

Lawsuit Challenging Mass Arrests by Immigration Authorities Allowed to Proceed

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A Winston & Strawn pro bono team, in collaboration with the National Immigrant Justice Center (NIJC) and American Civil Liberties Union of Illinois (ACLU), has won a significant ruling that will allow a putative class action challenging U.S. Immigration and Customs Enforcement (ICE) enforcement tactics to proceed.

In May 2018, ICE conducted a series of raids throughout Chicago and its suburbs that were viewed as being retaliatory against its status as a sanctuary city for immigrants. ICE predicated these raids on its identification of a few individuals known to be in the United States illegally, but then proceeded to stop and arrest others in the vicinity it deemed as potentially present unlawfully due to their perceived Hispanic descent. NIJC, ACLU, and Winston brought the action in the U.S. District Court for the Northern District of Illinois on behalf of individuals who were swept up in these indiscriminate raids as well as in traffic stops that ICE agents had been conducting.

“ICE is not permitted to detain a person without probable cause, and then determine later if they are in the country illegally,” Partner Ivan Poullaos, who leads the Winston team, said. “Just because a person has a broken tail light on their car does not give ICE agents authority to stop and arrest them for illegal immigration.” Support for this case was provided by Associates Sam Trimbach, Vinnie Gianino, and Nasir Hussain.

Castanon Nava v. ICE alleges that agents violated the Immigration and Nationality Act and Fourth Amendment of the U.S. Constitution by relying on racial profiling to stop individuals without reasonable suspicion and then detain them in jail for weeks without access to an immigration judge. The Illinois Coalition for Immigrant and Refugee Rights (ICIRR) and Organized Communities Against Deportations (OCAD), which have had to significantly expand their services to support families impacted by the raids, are organizational plaintiffs in the case.

Defendants filed a motion to dismiss our second amended complaint on the grounds that plaintiffs’ claims against ICE should be decided as part of their individual immigration cases. On January 24, the Northern District denied the government’s motion, ruling that the question of ICE’s authority to conduct indiscriminate raids is entirely separate from whether an individual is in the United States legally or illegally.

NIJC, the ACLU, and Winston will now be able to conduct discovery and collect evidence to build our case in support of plaintiffs’ claims.

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