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Pro Per

ORIGINAL FILED

JAN 23 2013

**LOS ANGELES
SUPERIOR COURT**

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES**

Richard Riess,
Petitioner,

v.

Desiree Capuano,
Respondent.

Case No: TD 035397

**Declaration of Richard Riess Regarding
Respondent's Ex Parte Requests**

I, Richard Riess, hereby declare under penalty of perjury that the statements provided herein are true and correct to the best of my knowledge and are based on first hand knowledge.

SUMMARY

1. I believe Desiree deliberately filed false reports and allegations about me, with ICE in order to cause me to be detained and deported so that she could obtain sole legal and physical custody of G [REDACTED].
2. I believe Desiree has provided false statements to the Court regarding her lack of knowledge of my current whereabouts in order to proceed with an ex parte hearing in my absence.
3. My current detention is not related to, or the result of, any action on my part and has come to be only as a result of Desiree's filing false and/or misleading reports with ICE.

4. No criminal charges or prosecution, and no new or further legal action, whether criminal, civil, or immigration related, have resulted from my arrest by ICE on January 2, 2013 or my current administrative detention.

BACKGROUND

5. I am the Petitioner in the captioned matter.
6. I am the natural father of G [REDACTED] Riess and have had physical custody of G [REDACTED] since his birth in 2000.
7. Desiree Capuano is the biological mother of G [REDACTED] and has been completely absent from G [REDACTED]'s life from early 2002 until I located her and put her and G [REDACTED] in contact in the spring of 2011.
8. In August 2011, while I was being administratively detained by the Bureau of Immigration and Customs Enforcement (ICE), Desiree came to Los Angeles and took G [REDACTED] to Arizona where she immediately attempted to gain physical and legal custody of G [REDACTED]. At that time Desiree cited, inter alia, her unfounded claims that I was in prison and was going to be deported as a basis for her request for sole legal and physical custody of G [REDACTED].
9. On August 30, 2011 I was released from ICE custody. I was not deported.
10. On November 9, 2011 the Superior Court of California ordered Desiree to "immediately return G [REDACTED] to the only home he has ever known, until August 2011".
11. G [REDACTED] has been in my physical custody since November 2011, and has spent his school breaks and occasional long weekends with Desiree.
12. Over the period of time from September 2011 through December 2012 Desiree had made repeated threats to me about reporting me to ICE; she had consistently insisted that I am an

illegal alien, and had been deported; and that she was going to call "the Feds" on me and have me sent back to prison and deported. I generally disregarded those threats because I am not an illegal alien, have not been deported, and do not believe I would be of interest to any federal law enforcement agency (ICE or otherwise). I have received and retained many emails from Desiree and her fiancé, Kristopher Lauchner, making such threats and claims.

13. On December 16, 2012 Desiree came to Los Angeles to pick up G [REDACTED] for her winter break visitation. Desiree made travel arrangements for G [REDACTED] to be returned on January 5, 2013.

CURRENT ARREST, INVESTIGATION AND DETENTION

14. On January 2, 2013 two ICE Agents came to my residence, claiming to have received a report of a "dangerous fugitive" alien who had been using that address. I did not have any reason to believe that ICE was looking for, or interested in, me. I allowed the agents into my home and cooperated with them.
15. The ICE Agents informed me they had received a number of reports that I was a convicted felon, had been deported, had re-entered the U.S. illegally, and was a potential danger to society. I did not resist and agreed to accompany the Agents to the ICE facility in downtown Los Angeles for further investigation.
16. Upon arrival at the ICE office, and before being interrogated, I spoke at length with one of the Agents about numerous topics relating to my life in general, career, plans, parenting, et cetera. There was no animosity between the Agent and myself, that I could detect. During the course of our discussion, the Agent stated "We don't care about you. If you had a shaved head and gang tattoos on your face then I'd be worried about you, but you don't really have any criminal record,

you haven't been in any trouble since you've been released, your home is clean, and from what I've seen you've been taking care of your son."

17. I asked the Agent how it was that they had come to be investigating me, and he responded that ICE had received a number of reports of a previously deported fugitive, who had illegally re-entered the US, living at my address. Upon further inquiry, the Agent admitted that the reports were from a party who identified herself as my ex-wife. During the later interrogation by the other Agent, he admitted that the reports were received by a "Desiree Capuano". The Agents also stated that Desiree claimed to be my "ex-wife" and did not inform them that we are still married.
18. Over the course of multiple interrogations I responded to all of the ICE Agents' questions. Yet, they were unable to establish that I had committed any criminal offense or violated any law (immigration or otherwise) of the US. During the course of their investigation they verified the information I had provided them regarding my citizenship and right to be in the US.
19. Following their interrogation and investigation the ICE Agents forwarded my file, and the results of their investigation, to ICE counsel for review. It was ultimately determined that there was no basis for arrest or any further legal action.
20. In 2009 the Immigration Court in Eloy, Arizona entered an order of removal, to Mexico or, in the alternative Canada, against me. That order of removal authorizes ICE to detain me for a brief period while they attempt to obtain a travel document to effect my removal. That is the only basis upon which I am currently being detained.
21. The ICE Agents repeatedly stated that my detention should not exceed 3 to 4 weeks, and is only due to the prior removal order.

22. The ICE Agent stated that, upon verifying my US birth, a note was entered into my file to ensure I would not be arrested or detained by ICE again.
23. Based on conversations with ICE I believe my current period of detention will not last more than another two weeks.

DESIREE'S ACTIONS DURING MY DETENTION

24. Since my arrest on January 2, 2013 I have not been able to contact G [REDACTED] by telephone, on the mobile phone I have provided him because I am only able to make collect calls from the jail facility and the mobile telephone does not accept collect calls.
25. I have not been able to contact G [REDACTED] by telephone at Desiree's home number because every time I call that number no one answers and it goes to voice, which has not been setup.
26. I have written and mailed three letters to G [REDACTED], at Desiree's home, however I have not received a single response. In one of the letters I included a self-addressed, stamped envelope and a blank sheet of paper.
27. On January 15, 2013 I spoke with Liz M [REDACTED], who told me that Desiree had stated to her that she (Desiree) intended to seek an order barring me from have any contact at all with G [REDACTED] so that I wouldn't be able to "continue messing with his head".
28. I believe Desiree is deliberately interfering with my ability to communicate with G [REDACTED] by withholding my mail to him, not allowing him to use the mobile phone I provided him, and not allowing him to use her home telephone when I call.
29. I believe Desiree is intercepting and reading the letters I have been sending to G [REDACTED].
30. On January 15, 2013 Miss M [REDACTED] told me that Desiree had told her, earlier that day, that G [REDACTED] had not yet started school in Arizona.

31. On January 15, 2013 I was informed by Miss M [REDACTED] that Desiree had requested an ex parte hearing on January 14, 2013, wherein she stated to the Court that since my arrest she has no idea where I am and has been unable to locate me for the purpose of service of process. However, on January 7, 2013 I served by mail, a Notice of Change of Address on Desiree concurrently with the one I filed with the Court. That notice included the contact information at the Santa Ana Jail.
32. I believe Desiree deliberately filed false claims and reports against me with ICE in order to cause me to be detained so that she could use that as a basis to obtain custody of G [REDACTED]. I believe her current actions are almost identical to her actions and intentions in August 2011 when she took G [REDACTED] to Arizona and attempted to gain sole custody of him based on me being in detention.

Dated this 16th day of January 2013.



Richard Riess