

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

CHRISTINE VON DER HAAR,)	
)	
Plaintiff,)	
)	
v.)	No. 1:14-cv-247 JMS-DML
)	
UNITED STATES, <i>et al.</i>)	JURY TRIAL REQUESTED
)	
Defendants.)	

Amended Complaint

Introduction

1. On June 8, 2012, Christine Von Der Haar was seized and detained without cause by two United States Customs and Border Protection agents. This violated her rights under the Fourth Amendment to the United States Constitution. Additionally, under the Federal Tort Claims Act, the United States is liable for false imprisonment.

Jurisdiction, Venue, and Cause of Action

2. This Court has jurisdiction of this cause pursuant to 28 U.S.C. § 1331.
3. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391.
4. This action is brought pursuant to the Fourth Amendment of the U.S. Constitution and pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971) and pursuant to the Federal Tort Claims Act (“FTCA”).
5. Plaintiff has complied with all prerequisites for claims under the FTCA. Pursuant to 28 U.S.C. § 2675, Dr. Von Der Haar sent her administrative claim to the Department of Homeland Security and to United States Custom and Border Protection on February 18, 2014. There has been no reply and therefore, with the passage of six months, Dr. Von Der Haar is deeming the

claim to be denied pursuant to 28 U.S.C. § 2675(a).

Parties

5. Christine Von Der Haar is an adult resident of Bloomington, Indiana.

6. Sherlana Leiba and Mr. Cones were, on June 8, 2012, employed by the United States Customs and Border Protection in Indianapolis, Indiana.

Factual Allegations

7. Dr. Von Der Haar is a Senior Lecturer in the Department of Sociology at Indiana University in Bloomington, Indiana. She holds a Ph.D. that she received from Indiana University in 1985 and she holds masters degrees in both journalism and secondary education.

8. As a teenager, she was in an educational program in Europe where she met Dimitris Papatheodoropoulos, a Greek national.

9. Approximately 40 years later she became reacquainted with Mr. Papatheodoropoulos via the internet.

10. By that point Mr. Papatheodoropoulos had become successful as a transportation manager, employed in two Olympic games and also at the Arab Games in Qatar.

11. Dr. Von Der Haar and Mr. Papatheodoropoulos communicated frequently through e-mails. Some of these emails were flirtatious and romantic in nature.

12. In June of 2012 Mr. Papatheodoropoulos arrived in the United States to visit with Dr. Von Der Haar. He also planned to conduct business while in the United States.

13. Mr. Papatheodoropoulos arrived with a B1/B2 visa issued by the United States Embassy in Athens. This is a business/leisure visa with an expiration date of May 2, 2022. Mr. Papatheodoropoulos planned to stay until October of 2012 and intended to work as well as visit Dr. Von Der Haar.

14. Mr. Papatheodoropoulos flew into Indianapolis and cleared customs. He had in his possession a laptop computer and hard drives for a computer server.

15. The computer server (minus its hard drive), as well as other items, were not carried by Mr. Papatheodoropoulos through customs but were shipped separately. They arrived a few days after he arrived.

16. Dr. Von Der Haar and Mr. Papatheodoropoulos returned to the Indianapolis airport on June 5, 2012, after receiving word from the airline that had transported the above items that the items had arrived.

17. When Mr. Papatheodoropoulos and Dr. Von Der Haar went to the airline office to retrieve the items they were informed that they had to go to the offices of Customs and Border Protection to get the necessary paperwork.

18. They went to the offices of Customs and Border Protection, located in a separate building on the grounds of the Indianapolis airport. They were told that they had arrived too late and should return on June 8, 2012.

19. On June 8, 2012, Dr. Von Der Haar and Mr. Papatheodoropoulos returned to the offices of Customs and Border Protection.

20. There is a small waiting area at the Customs and Border Protection offices with a small window that allows visitors to converse with persons inside the office.

21. There was a Customs and Border Protection agent who was at the window who, upon being informed of the identity of Mr. Papatheodoropoulos and Dr. Von Der Haar, asked them if they were planning to marry, which perplexed them.

22. The agent indicated that Customs and Border Protection agents had to speak with Mr. Papatheodoropoulos inside the office and he was taken, through a previously locked door, into the interior of the office.

23. Dr. Von Der Haar remained in the waiting room.

24. After approximately one hour Customs and Border Protection agents, defendants Ms. Leiba and Mr. Cones, came to the waiting room and told Dr. Von Der Haar that they needed to talk to her.

25. They escorted her through the locked door into the interior of the office and into a small windowless office that contained a couch and a desk.

26. Dr. Von Der Haar sat on the couch and the two agents stood near the doorway of the office. The office door was partly closed and the agents obstructed it.

27. The agents were in uniform and Dr. Von Der Haar believed that they carried weapons.

28. Defendant Leiba asked questions of Dr. Von Der Haar while defendant Cones remained blocking the exit.

29. Defendant Leiba asked Dr. Von Der Haar about the nature of her relationship with Mr. Papatheodoropoulos.

30. Defendant Leiba asked her about the contents of email messages that Dr. Von Der Haar and Mr. Papatheodoropoulos had sent each other.

31. Given that Mr. Papatheodoropoulos had retained his hard drive that contained the emails, the only way that the Customs and Border Protection Agents could have reviewed the emails is for someone to have surreptitiously monitored the communications between Dr. Von Der Haar and Mr. Papatheodoropoulos and reported those communications to the agents questioning her.

32. Defendant Leiba admitted that employees of the United States had read email communications between Dr. Von Der Haar and Mr. Papatheodoropoulos.

33. Dr. Von Der Haar attempted to answer the inquiries she was receiving about the nature of their relationship, although the reasons for the questions were not clear to her.

34. Defendant Leiba asked about parties that Mr. Papatheodoropoulos had mentioned in his emails.

35. Defendant Leiba asked why Mr. Papatheodoropoulos had so many cell phones and whether Dr. Von Der Haar had bought him a cell phone to use in the United States.

36. At no time during this questioning did either defendant inform Dr. Von Der Haar that she was free to leave or that she could refuse to answer the questions.

37. Dr. Von Der Haar did not believe that she was free to leave the office and a reasonable person would not have believed that he or she was free to leave the office. She felt that she had to answer the questions and a reasonable person would have felt that he or she had to answer the questions.

38. After 15-20 minutes the agents finished questioning her and led her back through the locked door into the waiting room.

39. Mr. Papatheodoropoulos was still being questioned and had not yet been released.

40. She therefore waited for Mr. Papatheodoropoulos.

41. After about 30 minutes both defendants, Ms. Leiba and Mr. Cones, returned and indicated that they had more questions for Dr. Von Der Haar.

42. Again, Dr. Von Der Haar was led back through the locked door by the uniformed agents who she perceived as armed to the small office where she was before.

43. Again, she was not informed that she did not have to talk to the agents or that she was free to leave.

44. Again, she sat on the sofa and the agents stood, blocking the doorway.

45. She did not feel free to leave and a reasonable person would not have felt free to leave. She felt that she had to answer the questions and a reasonable person would have felt that he or she had to answer the questions.

46. Defendant Leiba asked Dr. Von Der Haar if she and Mr. Papatheodoropoulos were having sexual relations.

47. Dr. Von Der Haar was allowed to leave after five minutes and was escorted back to the waiting room.

48. After approximately 4 ½ - 5 hours Mr. Papatheodoropoulos was allowed to leave and was escorted back to the waiting room.

49. However, the Customs and Border Protection agents seized Mr. Papatheodoropoulos' passport.

50. On June 8, 2012, Mr. Papatheodoropoulos was served with notice that a proceeding was initiated against him for removal from the United States. The notice stated, in relevant part:

You obtained your B1/B2 visa by misrepresenting your intentions to come to the United States to wit; It is your intention to immigrate to the United States, you abandoned your foreign residence, you intend to overstay your admission to the United States.

51. None of this was true.

52. Mr. Papatheodoropoulos consulted with lawyers and the Greek Consulate in Chicago and the removal action did not proceed.

53. His passport was returned to him and he left the United States at the end of August of 2012 and has not returned.

54. The detention of Dr. Von Der Haar was without cause or justification.

55. Such detention constitutes false imprisonment in that Dr. Von Der Haar suffered an unlawful restraint on her freedom of movement against her will.

56. The detention of Dr. Von Der Haar by the defendants caused her anxiety, concern, distress, and other damages.

57. At all times defendants were acting under color of federal law and within the scope of their employment.

Request for jury trial

58. Dr. Von Der Haar requests a jury trial on all claims in this case that may be tried to a jury.

Cause of action

59. Defendants' detention of Dr. Von Der Haar, without cause or reasonable suspicion, constitutes an unreasonable seizure in violation of the Fourth Amendment. This claim is made pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971).

60. The actions of the defendants, resulting in the erroneous detention of, and injury to, Dr. Von Der Haar, caused plaintiff to suffer false imprisonment, causing damages, and the United States is therefore liable under the Federal Tort Claims Act.

Request for relief

WHEREFORE, plaintiff respectfully requests that this Court:

- a. Accept jurisdiction of this case.
- b. Award plaintiff her compensatory damages after a trial by jury.
- c. Award all other proper relief.

/s/ Kenneth J. Falk

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Certificate of Service

I hereby certify that on August 19, 2014, a copy of the foregoing was file electronically. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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