement.

20 72. Once he was thrown into solitary confinement, Mr. Ramirez-Martinez
21 stopped engaging in his free speech and petitioning the government activities. Despite
22 doing so, he is still in solitary confinement.

VI.

FIRST CAUSE OF ACTION: VIOLATION OF FREEDOM OF EXPRESSION

73. The First Amendment guarantees Plaintiffs the right of freedom of speech and freedom of expression. Plaintiffs exercised their right to these protected freedoms by engaging in a hunger strike to express their views about national immigration policies and how detainees were being treated at the Northwest Detention Center.

74. Defendants violated Plaintiffs' right of freedom of speech and freedom of expression by placing them in solitary confinement in retaliation for their free speech activities.

75. Defendants' actions chilled Plaintiffs' right to freedom of speech and expression.

76. Defendants' actions did not reasonably advance a legitimate institutional goal.

77. Plaintiffs have suffered, and continue to suffer, irreparable injuries as a result of Defendants' policies, practices, and omissions and are entitled to injunctive relief to avoid further injury.

VII.

SECOND CAUSE OF ACTION: VIOLATION OF RIGHT TO PETITION THE GOVERNMENT FOR REDRESS OF GRIEVANCES

78. The First Amendment guarantees Plaintiffs the right to petition the government for redress of grievances.

79. Defendants have violated Plaintiffs' right to petition the government by incarcerating them in solitary confinement in retaliation for their attempts to bring their grievances to light.

80. Defendants' actions chilled Plaintiffs' right to freedom of speech and expression.

1 81. Defendants' actions did not reasonably advance a legitimate institutional
2 goal.

3 82. Plaintiffs have suffered, and continue to suffer, irreparable injuries as a
4 result of Defendants' policies, practices, and omissions and are entitled to injunctive
5 relief to avoid further injury.
6

7 PRAYER FOR RELIEF

8 WHEREFORE Plaintiffs requests that the Court:

9 1. Issue a temporary restraining order and preliminary relief enjoining the
10 Defendants, their subordinates, agents, employees, and all others acting in concert with
11 them from incarcerating the Plaintiffs, and those similarly situated, in administrative
12 segregation, solitary confinement, or isolation based upon the Plaintiffs engaging in free
13 speech activities and specifically including the free speech activity of engaging in a
14 hunger strike;


15 2. Issue a permanent injunction prohibiting Defendants, their subordinates,
16 agents, employees, and all others acting in concert with them from incarcerating
17 Plaintiffs, and those similarly situated, in administrative segregation, solitary
18 confinement, or isolation based upon Plaintiffs engaging in free speech activities and
19 specifically including the free speech activity of engaging in a hunger strike;
20

21 3. Enter a declaratory judgment declaring that Defendants' policies, practices,
22 acts, and omissions described in this Complaint violate Plaintiffs' rights under the United
23 States Constitution; and

24 4. Grant such further relief as the Court deems just and proper.
25
26

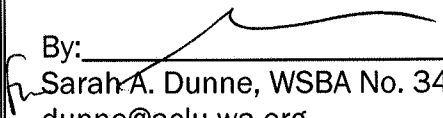
1
2
3 Dated this 2nd day of April, 2014.
4

5 GORDON THOMAS HONEYWELL LLP

6 By: 
7 Salvador A. Mungia, WSBA No. 14807
8 smungia@gth-law.com 1201 Pacific Avenue,
9 Suite 2100
Tacoma, WA 98402
(253) 620-6500

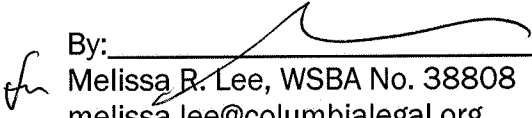
10 Cooperating Attorney for the
11 ACLU of Washington Foundation

12 ACLU OF WASHINGTON FOUNDATION

13 By: 
14 Sarah A. Dunne, WSBA No. 34869
dunne@aclu-wa.org
15 La Rond Baker, WSBA No. 43610
lbaker@aclu-wa.org
16 Margaret Chen, WSBA No. 46156
mchen@aclu-wa.org
17 901 Fifth Avenue, Suite 630
18 Seattle, WA 98164
(206) 624-2184

19 Attorneys for Plaintiffs
20
21
22
23
24
25
26

COLUMBIA LEGAL SERVICES

By: 
Melissa R. Lee, WSBA No. 38808
melissa.lee@columbialegal.org
Nicholas B. Straley, WSBA No. 25963
nick.straley@columbialegal.org
Andrea Schmitt, WSBA No. 39759
andrea.schmitt@columbialegal.org
101 Yesler Way, Suite 300
Seattle, WA 98104
(206) 464-0838

Attorneys for Plaintiffs

EXHIBIT A

Administrative Detention Order

To: Special Management Unit

Date March 27, 2014

From: Rich 12-1
(Signature of Person Authorizing Detention)

Title: LT

Medical Notified: Yes XX No

Detainee Name: GONZALES, ERICSEN

A-Number:

The above named individual is to be admitted to Administrative Detention for the following reason(s):

(A) Is pending an investigation/hearing for the commission of a prohibited act or rule violation and requires pre-hearing detention.

_____ (B) Is under medical observation (medical staff must comment and sign this order).

Medical Officer (Signature) _____

_____ (C) Is pending a transfer or release within 24 hours.

(D) Is terminating confinement in Disciplinary Segregation and has been ordered in Administrative Detention by the Institution Disciplinary Panel.

X (E) Is a security risk to him/herself or the security of the facility.

(F) Detainee has requested admission for Protective Custody

I hereby request placement in the Special Management Unit for my own protection.
I do ☒ do not ☐ request a hearing concerning my segregation.

Detainee: _____ Date: _____
(Signature)

Details (as necessary): You have been identified by staff as a principle party to intimidating others into not eating. Therefore for the security and safety of the detainees in the affected housing units, you are being placed in Protective Custody.

Copy delivered to detainee by (Signature) [Signature] Date/Time 3/27/14 1630

Original Detainee File - White

Captain's Review:

CC: Administrative File - Yellow

Detainee - Pink

PHS – Gold

ICE - Blue

Signature

Date / Time

EXHIBIT B

Administrative Detention Order

To: Special Management Unit

Date: March 27, 2014

From: Riach

Title: LI

(Signature of Person Authorizing Detention)

Medical Notified: Yes XX No

Detainee Name: URIOSTEGUI, MANUEL

A-Number:

The above named individual is to be admitted to Administrative Detention for the following reason(s):

_____ (A) Is pending an investigation/hearing for the commission of a prohibited act or rule violation and requires pre-hearing detention.

 (B) Is under medical observation (medical staff must comment and sign this order).

Medical Officer (Signature): _____

_____ (C) Is pending a transfer or release within 24 hours.

(D) Is terminating confinement in Disciplinary Segregation and has been ordered in Administrative Detention by the Institution Disciplinary Panel.

Y (E) Is a security risk to him/herself or the security of the facility.

(F) Detainee has requested admission for Protective Custody

I hereby request placement in the Special Management Unit for my own protection.

I do ☐ do not ☐ request a hearing concerning my segregation.

Detainee: _____ **Date:** _____

(Signature)

Details (as necessary): You have been identified by staff as a principle party to intimidating others into not eating. Therefore for the security and safety of the detainees in the affected housing units, you are being placed in Protective Custody.

Copy delivered to detainee by (Signature) [Signature] Date/Time 3/27/14 1630

Original: Detainee File - White

Captain's Review:

CC: Administrative File - Yellow

Detainee - Pink

PHS — Gold

ICE - Blue

Signature

Date / Time

EXHIBIT C

