

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE

JUANA VILLEGAS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 3:09-0219
	)	
THE METROPOLITAN GOVERNMENT OF	)	Judge Haynes
NASHVILLE AND DAVIDSON COUNTY,	)	Magistrate Judge Brown
<u>et. al.</u> ,	)	
	)	
Defendants.	)	

**ANSWER**

Comes defendant, the Metropolitan Government of Nashville and Davidson County (“Metropolitan Government”), and in answer to the specifically numbered paragraphs of the Complaint, states as follows:

**JURISDICTION AND VENUE**

1-2. Admitted that jurisdiction and venue are proper in this Court. Denied that the Metropolitan Government treated plaintiff unlawfully or that plaintiff is entitled to any relief.

**PARTIES**

3. Without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph.

4. Admitted that the Davidson County Sheriff’s Office (“DCSO”) is a department of the Metropolitan Government and that the Metropolitan Charter speaks for itself.

5-6. Not directed to this defendant.

## **STATEMENT OF FACTS**

### **The Stop**

7-15. Without knowledge or information sufficient to form a belief as to the circumstances surrounding the stop of plaintiff by the Berry Hill Police Department. Berry Hill is a separate government entity from the Metropolitan Government which employs its own police officers.

### **The Decision to Detain**

16-21. Without knowledge or information sufficient to form a belief as to the circumstances surrounding the stop of plaintiff by the Berry Hill Police Department. Berry Hill is a separate government entity from the Metropolitan Government which employs its own police officers.

22. Admitted that the provisions of the Illegal Immigration Reform and Immigrant Responsibility Act speak for themselves.

23. Not directed to this defendant.

24. Without knowledge or information sufficient to form a belief as to the circumstances surrounding the stop of plaintiff by the Berry Hill Police Department. Berry Hill is a separate government entity from the Metropolitan Government which employs its own police officers. Admitted that Ms. Villegas was brought to DCSO and was booked and was housed at the Correctional Development Center Female Facility (“CDCF”).

25. Not directed to this defendant.

26. Not directed to this defendant. Admitted that the cited statutes speak for themselves.

27. Admitted that the statutes or regulations cited by plaintiff speak for themselves.

28. Without knowledge or information sufficient to form a belief as to plaintiff's ability to "obtain the services of a bond agency." The remaining allegations directed to this defendant are denied.

29. Not directed to this defendant. Admitted that the cited GAO report speaks for itself.

### **The Detention**

30. Admitted that the Metropolitan Government's medical services contractor, Correct Care Solutions ("CCS"), completed an "Intake-Order to the Jailer/Pregnancy" form the content of which speaks for itself.

31. Admitted that the requirements of the Vienna Convention on Consular Relations and Optional Protocols speak for themselves.

32. Without knowledge or information sufficient to form a belief as to whether the Mexican Consulate in Atlanta, Georgia was contacted regarding plaintiff's detention.

33. Admitted that plaintiff was detained at CDCF and that the documents attached to plaintiff's complaint as Collective Exhibit 1 speak for themselves. The remaining allegations are denied as framed.

34. Admitted that the documents attached to plaintiff's complaint as Collective Exhibit 1 speak for themselves.

35. Not directed to this defendant. Denied that the Metropolitan Government has failed to perform any contractual obligations with ICE.

36. Denied.

37. Admitted that plaintiff was classified as a medium security detainee because she was subject to a “hold” initiated by a federal agency. Without knowledge or information sufficient to form a belief as to the truth of the allegations of the second sentence of this paragraph.

38. Denied as framed.

39. Denied that the Metropolitan Government was constitutionally required to conduct an individualized determination of plaintiff’s risk of flight or security threat or routinely conducts such determinations for the inmates in its custody.

40-42. Without knowledge or information sufficient to form a belief as to what “international standards” plaintiff is referring to or that plaintiff’s claims in this lawsuit can be predicated on such “international standards”

**Ms. Villegas’ Labor**

43. Admitted that on July 5, 2008, plaintiff reported that she believed she was in labor and was taken to the clinic at CDCF. The remaining allegations are denied.

44. Admitted that Emergency Medical Services personnel reported to the clinic and placed plaintiff on a gurney and transported her to Nashville General Hospital. Admitted that restraints were applied to plaintiff’s hands and ankles once on the gurney during transport.

45. Admitted that plaintiff was taken to a labor and delivery room upon her arrival at NGH, at which time all restraints were removed and the officers turned their backs while plaintiff was dressed and an examination was conducted. The remaining allegations are denied.

46. Without knowledge or information sufficient to form a belief as to whether the telephone in plaintiff's room was disconnected, however, for security reasons, it is the general practice of DCSO not to permit inmate phone calls from unsecured locations such as hospitals.

47. Denied.

48. Without knowledge or information sufficient to form a belief as to the averments of this paragraph.

49. Admitted that a no restraint order was written by the physician and that plaintiff's restraints were removed prior to that order being written.

50. Admitted that at the time referred to in the complaint, plaintiff was not restrained and an officer was posted outside the door to plaintiff's room.

#### **The Birth of Ms. Villegas' Son**

51. Admitted.

52. Admitted that several hours after delivery, restraints were again placed on plaintiff. The remaining allegations are denied.

53. Without knowledge or information sufficient to form a belief as to the conversations between plaintiff and nurses at NGH. The remaining allegations are denied.

54. Admitted that hours after the delivery, plaintiff was able to walk around her hospital room with her legs restrained. The remaining allegations are denied.

55. Without knowledge or information sufficient to form a belief.

56. Denied.

57. Denied that plaintiff's husband was unaware of the birth of plaintiff's child.

58. Admitted that inmates, including plaintiff, in an unsecured facility such as a hospital are not allowed to have visitors because doing so would create a security risk.

59. Denied that the Metropolitan Government took plaintiff's child from her.

60. Without knowledge or information sufficient to form a belief.

61. Admitted.

### **Discharge from the Hospital**

62. Admitted that a lactation nurse at NGH offered to provide plaintiff a breast pump and that plaintiff was not allowed to return to CDCF with that breast pump (or any other outside medical equipment). Denied that no breast pump was available to plaintiff upon her return to CDCF. When a doctor orders that a breast pump be provided to an inmate, one will be provided by CCS. The remaining allegations are denied.

63. Denied as framed.

64-65. Denied as framed as to DCSO. The remaining allegations are not directed to this defendant.

66-68. Without knowledge or information sufficient to form a belief as to the medical symptoms allegedly experience by plaintiff. The remaining allegations are denied.

69. Admitted that plaintiff pled guilty to driving without a license. Without knowledge or information sufficient to form a belief as to the truth of the remaining averments.

70. Without knowledge or information or information sufficient to form a belief as to the truth of the averments in this paragraph.

71-72. Not directed to this defendant.

73. Without knowledge or information sufficient to form a belief as to the circumstances surrounding the stop of plaintiff by the Berry Hill Police Department or whether the charge was dismissed. Berry Hill is a separate government entity from the Metropolitan Government which employs its own police officers.

### **CAUSES OF ACTION**

#### **DCSO's and ICE's Violation of the 14th Amendment of the U.S. Constitution and Article I, Section 8 of the Tennessee Constitution Substantive Due Process (Deliberate Indifference to a Serious Medical Need)**

74. The Metropolitan Government's responses to paragraphs 1-73 above are incorporated by reference.

75-76. Denied.

77. Not directed to this defendant.

78. Denied as to the Metropolitan Government.

#### **Officer John Does' Violation of the 14th Amendment of the U.S. Constitution and Article 1, Section 8 of the Tennessee Constitution Substantive Due Process (Deliberate Indifference to a Serious Medical Need)**

79. The Metropolitan Government's responses to paragraphs 1-78 above are incorporated by reference.

80-83. Not directed to this defendant.

#### **All Defendants' Violation of the 14th Amendment of the U.S. Constitution and Article 1, Section 32 of the Tennessee Constitution Substantive Due Process (Shackling a Pregnant or Post-Partum Detainee is Cruel and Unusual Punishment)**

84. The Metropolitan Government's responses to paragraphs 1-83 above are incorporated by reference.

85. Admitted that plaintiff was a pretrial detainee and this defendant is without knowledge or information sufficient to form a belief as to the circumstances surrounding the stop of plaintiff by the Berry Hill Police Department. Berry Hill is a separate government entity from the Metropolitan Government which employs its own police officers.

86. Admitted that the requirements of Tennessee law speak for themselves and without knowledge or information sufficient to form a belief regarding common punishments.

87-90. Denied.

91-92. Not directed to this defendant.

**All Defendants' Violation of Right of Familial Association and  
Right to Privacy under the U.S. and Tennessee Constitutions**

93. The Metropolitan Government's responses to paragraphs 1-92 above are incorporated by reference.

94-97. Denied.

98-99. Not directed to this defendant.

**DCSO's Breach of Contract**

100. The Metropolitan Government's responses to paragraphs 1-99 above are incorporated by reference.

101-04. Admitted that the alleged agreement between ICE and the Metropolitan Government speaks for itself.

105. Without knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph.

106-08. Denied.



109. Admitted that the alleged agreement between ICE and the Metropolitan Government speaks for itself.

110. Denied.

111. The averments of plaintiff's Prayer for Relief are denied.

112. All averments not specifically admitted or denied are hereby denied.

### **Affirmative Defenses**

1. Plaintiff fails to state a claim upon which relief can be granted.

2. Any damages that plaintiff allegedly incurred as a result of the conduct alleged in the complaint were not the result of a custom, practice, or policy of the Metropolitan Government.

3. No constitutional violations occurred, therefore the Metropolitan Government is not liable for plaintiffs' constitutional claims.

4. At all times the Metropolitan Government acted in a manner consistent with the instructions of plaintiff's health care providers and the ICE requirements for detainee health care.

5. Plaintiff's claims for alleged violations of her rights under the Tennessee Constitution should be dismissed because Tennessee does not recognize a private cause of action for violations of the Tennessee Constitution.

6. Plaintiff's breach of contract claims should be dismissed because plaintiff is not a third party beneficiary of any contract between the Metropolitan Government and ICE.

7. The Metropolitan Government is entitled to indemnity from ICE pursuant to the agreements between the parties.

WHEREFORE, having fully answered plaintiff's complaint, the Metropolitan Government prays:

1. That this be accepted as its answer herein;
2. That this cause be dismissed and held for naught;
3. That all costs and other reasonable fees, including attorneys' fees, be charged to and borne by plaintiff;
4. That a jury adjudicate all of the claims so triable; and
5. For such other relief as the Court deems appropriate.

THE DEPARTMENT OF LAW OF THE  
METROPOLITAN GOVERNMENT OF  
NASHVILLE AND DAVIDSON COUNTY  
Sue B. Cain, #9380, Director of Law

s/ Francis H. Young  
Francis H. Young, # 16554  
James W. J. Farrar, # 22782  
Assistant Metropolitan Attorneys  
P.O. Box 196300  
Nashville, Tennessee 37219  
(615) 862-6341

#### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing has been served electronically on William L. Harbison, Phillip F. Cramer and John L. Farringer, IV, 424 Church Street, Suite 2000, Nashville, Tennessee 37219, Elliott Ozment, 1214 Murfreesboro Pike, Nashville, Tennessee, 37217, and Mark Wildasin, 110 Ninth Avenue South, Suite A-961, Nashville, TN 37203 on this 28th day of April, 2009.

s/ Francis H. Young  
Francis H. Young