

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Keddins Etienne

Plaintiff

v.

United States of America,
U.S. DEA Agent Antonio LoGrande,

- and -

Unknown U.S. Transportation Security
Administration Officer,

Defendants

Case No. 21-CV-0613

COMPLAINT

JURY DEMANDED

INTRODUCTION

- 1) Plaintiff Keddins Etienne is a filmmaker who, on January 7th, 2020, was travelling through JFK International Airport (“JFK”) on a *domestic* flight with approximately US\$70,000 in cash intended to be used to finance his next work.
- 2) However, while passing through a TSA security checkpoint, Defendant Unknown U.S. Transportation Security Officer (“TSO”) briefly seized Plaintiff’s cash for purposes unrelated to transportation security and alerted the U.S. Drug Enforcement Agency (“DEA”).
- 3) With no reason to suspect that the cash was related to unlawful drug transactions, or any other kind of illegal activity, Defendant U.S. DEA Agent Antonio LoGrande (“LOGRANDE”) responded, detained Plaintiff, questioned him, and seized the cash before letting him go, in violation of Plaintiff’s Fourth Amendment rights.

JURY DEMAND

- 4) Plaintiff demands a trial by jury on all issues so triable.

PARTIES

- 5) Plaintiff Keddins Etienne is an individual residing in New York County, NY.
- 6) Defendant United States of America is the sovereign nation sued here under the Federal Tort Claims Act's waiver of sovereign immunity for certain tort claims of its employees.
- 7) Defendant LOGRANDE is a law enforcement officer of the U.S. Drug Enforcement Administration who, upon information and belief, regularly works within Queens County, NY. LOGRANDE is sued in his individual capacity for constitutional torts pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971).
- 8) Defendant TSO is a non-law enforcement Transportation Security Officer of the U.S. Transportation Security Administration who, upon information and belief, regularly works within Queens County, NY. TSO is also sued in his individual capacity for constitutional torts pursuant to *Bivens*.

JURISDICTION & VENUE

- 9) Personal jurisdiction is proper because all defendants regularly work within the State of New York and the incident that gave rise to the complaint occurred within the State of New York.
- 10) Subject matter jurisdiction is proper because all claims arise under federal law. *See* 28 U.S.C. § 1331.
- 11) Venue is proper because the incident that gave rise to the complaint occurred within the boundaries of this district.

ALLEGATIONS OF FACT

- 12) On January 7th, 2020, Plaintiff traveled to JFK airport.

- 13) He possessed a valid boarding pass for a domestic flight departing from JFK that same day
- 14) He did not have reservations on any connecting international flights that day.
- 15) He did not intend to, and did not, travel on any connecting international flights that day.
- 16) In his carry-on luggage was approximately \$70,000 in U.S. currency.
- 17) Plaintiff is a filmmaker.
- 18) It is typical in the film industry to pay for many types of expenses in cash.
- 19) The currency carried by Plaintiff was the proceeds from, and was intended to be used on, his work in the film industry.
- 20) No policy or regulation of TSA, DEA, or other federal authority (nor any statute or other source of law) requires the declaration, or any special procedure for the carrying, of cash in any amount on domestic flights.
- 21) Plaintiff presented himself and his luggage at a TSA checkpoint, as was required of him in order to catch his flight.
- 22) During the x-ray and subsequent hand-screening of his carry-on luggage, TSO discovered the above-mentioned cash.
- 23) For a period of time, TSO seized Plaintiff's cash while he (or a supervisor) summoned law enforcement, upon belief either by calling the Port Authority Police Department, who forwarded the information to the U.S. Drug Enforcement Agency, or by directly contacting federal law enforcement.
- 24) Plaintiff asked TSO for permission to leave.
- 25) TSO advised Plaintiff that he was not free to leave.

- 26) Plaintiff understood that he was not free to go.
- 27) LOGRANDE arrived and assumed control of the interaction and the cash seized from Plaintiff's belongings.
- 28) Upon belief, LOGRANDE knew that Plaintiff was already not free to go upon arrival and continued to hold Plaintiff against his will, both by implication and explicitly making comments such as "Wait here."
- 29) Plaintiff continued to understand that he was not free to go.
- 30) After approximately 20 minutes of questioning, LOGRANDE released Plaintiff but retained his cash, stating that it was subject to civil forfeiture because it "looked like" it was the proceeds of, or intended to be used to purchase, illegal drugs.
- 31) The funds had no relation to the buying or selling of drugs.
- 32) A receipt for the seizure of \$68,520 was issued by LOGRANDE to Plaintiff.
- 33) Plaintiff, through counsel, obtained the release of his funds over 8 months later.
- 34) Plaintiff spent no less than \$13,749 in legal fees and costs to recover his cash.
- 35) A notice under the Federal Tort Claims Act was served on both TSA and DEA on June 20th, 2020 regarding the above-discussed facts and related legal claims, demanding a sum certain of \$5,000,000.
- 36) Six months has lapsed from that date without formal response from the government.
- 37) Plaintiff thus treats his claim as denied and all administrative preconditions satisfied.

CLAIMS FOR RELIEF

Count 1 –Fourth Amendment to the U.S. Constitution

Unreasonable Search & Seizure of Property Against TSO

- 38) The Fourth Amendment to the U.S. Constitution prohibits “unreasonable searches and seizures,” and in general, a warrant or an exception to the warrant requirement is required before the government may conduct a search without the consent of the searched.
- 39) The “administrative search doctrine” allows the TSA to conduct some level of limited warrantless searches under the theory that the searches are aimed at a public safety concern rather than uncovering evidence of criminality (or, in the alternative, under the theory that by presenting one’s self at the TSA checkpoint, one is consenting to the search).
- 40) The exception to the warrant requirement granted by the administrative search doctrine is, however, not an exception to the reasonableness requirement of the Fourth Amendment.
- 41) An administrative search becomes unreasonable as soon as the search deviates from one that is designed to address the public safety concern to a search for evidence of criminality.
- 42) At some point, TSO decided to inspect (“search”) Plaintiff’s cash, knowing that it could not possibly constitute a threat to aviation security, but rather for the purpose of determining whether the cash may be of interest to the DEA.
- 43) For the time TSO spent searching the cash, as well as the time waiting for law enforcement to arrive, TSO had seized the cash from Plaintiff.
- 44) Any reasonable screener in the position of Defendants would have known that this search was prohibited by law and a violation of Plaintiff’s rights.
- 45) Plaintiff’s constitutional rights were knowingly and intentionally violated.
- 46) TSO is thus liable to Plaintiff for damages stemming from the unconstitutional search of his cash.

Count 2 – Fourth Amendment to the U.S Constitution

Unreasonable Seizure of Plaintiff's Person Against TSO

- 47) Plaintiff re-alleges the paragraphs under Count 1 as if hereby stated in full.
- 48) TSO detained Plaintiff without warrant or an exception to the warrant requirement, beyond what was needed to complete a lawful administrative search.
- 49) In particular, based on the words of TSO and circumstances, Plaintiff believed he was not free to go.
- 50) Plaintiff's belief in this regard was reasonable.
- 51) Plaintiff was conscious of his confinement and did not consent.
- 52) TSO is thus liable to Plaintiff for damages stemming from his unconstitutional seizure of Plaintiff's person.

Count 3 – Fourth Amendment to the U.S Constitution

Unreasonable Seizure of Plaintiff's Person Against LOGRANDE

- 53) The Fourth Amendment to the U.S. Constitution prohibits “unreasonable searches and seizures,” and in general, a warrant or an exception to the warrant requirement is required before the government may conduct a seizure without the consent of the seized.
- 54) LOGRANDE detained Plaintiff without warrant or an exception to the warrant requirement, and specifically without reasonable suspicion or probable cause¹.
- 55) In particular, based on the words of LOGRANDE and circumstances, Plaintiff believed he was not free to go.

¹ The detention of Plaintiff by LOGRANDE exceeded the brief stop he may have been allowed to make with mere reasonable suspicion under *Terry v. Ohio*, 392 U.S. 1 (1968); thus, even if reasonable suspicion was present, the higher “probable cause” standard was required. Notwithstanding, mere possession of cash, even at an airport, does not give rise to reasonable suspicion of criminality.

- 56) Plaintiff's belief in this regard was reasonable.
- 57) Plaintiff was conscious of his confinement and did not consent.
- 58) LOGRANDE is thus liable to Plaintiff for damages stemming from his unconstitutional seizure of Plaintiff's person.

Count 4 – Fourth Amendment to the U.S Constitution
Unreasonable Seizure of Plaintiff's Property Against LOGRANDE

- 59) The Fourth Amendment to the U.S. Constitution prohibits “unreasonable searches and seizures,” and in general, a warrant or an exception to the warrant requirement is required before the government may conduct a seizure without the consent of the seized.
- 60) LOGRANDE seized Plaintiff's cash without probable cause to believe that it was related to criminality in any way, and without Plaintiff's consent.
- 61) LOGRANDE is thus liable to Plaintiff for damages stemming from his unconstitutional seizure of Plaintiff's cash.

Count 5 – Trespass to Chattels (by TSO)
Under Federal Tort Claims Act Against United States of America

- 62) Plaintiff re-alleges the paragraphs under Count 1 as if hereby stated in full.
- 63) This constituted an intermeddling with Plaintiff's possessory interest in his cash to which Plaintiff did not consent.
- 64) The United States of America, through the waiver of sovereign immunity found in the Federal Tort Claims Act, is thus liable to Plaintiff for damages stemming from its employee's trespass.

Count 6 – False Imprisonment (by TSO)

Under Federal Tort Claims Act Against United States of America

- 65) Plaintiff re-alleges the paragraphs under Count 2 as if hereby stated in full.
- 66) This constituted a false imprisonment under New York law.
- 67) The United States of America, through the waiver of sovereign immunity found in the Federal Tort Claims Act, is thus liable to Plaintiff for damages stemming from its employee's false imprisonment.

Count 7 – False Imprisonment (by LOGRANDE)

Under Federal Tort Claims Act Against United States of America

- 68) Plaintiff re-alleges the paragraphs under Count 3 as if hereby stated in full.
- 69) This constituted a false imprisonment under New York law.
- 70) The United States of America, through the waiver of sovereign immunity found in the Federal Tort Claims Act, is thus liable to Plaintiff for damages stemming its employee's false imprisonment.

Count 8 – Conversion (by LOGRANDE)

Under Federal Tort Claims Act Against United States of America

- 71) Plaintiff re-alleges the paragraphs under Count 4 as if hereby stated in full.
- 72) This constituted a serious interference with Plaintiff's possessory interest in his cash, inconsistency with his property rights, to which Plaintiff did not consent.
- 73) The United States of America, through the waiver of sovereign immunity found in the Federal Tort Claims Act, is thus liable to Plaintiff for damages stemming from its employee's conversion.

Count 9 – Abuse of Process (by LOGRANDE)

Under Federal Tort Claims Act Against United States of America

- 74) LOGRANDE instituted and continued civil process against Plaintiff's interest; to wit, a civil forfeiture proceeding.
- 75) LOGRANDE had no lawful excuse or justification to do so, given that there was no probable cause to believe that forfeiture was proper.
- 76) LOGRANDE did so for the intent of causing Plaintiff's money to become property of the government and, upon belief, to appear to his employer that he was more successful and effective than he was, or for other unlawful motive.
- 77) The government, with the participation of, and based on the unreasonable representations of, LOGRANDE, continued to hold Plaintiff's cash such that it could conduct a fishing expedition and backwards-rationalize the seizure, for approximately 8 months.
- 78) Plaintiff was injured by LOGRANDE's malicious prosecution via his inability to use his property and the legal fees and costs he encountered.
- 79) This civil version of malicious prosecution constitutes abuse of process under New York law.
- 80) The United States of America, through the waiver of sovereign immunity found in the Federal Tort Claims Act, is thus liable to Plaintiff for damages stemming from its employee's trespass.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief:

- i. Actual damages for loss of liberty, garden-variety emotional distress stemming from loss of liberty, and damages caused by the unreasonable search and seizure of (and interference with) Plaintiff's property, in an amount to be determined by a jury,
- ii. Actual damages for his legal fees and costs spent defending against the abusive process instituted against him in the amount of \$13,749.
- iii. Punitive damages for the above injuries in an amount to be determined by a jury,
- iv. Declaratory relief stating that the referral of cash by TSA screeners to federal law enforcement, when there is no reasonable suspicion that criminality is afoot, is unconstitutional,
- v. Pre- and post-judgment interest as allowed by law,
- vi. Attorney's fees for this action,
- vii. Cost of the action, and
- viii. Any other such relief as the Court deems appropriate.

Dated: Brooklyn, NY

February 4th, 2021

Respectfully submitted,

/s/Jonathan Corbett

Jonathan Corbett, Esq.
Attorney for Plaintiff (*pro hac vice* pending)
CA Bar #325608
958 N. Western Ave. #765
Hollywood, CA 90029
E-mail: jon@corbettrights.com
Phone: (310) 684-3870
FAX: (310) 675-7080