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7 UNITED STATES DISTRICT COURT
8 EASTERN DISTRICT OF WASHINGTON

9 ANDRES SOSA SEGURA,
10
11 Plaintiff,
12
13 v.
14 UNITED STATES OF AMERICA,
15 Defendant.

Case No. 2:19-CV-00219-SAB
ANSWER TO COMPLAINT FOR
DAMAGES

16 Defendant, United States of America, by and through William D. Hyslop,
17 United States Attorney, and John T. Drake and Vanessa R. Waldref, Assistant United
18 States Attorneys, hereby respond to the allegations in Plaintiff’s Complaint for
19 Damages (“Complaint”) (ECF No. 1).

21 **INTRODUCTION**

- 23 1. Deny.
24 2. Defendant is without sufficient information to admit or deny the
25 allegations in the first and second sentences of this paragraph, and therefore denies the
26 same. Defendant denies the remaining allegations in this paragraph.

1 3. Defendant denies the allegations in the first sentence of this paragraph.

2 With regard to the second sentence, Defendant admits that Plaintiff showed one of the
3 CBP agents a “Know Your Rights” card, but denies that Plaintiff did so in the manner
4 and temporal sequence alleged; Defendant denies the remaining allegations in this
5 sentence. The third sentence in this paragraph appears to reference the document
6 attached to the Complaint as Exhibit C, which document speaks for itself.
7

8
9 4. Defendant denies the allegations in the first sentence of this paragraph.

10 With regard to the second sentence, Defendant admits that Plaintiff told the agents he
11 was from Mexico, but denies that this statement was made in the temporal sequence
12 alleged; Defendant denies the remaining allegations in this sentence. Defendant
13 denies the remaining allegations in this paragraph.
14

15 5. Deny.

16
17 6. With regard to the first sentence of this paragraph, Defendant denies that
18 Plaintiff was ordered to provide identification; Defendant admits that Plaintiff showed
19 the agents a Washington driver’s license, but denies that this event occurred in the
20 temporal sequence alleged. With regard to the second sentence, Defendant admits that
21 the agents took possession of Plaintiff’s bag, but denies that this event occurred in the
22 temporal sequence alleged. With regard to the third sentence, Defendant admits that
23 the agents transported Plaintiff to a federal facility, but denies that this event occurred
24
25
26
27

1 in the temporal sequence alleged; Defendant denies the remaining allegations in this
2 sentence. Defendant denies the allegations in the fourth sentence of this paragraph.

3 7. Deny.

4
5 8. Defendant admits that Plaintiff was not free to leave the federal facility
6 for a portion of the time that he was present there. Defendant denies the remaining
7 allegations in this paragraph.

8
9 9. Defendant denies the allegations in the first sentence of this paragraph
10 due to the inaccurate sequence in which they are presented. Defendant is without
11 sufficient information to admit or deny the allegations in the second sentence of this
12 paragraph, and therefore denies the same.

13
14 10. Deny.

15
16 11. Defendant admits that Plaintiff has brought this action under the Federal
17 Tort Claims Act. Defendant denies the remaining allegations in this sentence.

18 **JURISDICTION**

19
20 12. Defendant admits that Plaintiff's claims arise under the Constitution and
21 laws of the United States, including the FTCA. Defendant denies that subject matter
22 jurisdiction has been properly established as to one or more of Plaintiff's claims.

23 **EXHAUSTION**

24
25 13. Admit.

1 Intermodal Center is approximately 107 miles south of the Canadian border by
2 highway; Defendant avers, however, that the distance is less than 100 air miles.

3 21. Defendant admits that Plaintiff traveled to the Intermodal Center by bus
4
5 on July 24, 2017. Defendant denies the remaining allegations in this paragraph.

6 22. Deny.

7 23. Defendant admits the first sentence in this paragraph. Defendant is
8
9 without sufficient information to admit or deny the allegations in the second sentence
10 of this paragraph, and therefore denies the same. Defendant denies the allegations in
11 the third sentence of this paragraph.

12 24. Deny.

13 25. Defendant is without sufficient information to admit or deny the
14
15 allegations in this paragraph, and therefore denies the same.

16 26. Admit.

17 27. Deny.

18 28. Deny.

19 29. Deny.

20 30. The allegations in this paragraph are Plaintiff's characterization of his
21
22 state of mind and do not require a response. To the extent a response is required,
23
24 Defendant denies the allegations.
25

1 31. Defendant denies the allegations in the first sentence of this paragraph.
2 With regard to the second sentence, Defendant admits that Plaintiff presented one of
3 the CBP agents with a “Know Your Rights” card during his interaction with them, but
4 denies that this event occurred in the temporal sequence alleged; Defendant is without
5 sufficient information to admit or deny the remaining allegations in this sentence, and
6 therefore denies the same.
7

8 32. The “Know Your Rights” card speaks for itself. To the extent a response
9 is required, Defendant denies Plaintiff’s characterization of the card.
10

11 33. Deny.

12 34. Deny.

13 35. Deny.

14 36. Defendant admits that the CBP agents directed Plaintiff to accompany
15 them to the parking lot, but denies that this event occurred in the temporal sequence
16 alleged.
17

18 37. The allegations in this paragraph are Plaintiff’s characterization of his
19 state of mind and do not require a response. To the extent a response is required,
20 Defendant denies the allegations.
21

22 38. Deny.

23 39. With regard to the first sentence of this paragraph, Defendant admits that
24 Plaintiff told the agents he was from Mexico, but denies that this statement was made
25
26

1 in the temporal sequence alleged; Defendant denies the remaining allegations in this
2 sentence. Defendant denies the allegations in the second and third sentences of this
3 paragraph.

4
5 40. Deny.

6 41. Defendant denies the allegations in the first sentence of this paragraph.

7 With regard to the second sentence, Defendant admits that Plaintiff showed the agents
8 a Washington driver's license, but denies that this event occurred in the temporal
9 sequence alleged.
10

11 42. Defendant admits that the agents took possession of Plaintiff's bag and
12 placed Plaintiff in the back of a vehicle, but denies that those events occurred in the
13 temporal sequence alleged. Defendant denies the remaining allegations in this
14 paragraph.
15

16
17 43. Admit.

18 44. Defendant admits that the agents fingerprinted Plaintiff at the federal
19 facility. Defendant denies the remaining allegations in this paragraph.
20

21 45. Deny.

22 46. Defendant admits that the agents verified that Plaintiff had been released
23 from immigration detention on bond. Defendant denies the remaining allegations in
24 this paragraph.
25
26
27

1 47. Defendant admits that Plaintiff was permitted to call his wife, but denies
2 that this event occurred in the temporal sequence alleged. Defendant denies the
3 remaining allegations in this paragraph.

4
5 48. Defendant admits that Plaintiff was given a ride back to the Spokane
6 Intermodal Center. Defendant denies the allegations in this paragraph to the extent
7 they imply that Plaintiff was in custody or otherwise detained during the return trip.
8

9 49. Defendant is without sufficient information to admit or deny the
10 allegations in this paragraph, and therefore denies the same.

11 50. Deny.

12
13 51. Deny.

14 **FIRST CLAIM FOR RELIEF**

15 **Federal Tort Claims Act – False Arrest**

16
17 52. Deny.

18 53. This paragraph contains a statement of law to which no response is
19 required. To the extent a response is required, Defendant denies.

20
21 54. Deny.

22 55. Deny.

23 56. Deny.

24
25 57. Deny.

SECOND CLAIM FOR RELIEF

Federal Tort Claims Act – False Imprisonment

58. Deny.

59. This paragraph contains a statement of law to which no response is required. To the extent a response is required, Defendant denies.

60. Deny.

61. Deny.

62. Deny.

63. Deny.

64. Deny.

THIRD CLAIM FOR RELIEF

Federal Tort Claims Act – State Civil Rights Tort

65. Deny.

66. This paragraph contains a statement of law to which no response is required. To the extent a response is required, Defendant denies.

67. This paragraph contains a statement of law to which no response is required. To the extent a response is required, Defendant denies.

68. This paragraph contains a statement of law to which no response is required. To the extent a response is required, Defendant denies.

1 3. Plaintiff failed to properly exhaust administrative remedies as to one or
2 more of his claims. 28 U.S.C. § 2675(a).

3 4. One or more of Plaintiff's claims is barred by the FTCA's law
4 enforcement proviso, 28 U.S.C. § 2680(h).

5 5. One or more of Plaintiff's claims is barred by the FTCA's discretionary
6 function exception, 28 U.S.C. § 2680(a).

7 6. Defendant is absolutely immune and/or qualifiedly immune on one or
8 more of Plaintiff's claims.

9 7. One or more of Plaintiff's claims is preempted under the Supremacy
10 Clause of the U.S. Constitution.

11 8. If Plaintiff was injured as alleged, his injuries were proximately caused
12 by his own acts or omissions.

13 9. If Plaintiff was injured as alleged, his injuries were proximately caused
14 by the acts or omissions of independent third parties.

15 10. Plaintiff failed to mitigate his alleged damages.

16 11. Plaintiff's request for unspecified amount of compensatory damages is
17 restricted to damages allowed under the FTCA.

18 12. Plaintiff's request for an award of attorneys' fees is precluded by the
19 FTCA. *See, e.g.*, 28 U.S.C. § 2675(b) and 2678.

1 13. To the extent Plaintiff's Complaint requests equitable relief, equitable
2 relief is not an available remedy under the FTCA.

3 14. Although Defendant presently lacks a factual basis for asserting such a
4 defense, Defendant puts Plaintiff on notice that it intends to investigate whether one
5 or more claims are barred by Plaintiff's failure to comply with conditions of pretrial
6 release and/or post-conviction supervision (*e.g.*, a condition requiring Plaintiff to
7 answer questions posed by law enforcement).
8
9

10 15. Defendant reserves the right to amend this Answer and to assert
11 additional defenses as this action proceeds.
12

13 WHEREFORE, having fully answered the Complaint, Defendant respectfully
14 requests that the Court:

- 15 A. Dismiss Plaintiff's Complaint with prejudice;
16
17 B. Enter judgment against Plaintiff and for Defendant.
18
19 C. Award Defendant its costs in this action, and
20
21 D. Award Defendant such other relief as this Court deems just and equitable.

22 DATED this 4th day of December, 2019.

23 WILLIAM D. HYSLOP
United States Attorney

24 /s/John T. Drake
John T. Drake, AUSA
Vanessa R. Waldref, AUSA
Attorneys for the United States
25
26
27

CERTIFICATE OF SERVICE

I hereby certify that on December 4, 2019, I caused to be delivered via the method listed below the document to which this Certificate of Service is attached (plus any exhibits and/or attachments) to the following:

Name & Address	Method of Delivery
Kenneth E. Payson Jaime Drozd Allen Jennifer K. Chung Sara A. Fairchild Davis Wright Tremaine, LLP 920 Fifth Avenue, Suite 3300 Seattle, WA 98104	<input checked="" type="checkbox"/> CM/ECF System <input type="checkbox"/> Electronic Mail <input type="checkbox"/> U.S. Mail <input type="checkbox"/> Other: _____
Lisa Nowlin American Civil Liberties Union of Washington Foundation 901 5 th Ave., Suite 630 Seattle, WA 98164	<input checked="" type="checkbox"/> CM/ECF System <input type="checkbox"/> Electronic Mail <input type="checkbox"/> U.S. Mail <input type="checkbox"/> Other: _____
Matt Adams Leila Kang Aaron Korthuis Northwest Immigrant Rights Project 615 2 nd Ave., Suite 400 Seattle, WA 98104	<input checked="" type="checkbox"/> CM/ECF System <input type="checkbox"/> Electronic Mail <input type="checkbox"/> U.S. Mail <input type="checkbox"/> Other: _____

/s/John T. Drake
 John T. Drake