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UNITED STATES DISTRICT COURT
DISTRICT OF MONTANA
AT GREAT FALLS

ABDUL AMEER YOUSEF HABEEB,)	NO.
)	
Plaintiff,)	
v.)	
)	
THOMAS CASTLOO and DARRYL)	COMPLAINT
ESSING, in their individual capacities,)	
)	
Defendants.)	DEMAND FOR JURY
_____)	

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Plaintiff Abdul Ameer Yousef Habeeb alleges that Defendants, federal agents of the Customs and Border Patrol (CBP), a component of the Department of Homeland Security (DHS), while purporting to enforce special registration requirements, illegally stopped, interrogated, arrested, imprisoned, and initiated removal proceedings against him. Mr. Habeeb, a refugee, was explicitly exempt from special registration.

1. PARTIES

1.1. Plaintiff: Abdul Ameer Yousef Habeeb is a refugee from Iraq. He was a victim of government persecution in Iraq. His father was a prominent business and community leader among the Rabia tribe, which had supported the monarchy that was supplanted by Saddam Hussein and the Baath party. Mr. Habeeb's brother Abdallah was executed by the regime in 1982. His brother Hamza defected to Cyprus in 1996 and was granted asylum in the United States. In response, the Iraqi government detained and interrogated the adult male family members remaining in Iraq. Habeeb was imprisoned twice, most recently in 1997. His hands and face bear the scars resulting from the torture that he endured during these incidents. In 1999, Mr. Habeeb's father died in a suspicious car crash that the family believes was the work of the Iraqi government. His father's death precipitated Mr. Habeeb's decision to flee to Syria in 2000. The U.N. High Commissioner for Refugees determined that he had a well-founded fear of political persecution in Iraq. Mr. Habeeb was thereafter granted refugee status. Sponsored by a refugee resettlement organization, he was admitted to the United States as a refugee on July 8, 2002, and took up residence in Kent, Washington.

1.2. Defendants:

1.2.1. At all times relevant, Thomas Castloo was a federal agent of Customs and Border Patrol (CBP), United States Department of Homeland Security, stationed in Montana. CBP is a federal agency that enforces immigration and customs laws and regulations.

1.2.2. At all times relevant, Darryl Essing was a federal agent of Customs and Border Patrol (CBP), United States Department of Homeland Security, stationed in Montana. CBP is a federal agency that enforces immigration and customs laws and regulations.

2. JURISDICTION AND VENUE

2.1. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. Section 1343. Plaintiff claims a violation of his rights to be free from unreasonable searches and seizures, rights to due process, and rights to equal protection guaranteed by the Constitution of the United States.

2.2. Venue is appropriate in the District of Montana because a substantial part of the events complained of occurred in this District and because the defendants reside in this District. See 28 U.S.C. Section 1391(b).

3. FACTS

3.1. In early 2003, Iraqi exiles offered Mr. Habeeb a job with an Arabic-language newspaper in Washington, DC. He quit his job in Washington state and bought a train ticket to the East Coast to take the newspaper job.

3.2. In the early afternoon on April 1, 2003, Mr. Habeeb's train had a 30-minute station stop in Havre, Montana. The conductors announced that it would be a good opportunity

for passengers to stretch their legs. Like many other passengers, Mr. Habeeb stepped off the train and strolled through the station during the short layover.

3.3. On his way back to the train, Mr. Habeeb was approached by Thomas Castloo, a uniformed agent of the United States Customs and Border Patrol.

3.4. Without any reasonable suspicion that Mr. Habeeb had violated or was going to violate any law and based solely on Mr. Habeeb's race or ethnicity, Agent Castloo demanded to know where Mr. Habeeb was from. Mr. Habeeb responded that he was from Iraq.

3.5. Then, Agent Castloo demanded to see his immigration papers, so Mr. Habeeb produced a copy of his I-94 form, which includes his alien registration number and reflects his admission into the United States as a refugee pursuant to INA Section 207.

3.6. Mr. Habeeb and Agent Castloo were soon joined by Agent Darryl Essing. Learning that Mr. Habeeb was from Iraq, Essing asked whether he had gone through "special registration," a program requiring that certain nonimmigrant aliens be fingerprinted and photographed. Refugees like Mr. Habeeb were not required to report for special registration. since they are not "nonimmigrants."

3.7. When Mr. Habeeb said that he had not gone to special registration – and indeed, he did not even know what it was – his baggage was removed from the train and Agents Castloo and Essing took him into custody.

3.8. Thereafter, without legal authority, Mr. Habeeb was questioned at length by additional U.S. Customs and Border Patrol agents and FBI agents and detained overnight.

3.9. On April 2, 2003, Agent Essing issued a Notice to Appear, charging Mr. Habeeb with failing to appear for special registration and placing him in removal proceedings based on that allegation alone.

3.10. Agent Castloo's incident report and Agent Essing's Notice to Appear confirm that both agents were aware that Mr. Habeeb had been admitted to the United States as a refugee. Nonetheless, the Notice to Appear erroneously stated that Mr. Habeeb "failed to appear for special registration on or before February 7, 2003, as mandated by the order of Attorney General published in the Federal Register."

3.11. The special registration regulations and the Federal Register Notice imposing special registration requirements clearly stated the opposite – namely, that special registration applied *only* to certain “nonimmigrants.” Refugees like Mr. Habeeb are not “nonimmigrants” and were not required to register.

3.12. As a result of the false incident report, unlawful seizure and arrest and unfounded Notice to Appear, Mr. Habeeb spent three nights in detention at the Hill County Jail in Montana during which time he was forced to strip naked in front of a government agent and was humiliated by other detainees who called him “Saddam.” Then, he was transported publicly through the airport in handcuffs and by plane to Seattle where he spent four more nights detained by United States Immigration and Customs Enforcement agents in their agency detention facility.

3.13. Mr. Habeeb was not released from custody until April 9, 2003. The removal proceedings against him were not formally terminated until May 16, 2003.

3.14. As a result of the wrongful detention, Mr. Habib lost the job in Washington DC, and suffered humiliation and emotional distress.

4. COLOR OF FEDERAL LAW

4.1. Defendants committed the above-described acts within the scope of their authority as federal agents and under color of the laws of the United States.

5. CLAIMS FOR RELIEF

5.1. First Cause of Action: Violation of Fourth Amendment Rights. By the above-described acts, defendants denied plaintiff the right to be free from unreasonable searches and seizures as guaranteed by the Fourth Amendment to the Constitution of the United States.

5.2. Defendants' conduct proximately caused harm to plaintiff.

5.3. Defendants' conduct was done intentionally, with deliberate indifference, or with reckless disregard of plaintiff's constitutional rights.

5.4. Second Cause of Action: Violation of Fifth Amendment Right to Due Process. By the above-described acts, defendants denied plaintiff the right not to be deprived of liberty or property without due process as guaranteed by the Fifth Amendment to the Constitution of the United States.

5.5. Defendants' conduct proximately caused harm to plaintiff.

5.6. Defendants' conduct was done intentionally, with deliberate indifference, or with reckless disregard of plaintiff's constitutional rights.

5.7. Third Cause of Action: Violation of Fifth Amendment Right to Equal Protection. By the above-described acts, defendants denied plaintiff the right to equal protection guaranteed by the Fifth Amendment to the Constitution of the United States.

5.8. Defendants' conduct proximately caused harm to plaintiff.

5.9. Defendants' conduct was done intentionally, with deliberate indifference, or with reckless disregard of plaintiff's constitutional rights.

6. REQUEST FOR RELIEF

WHEREFORE, plaintiff requests relief as follows:

- 6.1. Trial by jury.
- 6.2. Compensatory damages in an amount to be proven at trial.
- 6.3. Punitive damages in an amount to be proven at trial.
- 6.4. Declaratory and injunctive relief.
- 6.5. Costs and reasonable attorney fees.
- 6.6. The right to conform the pleadings to the proof and evidence presented at trial.
- 6.7. Such other relief as the Court deems just and equitable.

DATED this _____ day of March, 2005.

Respectfully submitted,

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