

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

DELMY PINEDA CRUZ, POLYANE §
SOARES DE OLIVEIRA DOS SANTOS, and §
LILIAN CASTILLO ROSADO, §
on behalf of themselves §
and all others similarly situated, §

Plaintiffs, §

v. §

Case No. 15-CV-326

ROSE THOMPSON, §
Warden, Karnes County Residential Center; §
JUANITA HESTER, §
ICE Field Office Assistant Director, §
San Antonio District; §
ENRIQUE LUCERO, §
ICE Field Office Director, San Antonio District; §
SARAH SALDANA, §
Acting Director of ICE; §
JEH JOHNSON, §
Secretary, U.S. Department of Homeland Security; §
in their official capacities, and §
THE GEO GROUP, INC., §

Defendants. §

CLASS ACTION COMPLAINT

1. Plaintiffs are mothers who are detained with their minor children in federal immigration custody at Karnes County Residential Center in Karnes City, Texas. They bring a class action complaint to enjoin Defendants’ ongoing retaliation against Plaintiffs’ protest of their continued detention.

2. Defendants have retaliated against Plaintiffs by needlessly locking them in isolation cells, interrogating them, and threatening to separate them from their children. Plaintiffs

continue to suffer irreparable injury because they are unconstitutionally deterred from engaging in their protest. Plaintiffs bring this action to vindicate their rights under the First Amendment.

3. Plaintiffs and their minor children came to the United States seeking asylum under international law. They fled to the United States to escape widespread life-threatening violence and sexual violence in their home countries. They are in civil immigration detention pending the completion of their immigration cases.

4. United States Immigration and Customs Enforcement (“ICE”) has the legal authority to release each of these mothers and children from detention. Although Plaintiffs do not pose any flight risk or danger, ICE has chosen to keep them detained.

5. In late March, approximately eighty mothers detained at Karnes signed and circulated a petition protesting their continued detention, decrying sub-standard detention conditions, and announcing a hunger strike. Plaintiffs and other protesting mothers fed their children regularly while themselves refusing meals for several days. Plaintiffs then suspended their hunger strike to give ICE ten days to respond to their petition. After ICE failed to respond, Plaintiffs and other mothers resumed refusing meals on April 14.

6. ICE has sub-contracted the operation of the Karnes detention center to a private, for-profit company called The GEO Group, Inc. ICE officials and GEO employees have continuously retaliated against the mothers associated with the protest. They have locked mothers and children in isolation cells with their children, interrogated mothers, and taken away their work assignments. Most importantly, ICE and GEO have repeatedly threatened to separate the mothers from their children and send their children to another detention facility. These threats persist to this day.

7. Plaintiffs Delmy Pineda Cruz, Polyane Soares de Oliveira dos Santos, and Lilian Castillo Rosado seek to represent a class of all mothers detained at Karnes, now and in the future, who wish to peacefully protest their detention. They seek an injunction directing both ICE and GEO to refrain from unnecessarily locking them in isolation cells, separating them from their children, and engaging in other specific retaliatory acts.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction over this case under 28 U.S.C. § 1331 (federal question jurisdiction) and 28 U.S.C. § 2201 and § 2202 (jurisdiction to grant declaratory relief).

9. Venue in this case lies in the San Antonio Division of the Western District of Texas because all events and omissions giving rise to Plaintiffs' claims occurred, and continue to occur, in this district. *See* 28 U.S.C. § 124(d)(4) (designating Karnes County, Texas, as within the San Antonio Division of the Western District of Texas); 28 U.S.C. § 1391(b)(2) (specifying that venue lies in any judicial district in which a substantial part of the events or omissions giving rise to the claim occurred).

PARTIES

10. Plaintiff Delmy Pineda Cruz is detained in ICE custody with her eleven-year-old son Alexis at Karnes County Residential Center ("Karnes"). Her removal proceeding is pending in the San Antonio Immigration Court. She is applying for withholding of removal pursuant to 8 U.S.C. § 1231(b)(3) because she has a fear of returning to her home country of Honduras. The Department of Homeland Security ("DHS") has found her fear to be reasonable.

11. Plaintiff Polyane Soares de Oliveira dos Santos is detained in ICE custody with her ten-year-old daughter Rhynara at Karnes. Her removal proceeding is pending in the San

Antonio Immigration Court. She is applying for withholding of removal pursuant to 8 U.S.C. § 1231(b)(3) because she has a fear of returning to her home country of Brazil. DHS has found her fear to be reasonable.

12. Plaintiff Lilian Castillo Rosado is detained in ICE custody with her eight-year-old son Josel at Karnes. Her removal proceeding is pending in the San Antonio Immigration Court. She is applying for withholding of removal pursuant to 8 U.S.C. § 1231(b)(3) because she has a fear of returning to her home country of Honduras. DHS has found her fear to be reasonable.

13. Defendant Rose Thompson is the warden of the Karnes County Residential Center. Ms. Thompson is an employee of GEO, which operates Karnes pursuant to a contract with Karnes County, Texas. Karnes County operates the facility for ICE pursuant to an Intergovernmental Services Agreement with ICE. As the warden, Ms. Thompson has the power to direct the actions of GEO employees at Karnes. She is sued in her official capacity.

14. Defendant Juanita Hester is an Assistant Field Office Director for the San Antonio District of ICE. As the ICE official in charge of Karnes, she has the power to direct the actions of ICE officials at Karnes. She is sued in her official capacity.

15. Defendant Enrique Lucero is the Field Office Director for the San Antonio District of ICE. As such, he oversees all ICE functions, operations, and detainees in the San Antonio District, including detainees at Karnes. He has the power to direct the actions of ICE officials at Karnes. He is sued in his official capacity.

16. Defendant Sarah R. Saldaña is the Director of ICE. As such, she oversees all ICE components including Enforcement and Removal Operations, which is responsible for the apprehension, detention, and removal of non-citizens, and the management and oversight of civil

immigration detention. She has the power to direct the actions of ICE officials and GEO employees at Karnes. She is sued in her official capacity.

17. Defendant Jeh Johnson is the Secretary of the Department of Homeland Security. Under the Homeland Security Act of 2002 (Pub. L. 107-296), the Department of Homeland Security assumed all of the functions of the former Immigration and Naturalization Service. Section 441 of the Homeland Security Act created ICE and authorizes ICE to enforce the immigration laws. As a result, in his official capacity, Secretary Johnson has responsibility for the administration of the immigration laws under 8 U.S.C. § 1103. He has the power to direct the actions of ICE officials and GEO employees at Karnes. He is sued in his official capacity.

18. Defendant The GEO Group, Inc. (“GEO”) is a Florida-based company engaged in interstate commerce and doing business in Texas. Among its many activities, GEO contracts with DHS to detain noncitizens subject to removal proceedings. Pursuant to such a contract, GEO operates the Karnes County Residential Center, where it detains Plaintiffs on behalf of ICE. Defendant’s main office in Texas is at 1777 NE Loop 410, Ste. 1100, San Antonio, Texas, 78217. Defendant may be served with process through Corporate Creations Network, Inc., 4265 San Felipe, Ste. 1100, Houston, Texas, 77027.

FACTS

Family Detention at Karnes

19. In June 2014, the Department of Homeland Security began detaining children who illegally crossed the southern border of the United States with their mothers, pending the completion of their administrative removal proceedings. This new policy was a significant change from previous years, when DHS had released such mothers and children. As part of the

new detention policy, ICE opened two family detention centers in Texas, including the Karnes County Residential Center in Karnes City, Texas.

20. ICE detains over three hundred mothers and children at Karnes. ICE contracts with private corporations like GEO to operate detention facilities on its behalf. GEO operates Karnes on ICE's behalf, pursuant to ICE guidelines.

21. Virtually every mother and child detained at Karnes is applying for asylum or withholding of removal because they fear returning to their home countries. The vast majority of mothers and children at Karnes come from Honduras, El Salvador, and Guatemala, having fled life-threatening violence and sexual violence that overtook their lives.

22. ICE has the authority to release the women and children at Karnes at any time. Instead, ICE has chosen to detain them. Women and children may be detained for several months or longer while their applications for asylum and withholding are adjudicated.

Conditions of Detention at Karnes

23. Karnes is a secure facility with locked exterior doors, guards, and security controls. Plaintiffs and other detained women and children are not free to leave the facility.

24. Plaintiffs and other women and children at Karnes are detained in dormitory rooms with up to eight people in each room. Unrelated women and children are housed in the same dorm room. Each dorm room has one toilet, one shower, and one sink.

25. GEO employees at Karnes conduct three daily head counts of the mothers and children. GEO sets meal times, recreation times, and bed times for the mothers and children. GEO sets school times for the children. GEO limits their email and internet communications with the outside world. Domestic and international phone calls to family members are not free.

GEO has a written disciplinary policy that subjects women and children to punishment if they violate facility rules.

26. Plaintiffs complain that the conditions of detention at Karnes are intolerable and unduly harsh, especially for their children.

27. Defendants provide food in the cafeteria that is not properly cooked and, on many occasions, too spicy for children to consume. As a result, Plaintiffs' children refuse to eat the food, and Plaintiffs must buy food in the commissary to feed their children.

28. Plaintiffs and other women undertake "work assignments" at the facility in order to earn money to pay for food from the commissary and telephone calls. Defendants pay women only three dollars per day for up to six hours of work. Work assignments include cleaning bathrooms, cleaning windows, cleaning the courtyard, and cleaning the kitchen.

29. Defendants provide inadequate medical care. Plaintiffs and other women and children are not able to get timely and adequate screening, diagnosis, and treatment. Medical staff resist making appointments for the detainees, and commonly prescribe Tylenol in lieu of appropriate tests and procedures. When mothers persuade the medical staff to perform tests, the staff do not tell the mothers when their test results come back.

30. Defendants provide inadequate mental health care. Plaintiffs and other women and children are not able to get timely and adequate mental health screening, diagnosis, and treatment. The psychologist on staff does not provide adequate group or one-on-one counseling or treatment.

31. Defendants discipline Plaintiffs by writing them up for actions as trivial as "disrespecting" a guard.

32. Defendants punish detained mothers and children with isolation in a medical isolation room, without telling them how long they remain in isolation.

33. GEO employees lack training and certification with respect to child care.

34. GEO employees at Karnes do not treat mothers and children with respect and dignity. Some guards tell the women that they should agree to be deported if they want to leave the detention center so badly.

35. ICE officials at Karnes have presented documents written in English to the detained mothers and pressured them to sign the documents, even when the ICE officials know that the mothers do not read or understand English.

36. Detention at Karnes under these conditions exacerbates trauma experienced by women and children who fled violence in their home countries. Detainees and their children experience high rates of anxiety, depression and PTSD symptoms. Children are particularly at risk for long-term negative cognitive and developmental consequences as a result of prolonged detention.

Plaintiffs and Others Protested Their Detention

37. In late March, nearly eighty mothers detained at Karnes decided to protest their continued detention. They circulated a petition expressing that their continued detention was unjust, that their children were suffering under the conditions of detention at Karnes, and that the mothers sought release from detention. The mothers also announced a hunger strike during Holy Week, a Christian holiday which precedes Easter.

38. Plaintiffs Delmy Pineda Cruz, Polyane Soares de Oliveira dos Santos, and Lilian Castillo Rosado, along with nearly eighty other mothers, signed the petition. Ms. Soares de Oliveira dos Santos helped to collect signatures for the petition.

39. On Monday, March 30, 2015, Ms. Pineda Cruz gave the petition to Johana De Leon, a paralegal who works for an advocacy organization called RAICES, for public distribution. RAICES assists women at Karnes to complete their asylum applications and helps them find pro bono counsel for their asylum cases. Cameras in the visitation room recorded Ms. Pineda Cruz handing the petition to Ms. De Leon. GEO subsequently banned Ms. De Leon from Karnes, without written explanation.

40. The mothers began a hunger strike by refusing food from the Karnes cafeteria on Monday, March 30. That hunger strike lasted for five days, ending on Saturday, April 4. The mothers did not include their children in the hunger strike. Although the mothers did not take their children to the Karnes cafeteria for breakfast and dinner, they fed their children with food from the commissary. The mothers maintained their energy to care for their children, and they drank liquids, including water and milk, during the hunger strike.

41. The hunger strike proceeded peacefully, and the participating mothers did not pose a threat to anyone. At no time did the participating mothers become so weak that they could not care for their children. At no time did ICE or GEO need to provide medical care to the mothers due to their participation in a hunger strike.

Defendants Immediately Retaliated Against Plaintiffs and Others for Protesting

42. After the petition was circulated and the hunger strike began, Defendants called all of the mothers who had signed the petition to a meeting with ICE officials and GEO employees in Room 705 of the facility. At that meeting, ICE officials demanded to know why the mothers were protesting through a hunger strike.

43. Ms. Pineda Cruz, Ms. Soares de Oliveira dos Santos, and Ms. Castillo Rosado were present at the meeting.

44. The ICE officials asked about the purpose of the hunger strike. The women explained that they were striking because they sought their release from Karnes, and in protest of the conditions that their children suffered at Karnes. The ICE officials accused the hunger strikers of being bad mothers because they were not feeding their children. The mothers made it very clear that they were feeding their children. The children ate lunch while they were at classes, and they ate items from the commissary for breakfast and dinner in their rooms.

45. The ICE officials said that mothers on hunger strike would not be in good health, and would not be mentally fit to care for their children. They said that if the mothers kept striking, ICE might take away their children, and they would be deported.

46. Plaintiffs were scared by these threats. They believed that ICE would label them as crazy and send their children to another detention facility.

47. Many of the women dropped out of the strike after that meeting because they were scared by Defendants' threats.

Retaliation Against Ms. Pineda Cruz

48. After the meeting in Room 705, a GEO guard told Ms. Pineda Cruz to report to the medical area and put her into a small isolation room, alone, without telling her why. The door locked from the outside.

49. The room was dark. The only light came from a window on the door that was a few inches across. Ms. Pineda Cruz could not turn on the lights because the light switch was outside. The room was a little bigger than ten feet by ten feet.

50. The room smelled bad from the toilet, which was completely exposed. The head of the bed was right next to the small wall and the toilet. There was a sink in the room, but no

soap, and no cups. Ms. Pineda Cruz had to drink water out of her dirty hands. The room had a surveillance camera in the corner. There was no cover on the window.

51. A GEO guard brought Ms. Pineda Cruz's eleven-year-old son, Alexis, to the room with her. The GEO guard locked both of them inside and the light was turned on. The guard later told Ms. Pineda Cruz that she was under medical observation.

52. There was no medical justification for isolating Ms. Pineda Cruz and her son. They were not sick or complaining of any symptoms.

53. Alexis told a GEO guard that he wanted to leave, but the guard said she could not help because she was just following orders. Alexis started crying because he was afraid of being sent back to Honduras.

54. Ms. Pineda Cruz and Alexis were forced to sleep in the isolation room overnight. Ms. Pineda Cruz could not sleep because of anxiety and discomfort. Even if Ms. Pineda Cruz had been able to sleep, there was not enough room on the bed for the two of them.

55. Alexis was not released until approximately 10:00 the next morning, and Ms. Pineda Cruz was not released until approximately 11:00.

56. After Ms. Pineda Cruz was released from the isolation room, GEO guards interrogated her about the hunger strike. They then allowed her to return to her dorm room.

57. A few days after Ms. Pineda Cruz asked ICE Officer Pacheco, in Spanish: "Why did you punish me in that room with my son?" Officer Pacheco replied that ICE had done so because Ms. Pineda Cruz was the leader of the hunger strikers. Officer Pacheco said he had seen Ms. Pineda Cruz give the petition to Ms. De Leon on camera.

Defendants Subjected Another Detainee to Overnight Isolation

58. An ICE official forced a hunger striker, Kenia Yakeline Galeano, to stay behind after the meeting in Room 705 for an “investigation.” A GEO supervisor then ordered Ms. Yakeline Galeano and her son, Alejandro, into an isolation room in the medical area. Alejandro is only two years old.

59. The room where Ms. Yakeline Galeano and her son were confined was very small. There was only one bed and one toilet, and the head of the bed was next to the toilet. There was a shower, but it had no hot water and no curtain or door. The door completely blocked sound. Ms. Yakeline Galeano was very scared.

60. A GEO supervisor came to the room and told Ms. Yakeline Galeano to write a statement explaining why she was participating in the hunger strike.

61. Ms. Yakeline Galeano thought that she was in isolation because ICE and GEO thought she was a leader of the strike. She was also worried that she would be deported if ICE and GEO thought that she had written the petition. She wrote a statement explaining her participation in the strike, but she wrote it in different handwriting than the handwriting she used in the petition.

62. When the GEO supervisor returned, she told Ms. Yakeline Galeano that she would be spending the night in isolation. Ms. Yakeline Galeano argued that she had not broken any rules and there was no reason to keep her and her son in isolation. The GEO supervisor said she was just following ICE’s orders, and ICE’s orders were that Ms. Yakeline Galeano could not leave the isolation room.

63. Ms. Yakeline Galeano felt afraid for her son. As far as Ms. Yakeline Galeano knew, these rooms were only used to isolate sick children or to punish women.

64. About half an hour later, Ms. Yakeline Galeano asked if she could make a phone call. The guard said she could not make any calls because she was being punished.

65. Alejandro cried until he fell asleep around 9:00 at night. Ms. Yakeline Galeano could barely sleep at all.

66. Nobody returned to the isolation room until 5:30 the next morning. Ms. Yakeline Galeano was released around 6:30 in the morning.

Defendants Retaliated Against Ms. Soares de Oliveira dos Santos

67. On the day the hunger strike began, Defendants ordered Ms. de Oliveira dos Santos to a meeting with GEO employees. They interrogated her about her involvement with the petition and hunger strike. They asked her repeatedly to identify the “leaders” of the protest. Ms. Soares de Oliveira dos Santos was frightened as a result.

68. GEO employees ordered Ms. Soares de Oliveira dos Santos to go to the medical area. They confiscated her identification when she arrived at the medical area. GEO supervisors and a social worker named Rebecca interrogated her for approximately twenty minutes, repeatedly asking about “the leaders” of the protest and the hunger strike. The GEO supervisors and staff questioning her told her that she would be locked up until she talked about the hunger strike and confessed who the leader was. Ms. Soares de Oliveira dos Santos was scared by this questioning.

69. The GEO supervisors then locked Ms. Soares de Oliveira dos Santos into an isolation room in the medical area. The door to the room locked from the outside. The room was a little bigger than ten feet by ten feet, and had one cot with a thin mattress, an exposed toilet, and a sink. The room was very cold and quiet, and it had a surveillance camera. Ms. Soares de Oliveira dos Santos could not hear what was happening outside and was very scared.

70. Ms. Soares de Oliveira dos Santos was very worried for the well-being of her daughter, Rhynara. She was worried that she would be kept in the room for three days. She also worried that Rhynara would be brought to the room and forced to remain locked up in isolation.

71. After a long period of time, ICE officers came and interrogated her further. An ICE Officer named Pacheco said that if she continued with the protest, ICE would take her daughter away and put her in another detention center. He made other vague threats, including threats about holding her daughter in isolation. Ms. Soares de Oliveira dos Santos was very scared as a result.

72. Ms. Soares de Oliveira dos Santos felt terrified. She did not want her daughter to suffer any more than she already had back in her home country. She did not want to lose her daughter because of a protest or hunger strike. She was very upset.

73. The officers left Ms. Soares de Oliveira dos Santos's isolation room, and she was alone for a few minutes. Later, ICE Officer Torres returned and freed her from the isolation room. She later returned to her dorm room and received her identification card.

74. Ms. Soares de Oliveira dos Santos was detained in the isolation room for more than an hour.

Retaliation Against Ms. Castillo Rosado

75. Plaintiff Lilian Castillo Rosado also attended the meeting with ICE and GEO officials. She got very emotional and tried to explain the purpose of the strike. She told the ICE officers that they had no compassion for the children and no love for the mothers as human beings. Ms. Castillo Rosado was crying because she was so upset at the officials' threats and their refusal to release the mothers and children at Karnes. The ICE officials tried to make Ms.

Castillo leave the meeting to speak to the GEO psychologist. Ms. Castillo refused. She did not want to let ICE label her as crazy.

76. Ms. Castillo Rosado knew that Ms. Pineda Cruz and the others were sent to isolation rooms, and she was very worried that she and her son Josel would also be sent there.

Defendants' Actions Scared Others Into Breaking Their Strike

77. Protesting mothers who were not detained in isolation knew that Ms. Yakeline Galeano and Ms. Pineda Cruz had been locked up because GEO guards came to get their things out of their dorm rooms. When the other strikers saw that Ms. Yakeline Galeano and Ms. Pineda Cruz had been locked in isolation, more than thirty of them dropped out of the strike. The protesting mothers were terrified that they, too, would be locked in isolation with their children.

78. Since being locked in isolation, Ms. Pineda Cruz's son, Alexis, has not been well. His teacher spoke to Ms. Pineda Cruz against GEO's wishes because she is concerned that Alexis is crying all of the time. Other protesting mothers have seen the effect that being locked in isolation had on Alexis. They know that being locked in isolation is a high risk not just for them, but also for their children.

79. Ms. Castillo Rosado considered stopping her participation in the hunger strike because she was worried that ICE and GEO would put her and her son in an isolation room and interrogate them. She reconsidered and decided that she is not afraid because of her faith in God. But Ms. Castillo Rosado still believes that ICE and GEO may lock her up.

GEO Fired All Hunger Strikers from Their Jobs

80. GEO has work assignments for over thirty mothers detained at Karnes. GEO pays them only three dollars a day for up to six hours of work. Having a job is important for many of the mothers at Karnes. Buying things from the commissary is the only way mothers can make

sure that the children, especially young children, eat enough. Taking away the mothers' jobs is like forcing mothers to choose between speaking out and caring for their children.

81. After Ms. Pineda Cruz was released from isolation, she tried to sign in to her work assignment. The GEO guard who organizes everyone's jobs told Ms. Pineda Cruz that she could not work anymore because of her participation in the hunger strike.

82. A day or two after the meeting in Room 705, the GEO guard who organizes the workers warned each hunger striker that if she did not eat that day, she would never work again. GEO guards reminded the strikers that the GEO guards know the mothers need their jobs to buy food and other items for their children.

83. Many of the remaining hunger strikers dropped out after they were threatened with the loss of their job. GEO fired mothers who did not agree to stop their strike.

ICE and GEO Have Continued to Retaliate Against Protesting Mothers

84. Even after all the mothers were released from isolation, ICE and GEO continued attempting to deter women from participating in the hunger strike.

85. GEO guards told some hunger strikers that if they continue protesting, things would look very bad in their immigration case. GEO guards told some hunger strikers they would be deported if they continued their strike. Deporting an asylum-seeker means sending her back to life-threatening violence she was attempting to escape with her children.

86. GEO guards instructed many hunger strikers to sign a piece of paper or else they would "have problems with ICE." The paper was written in English, which many of the women detained at Karnes cannot read.

87. GEO supervisors forbid Ms. Soares de Oliveira dos Santos from sending emails during Holy Week.

88. Ms. Pineda Cruz attempted to call her family, but GEO guards told her that the phone was not working.

89. Ms. Pineda Cruz tried to buy things at the commissary, but the GEO guard working at the commissary refused to sell things to her because he claimed the commissary was closing.

90. On Good Friday, a nun named Sister Nancy came to visit Ms. Pineda Cruz. GEO guards turned her away and said that Ms. Pineda Cruz did not want any visitors, without even notifying Ms. Pineda Cruz of the visit.

91. GEO guards have attempted to eavesdrop on the hunger strikers' conversations.

92. Either ICE or GEO took Ms. Soares de Oliveira dos Santos's name off the "resident" count. When a woman's name comes off the list, it usually means that she is being deported or sent to another detention facility. When Ms. Soares de Oliveira dos Santos's name came off the count list, she thought ICE would deport her or transfer her that night. She was very scared.

93. GEO guards interrogated Ms. Castillo Rosado in a closed room about the last time she had met with a friend of Ms. De Leon from RAICES. They instructed her write a statement. Ms. Castillo Rosado felt that the guards were trying to find a pretext to punish or intimidate her out of speaking with others about her detention.

ICE and GEO Falsified Charges of Insurrection Against Hunger Strikers

94. During Holy Week, the GEO guards videotaped the hunger strikers and their children using handheld cameras, even though Karnes security surveillance cameras were also recording the same area. Plaintiffs and the other protesting mothers felt their privacy was invaded, and they were worried about what they could say while GEO guards were filming.

Plaintiffs and the protesting mothers believe that GEO guards were trying to film them to prove that there was no hunger strike.

95. Some hunger strikers, including Ms. Soares de Oliveira dos Santos, took sheets of printer paper and wrote “L-I-B-E-R-T-A-D”—one letter on each piece of paper. Then the protesting women held the signs up in order and chanted “libertad!” (which means freedom in Spanish).

96. The GEO guards ordered everyone to go to their rooms before their recreation time was over. The group of women holding the “L-I-B-E-R-T-A-D” sign refused. They went inside after five minutes of staying outdoors, as they were entitled to do.

97. During evening recreation time later that night, GEO guards and ICE officers put all the women on lockdown.

98. The next day, a GEO employee who works in Room 613 tried to get many of the sign-holders, including Ms. Soares de Oliveira dos Santos, to sign a piece of paper. The paper said that each woman had committed “insurrection” because they were waving the “L-I-B-E-R-T-A-D” signs waiting for a helicopter rescue.

99. Plaintiff and the other sign-holders were not attempting to escape via helicopter.

100. GEO had no basis for charging the sign-holders with “insurrection.” The sign-holders were not trying to overthrow the authorities at Karnes or threaten anyone.

101. A female GEO guard told Ms. Soares de Oliveira dos Santos that her commissary privileges would be taken away, and something else would happen to her, after the Karnes Director decided what her punishment was. More than a week later, a GEO supervisor called Ms. Soares de Oliveira dos Santos into a meeting in which he told her that she was being punished because she refused to go to her room immediately after the helicopter incident. The supervisor

told Ms. Soares de Oliveira dos Santos that, the next day, she would attend a meeting to determine whether she was guilty or not guilty.

ICE and GEO Have Continued Retaliating After the Hunger Strike Resumed

102. On Holy Saturday, April 4, 2015, the hunger strikers broke their fast as planned to allow ICE ten days to consider their demands. ICE did not issue any written response to the protestors' petition in those ten days, so Plaintiffs and other protesting mothers resumed the hunger strike on Tuesday, April 14, 2015, which they continued until April 21.

103. Neither ICE nor GEO has restored the jobs of the women on hunger strike.

104. GEO orders hunger strikers to report to the medical area each day of the strike to be weighed. GEO medical staff tell the mothers that they need to eat because the medical staff members "don't want to have to lock you up." GEO medical staff sometimes say that the hunger strikers' children will be taken away if they continue their protest.

105. Upon information and belief, ICE officials and GEO employees have undertaken the actions described herein—including confinement in medical isolation rooms without any medical basis, threats to take away children from their mothers, firing protesting mothers from their jobs, and filing false charges of insurrection—for the purpose of deterring the women at Karnes from participating in further protest and hunger strike.

106. When undertaking these acts, GEO employees have reported on many occasions that they are following orders from ICE.

107. GEO employees consult with ICE officials before taking significant actions against Plaintiffs and protesting mothers.

108. At meetings with Plaintiffs and protesting mothers, when GEO employees and ICE officials at Karnes are in the room at the same time, ICE officials do the talking and make the decisions. GEO employees are generally silent and wait for instructions from ICE.

109. GEO's function of forcibly detaining Plaintiffs is a uniquely governmental act.

110. GEO employees at Karnes act under the direction of ICE officials.

111. GEO and Warden Rose Thompson were acting under color of federal law when taking all actions described in this complaint.

112. GEO's retaliatory acts were intended to deter protests of ICE's discretionary decision to detain women and children at Karnes.

113. Defendants' acts and omissions have harmed and continue to harm Plaintiffs by, inter alia, chilling their right under the First Amendment to protest their confinement and conditions of confinement. Remedies available at law are not sufficient to compensate Plaintiffs for the chilling effects on their expressive conduct.

Class Action Allegations

114. The individual Plaintiffs bring this action on behalf of themselves and all others similarly situated under Rule 23 of the Federal Rules of Civil Procedure. They seek to represent the class of all mothers detained at Karnes, now and in the future, who wish to peacefully protest their detention.

115. ICE and GEO have engaged in a common course of conduct that has violated the putative class members' First Amendment rights by explicit and implicit threats to harm class members if they continue peacefully protesting, including explicit threats to take away the class members' children and explicit threats to lock class members in isolation.

116. This action is brought pursuant to Fed. R. Civ. P. 23(b)(2). Plaintiffs seek only injunctive relief ordering Defendants to stop their retaliatory acts, on grounds that apply broadly to the putative class as a whole.

117. Members of the putative class are so numerous that joinder is impracticable. Fed. R. Civ. P. 23(a)(1). Nearly eighty women who are currently detained at Karnes desire to participate in the hunger strike. Moreover, Karnes will be detaining hundreds of additional detainees in coming weeks and months, and the putative class will likely grow significantly.

118. Joinder is also impracticable because membership in the putative class is fluid. Immigration detainees may be released from custody, transferred to other detention facilities, or removed from the United States. The putative class includes detainees who will be detained at Karnes in the future and therefore cannot be joined.

119. There are numerous questions of law and fact common to the putative class, *see* Fed. R. Civ. P. 23(a)(2), including:

a. Whether the petition and hunger strike are expressive activities protected under the First Amendment;

b. Whether verbal threats to take away the hunger strikers' children would deter a person of ordinary firmness from continuing the hunger strike, and whether such threats were made;

c. Whether verbal threats to lock hunger strikers in isolation would deter a person of ordinary firmness from continuing the hunger strike, and whether such threats were made;

d. Whether interrogating some hunger strikers was an implicit threat sufficient to deter other persons of ordinary firmness from continuing the hunger strike, and whether such interrogations took place;

e. Whether locking some hunger strikers in isolation was an implicit threat sufficient to deter other persons of ordinary firmness from continuing the hunger strike; and whether such isolation took place;

f. Whether each of ICE and GEO's remaining actions described in this complaint, as a whole and in combination with the threats described above, would deter a person of ordinary firmness from continuing the hunger strike;

g. Whether the remaining actions described in the complaint took place;

h. Whether each of ICE and GEO's actions described in this complaint were substantially motivated against the petition or the hunger strike;

i. Whether the chilling effect of the Defendants' actions is an irreparable injury;

j. Whether remedies available at law are sufficient to compensate Plaintiffs for the chilling effect on their expressive conduct;

k. Whether, considering the balance of hardships between the hunger strikers and their custodians, a remedy in equity is warranted;

l. Whether the public interest would be disserved by an injunction prohibiting further retaliatory conduct.

120. These common questions predominate over any individual questions that may arise in this action.

121. The individual Plaintiffs are members of the putative class. They desire to participate in the hunger strike. As a result, they are subject to the Defendants' ongoing threats, including explicit threats to take away their children and explicit threats to lock them in isolation. Their claims are typical of the class. Fed. R. Civ. P. 23(a)(3).

122. The individual Plaintiffs will fairly and adequately represent the interests of the putative class. Fed. R. Civ. P. 23(a)(4). They seek relief identical to the relief sought by all putative class members, and they have no interests adverse to other members of the class. The individual Plaintiffs are represented by *pro bono* counsel who are experienced in federal class action litigation, prisoners' rights litigation, First Amendment litigation, and immigration law. The individual Plaintiffs' counsel will adequately represent the class.

123. A class action is superior to all other available methods for adjudicating this controversy, and is manageable, because:

a. Defendants are making retaliatory threats on grounds generally applicable to the putative class;

b. Many class members are unaware of their legal rights, and are frightened from obtain individual counsel to protect their rights due to the conduct described in this complaint;

c. Prosecution of individual actions would be extremely difficult because ICE could release individuals Plaintiffs from custody;

d. Prosecution of individual actions would be extremely difficult because ICE officials refuse to allow attorneys to visit detainees who are already represented without explicit written permission from their immigration attorneys, and it would take a great deal of time and resources to determine who represents each of the eighty hunger strikers without the ability to visit them in person to ask who their immigration attorney is;

e. Prosecution of separate actions by individual class members would be inefficient and create a risk of conflicting or inconsistent adjudications about the constitutionality of Defendants' conduct and injunctive relief appropriate in this case.

FIRST CAUSE OF ACTION

Right to Freedom from Governmental Retaliation (First Amendment Freedom of Speech Clause)

124. The First Amendment's freedom of speech clause protects the right to engage in expressive conduct. It is a violation of that right for a government actor to retaliate against a person for engaging in expressive conduct protected by the First Amendment.

125. The petition, protests, and hunger strike at Karnes are expressive activity at the heart of what the First Amendment is intended to protect, because they are intended to call attention to and protest government actions.

126. ICE's and GEO's actions, as described in this complaint, including threatening to lock strikers in isolation and take away their children, would deter a person of ordinary firmness from continuing with her hunger strike. Their actions have, in fact, deterred the majority of hunger strikers.

127. ICE and GEO's actions described in this complaint were substantially motivated by a desire to end the hunger strike at Karnes.

128. Plaintiffs and putative class members have suffered and continue to suffer injury, including chilling effects, as a result of Defendants' actions.

PRAYER FOR RELIEF

Plaintiffs respectfully request the following relief:

(a) Certification of the class of all mothers detained at Karnes, now and in the future, who wish to peacefully protest their detention, pursuant to Federal Rule of Civil Procedure 23;

(b) Appointment of the undersigned as class counsel pursuant to Federal Rule of Civil Procedure 23(g);

(c) Issuance of a judgment declaring that Defendants' actions and omissions as described herein violate Plaintiffs' rights under the First Amendment to the U.S. Constitution;

(d) An injunction preventing ICE officials and GEO agents at Karnes from:

(i) Separating class members from their children, or threatening to do so, on the basis of their participation in the petition, protests, or the hunger strike;

(ii) Locking class members in isolation, or threatening to do so, on the basis of their participation in the petition, protests, or the hunger strike;

(iii) Interfering with class members' eligibility for asylum or withholding of removal, or threatening to do so, on the basis of their participation in the petition, protests, or the hunger strike;

(iv) Interfering with class members' eligibility for release from detention, or threatening to do so, on the basis of their participation in the petition, protests, or the hunger strike;

(v) Interfering with class members' communication with the outside world, including visitation, telephone privileges, and email access, or threatening to so interfere, on the basis of their participation in the petition, protests, or the hunger strike;

(vi) Interrogating class members about their communications with the outside world, or threatening to do so, on the basis of their participation in the petition, protests, or the hunger strike;

(vii) Interrogating class members about their participation in the petition, protests, or the hunger strike, or threatening to do so;

(viii) Restricting class members' eligibility to work, or threatening to do so, on the basis of their participation in the petition, protests, or the hunger strike;

(ix) Refusing to provide access to basic amenities at Karnes, such as toilet paper and access to the commissary, or threatening to so interfere, on the basis of their participation in the petition, protests, or the hunger strike;

(e) An award of Plaintiffs' costs incurred in this litigation, including attorney's fees, pursuant to 28 U.S.C. § 2412; and

(f) Any other relief this Court deems just and proper.

Dated: April 23, 2015
Austin, Texas

Respectfully Submitted,

By: /S/ Trisha Trigilio

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