

March 12, 2013

U.S. Customs & Border Protection
9901 Pacific Highway
Blaine, WA 98230

Assistant Chief Counsel (Copy)
U.S. Customs & Border Protection
1000 Second Ave., Ste. 2550
Seattle, WA 98104

U.S. Customs & Border Protection (Copy)
Field Office Operations
1000 Second Ave., Ste. 2200
Seattle, WA 98104

Office of the General Counsel (Copy)
U.S. Department of Homeland Security
Washington, DC 20258

Re: Notification of Incident and Claim for Damages under the Federal Tort Claims Act
Gustavo Vargas Ramirez, A 088 737 957

To Whom it May Concern:

We represent Gustavo Vargas Ramirez in his claim against the U.S. Border Patrol (USBP), an agency of U.S. Customs and Border Protection (CBP) a subdivision of the U.S. Department of Homeland Security (DHS). Enclosed please find the Claim for Damage, Injury, or Death (Standard Form 95) (Exhibit A), and Mr. Vargas' authorization statement (Exhibit B). Pursuant to 28 U.S.C. § 2675(a) and 28 C.F.R. § 14.2(a), we hereby provide notification of an incident that occasions liability under the Federal Tort Claims Act (FTCA), and demand for monetary damages in the amount of \$1,000,000 resulting from Border Patrol agents having committed the torts of: (1) false arrest; (2) false imprisonment; (2) negligent infliction of emotional distress; (3) intentional infliction of emotional distress; (4) malicious prosecution; (5) abuse of process; and (6) violation of his rights to liberty and due process of law under Article I, Sections 3 and 7, respectively, of the Washington State Constitution.

As explained below, on June 23, 2011, USBP unlawfully advised the Anacortes Police Department to detain and transport Mr. Vargas from the location where Anacortes Police initiated a traffic stop for alleged failure to use his turn signal. USBP then unlawfully took

custody of Mr. Vargas at the Anacortes Police Station and transported Mr. Vargas to the Northwest Detention Center where he remained locked up for over two months, while removal proceedings were initiated against him. The removal proceedings against him were subsequently closed. The following is a brief synopsis of the circumstances and events surrounding Mr. Vargas' FTCA claims.

On June 23, 2011, Mr. Vargas was stopped by Officer Leetz, of the Anacortes Police Department, in Anacortes, Washington, for allegedly failing to use his turn signal. As explained in the attached police report, Mr. Vargas provided a valid license, registration, and insurance (Exhibit C). Nonetheless, Officer Leetz called U.S. Border Patrol ("USBP") to inquire as to Mr. Vargas' immigration status. The USBP agent advised that he would call back after he ran his name through the system. At this point, the Police Officer advised the USBP agent that he could only wait for the return call for the time period it took to process Mr. Vargas for the traffic infraction, "unless [USBP] specifically requested me to detain Gustavo." Id.

The police officer reported that as he was completing the infraction process the USBP agent called back advising he had not found any documentation. The police officer requested whether "they wished to have me detain Gustavo or release him." Id. USBP asked the police officer to hand his phone to Mr. Vargas. The police officer next reported he "heard Gustavo tell the agent that he was not going to answer any questions without talking to a lawyer." Id. Nonetheless, the USBP agent then advised the police officer to "detain him for USBP" and was instructed that a USBP agent would meet them at the Anacortes Police Department.

The police officer then ordered Mr. Vargas to step out of the vehicle and informed him that he was "being detained based on the US Border Patrol's request." Id. Mr. Vargas was placed in handcuffs, placed in the back of the police vehicle, where he was then driven back to the police station. He was detained at the police station until the USBP arrived.

At this point it is important to recognize that the I-213, Record of Deportable Alien, written up by USBP contains several statements that are blatantly false, that were provided as part of the narrative to justify the stop. (Exhibit D). The I-213 reports that Border Patrol Agent John Orr was contacted by the Supervisory Border Patrol Agent Wayne Hafstad to help with "a translation assistance request by Anacortes Police Department." Id. This claim contradicts the police report as the police report does not reference any request for translation assistance, but instead documents that USBP was contacted to inquire as to the legal status of Mr. Vargas. (Exhibit C). Moreover, Gustavo Vargas speaks both English and Spanish, and communicated with the police officer in English without any problems. In addition, the police report documents that USBP was advised that the police officer could not detain Mr. Vargas unless USBP explicitly requested that he be detained. It therefore clearly contradicts any claim that USBP was notified to provide translation assistance.

Moreover, the I-213 makes a patently false assertion that the USBP agent "arrived on scene at the intersection of 11st Street and Q avenue... and met with Officer Leetz." (Exhibit). It also falsely claims that when,

Agent Orr approached the subject and identified himself as a United States Border patrol Agent and questioned the subject in reference to his citizen. The subject, identified as Vargas-Ramirez, Gustavo, stated that he was not going to answer any questions without the presence of an attorney. Vargas-Ramirez did state that he was born in Mexico and that he arrived here approximately ten years ago; however he gave no further information.

Id. This alleged concession at the scene of the traffic stop was the basis for the USBP determination that they had sufficient evidence to arrest Mr. Vargas and place him in removal proceedings. Of course, none of this ever occurred, as the USBP agent did not even appear at the scene of the stop and the police officer had already documented that Mr. Vargas refused to talk with the USBP agent on the phone. (Exhibit C).

Subsequently, the Chief for the Anacortes Police Department was advised of the fact that the basis of the stop provided by USBP did not conform with the report of Police Officer Leetz. Officer Leetz was then requested to review his written report, and verify that it contains an accurate version of the events. In a statement dated August 23, 2011, he specifically confirmed that the USBP report inaccurately states that the Border Patrol agent arrived at the traffic stop and took custody of Mr. Vargas at the stop. (Exhibit E). Officer Leetz again clarified that the USBP agent requested that he transport Mr. Vargas to the Police Station where he was held until the USBP arrived, about one hour after Mr. Vargas was first stopped by the Police. Id.¹

In this case, any reasonable USBP agent would have been aware that they had no legal basis to advise the Anacortes Police Department to detain Mr. Vargas and transport him to the police station, nor did they have legal authority to take custody of Mr. Vargas at the Anacortes Police Department. Indeed, it appears that the USBP agents involved understood this all too well and for this very reason fabricated details that were included in the I-213, in order to justify their unlawful actions.

In addition, we must emphasize that Mr. Vargas remained in custody for ten weeks. It is striking that Mr. Vargas was not even granted a bond amount by the USBP agents despite the fact that he has no criminal record, and according to the I-213, the USBP agents believed he had a residence of around ten years in this country. Instead, he was only released after a prolonged period, when the Immigration Judge set a bond in his case. In the meantime, he suffered tremendously while in custody, both physically and emotionally. (Exhibit F.)

As an artist, Mr. Vargas had already received an offer to present his work at the Anacortes festival. Id. Apart from including a monetary stipend, events such as these are critical to the professional development of an artist. He was detained, and forced to miss the opportunity to participate in this exhibition.

¹ The I-213 also erroneously claims that Agent Orr was in Anacortes, Washington, when he was contacted by his Supervisor. Had he been in Anacortes, Agent Orr would have been able to appear on the scene when first called by the Anacortes Police Department, instead of making it so agents must invent a story to explain how Mr. Vargas was taken into custody.

Mr. Vargas began to suffer both psychologically and physically as a result of his detention. Id. He already had a history of health issues, that were greatly exacerbated by his detention. Id. He has had to receive counseling based on the post-traumatic stress he has suffered. (Exhibit H.)

In conclusion, not only did USBP violate Mr. Vargas' constitutional and statutory rights, by unlawfully imprisoning him without any legal basis, the agents then made false statements on the I-213 report in order to attempt to justify the legal basis for the initial contact, as well as the subsequent arrest, and the transfer of custody.

While it is unclear what information may be credited from the I-213, it alleges that the supervisory officer falsely informed Officer Orr that he was needed for translation assistance, and that Officer Orr unlawfully told the Anacortes Police Officer that he had a legal basis to detain Mr. Vargas and to transfer him back to the Anacortes Police Station. In addition, either Officer Orr or Officer Reyes fabricated an entire encounter at the scene of the traffic stop. This fabricated encounter includes an illogical account explaining that Mr. Vargas refused to talk, *except* for providing the alleged statement that he was from Mexico and arrived here approximately ten years ago.

Ultimately, a person was detained for more than two months, even though there was no legal basis to arrest him. The arresting officers made a false report in an attempt conceal the unlawful actions of the Border Patrol agents. The police reports clearly demonstrate this subterfuge. For more than two months Mr. Vargas was deprived of his freedom, separated from family and prevented from working or attending school. He suffered specific harm to his profession. In addition, he suffered tremendous emotional damage and physical harm as the detention conditions exacerbated his condition. He continues to suffer both psychological and physical health complications related to his detention. For these reasons we now submit the instant claim under the FTCA for compensation in the amount of \$1,000,000.

Sincerely,



Matt Adams
Northwest Immigrant Rights Project
615 Second Ave., Ste. 400
Seattle, WA 98104
Tel: (206) 957-8611
Fax: (206) 587-4025

Elizabeth Hawkins
Bean Porter Hawkins
2200 Sixth Ave., Ste. 835
Seattle, WA 98121
Tel.: (206)
Fax: (206)

LIST OF EXHIBITS

- A. FTCA Claim Form, Standard Form 95.
- B. Claim Form Declaration.
- C. Anacortes Police Report, dated June 23, 2011 (produced July 9, 2011).
- D. I-213, Record of Deportable Alien, dated June 23, 2011.
- E. Anacortes Police Report, dated August 23, 2011.
- F. Declaration of Mr. Vargas, dated August 13, 2012.
- G. SeaMar Medical Records.

EXHIBIT A

**CLAIM FOR DAMAGE,
INJURY, OR DEATH****INSTRUCTIONS:** Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.FORM APPROVED
OMB NO. 1105-0008

1. Submit to Appropriate Federal Agency:

U.S. Customs & Border Patrol
9901 Pacific Highway
Blaine, WA 982302. Name, address of claimant, and claimant's personal representative if any.
(See instructions on reverse). Number, Street, City, State and Zip code.Matt Adams, Northwest Immigrant Rights Project
615 Second Ave., Ste. 400, Seattle, WA 98104
Elizabeth Hawkins, BPH
2200 Sixth Ave., Ste. 835, Seattle, WA 98121

3. TYPE OF EMPLOYMENT

☐ MILITARY ☐ CIVILIAN

4. DATE OF BIRTH

5. MARITAL STATUS

single

6. DATE AND DAY OF ACCIDENT

06/23/2011

7. TIME (A.M. OR P.M.)

9:00 pm

8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary).

CBP unlawfully requested that Anacortes Police Department detain and transport Mr. Vargas, after he was stopped for allegedly failing to use his turn signal. There was no lawful basis to detain or arrest Mr. Vargas, and there was no lawful basis to further initiate removal proceedings. The I-213 report created by CBP includes fabrications attempting to justify both the basis for the interaction, as well as the location. Ultimately, it includes a fabricated statement attempting to provide reasonable suspicion for arresting Mr. Vargas. Mr. Vargas suffered psychological and physical harm as a result. See attached Claim Letter

9. **PROPERTY DAMAGE**

NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).

BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED.
(See instructions on reverse side).10. **PERSONAL INJURY/WRONGFUL DEATH**

STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT.

See attached claim letter, including Unlawful arrest/imprisonment, deprivation of liberty, harm to reputation, profession, physical health and psychological health.

11. **WITNESSES**

NAME

ADDRESS (Number, Street, City, State, and Zip Code)

12. (See instructions on reverse).

AMOUNT OF CLAIM (In dollars)

12a. PROPERTY DAMAGE

12b. PERSONAL INJURY

12c. WRONGFUL DEATH

12d. TOTAL (Failure to specify may cause forfeiture of your rights).

\$1,000,000.00

I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.

13a. SIGNATURE OF CLAIMANT (See instructions on reverse side).



13b. PHONE NUMBER OF PERSON SIGNING FORM

14. DATE OF SIGNATURE

03/09/2013

**CIVIL PENALTY FOR PRESENTING
FRAUDULENT CLAIM****CRIMINAL PENALTY FOR PRESENTING FRAUDULENT
CLAIM OR MAKING FALSE STATEMENTS**

The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).

Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident insurance? ☐ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☐ No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☐ No 17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☐ No

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in Item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filled by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A SUM CERTAIN FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN TWO YEARS AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) **Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.**

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. **Authority:** The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

- B. **Principal Purpose:** The information requested is to be used in evaluating claims.
C. **Routine Use:** See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.
D. **Effect of Failure to Respond:** Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Tort Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

EXHIBIT B

I, **Gustavo Vargas Ramirez**, am represented by Matt Adams of Northwest Immigrant Rights Project (NWIRP) and Elizabeth Hawkins. I authorize NWIRP to submit a claim letter on my behalf to the Department of Homeland Security, ("DHS") and any other government agency, requesting compensation for the unlawful actions of Border Patrol and Anacortes Police Department in unlawfully arresting me, and forcing me to suffer prolonged unlawful imprisonment.

09-03-13
Dated


Gustavo Vargas Ramirez

EXHIBIT C

07/09/11
11:24ANACORTES POLICE DEPT
LAW Incident Table:272
Page: 1

Incident Number: 11-A04838

Nature: AGENCY ASSIST Case Number:

Image:

Addr: 900 BLK 7TH ST

Area: RCA19 APD AREA- 19

City: ANACORTES

St: WA Zip: 98221

Contact:

Complainant: 56320

Lst: U S BORDER PATROL

Fst:

Mid:

DOB: / / SSN: - -

Addr: 2745 MCLEOD RD

Rac: Sk: Tel: () -

City: BELLINGHAM

St: WA Zip: 98225

Offense Codes: ASST TOFF

Reported: ASST Observed:

Circumstances: SECT

Respndg Officers: LEETZ R

Respnsbl Officer: LEETZ R

Received By: M ANDERSON

Agency: APD

OAD Call ID: C11058114

How Received: V VIEWED

Last Radlog: 22:36:23 06/23/11 CMPLT

When Reported: 21:24:26 06/23/11

Clearance: CTR CITE AND RELEASE

Occurred between: 21:23:32 06/23/11

Disposition: CAA Disp Date: 06/23/11

and: 21:23:32 06/23/11

Judicial Sts:

Misc Entry: HC

MO:

Narrative: (See below)

Supplement:

INVOLVEMENTS:

Type	Record #	Date	Description	Relationship
NM	386351	/ /	YARGAS-RAMIREZ, GUSTAVO	SUSPECT/CHGR
NM	56320	/ /	U S BORDER PATROL,	*Complainant
CT	12035558	06/23/11	TURN SIGNALS W/HAND AND ARM	CITATION ISSUED
VH	219084	/ /	GRN 1994 MITS DIAMONTE WA	SUSPECT VEHICLE
CA	C11058114	06/23/11	21:24 06/23/11 AGENCY ASSIST	*Initiating Call

LAW Incident Offenses Detail:

Offense Codes

Seq Code	Amount
1 ASST Agency Assist	0.00
2 TOFF Traffic Offense	0.00

LAW Incident Circumstances:

Contributing Circumstances

Seq Code	Comments
1 SECT SECTOR	

Narrative:

OFFICER R.W. LEETZ 06/23/11 11-A04838/AGENCY ASSIST

SECTOR CT/NOL;

120355558 for Fail to Signal (left turn).

5] VEHICLE USED BY SUSPECT (Disposition):

WA 773TFF, CAD 219084. A green 1994 Mitsubishi Diamante 4 door registered to and driven by Gustavo Vargas Ramirez. The vehicle was left parked at the scene.

11] NARRATIVE:

On 06/23/11 at approximately 2102 hours I was eastbound on 11th Street in the 900 block. I observed a sole vehicle ahead of me stopped at the stop sign facing eastbound at 11th Street and Q Avenue. The vehicle appeared as if it intended to go straight into the Cap Sante Marina parking lot, as there was no turn signal illuminated for any direction. The vehicle then turned left, northbound onto Q Avenue without signaling. After waiting for a pedestrian to cross the street, which was waiting to cross prior to the defendant vehicle turning as well, I caught up to the vehicle and initiated a traffic stop.

The vehicle turned into the 900 block of 7th Street and pulled over. I contacted the driver and advised him of the reason for the stop. The subject spoke broken English and was hard to understand. I stated that I needed to see his license, registration and insurance, which he appeared to understand as he handed me his WADL in the name of Gustavo Vargas Ramirez and an insurance card. I verified with him that his address was ~~was~~ ~~was~~.

I returned to my patrol vehicle and ran a driver's check of Gustavo. I noted that there was no valid Social Security number listed, as it showed 000-00-0000, which is not standard. I contacted US Border Patrol and advised an agent of this information, and provided the name to him. He stated that he would call me back after running Gustavo in their system. I advised him that I could only wait as long as it took me to complete my infraction, unless they specifically requested me to detain Gustavo.

As I was completing an infraction, I received a call and was advised that Gustavo had no documentation of legally being in the United States. I asked if they wished to have me detain Gustavo or release him. They asked to speak with him via phone, at which time I handed my phone to Gustavo and the agent spoke with Gustavo. I heard Gustavo tell the agent that he was not going to answer any questions without talking to a lawyer. USBP advised that based on the information of Gustavo not being documented as being legally in the US, the fact that he did not have a SSN, it was requested that I detain him for USBP. I was advised that a unit was enroute to Anacortes from Bellingham, and would meet me at APD.

I had Gustavo step out of his vehicle at that point and advised him that he was not under arrest for any crime I was investigating, but that he was being detained based on US Border Patrol's request. I placed him in handcuffs and patted him down for weapons. He was placed in my patrol car and stated he was going to speak with a lawyer before saying anything. At his request, I gathered his cell phone from his vehicle. I rolled up the windows and locked the door after removing the keys as well.




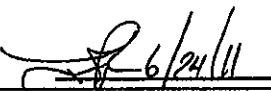
I transported Gustavo to Anacortes PD, where I awaited USBP's arrival. Officer J. Orr arrived at APD and briefly spoke with Gustavo. After speaking with his supervisor, Officer Orr took custody of Gustavo for further processing.

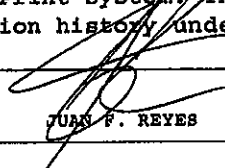
Gustavo was allowed to call his friend, who has keys to Gustavo's vehicle, and requested that he pick the vehicle up within 24 hours.

OFFICER R.W. LEETZ D-25/#0637//med Fri Jun 24 10:38:07 PDT 2011

PAGE 001

EXHIBIT D

Family Name (CAPS) VARGAS-RAMIREZ, GUSTAVO		First	Middle	Sex M	Hair BLK	Eyes BRO	Complexion LGT
Country of Citizenship MEXICO	Passport Number and Country of Issue		File Number CASE No: BLH110600005 A088 737 957	Height 66	Weight 190	Occupation LABORER	
U.S. Address See Narrative				Scars and Marks NONE VISIBLE			
Date, Place, Time, and Manner of Last Entry 06/23/2011, 2353, 5 mile(s) W of BYB, PWA (AFOOT)			Passenger Boarded at				
Number, Street, City, Province (State) and Country of Permanent Residence UNK MEXICO				F.D.I. Number 995156LD5 <input type="checkbox"/> Single <input type="checkbox"/> Divorced <input type="checkbox"/> Married <input type="checkbox"/> Widower <input type="checkbox"/> Separated			
Date of Birth Age: 32				Method of Location/Apprehension OA			
City, Province (State) and Country of Birth UNKNOWN, DISTRITO FEDERAL, MEXICO		Date of Action 06/23/2011		Location Code BLW/BLH			
NIV Issuing Post and NIV Number		Social Security Account Name		Date/Time 06/23/2011 2120			
Date Visa Issued		Social Security Number		By JOHN ORR			
Immigration Record NEGATIVE		Criminal Record None Known		Status at Entry PWA Mexico Length of Time Illegally in U.S. OVER 1 YEAR			
Name, Address, and Nationality of Spouse (Maiden Name, if Appropriate)				Status When Found IN TRAVEL			
Father's Name, Nationality, and Address, if Known See Narrative				Number and Nationality of Minor Children UNK			
Mother's Present and Maiden Names, Nationality, and Address, if Known See Narrative							
Monies Due/Property in U.S. not in Immediate Possession None Claimed		Fingerprinted? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Systems Checks		Charge Code Word(s) I6A	
Name and Address of (Last/Current) U.S. Employer		Type of Employment		Salary		Employed from/to Hr	
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.) FJNS #: 1119827176							
							
ARREST COORDINATES: ----- Latitude: 48.5041 Longitude: -122.6149		Left Index Print		Right Index Print			
US ADDRESS: ----- 							
Alien has been advised of communication privileges		 6/24/11 (Date/Initials)		JUAN F. REYES BORDER PATROL AGENT (Signature and Title of Immigration Officer)			
Distribution		Received: (Subject and Documents) (Report of Interview)					
FILE BLW-SHQ BLH STATION FILE		Officer JUAN F. REYES on: June 23, 2011 at 2353 (time) Disposition: Notice to Appear Detained (I-862) Examining Officer RUSSELL WYNNE					

Alien's Name VARGAS-RAMIREZ, GUSTAVO	File Number A088 737 957 Event No: BLH1106000005	Date 06/23/2011
<p>FATHER NAME AND ADDRESS: ----- UNK, UNK UNKNOWN, DISTRITO FEDERAL, MEXICO.</p> <p>MOTHER NAME AND ADDRESS: ----- UNK, UNK UNKNOWN, DISTRITO FEDERAL, MEXICO</p> <p>FUNDS IN POSSESSION: ----- United States Dollar 128.83 <u>6V</u></p> <p>NARRATIVE: ----- On June 24, 2011, at approximately 3:00 P.M., Border Patrol Agent John Orr was conducting patrol duties in the city of Anacortes, Washington, when he was notified by Supervisory Border Patrol Agent Wayne Hafstad of a translation assistance request by Anacortes Police Department. Agent Orr arrived on scene at the intersection of 11th Street and Q Avenue in Anacortes Washington at approximately 9:20 P.M. and met with Officer R. W. Leetz badge number 0637. Officer Leetz advised Agent Orr that he had executed a vehicle stop on the occupant of the vehicle VARGAS-Ramirez, Gustavo for failing to signal on a left hand turn. Officer Leetz stated that he had needed assistance translating because VARGAS-Ramirez spoke very limited English.</p> <p>Agent Orr approached the subject and identified himself as a United States Border Patrol Agent and questioned the subject in reference to his citizenship. The subject, identified as VARGAS-Ramirez, Gustavo stated that he was not going to answer any questions without the presence of an attorney. VARGAS-Ramirez did state that he was born in Mexico and that he arrived here approximately ten years ago; however he gave no further information. Immigration and criminal checks were made on the limited information that VARGAS-Ramirez had provided, however no information was found at that time. Upon completion of Officer Leetz' encounter, it was determined by Agent Orr that further information was necessary in order to determine his current immigration status. Subsequently, VARGAS-RAMIREZ was detained and transported to the Bellingham Border Patrol Station for further investigation and processing.</p> <p>At the Bellingham Border Patrol Checkpoint VARGAS-RAMIREZ was entered into the Ident/IAFIS Biometric Finger Print System. The Ident Biometric System revealed that VARGAS-RAMIREZ had no prior immigration history under FINS# 1119827176. Integrated Automated Fingerprint</p>		
Signature  JUAN F. REYES		Title BORDER PATROL AGENT

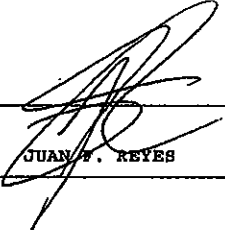
Alien's Name VARGAS-RAMIREZ, GUSTAVO	File Number A088 737 957 Event No: BLH1106000005	Date 06/23/2011
<p>Identification System (IAFIS) revealed that he has no criminal history recorded in the system. Without the assistance of VARGAS-RAMIREZ in determining his actual immigration status, his case is being forwarded for adjudication and determination by an immigration judge. VARGAS-Ramirez was issued A number 088 737 957.</p> <p>Based on the information that VARGAS-RAMIREZ stated he was born in Mexico, Border Patrol Agent Juan Reyes advised VARGAS-RAMIREZ of his right to speak with the Mexican Consulate in the Spanish Language, Supervisory Border Patrol Agent Russell Wynn witnessed this. This occurred at approximately 12:49 P.M. VARGAS-RAMIREZ said that he understood his rights and stated that he wished to speak with the Mexican Consulate at this time. Attempts were made to contact the Mexican Consulate, however due to the late hour the attempts were unsuccessful. VARGAS-Ramirez was advised that he will have the opportunity in the morning.</p> <p>During the processing of the removal paperwork, VARGAS-RAMIREZ refused to answer any biographical information. When explained that the information we required to complete his file was not self incriminating in any manner, he still refused to provide any information. All questioning was ceased and processing was completed with minimal information.</p> <p>VARGAS-RAMIREZ was served with the following forms: I-200, I-862, I-826, I-286 and a List of Free Legal Services; however VARGAS-Ramirez refused to sign form I-826.</p> <p>Deportation Officer Arroyo approved VARGAS-Ramirez' detention space at the Northwest Regional Detention Center.</p> <p>VARGAS-RAMIREZ is being held in Department of Homeland Security custody pending Removal Proceedings.</p>		
Signature  JUAN V. REYES	Title BORDER PATROL AGENT	

EXHIBIT E

08/23/11
11:29

ANACORTES POLICE DEPT
Dissemination Table:

487
Page: 1

Dissemination Number: 3483
When Disseminated: 11:25:49 08/23/11
Disseminator: OLEARY C Agency: APD
Recipient: M. ELIZABETH HAWKINS
Organization: ATTORNEY FOR RAMIREZ
Address: FAX # 206-524-3751
Reason for Inquiry: SENT PER OFFICER ROB LEETZ INSTRUCTIONS
Dissemination Method: FAXED

Information Disseminated
COPY OF FOLLOW-UP 11-A04838 DATED 08-18-11 SENT TO THE ABOVE PER OFFICER ROB
LEETZ INSTRUCTIONS.
COPY OF DOCUMENT RELEASED ATTACHED.

BEAN, PORTER & HAWKINS
DENNY BUILDING, SUITE 835
2200 SIXTH AVENUE
SEATTLE, WA 98121

INVOLVEMENTS:

Type	Record #	Date	Description	Relationship
LW	11-A04838	06/23/11	AGENCY ASSIST	RELEASED 08-23-11

Law Supplemental Narrative:

Seq Name	Date	Supplemental Narratives Narrative
1 NEWSOM, V	09:12:18 08/23/11	
OFFICER R.W. LEETZ	08/18/11	11-A04838 / AGENCY ASSIST

FOLLOW-UP

11/NARRATIVE:

On 08/17/11 at approximately 1400 hours Chief Bowers asked me to speak with her regarding this case. I read the report of USBP Officer/Agent Juan F. Reyes, which appeared to have some discrepancies from the version of events on the evening of 06/23/11.

I later reviewed my written report, which is an accurate account of my actions on the evening of this incident.

In reviewing the USBP report completed by Agent Reyes, I noted that USBP had responded to the initial location of my traffic stop, according to Officer Reyes' report. The USBP report indicated that Agent J. Orr contacted me at 11th Street and Q Avenue at approximately 2120 hours. The stop location was in the 900 block of 7th Street. The violation occurred at 11th Street and Q Avenue. In reviewing my radio history of that date, the stop was made at 2100 hours; at 2116 hours Gustavo was detained at USBP's request, and at approximately 2129 hours I arrived at APD with Gustavo, USBP Agent Orr arriving shortly thereafter. I cleared the call via phone with dispatch at 2206 hours. USBP Agency Orr departed APD with Gustavo shortly prior to me clearing the call. Also in reviewing the USBP report, it is stated that USBP had a unit on patrol in Anacortes, which is common, as I see USBP vehicles in Anacortes frequently. I was advised by phone however that an agent would be enroute from Bellingham on that evening.

At APD, Agent Orr spoke with Gustavo in the detention area. Both he and Gustavo were standing during the conversation, which was in Spanish. Parts of the conversation were in broken English. Gustavo did state to Agent Orr that he wasn't going to answer any questions until he spoke with a lawyer. It appears the discrepancies in the report by USBP are contained within the first paragraph and a half of their report. It should also be noted that Agent Orr was the responding Agent, with no other Agents present.

I certify (or declare) under penalty of perjury under the laws of the State of Washington the foregoing is true and correct.

Officer R.W. Leetz D-25/#0637//vn Tue Aug 23 09:14:44 PDT 2011

EXHIBIT F

B

DECLARATION OF GUSTAVO VARGAS RAMIREZ

1. My name is Gustavo Vargas Ramirez, and my A number is 088-737-957. My address is _____ I speak both English and Spanish.
2. I have lived in Washington State since approximately 1998. All I have ever wanted was to paint. I paint large oil canvases, and sell them from my studio in Anacortes and at festivals in the surrounding area. I also participate in as many community art events as I can. For example, every year I paint at the Anacortes Arts Festival. I love to see the children watching me paint, and to talk to my neighbors and others who come from out of town. I was devastated in 2011 that I could not attend the arts festival due to my detention.
3. I have suffered from health problems and chronic pain for several years. In 2001, my right knee was replaced because I had a tumor. I have seen doctors over the years for pain in my hands, feet, and joints. My doctors have told me that I should avoid being cold, because this makes the pain worse. Before I was detained, I was managing my pain fairly well, and I had several doctors' appointments scheduled for the summer of 2011.
4. On June 23, 2011, a little before 9:00 p.m., I was driving to my Anacortes studio from Mount Vernon. I stopped at Safeway to pick up some food, because I had not had anything to eat and I was hungry. I was stopped by a police officer close to my studio for failing to use my turn signal. The officer asked me, in English, for my license, insurance, and registration. I replied in English, and gave him what he asked for.
5. I waited for what felt like a long time. After a few minutes, I began making sketches in my notepad. At first, although I did not feel free to leave, I also did not feel worried. I thought that the police officer might write me a ticket, and then I would be on my way. I was surprised and confused when the police officer returned to my car holding his cellular phone. He put the phone to my ear, and a voice on the other end started asking me questions about where I was born and my immigration status. I said clearly, in English, that I did not want to answer any questions without a lawyer.
6. The police officer went back to his car for several more minutes. Now, I felt anxious and afraid. I did not understand what was happening, and I still did not feel free to leave. When the officer finally returned, he told me to step out of the car. He handcuffed me and told me I was being detained at the request of Border Patrol. He put me in his car and drove me to the Anacortes Police Department.
7. I was held in a cell at the police station for what felt like a long time. The officer removed my shoes, and it was very cold. I was worried about sitting there in the cold, because my doctors had told me not to do that. I asked for a blanket, but I was not provided with one. I was allowed to call my brother to pick up my car, which the officer told me would be towed if no one came for it, but the officer told me I could only speak to my brother in English. "No Spanish!" he said.

8. I felt frightened, anxious, and nervous. I felt like I had committed a crime, but I did not know what it was. It was a painful experience, and I was in shock. I am not sure how much time passed, but the next thing I remember, a different officer was at the door of the cell. I stood up and walked toward the door, and he told me not to leave. The police officer who arrested me stood behind him, a little to the side, and I could see both officers from where I was standing. I felt outnumbered, caged, and alone.
9. The officer asked me the same questions over and over again. "Where were you born?" "How long have you been here?" "What is your immigration status?" I said again that I wanted to speak to a lawyer and I refused to answer any questions, but he kept questioning me anyway. I was cold, hungry, and tired, and I was frightened and desperate. As he questioned me, I thought that they would keep me locked up until I told them what I wanted to hear. I believed I had no choice.
10. I was detained at the Northwest Detention Center in Tacoma, Washington, for approximately ten weeks. While I was there, my mental and physical health worsened. I lost my job, and I missed the arts festival I attend every year. I finally found a job in June 2012, but it is hard for me to work because of my chronic pain. I also suffer from anxiety and depression.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and ability.

Gustavo V. Ramirez
Gustavo Vargas Ramirez

08-13-12
Date