

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

DANIEL RENTERIA-VILLEGAS, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 3:11-cv-218
	)	
THE METROPOLITAN GOVERNMENT	)	Judge Kevin H. Sharp
OF NASHVILLE AND DAVIDSON	)	
COUNTY, <i>et al.</i> ,	)	Magistrate Judge Joe B. Brown
	)	
Defendants.	)	

**PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT FINDING  
DEFENDANTS LIABLE UNDER COUNTS I AND II OF  
PLAINTIFFS' THIRD AMENDED COMPLAINT**

Pursuant to Fed. R. Civ. P. 56 and Local Rule 56.01, Plaintiffs Daniel Renteria-Villegas, David Gutierrez-Turcios, and Rosa Landaverde move for Summary Judgment that Defendant Metropolitan Government of Nashville and Davidson County, by and through the Davidson County Sheriff's Office ("Metro" or "DCSO") violated Sections 8.202, 16.05 and 2.01(36) of the Metropolitan Charter of Nashville and Davidson County ("Metro Charter") by entering into and performing services under its 2009 Memorandum of Agreement ("MOA") with Defendant Immigration and Customs Enforcement ("ICE"). Plaintiffs also move for Summary Judgment that ICE violated the plain language of 8 U.S.C. § 1357(g) (Section 287(g) of the Immigration and Nationality Act), and thus violated Section 706(2)(C) of the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 701 *et seq.*, by entering into a 287(g) agreement that is inconsistent with State and local law.

In accordance with Local Rule 56.01(b), Plaintiffs have separately filed a Statement of Undisputed Material Facts as well as a number of exhibits in support of this Motion.<sup>1</sup> This Motion is also supported by the accompanying Memorandum of Law, and Exhibits A – J attached hereto.

Because there is no genuine dispute as to any material fact, and Plaintiffs are entitled to judgment as a matter of law, the Court should enter summary judgment for the Plaintiffs regarding Counts I and II of their Third Amended Complaint, and issue the requested declaratory and injunctive relief.

Respectfully submitted this 19<sup>th</sup> day of August, 2011,

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<sup>1</sup> The Plaintiffs' Statement of Undisputed Material Facts is a combined statement of facts that relates to both of the Counts on which they presently move for summary judgment.

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## **CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing has been served by electronic means, via the U.S. District Court's electronic filing system on August 19, 2011, on:

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	)	
Defendants.	)	

**PLAINTIFFS' CONCISE STATEMENT OF UNDISPUTED MATERIAL FACTS**

All Plaintiffs, through undersigned counsel, and pursuant to Local Rule 56.01(b), hereby submit their Concise Statement of Undisputed Material Facts in Support of their Motion for Partial Summary Judgment.

1. The Metropolitan Government of Nashville and Davidson County entered into its current 287(g) Agreement with ICE in October of 2009. Answer of Defendant Metropolitan Gov't of Nashville & Davidson Cnty. ("Metro Answer"), Docket No. 56, ¶ 17. 2009 287(g) Memorandum of Agreement ("Memorandum of Agreement" or "MOA") between Defendants Metro Government and U.S. Immigration and Customs Enforcement ("ICE"), Docket No. 3-1 at 22.

**RESPONSE:**

2. The MOA enables qualified Davidson County Sherriff's Office ("DCSO") deputies to be designated as 287(g) Jail Enforcement Officers. Memorandum of Agreement at 19-20; Complaint, ¶ 18; Metro Answer, ¶ 18.

**RESPONSE:**

3. The first paragraph on the first page of the MOA states, “. . . ICE delegates to nominated, trained, certified, and authorized DCSO personnel to perform certain immigration and enforcement functions as specified herein.” Memorandum of Agreement at 1, ¶ 1.

**RESPONSE:**

4. The same paragraph states: “It is the intent of the parties that these delegated authorities will enable the DCSO to identify and process immigration violators and conduct criminal investigations under ICE supervision, as detailed herein, within the DCSO’s area of responsibility.” Memorandum of Agreement at 1, ¶ 1.

**RESPONSE:**

5. Section I of the contract, entitled “Purpose”, refers to “the exercise of immigration enforcement authority” by DCSO personnel. Memorandum of Agreement at 1, ¶ 2.

**RESPONSE:**

6. MOA Section VIII, “Certification and Authorization,” states ICE instructors “will train participating DCSO personnel in the enforcement of Federal immigration laws and policies . . . .” Memorandum of Agreement at 4, ¶ 3.

**RESPONSE:**

7. MOA Section X, “ICE Supervision,” provides: “Immigration enforcement activities conducted by the participating DCSO personnel will be supervised and directed by ICE supervisory officers or designated ICE team leaders. Memorandum of Agreement at 6, ¶ 1.

**RESPONSE:**

8. The MOA delegates to DCSO Jail Enforcement Officers “the power and authority to interrogate any person believed to be an alien as to his right to be in the United States (INA § 287(a)(1) and 8 C.F.R. § 287.5(a)(1)).” Memorandum of Agreement at 19; Compl., ¶ 19; Metro Answer, ¶ 19.

**RESPONSE:**

9. The MOA delegates to DCSO Jail Enforcement Officers the “power and authority to administer oaths and to take and consider evidence (I[m]migration) and N[at]ionality) A[ct], [8 U.S.C. § 1001 et seq.], § 287(b) and 8 C.F.R. § 287.5(a)(2)).” Memorandum of Agreement at 19; Compl., ¶ 19; Metro Answer, ¶ 19.

**RESPONSE:**

10. The MOA delegates to DCSO Jail Enforcement Officers the “power and authority to serve warrants of arrest for immigration violations pursuant to INA § 287(a) and 8 C.F.R. § 287.5(e)(3)[.]” Memorandum of Agreement at 19; Compl., ¶ 19; Metro Answer, ¶ 19.

**RESPONSE:**

11. The MOA delegates to DCSO Jail Enforcement Officers “the power and authority to prepare charging documents.” Memorandum of Agreement at 19; Compl., ¶ 19; Metro Answer, ¶ 19.

**RESPONSE:**

12. The MOA delegates to DCSO Jail Enforcement Officers the “power and authority to issue immigration detainers (INA § 236, INA § 287, and 8 C.F.R. § 287.7) and I-213, Record of Deportable/Inadmissible Alien, for processing aliens in categories established by ICE supervisors[.]” Memorandum of Agreement at 19; Compl., ¶ 19; Metro Answer, ¶ 19.

**RESPONSE:**

13. Section I of the MOA states the purpose of the DCSO 287(g) program is “to enhance the safety and security of communities by focusing resources on identifying and processing for removal criminal aliens who pose a threat to public safety or a danger to the community.” Memorandum of Agreement at 1, ¶ 2 (“I. Purpose”); Compl., ¶ 21; Metro Answer, ¶ 21.

**RESPONSE:**

14. James Daron Hall has been the Sherriff of Davidson County since September, 2002. Docket No. 58-1, Deposition of Daron Hall, 7:14 – 7:18, *Villegas v. Metropolitan Gov’t of Nashville & Davidson Cnty.*, No. 3:09-0219 (M.D. Tenn. Jul. 23, 2010).

**RESPONSE:**



15. Speaking under oath on July 23, 2010, Sheriff Daron Hall described his understanding of the work DCSO 287(g) Jail Enforcement Officers perform under the MOA as follows: “Well, the way I understand it, it’s just like a Police Department . . . taking their charges to a district attorney, for example; here’s what we believe happened, here are the facts surrounding this case; and then it’s determined whether to pursue charges. Charges, in my analogy, is that the federal agent then takes the case to a federal judge. Very similar to that. We’re doing the grunt work of the case and we’re turning in what we have on the individual.” Docket No. 58-1, Deposition of Daron Hall, 235:19 – 236:7, *Villegas v. Metropolitan Gov’t*, No. 3:09-0219 (M.D. Tenn. Jul. 23, 2010); Compl., ¶ 22; Metro Answer, ¶ 22.

**RESPONSE:**

16. The 287(g) Agreement and 8 U.S.C. § 1357(g) require ICE to train and certify DCSO personnel through the Immigration Authority Delegation Program. Memorandum of Agreement at 3-6, 17-18; 8 U.S.C. § 1357(g)(2); Compl., ¶ 24; Metro Answer, ¶ 24.

**RESPONSE:**

17. The ICE curriculum for the initial training which DCSO deputies must complete in order to obtain federal 287(g) designation lasts almost four weeks. Docket No. 31-1, ICE-DCSO 287(g) Training Materials, at 1-4; Compl., ¶ 25; Metro Answer, ¶ 25.

**RESPONSE:**

18. Through their training, DCSO 287(g) deputies are required to complete Classroom Exercises in which they must demonstrate knowledge of the federal immigration and

criminal laws, and the sources of power and authority by which immigration officers enforce these laws. Docket No. 31-1; Compl., ¶ 27; Metro Answer, ¶ 27.

**RESPONSE:**

19. Modules in the ICE 287(g) training DCSO deputies receive include: “ICE enforcement operations,” “Officer civil liability and civil rights,” “Victim/Witness Awareness,” “Sources of Information,” “A-File Review,” “Activity Prep,” “Nationality Law,” “Statutory Authority,” “Criminal Law,” “False Claim to USC,” “DOJ Guidance Regarding the Use of Race,” “Law Exam I,” “Document Examination,” “Immigration Law,” “Law Exam II,” “Alien Encounters,” “Re-Entry After Removal,” “I-213 Prep,” “Removal Charges,” “Consular Notification,” “Alien Processing,” and “Intel Overview.” Docket No. 31-1 at 1-4; Compl., ¶ 26; Metro Answer, ¶ 26.

**RESPONSE:**

20. These training materials distinguish between “booking information” and other information which DCSO 287(g) Jail Enforcement Officers may collect during their interrogations. The training manual states, “If the alien invokes his right to counsel, an immigration officer can only ask the alien about ‘booking information’ such as the alien’s name, date of birth, sex, color of hair and eyes, height, weight, and U.S. address.” Docket No. 31-1 at 121; Compl. ¶ 28; Metro Answer, ¶ 28.

**RESPONSE:**

21. Nationality and immigration status are not included within the list of “booking information” questions in ICE’s training materials. Docket No. 31-1 at 121; Compl., ¶ 29; Metro Answer, ¶ 29.

**RESPONSE:**

22. As part of the “Criminal Law” portion of ICE’s training curriculum, DCSO deputies were expected to be able to “1. Identify Federal criminal violations;” “2. Identify the elements of Federal criminal violations;” “3. Identify the elements of Federal administrative violations;” and “4. Identify the judicial process for criminal violations.” This training module states, “Immigration officers . . . work extensively in both criminal and administrative law arenas and accordingly must always be aware and sensitive to the differences between the two. Many situations encountered in the field involve laws that provide for separate criminal and administrative sanctions. Many illegal actions relating to the enforcement of the immigration laws of the United States (U.S.) can be either criminally or administratively prosecuted.” Docket No. 31-1 at 137; Compl., ¶ 30; Metro Answer, ¶ 30.

**RESPONSE:**

23. The Criminal Law section of ICE’s 287(g) training materials requires DCSO deputies to demonstrate their understanding of what constitutes a violation of federal crimes, including: 18 U.S.C. § 911; 18 U.S.C. § 1001; 8 U.S.C. §§ 1324(a) and (b); 8 U.S.C. §§ 1325(a) and (c); 8 U.S.C. § 1326; 18 U.S.C. § 1589; and 8 U.S.C. § 1328. Docket No. 31-1 at 166.

**RESPONSE:**

24. The Criminal Law section of the ICE training materials DCSO 287(g) deputies received contains a section following each criminal statute entitled “Application in the Field”. Docket No. 31-1 at 141-143, 147, 150, 152-54, 155, 156-57, 161-62, 164-65.

**RESPONSE:**

25. When law enforcement officers make an arrest in Davidson County, they normally complete an arrest report indicating the arrestee’s place of birth. Compl., ¶ 31; Metro Answer, ¶ 31.

**RESPONSE:**

26. Once the arrestee arrives at the DCSO for booking, DCSO deputies inquire about the arrestee’s nationality as part of the biographic information they collect during the booking process. Compl., ¶ 32; Metro Answer, ¶ 32.

**RESPONSE:**

27. At booking, DCSO officers place paperwork of suspected foreign-born inmates into a designated area for further action to be taken by 287(g) officers. Compl., ¶ 34; Metro Answer, ¶ 34.

**RESPONSE:**

28. Pursuant to the 287(g) contract, DCSO Jail Enforcement Officers may prepare and issue a federal immigration detainer, “Form I-247, Immigration Detainer – Notice of Action.” Memorandum of Agreement at 19; Compl., ¶ 35; Metro Answer, ¶ 35.

**RESPONSE:**

29. For each inmate subject to an ICE hold, Form I-247 indicates, "Investigation has been initiated to determine whether this person is subject to removal from the United States." Sample I-247, Notice of Immigrant Detainer, Docket No. 3-4.

**RESPONSE:**

30. Even if no I-247 has been lodged against an inmate, DCSO Jail Enforcement Officers consistently add a notation to an inmate's Jail Management System file if that inmate is subject to a 287(g) investigation. Compl., ¶ 38; Metro Answer, ¶ 38.

**RESPONSE:**

31. The federal investigation into an arrestee's immigration status occurs through an interview by a DCSO 287(g) Jail Enforcement Officer. Compl., ¶ 39; Metro Answer, ¶ 39.

**RESPONSE:**

32. The source of authority permitting DCSO 287(g) Jail Enforcement Officers to interview inmates about their immigration status is the 287(g) MOA. 287(g) Memorandum of Agreement at 19.

**RESPONSE:**

33. This federal investigation and the interrogation require DCSO Jail Enforcement Officers to apply their training and knowledge of federal immigration law to determine whether the subject of the interview has violated federal law. Compl., ¶ 40; Metro Answer, ¶ 40.

**RESPONSE:**

34. Upon completion of an investigation, DCSO ICE deputies may recommend individuals for removal (deportation), and a federal ICE agent working in the Criminal Justice Center signs that recommendation if approved. DCSO 287(g) Program Two-Year Review, Docket No. 3-7 at 6. (“Implementation”).

**RESPONSE:**

35. DCSO Jail Enforcement Officers prepare Form I-213, Record of Deportable/Inadmissible Alien, and present it to the ICE Supervisor for review, approval, and signature. Compl., ¶¶ 48-40; Metro Answer, ¶¶ 48-49.

**RESPONSE:**

36. ICE training of DCSO 287(g) deputies states: “The use of the I-213 creates a historical record of information which, since it is used as evidence in removal proceedings, must be complete and accurate. A properly completed I-213 then provides the basis for successful processing of the alien and stands as primary evidence of alienage and removability.” ICE Academy I-213 Training Module, Docket No. 3-9 at 3.

**RESPONSE:**

37. On May 10, 2010, Ron Kidd was an ICE employee and the immediate federal supervisor of 287(g) in Nashville. Docket No. 58-1, Deposition of Daron Hall, 189:2 – 189-19.

**RESPONSE:**

38. On May 10, 2010, Laura Sanderson, Harry Jines, and Marty Patterson were DCSO 287(g) Jail Enforcement Officers, and Tom Davis was DCSO's 287(g) supervisor. Exhibit A, Email from Ron Kidd (ICE Nashville) to Laura Sanderson, Harry Jines, Marty Patterson (DCSO 287(g) JEO), and Tom Davis (DCSO 287(g) Supervisor), sent May 10, 2010 at 3:52 PM, Re: "Reminder."

**RESPONSE:**

39. At 3:52 PM on May 10, 2010, Laura Sanderson, Harry Jines, and Tom Davis received an email sent by Ron Kidd stating "the I-213 is the evidence that is submitted to the judge that the alien was properly interviewed." Ex. A; Compl. ¶ 51. Cf. Metro Answer ¶ 51

**RESPONSE:**

40. In addition to Form I-213, DCSO 287(g) Jail Enforcement Officers are also authorized to prepare and sign Form I-877. Docket No. 3-11 (Sample I-877 prepared by DCSO 287(g) Jail Enforcement Officer).

**RESPONSE:**

41. The first full paragraph of text on the first page of Form I-877 reads: "I am an officer of the United States Immigration and Naturalization Service, authorized by law to

administer oaths and take testimony in connection with the enforcement of the Immigration and Nationality laws of the United States. I desire to take your sworn statement regarding: Immigration status, criminal record and criminal conduct.” Sample Form I-877, Docket No. 3-11 at 1; Compl., ¶ 52; Metro Answer, ¶ 52.

**RESPONSE:**

42. The second question on Form I-877 is “Do you wish to have a lawyer or any other person present to advise you?” Docket No. 3-11 at 1.

**RESPONSE:**

43. The following nine pages of Form I-877 contain questions designed by ICE to elicit admissions of civil and criminal liability on a wide range of immigration-related topics. Docket No. 3-11; Compl., ¶ 55; Metro Answer, ¶ 55.

**RESPONSE:**

44. DCSO Jail Enforcement Officers also prepare, sign, and present to the subjects of their investigations other law enforcement documents, including the Notice to Appear in Immigration Court (a charging document), the Warrant for Arrest of Alien, and, when appropriate, a Notice of Intent/Determination to Reinstate a Prior Removal Order. Compl. ¶ 56; Metro Answer, ¶ 56.

**RESPONSE:**



45. Metro Police Department Officer Rickey Bearden arrested Daniel Renteria at his home in Davidson County on Sunday, August 22, 2010, at or around 4:46 p.m. Compl., ¶ 57; Metro Answer, ¶ 57.

**RESPONSE:**

46. Plaintiff Renteria's August 22, 2010 arrest occurred pursuant to a criminal warrant that was subsequently dismissed for lack of probable cause. Compl., ¶ 58; Metro Answer, ¶ 58.

**RESPONSE:**

47. The Metro Police Officer who arrested Plaintiff Renteria completed an Arrest Report indicating Renteria's place of birth was "Mexico." Compl., ¶ 59; Metro Answer, ¶ 59.

**RESPONSE:**

48. DCSO employees booked Plaintiff Renteria into the DCSO's Criminal Justice Center ("CJC") facility between 5:00 p.m. and 8:00 p.m. on August 22. Compl., ¶ 60; Metro Answer, ¶ 60.

**RESPONSE:**

49. When DCSO deputies booked Plaintiff Renteria into the Criminal Justice Center, they asked him where he was born. Compl., ¶ 63; Metro Answer, ¶ 63.

**RESPONSE:**

50. The demographic information in Plaintiff Renteria's DCSO Jail Management System file states his P[lace] O[f] B[irth] as "OR[EGON]." Compl., ¶ 64; Metro Answer, ¶ 64.

**RESPONSE:**

51. During the booking process a DCSO deputy or employee named "K. Cash" made a notation that Plaintiff Renteria was "sent to ICE" at approximately 5:57 p.m. on August 22. Compl., ¶ 65; Metro Answer, ¶ 65.

**RESPONSE:**

52. DCSO deputy and designated 287(g) Jail Enforcement Officer Willie Sydnor updated Renteria's ICE Hold status to reflect an active ICE investigative hold as to Plaintiff Renteria at 7:57 p.m. on August 22. Compl., ¶ 66; Metro Answer, ¶ 66.

**RESPONSE:**

53. A DCSO deputy placed a red stamp that reads "ICE" on Plaintiff Renteria's intake and booking paperwork and dropped that paperwork into a box for DCSO's 287(g) Jail Enforcement Officers to retrieve. Compl., ¶ 67; Metro Answer, ¶ 67.

**RESPONSE:**

54. At approximately 9:47 a.m. on August 24, 2010, DCSO deputy and designated 287(g) Jail Enforcement Officer Marty Patterson scheduled Plaintiff Renteria for an "ICE Interview", to occur between 10:30 a.m. and 11:00 a.m. the same day. Compl., ¶ 69; Metro Answer, ¶ 69.

**RESPONSE:**

55. This 287(g) interview authorized by the authority delegated to DCSO Jail Enforcement Officers under the MOA to conduct interrogations pursuant to 8 U.S.C. § 1357(a)(1) occurred in a small office within the DCSO's administrative area at the CJC between 12:26 p.m. and 1:09 p.m. on August 24. The sign above the door on this small office reads, "ICE OFFICE." Compl., ¶ 71; Metro Answer, ¶ 71.

**RESPONSE:**

56. A computer terminal inside this ICE office is equipped with ICE's ENFORCE/IDENT software and database. Compl., ¶ 72; Metro Answer, ¶ 72.

**RESPONSE:**

57. The ENFORCE/IDENT system is used by DCSO 287(g) Jail Enforcement Officers to collect and share with ICE and other law enforcement agencies investigative information which DCSO deputies gather during 287(g) encounters with suspected foreign-born inmates. Compl., ¶ 73; Metro Answer, ¶ 73.

**RESPONSE:**

58. The DCSO Jail Enforcement Officer who conducted the 287(g) interrogation did not lift the ICE Investigative Hold when his interview of Plaintiff Renteria ended. Compl., ¶ 94; Metro Answer, ¶ 94.

**RESPONSE:**

59. At 9:56 p.m. on September 3, 2010, DCSO deputy or employee “W. Ford” deactivated Plaintiff Renteria’s “ICE Investigative Hold” imposed by DCSO several days earlier. Compl., ¶ 97; Metro Answer, ¶ 97.

**RESPONSE:**

60. “W. Ford” lifted the ICE Investigative Hold only after two of Plaintiff Renteria’s relatives brought his original birth certificate and original passport to the CJC late in the evening on September 3, 2010. Compl., ¶ 98; Metro Answer, ¶ 98.

**RESPONSE:**

61. A DCSO employee made a copy of these documents, returned the originals, and kept the copies. Compl., ¶ 99; Metro Answer, ¶ 99.

**RESPONSE:**

62. Even after DCSO employees had original documents proving Plaintiff Renteria’s U.S. citizenship and made photocopies of those documents at around 10:00 p.m. on September 3, it took almost three more hours for DCSO to release him. Compl., ¶ 100; Metro Answer, ¶ 100.

**RESPONSE:**

63. The DCSO released Plaintiff Renteria at 12:48 a.m. on September 4, 2010. Compl., ¶ 100; Metro Answer, ¶ 101.

**RESPONSE:**

64. No Jail Enforcement Officer or ICE agent ever lodged an I-247, Immigrant Detainer – Notice of Action against Plaintiff Renteria, as contemplated by 8 C.F.R. § 287.7(d). Compl., ¶ 103; Metro Answer, ¶ 103.

**RESPONSE:**

65. Plaintiff Renteria is of Latino race, ethnicity, and appearance. Compl., ¶ 104; Metro Answer, ¶ 104.

**RESPONSE:**

66. Plaintiff Renteria is a native Spanish-speaker of limited English proficiency. Compl., ¶ 105; Metro Answer, ¶ 105.

**RESPONSE:**

67. Davidson County Sheriff's Office Administrative Services Manager Constance Taite has previously stated that DCSO jail inmates who claim to be U.S. citizens will be subjected to a 287(g) investigation if they "claim[] to have been born at Baptist Hosp. but speak[] little English." Exhibit B, TBALINK Email From Constance Taite, sent Jul 18, 2007 at 3:05 PM, Re: [TBAlink-talk] Immigration "hold".

**RESPONSE:**

68. An officer of the Metro Police Department arrested David Gutierrez following a traffic accident on April 12, 2010. Compl., ¶ 113; Metro Answer, ¶ 113.

**RESPONSE:**

69. Plaintiff Gutierrez was booked into the DCSO's Criminal Justice Center facility shortly after being arrested. Compl., ¶ 114; Metro Answer, ¶ 114.

**RESPONSE:**

70. Plaintiff Gutierrez's booking records correctly indicated that he was not born in the United States. Compl., ¶ 115; Metro Answer, ¶ 115.

**RESPONSE:**

71. A DCSO Deputy placed an ICE Hold on Mr. Gutierrez on or about April 12, 2010. Compl., ¶ 116; Metro Answer, ¶ 116.

**RESPONSE:**

72. A DCSO deputy placed a red stamp that reads "ICE" on Plaintiff Gutierrez's intake and booking paperwork and dropped that paperwork into a box for DCSO's 287(g) Jail Enforcement Officers to retrieve. Compl., ¶ 117; Metro Answer, ¶ 117.

**RESPONSE:**

73. Soon after he entered DCSO custody, Plaintiff Gutierrez was interviewed in the DCSO 287(g) "ICE" Office by a DCSO 287(g) Jail Enforcement Officer pursuant to the federal authority, 8 U.S.C. § 1357(a)(1) delegated under the MOA. Memorandum of Agreement, p. 19; Compl., ¶ 119; Metro Answer, ¶ 119.

**RESPONSE:**

74. The Jail Enforcement Officer asked Plaintiff Gutierrez where he was born. Gutierrez replied that he was born in Honduras. Compl., ¶ 120; Metro Answer, ¶ 120.

**RESPONSE:**

75. The Jail Enforcement Officer then asked Plaintiff Gutierrez if he is a U.S. citizen or lawful permanent resident of the United States, or if he had any other form of legal authorization to be and remain in the United States. Gutierrez indicated that he is a lawful permanent resident of the United States. Compl., ¶ 121; Metro Answer, ¶ 121.

**RESPONSE:**

76. Plaintiff Gutierrez reached a plea agreement that would have required him to serve 10 days in jail at a DSCO facility on the weekends. Compl., ¶ 124; Metro Answer, ¶ 124.

**RESPONSE:**

77. Plaintiff Gutierrez is currently confined in a DCSO facility, where he is serving an 11-month, 29-day sentence, stemming from his June 8, 2011 conviction on domestic assault charges. DCSO Inmate Status for David Gutierrez-Turcios, Docket No. 58-2.

**RESPONSE:**

78. Plaintiff Gutierrez is a lawful permanent resident of the United States. Exhibit C, Copy of Plaintiff Gutierrez's I-551, Lawful Permanent Resident card.

**RESPONSE:**

79. Sheriff Daron Hall stated repeatedly under oath that all suspected foreign born DCSO inmates are subject to 287(g) scrutiny. Deposition of Daron Hall, Docket No. 58-1 at 56:6 – 56:7; 57:10 – 57:11; 61:5 – 61:9; 62:1 – 61:7; 63:10 – 63:23; 89:12 – 89:14; 97:12 – 97:15; 99:19; 171:23 – 172:1; 194:10 – 194:12; 220:18 – 220:21.

**RESPONSE:**

80. Defendant ICE has set as its highest priority the removal of aliens with criminal convictions. Memorandum of Agreement at 1, 17, ICE Strategic Plan, FY 2010-2014, <http://www.ice.gov/doclib/news/library/reports/strategic-plan/strategic-plan-2010.pdf>.

**RESPONSE:**

81. The DCSO 287(g) program currently consists of eleven DCSO employees. Compl., ¶ 136; Metro Answer, ¶ 136.

**RESPONSE:**

82. Plaintiff Rosa Landaverde co-owns real property in Davidson County, Tennessee. Exhibit D, Davidson County Property Tax Assessor Website Summary Page Printout for Parcel 147 10 0 173.00; Exhibit E, Davidson County Property Tax Assessor Website Deed & Title Page Printout for Parcel 147 10 0 173.00.

**RESPONSE:**



83. Plaintiff Landaverde has paid municipal property taxes on her real property to the Metropolitan Government of Nashville and Davidson County. Exhibit F, Metropolitan Trustee 2010 Real Property Tax Statement for Parcel 147 10 0 173.00.

**RESPONSE:**

84. Ms. Landaverde's son is currently in removal proceedings after being processed by the DCSO 287(g) program. Exhibit G, Form I-213 created by DCSO 287(g) Jail Enforcement Officer Mickey Lee and filed by against Elenilson Gutierrez-Landaverde (Showing Rosa Landaverde in the "mother's name" field). Exhibit H, Notice of Hearing in Removal Proceedings for Elenilson Gutierrez-Landaverde (showing Nov. 22, 2011 hearing date).

**RESPONSE:**

85. Pursuant to 8 U.S.C. § 1357(g)(1) and the 287(g) Agreement, all 287(g)-related duties performed by DCSO's 11 287(g) employees must be performed at the expense of the Metro Government. Memorandum of Agreement at 5; 8 U.S.C. § 1357(g)(1); Compl., ¶ 136; Metro Answer, ¶ 136.

**RESPONSE:**

86. The DCSO receives funding, in whole or in part, for the salaries of the 8 corrections officers, 2 supervisors, and 1 Director who administer the 287(g) program, from the Metro Government's "GSD General Fund 10101" account. Compl., ¶ 138; Metro Answer, ¶ 138.

**RESPONSE:**

87. In Fiscal Year 2010-2011, approximately 52% of the Metro Government's tax revenues came from property taxes. Compl., ¶ 139; Metro Answer, ¶ 139.

**RESPONSE:**

88. In Fiscal Year 2010-2011, approximately 17% of the Metro Government's tax revenues came from property taxes. Compl., ¶ 140; Metro Answer, ¶ 140.

**RESPONSE:**

Respectfully submitted this 19<sup>th</sup> day of August, 2011,

\_\_\_\_\_  
/s/ Elliott Ozment  
Elliott Ozment (No. 4331)  
Immigration Law Offices of  
Elliott Ozment  
1214 Murfreesboro Pike  
Nashville, TN 37217  
Phone: 615-321-8888  
Fax: 615-321-5230  
elliott@ozmentlaw.com

Trina Realmuto  
*Pro Hac Vice*  
National Immigration Project of the  
National Lawyers Guild  
14 Beacon Street, Suite 602  
Boston, MA 02108  
Phone: 617.227.9727 ext. 8  
Fax: 617.227-5495  
trina@nationalimmigrationproject.org

Daniel Werner  
*Pro Hac Vice*  
Georgia Bar No. 422070  
Thomas Fritzsche  
*Pro Hac Vice*  
Georgia Bar No. 940482  
Immigrant Justice Project

Southern Poverty Law Center  
233 Peachtree St. NE, Suite 2150  
Atlanta, GA 30303  
Phone: 404-521-6700  
Fax: 404-221-5857  
daniel.werner@splcenter.org  
tom.fritzsche@splcenter.org

*Attorneys for Daniel Renteria-Villegas,  
David Gutierrez-Turcios, and Rosa  
Landaverde*

**From:** Sanderson, Laura (DCSO)  
**Sent:** Monday, May 10, 2010 10:58 PM  
**To:** Kidd, Ron (DCSO)  
**Subject:** RE: Reminder

Guys PLEASE make sure you're doing this. Take the extra time to ask them where they came in and when. I think we all are but just in case. Also, there are copies of the transit forms with the packet - this should be served when you serve other documents. Let me know if you have any questions - Thanks!

---

**From:** Kidd, Ron (DCSO)  
**Sent:** Monday, May 10, 2010 3:52 PM  
**To:** Sanderson, Laura (DCSO); Jines, Harry (DCSO); Patterson, Marty (DCSO); Davis, Tom (DCSO)  
**Subject:** Reminder

Please ask your officers to make sure they put the in transit form, (signed by the alien) in the file. I've attached them again.

They should serve that document when they serve the NTA.

Also I am asking that everyone put down on the I-213 a date and place where the alien crossed the border.

I want to be able to state that the question is being asked. Remember the I-213 is the evidence that is submitted to the judge that the alien was properly interviewed.

When all I ever see is unknown date, unknown place, I don't know that we're asking the questions we should be asking.

Thanks

Ron

**From:** "Taite, Constance (DCSO)" <[CTaite@DCSO.nashville.org](mailto:CTaite@DCSO.nashville.org)>  
**Date:** July 18, 2007 3:05:52 PM CDT  
**To:** <[tbalink-talk@tba2.org](mailto:tbalink-talk@tba2.org)>  
**Subject:** RE: [Tbalink-talk] Immigration "hold"  
**Reply-To:** [tbalink-talk@tba2.org](mailto:tbalink-talk@tba2.org)

John,

I can answer your question if he was arrested in Davidson Co. and held pursuant to the 287(g) program. I agree that he should have received a citation in lieu of arrest under the circumstances you describe, and TN law certainly encourages use of citations.

The police department has repeatedly told us that the issue is whether the person can show ID, and that "even a utility bill" showing the name & address may be acceptable under otherwise routine circumstances. If your guy had gotten a citation, he would have had to report for citation booking, but absent an NCIC hit that triggers an arrest, e.g., burglary warrants in Georgia, his immigration status would not have been checked.

Once the police make an arrest and the commissioner signs a committal, the person MUST be booked into jail. Information is automatically streamed to ICE on anyone who acknowledges being born outside the U.S. (or claims to have been born at Baptist Hosp. but speaks little English). After the local charges are disposed of (dismissed, bail posted, time served, etc.) ICE officers have 48 hrs., excluding holidays and weekends, to investigate and take action, which may be anything from a release with a notice to appear to a detainer for deportation. Typically, however, the investigation is completed long before 48 hrs.

I can't speak to police practices or explain their decisions regarding who gets arrested and who gets a citation. However, the decision to arrest leaves us no discretion about what happens next. We have to book.

Constance Taite

C:/.../DCSO lawyer email re sel of those...

1/3



HOME

SEARCH

SUMMARY

INTERIOR

EXTERIOR

ABOUT

Printable Record Card | Previous Appraisal | Condo Info | Sales Search | Aerial  
Photo | Map View

WebPro

Card 1 of 1

Location 547 BONERWOOD DR  
NASHVILLE

Parcel ID 147 10 0 173.00

## Current Property Mailing Address

Owner LANDAVERDE, ROSA & GARCIA,  
SOF

City NASHVILLE

Address 547 BONERWOOD DR

State TN

Zip 37211

Tax District USD

## Current Property Sales Information

Sale Date 7/2/2009 [Show Sales History](#)

Legal Reference 20090713-0064936

Sale Price 0

Zone 1

## Current Property Appraisal

Fiscal Year 2011

Building Value 135,600

Land Area 0.41 A

Land Value 32,000

Total Value 167,600

## Narrative Description

This property contains 0.41 A of land mainly classified for assessment purposes\* as R a(n) SINGLE FAM style building, built about 1966 , having BRICK exterior and ASPHA cover, with 1 unit(s), 6 total room(s), 4 total bedroom(s), 2 total bath(s), 0 total half bat  
\*The classification for assessment purposes is not a zoning designation and does not to the legality of the current use of the subject property.

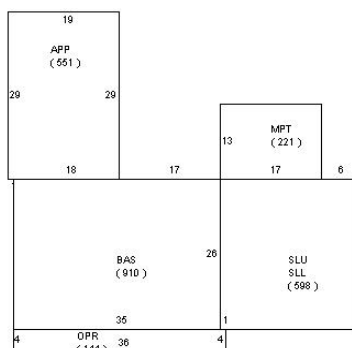
## Legal Description

LOT 45 PARKVIEW ESTATES SEC. 2

[View Metro Map](#)

By clicking this link you will be leaving the Property Assessor's WebPro site. You will be directed to the Metro Planning Commission's Map Site. For help on using their site, see [I use these maps?](#) Any problems, suggestions, comments, or questions on the map site should be directed to [internetmaps@nashville.gov](mailto:internetmaps@nashville.gov) or 615-862-7190.

## Click Property Images to Enlarge







## Sales History for Parcel 147 10 0 173.00 547 BONERWOOD DR NASHVILLE

Current Owner: LANDAVERDE, ROSA & GARCIA, SOF

Sale Date	Sale Price	Deed Type	Deed Book and Page
07/02/2009	\$0	QUIT CLAIM	20090713-0064936
05/02/2009	\$0	QUIT CLAIM	20090507-0042224
05/02/2003	\$126,700	WARRANTY DEED	20030508-0062081
11/06/2002	\$133,008	TRUSTEE DEED	20030114-0005789
05/18/2001	\$129,800	WARRANTY DEED	20010529-0055234
12/31/1986	\$67,000	WARRANTY DEED	00007097-0000214
08/13/1969	\$0	WARRANTY DEED	00004359-0000891



# 2010 Real Property Tax Statement

Map/Par: 14710017300  
Description: LOT 45 PARKVIEW ESTATES SEC. 2

Bill Number: 2010 188393.0000  
Tax District: USD  
BAC - 204966991

CJC

Location: 547 BONERWOOD DR

Prior Owner:

If ownership changed

After Jan.1

Mailing address:

LANDAVERDE, ROSA & GARCIA, SOFIA ETAL  
547 BONERWOOD DR  
NASHVILLE TN 37211

\*Your canceled check is your receipt\*  
\*Credit Card payments will receive a receipt\*

Your taxes are distributed as follows:

<u>Fund Description</u>	<u>Rate</u>	<u>GSD Tax</u>	<u>USD Tax</u>	<u>Amount</u>
GSD General Fund	1.75	733.25		733.25
GSD Debt Service	0.42	175.98		175.98
GSD School Debt Service	0.15	62.85		62.85
GSD School General Purpose	1.17	490.23		490.23
USD General Fund	0.46		192.74	192.74
USD Debt Service	0.11		46.09	46.09
USD Fire Protection	0.07	29.33		29.33
<b>Total Taxes</b>	<b>4.13</b>	<b>\$1,491.64</b>	<b>\$238.83</b>	<b>\$1,730.47</b>

Appraised Value: \$167,600.00

Class & Rate Residential 25%

Assessed Value: \$41,900.00

Date	Description	Base Tax	Amount
12/13/2010	Payment - Mortgage	\$1,730.47	\$1,730.47

Balance Due: \$ 0.00

We are open Monday-Friday from 8 a.m. until 4:30 p.m.. Please call us at (615) 862-6330 with any questions.

♿ - ADA - (615) 862-6330

**IMPORTANT: Retain this portion for your records.**

See back for Bankruptcy & Legal Notices.

Charlie Cardwell, Metropolitan Trustee  
700 Second Avenue South, Suite 220  
P.O. Box 196358  
Nashville, TN 37219-6358

## 2010 Real Property Tax Statement

Map/Par: 14710017300  
Bill Number: 2010 188393.0000  
Tax District: USD  
BAC - 204966991

Balance Due: \$ 0.00

Amount Remitted: \$ \_\_\_\_\_

**To avoid additional penalty and interest, Total tax must be paid by: August 31, 2011**

See back for Bankruptcy & Legal Notices.

LANDAVERDE, ROSA & GARCIA, SOFIA ETAL  
547 BONERWOOD DR  
NASHVILLE TN 37211

R

**Metropolitan Trustee  
Real Property Tax Department  
P.O. Box 196358  
Nashville, TN 37219-6358**

Property Address:

547 BONERWOOD DR

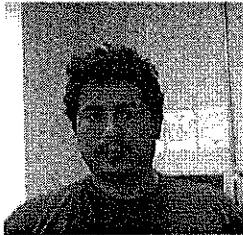


IMPORTANT: Return this portion with your payment. Use the address below for current payment only. Make check payable to:

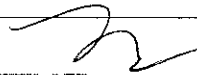
Address change on back



Credit card payment



Family Name (CAPS) <b>GUTIERREZ-Landaverde, Elenilson Alexander</b>		First <b>EL SALVADOR</b>	Middle <b>EL SALVADOR</b>
Country of Citizenship <b>EL SALVADOR</b>	Passport Number and Country of Issue <b>Case No: NSVI002000197 A087686663</b>	File Number <b>Case No: NSVI002000197 A087686663</b>	
U.S. Address <b>547 BONERWOOD DRIVE NASHVILLE, TENNESSEE, 37211,</b>			
Date, Place, Time, and Manner of Last Entry <b>Unknown Date, Unknown Time, UNK, EWI</b>		Passenger Boarded at	
Number, Street, City, Province (State) and Country of Permanent Residence			
Date of Birth <b>07/08/1986</b>	Age: <b>23</b>	Date of Action <b>02/19/2010</b>	Location Code <b>NOL/NSV</b>
City, Province (State) and Country of Birth <b>SAN IGNACIO, CHALATENANGO, EL SALVADOR</b>		AR <input checked="" type="checkbox"/> Form: (Type and No.) Lifted <input type="checkbox"/> Not Lifted <input type="checkbox"/>	
NIV Issuing Post and NIV Number		Social Security Account Name	
Date Visa Issued		Social Security Number	
Immigration Record <b>NEGATIVE - See Narrative</b>		Criminal Record <b>None Known</b>	
Name, Address, and Nationality of Spouse (Maiden Name, if Appropriate) <b>LOPEZ, Roxana Norma</b>		Number and Nationality of Minor Children <b>CLAIMS 1 USC</b>	
Father's Name, Nationality, and Address, if Known <b>, Unknown NATIONALITY: EL SALVADOR</b>		Mother's Present and Maiden Names, Nationality, and Address, if Known <b>LANDAVERDE, Rosa Alva NATIONALITY: EL SALVADOR</b>	
Monies Due/Property in U.S. Not in Immediate Possession <b>None Claimed</b>	Fingerprinted? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Systems Checks <b>See Narrative</b>	Charge Code Words(s) <b>I6A</b>
Name and Address of (Last)(Current) U.S. Employer	Type of Employment	Salary Hr	Employed from/to
Narrative (Outline particulars under which alien was located/apprehended. Include details not shown above regarding time, place and manner of last entry, attempted entry, or any other entry, and elements which establish administrative and/or criminal violation. Indicate means and route of travel to interior.) <b>FINS: 1100537424</b> <b>Left Index fingerprint</b> <b>Right Index fingerprint</b>			
  			
<b>RECORDS CHECKED</b> <b>CIS Neg</b> <b>IAFIS Pos</b>			
<b>Record of Deportable/Excludable Alien:</b> <b>... (CONTINUED ON I-831)</b>			
Alien has been advised of communication privileges <b>02/19/10 (mjl)</b>		<b>MICKEY LEE</b> <b>Designated Immigration Officer</b> (Signature and Title of Immigration Officer)	
Distribution: <b>IN FILE</b> <b>NSV</b> <b>MEM</b>		Received: (Subject and Documents) (Report of Interview) <b>MICKEY LEE</b> Officer: on: <b>February 19, 2010 at 1459</b> Disposition: <b>Warrant of Arrest/Notice to Appear</b> Examine Officer: <b>RONALD KIDDER</b>	

Alien's Name GUTIERREZ-Landaverde, Elenilson Alexander	File Number A087686663 Event No: NSV1002000197	Date 02/19/2010
<p>ENCOUNTER DATA: SUBJECT came to the attention of this writer at the Davidson County Sheriff's Office Criminal Justice Center after being arrested by Metro Nashville Police Department on 02/19/2010 for the following criminal charge(s) DUI (Misdemeanor) <u>LICENSE, DRIVERS LICENSE REQUIRED (Misdemeanor)</u>. SUBJECT was interviewed by DCSO ICE Officer Mickey Lee pursuant to the 287g program. SUBJECT was determined to be in the United States in violation of the Immigration and Nationality Act. SUBJECT stated he is a Native and Citizen of El Salvador. SUBJECT stated his Mother and Father are Natives and Citizens of El Salvador.</p> <p>PROCESSING INFORMATION: SUBJECT was fingerprinted, and photographed on 02/19/2010 at DCSO CJC Booking area. SUBJECT will be served Forms, I-862 Notice to Appear, I-200 Warrant of Arrest and I-286 Notice of Custody Determination, upon adjudication of state charge(s). SUBJECT was given consular notification information and a list of free attorneys.</p> <p>ENTRY-AFTER ENTRY DATA: SUBJECT claims to have entered the United States at or near an unknown place on or about an unknown date at an unknown time of day. SUBJECT claims to have walked across the border and entered the U.S. without being inspected by an Immigration Official at an authorized Port of Entry.</p> <p>CRIMINAL RECORD: record search found no previous arrests or convictions.</p> <p>IMMIGRATION RECORD: SUBJECT has no prior encounters with ICE or CBP. IAFIS search of SUBJECT was negative. IDENT search performed was negative. CIS database search was negative. Fingerprint cards submitted to the FBI via IAFIS. Copies of search printouts are in SUBJECTS A-FILE.</p> <p>REMOVAL CHARGES: SUBJECT appears to be amenable to removal proceedings under section 212 (a) (6) (A) (i) of the INA. Entered Without Inspection.</p> <p>CUSTODY DETERMINATION: SUBJECT is currently being detained by Davidson County. On 02/19/2010 an I-247 form was filed with DCSO, detaining the subject upon adjudication of State charge(s). Original copy of detainer is in Subjects A-FILE.</p> <p>FAMILY INFORMATION: SUBJECT claims to have a cousin living in the Nashville, TN area.</p> <p>MEDICAL INFO: SUBJECT: claims to have no medical problems taking no medications.</p> <p>MISC INFO. SUBJECT: claims to have no passport. No gang affiliation stated.</p>		
Signature  MICKEY LEE		Title Designated Immigration Officer

NOTICE OF HEARING IN REMOVAL PROCEEDINGS  
IMMIGRATION COURT

167 N. MAIN STREET, ROOM 460  
MEMPHIS, TN 38103

RE: GUTIERREZ-LANDAUVERDE, ELENILSON ALEXANDER  
FILE: A087-686-663

DATE: May 31, 2011

TO:

ELLIOTT OZMENT, ESQ.  
1214 MURFREESBORO PIKE  
NASHVILLE, TN 37217

Please take notice that the above captioned case has been scheduled for a MASTER hearing before the Immigration Court on Nov 22, 2011 at 08:30 A.M. at:

167 N. MAIN STREET, ROOM 460  
MEMPHIS, TN 38103

You may be represented in these proceedings, at no expense to the Government, by an attorney or other individual who is authorized and qualified to represent persons before an Immigration Court. Your hearing date has not been scheduled earlier than 10 days from the date of service of the Notice to Appear in order to permit you the opportunity to obtain an attorney or representative. If you wish to be represented, your attorney or representative must appear with you at the hearing prepared to proceed. You can request an earlier hearing in writing.

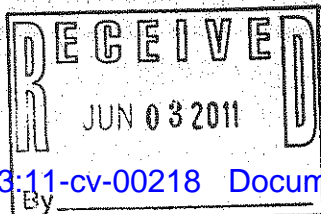
Failure to appear at your hearing except for exceptional circumstances may result in one or more of the following actions: (1) You may be taken into custody by the Department of Homeland Security and held for further action. OR (2) Your hearing may be held in your absence under section 240(b)(5) of the Immigration and Nationality Act. An order of removal will be entered against you if the Department of Homeland Security established by clear, unequivocal and convincing evidence that a) you or your attorney has been provided this notice and b) you are removable.

IF YOUR ADDRESS IS NOT LISTED ON THE NOTICE TO APPEAR, OR IF IT IS NOT CORRECT, WITHIN FIVE DAYS OF THIS NOTICE YOU MUST PROVIDE TO THE IMMIGRATION COURT MEMPHIS, TN THE ATTACHED FORM EOIR-33 WITH YOUR ADDRESS AND/OR TELEPHONE NUMBER AT WHICH YOU CAN BE CONTACTED REGARDING THESE PROCEEDINGS. EVERYTIME YOU CHANGE YOUR ADDRESS AND/OR TELEPHONE NUMBER, YOU MUST INFORM THE COURT OF YOUR NEW ADDRESS AND/OR TELEPHONE NUMBER WITHIN 5 DAYS OF THE CHANGE ON THE ATTACHED FORM EOIR-33. ADDITIONAL FORMS EOIR-33 CAN BE OBTAINED FROM THE COURT WHERE YOU ARE SCHEDULED TO APPEAR. IN THE EVENT YOU ARE UNABLE TO OBTAIN A FORM EOIR-33, YOU MAY PROVIDE THE COURT IN WRITING WITH YOUR NEW ADDRESS AND/OR TELEPHONE NUMBER BUT YOU MUST CLEARLY MARK THE ENVELOPE "CHANGE OF ADDRESS." CORRESPONDENCE FROM THE COURT, INCLUDING HEARING NOTICES, WILL BE SENT TO THE MOST RECENT ADDRESS YOU HAVE PROVIDED, AND WILL BE CONSIDERED SUFFICIENT NOTICE TO YOU AND THESE PROCEEDINGS CAN GO FORWARD IN YOUR ABSENCE.

A list of free legal service providers has been given to you. For information regarding the status of your case, call toll free 1-800-898-7180 or 240-314-1500. For information on Immigration Court procedures, please consult the Immigration Court Practice Manual, available at [www.usdoj.gov/eoir](http://www.usdoj.gov/eoir).

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL (M) PERSONAL SERVICE (P)  
TO: ☐ ALIEN ☐ ALIEN c/o Custodial Officer ☒ ALIEN's ATT/REP ☒ DHS  
DATE: 5-31-11 BY: COURT STAFF [Signature] V3  
Attachments: ☐ EOIR-33 ☐ EOIR-28 ☒ Legal Services List ☐ Other



# The City Paper

Published on *Nashville City Paper* (<http://nashvillecitypaper.com>)

## Sheriff's office discovers loaded gun on arrested woman

By *William Williams*

Created 12/13/2010 - 6:19pm

A woman arrested over the weekend made it to the jail before a loaded gun was discovered in her purse.

Metro police arrested 24-year-old Portia C. Tharpe on a domestic assault charge Saturday and turned her over to the Davidson County Sheriff's Office to be booked into jail where a sheriff's office correctional officer searched her purse and discovered a small Derringer-type handgun inside a box.

Tharpe had been in night court in connection with a charge against her boyfriend for assaulting her when officials determined that she too would be charged for assault in the incident.

Metro police spokesman Don Aaron said shortly after the night court appearance, Officer Dustin Johnson took Tharpe into custody and to jail without searching Tharpe's purse, "which is something that he definitely should have done," Aaron said.

DCSO spokeswoman Karla Weikal said the correctional officer allegedly found the gun, which was loaded with two .25-caliber rounds, in the secured booking area where even officers don't carry guns.

Tharpe was consequently charged with possession of contraband in jail.

"It is extremely important that thorough searches are done of every inmate because a loaded weapon in a secured facility has great potential for danger," Weikal said.

Weikal said that during the 16 years she has worked at the sheriff's office, this is only the third time a gun has been confiscated during booking.

Johnson, who graduated from the police academy in April, will likely face disciplinary action for failing to properly search someone in custody, Aaron said.

A similar incident occurred early in June when correctional officers found a loaded gun in the waistband of a man's pants after police brought him in for booking.





1/12/2011

Sheriff's office discovers loaded gun on ...

The police department suspended officer Travis Baxter for eight days without pay in that incident. Baxter graduated from the police academy in October 2009.

Aaron also stressed the importance of searching those taken into custody, saying the safety of other police officers, citizens and the correctional officers all depend on it.

"The search of the purse by officer Johnson should have taken place for the benefit of all concerned," Aaron said. "And I think he understands that."

City News   Davidson County Sheriff's Office   Don Aaron   Karla Weikal   Metro Police  
GA\_googleFillSlot("Nashville\_City\_Paper\_-\_Leaderboard2");

## SouthComm Set

SouthComm   BusinessTN   Her Nashville   LEO Weekly  
Medical News Papers   Nashville Post   Nashville Scene   Monster

Source URL: <http://nashvillecitypaper.com/content/city-news/sheriffs-office-discovers-loaded-gun-arrested-woman>



PROSECUTOR: Chad W Knaggs  
DEFENDANT: Portia Cerese Tharpe  
VICTIM:

STATE OF TENNESSEE, COUNTY OF DAVIDSON  
AFFIDAVIT  
**POSSESSION OF CONTRABAND, WHILE PRESENT IN A PENAL  
INSTITUTION WHERE PRISONERS ARE QUARTERED, WITHOUT THE  
CONSENT OF THE CHIEF ADMINISTRATOR OF THE INSTITUTION  
T.C.A. 39-16-201**

Personally appeared before me, the undersigned, [Select one] X Commissioner     Metropolitan General Sessions Judge, the prosecutor named above and made oath in due form of law that [Select one] X he     she [Select one]     personally observed X has probable cause to believe that the defendant named above on 12/11/2010 in Davidson County, knowingly did possess any [Select one] X weapons     ammunition     explosives     intoxicants     legend drugs     controlled substance while present in a penal institution where prisoners are quartered or under custodial supervision without the express written consent of the chief administrator of the institution and that *the probable cause is as follows*: The defendant was arrested for a domestic assault charge (10-989807). The defendant was asked prior to entering booking if she had any illegal contraband located on her person. The defendant stated that she did not. She was turned over to DCSO custody. The sheriff's department searched the defendant's purse where they located a chrome Davis model D-25 handgun located inside of a box. The handgun had 2 (.25 caliber) rounds chambered in the gun. The firearm was turned over to police custody, where it was inventoried and placed into the property and evidence section of the department.

ESignature

Prosecutor: Chad W Knaggs 0000011905  
200 James Robertson Parkway

Nashville, Tennessee 37201

---

ARREST WARRANT

---

Information on oath having been made, that on the day and year aforesaid, and in the County aforesaid, the offense of Contraband in Penal Institution- Possession C FELONY, as aforesaid, has been committed and charging the defendant thereof, you are therefore commanded, in the name of the State, forthwith to arrest and bring the defendant before a judge of the Court of General Sessions of Davidson County, Tennessee, to answer the above charge.

Sworn to and subscribed before me on 12/11/2010 07:46:18

Howard Taradash  
Judge of the Metropolitan General Sessions Court/Commissioner  
1 of 1 pages

