

IN UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

J. ROBERT MARTINEZ

CARL STARR,
Plaintiff,

v.

LEO SAMANIEGO,
UNKNOWN OPERATION LINEBACKER DEPUTY,
in their individual and official capacity,
Defendants.

EPO6CA0188

COMPLAINT

INTRODUCTION

1. This 42 USC 1983 action is brought for violation of Plaintiff's 4th Amendment rights. A Temporary Restraining Order is asked against Sheriff Leo Samaniego to restrain his use/spending of Operation Linebacker funds. Also Declaratory Judgment is sought against both Defendants. No money damages are asked and Trial by Jury is demanded.

I. JURISDICTION AND VENUE

2. This Court has jurisdiction of this action, which involves a federal question, by reason of 28 USC Section 1331. Venue is proper pursuant to 28 U.S.C. Section 1391.

II. PARTIES

3. Plaintiff is an adult who at all relevant time periods was domiciled in the Western District of Texas, in the County of El Paso, in the City of El Paso. Plaintiff is Hispanic and owns a small ranch in Hudspeth county and travels via bus and walking.

4. Defendants Leo Samaniego is the Sheriff of El Paso County, Texas. The unknown deputy is an El Paso County deputy sheriff with Operation Linebacker unit. Defendants are adults domiciled in the Western District of Texas who at all relevant time periods were peace officers for the County of El Paso Sheriff Dept. Defendants can be served at: Sheriff's Office, 800 E. Overland, El Paso, Texas 79901.

III. FACTUAL ALLEGATIONS

5. On March 21, 2006, afternoon, Plaintiff was on a public El Paso county bus enroute to El Paso from Fort Hancock, Texas.

6. Plaintiff noticed a marked El Paso county sheriff car behind the bus for some time, then saw kojack light was on, at which time Plaintiff told bus driver who pulled over and stopped a few miles West of Fabens on TX 20.

7. Defendant Deputy came up to bus driver window and asked driver for ID.

8. Deputy then told driver he touched/crossed white line. Plaintiff did not notice driver cross line.

9. Deputy asked driver if passengers looked like his normal riders and driver said yes. Deputy asked again are you sure, all of them and driver said yes.

10. Deputy then asked driver to open bus door and proceeded to board bus.

11. Deputy asked Plaintiff for ID, Plaintiff reached for wallet and deputy said thats OK.

12. Deputy then asked other passenger if he had ID and he said yes.

13. Deputy then asked six remaining passengers seated towards rear of bus if they had ID and said Papers, ID and the six said No/shook heads.

14. Deputy then went back to his unit with drivers ID in hands and got on radio for some time.

15. Plaintiff then exited bus and went back to unit and asked deputy if he was with Operation Linebacker and he said yes. Plaintiff overheard deputy say on cellphone the words suspicious and Fabens, where the six had boarded bus.

16. Plaintiff then returned to the bus.

17. Deputy then directed the six to deboard the bus and lined them up outside against bus and proceeded to search/frisk the six, along with another deputy who had came to stop by this time.

18. While other deputy stood guard, first deputy then asked driver to step out and standing in front of bus proceeded to write driver a ticket which plaintiff learned later was a warning for touching/crossing line. Deputy then handed ID back to driver.

19. Driver then returned to bus and Deputy reboarded bus and came up to Plaintiff and asked if everything was "cool". Plaintiff said I don't know all this is first impression.

20. Deputy then told driver he was free to go and bus left, after having been stopped 30 minutes. Plaintiff does not know what became of the six.

IV. CAUSES OF ACTION

21. Plaintiff reincorps/realleges allegations contained in paragraphs 1-20.

22. Plaintiff suffered significant injuries due to the violations described in this Complaint.

23. Acting under both state and federal color of law without probable cause

and without legal/statutory authority/jurisdiction, the Operation Linebacker Deputy violated Plaintiffs 4th Amendment rights under the U.S. Constitution to be free from unreasonable searches and seizures by:stopping the bus/conducting immigration/ID checks of Plaintiff and other passengers and detaining/delaying Plaintiff and bus. Defendants' conduct was done intentionally, with deliberate indifference, or with reckless disregard of plaintiff's constitutional rights.

24. Acting under both state and federal color of law without probable cause and without legal/statutory authority/jurisdiction, Sheriff Leo Samaniego violated Plaintiff's Fourth Amendment rights under the U.S. Constitution via his Operation Linebacker policy/practice of immigration checks/stops and use/spending of Operation Linebacker funds. Samaniego's actions and/or inactions were the moving force behind the constitutional harm sustained by plaintiff.

25. Leo Samaniego is who should be enjoined as the caretaker of Operation Linebacker funds, as enjoining his spending of Operation Linebacker funds will curb the Deputies behavior.

V. CLAIMS FOR RELIEF

26. Plaintiff has standing to seek relief before this Court for an actual controversy pursuant to 28 USC Section 1331 and 42 USC Section 1983.

27. Request for Temporary Restraining Order: Plaintiffs case is but one of many reports of Operation Linebacker Deputys conducting immigration checks stops/roadblocks/raids in Hudspeth and El Paso County [see plaintiffs exhibit 1] Further the El Paso County Attorney is monitoring the El Paso County

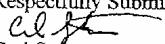
Sheriff because of the many complaints the County Attorney office has received concerning Operation Linebacker. WHEREFORE, Plaintiff asks this Court to restrain the El Paso county Sheriff LEO SAMANIEGO from spending/using Operation Linebacker funds during the pendency of this lawsuit.

28. WHEREFORE Plaintiff requests this Court to assume jurisdiction over this cause and grant him TRO and preliminary/prohibitory/permanent injunction and Declaratory Judgment relief against all defendants and any other relief the court sees fit to award Plaintiff. Further Plaintiff is indigent and asks the court to appoint Plaintiff a attorney as the issue is one of public interest and complex and Plaintiff is a pro se layperson. In the alternative and in the future if Plaintiff is able to secure counsel Plaintiff notes that under 42 USC 1988 counsel has the right to seek attorney fees.

VI. JURY TRIAL DEMANDED

Plaintiff demands trial by jury.

Respectfully Submitted,


Carl Starr
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Ph: 443-8284

I declare under penalty of perjury that the forgoing is true to the best of my knowledge, information, and belief.

Signed: 

Dated: 5-26-05

