

1 Christine P. Sun\*  
2 AMERICAN CIVIL LIBERTIES  
3 UNION FOUNDATION  
4 IMMIGRANTS' RIGHTS PROJECT  
5 39 Drumm Street  
6 San Francisco, CA 94111  
7 T: (415) 343-0783  
8 F: (415) 395-0950  
9 *csun@aclu.org*

7 Daniel J. Pochoda (Bar No. 021979)  
8 Victoria Lopez (Bar No. 330042)\*\*  
9 Joel Edman (Bar No. 031324)  
10 ACLU FOUNDATION OF ARIZONA  
11 3707 North 7th Street, Suite 235  
12 Phoenix, AZ 85014  
13 T: (602) 650-1854  
14 F: (602) 650-1376  
15 *dPOCHODA@acluaz.org*  
16 *vlopez@acluaz.org*  
17 *jedman@acluaz.org*

14 *Attorneys for Plaintiffs*

15 *\*Pro hac vice admission pending*

16 *\*\*Admitted pursuant to Ariz. Sup. Ct. R.*  
17 *38(f)*

18 **IN THE UNITED STATES DISTRICT COURT**  
19 **FOR THE DISTRICT OF ARIZONA**

20 MARIA DEL ROSARIO CORTES  
21 CAMACHO,

21 *Plaintiff,*

22 vs.

23 CHAD LAKOSKY, KRISTINA  
24 STOLTZ, and DOES 1-10, in their  
25 individual capacities,

25 *Defendants.*

CASE NO.

**COMPLAINT**

26

27

28

1 **INTRODUCTION**

2 1. This is a civil rights action on behalf of Maria del Rosario Cortes Camacho,  
3 an immigrant who was unlawfully detained and arrested by deputies of the Pinal County  
4 Sheriff’s Office (“PCSO”). Ms. Cortes<sup>1</sup>, the mother of three young children and a  
5 survivor of domestic violence, is authorized to work and live in the United States through  
6 a U-visa.<sup>2</sup>

7 2. On September 29, 2012, Ms. Cortes was driving home when she was pulled  
8 over by a Pinal County Sheriff’s Office deputy, Defendant Carl Lakosky, ostensibly for a  
9 “cracked windshield.” When asked for identification and her immigration papers, Ms.  
10 Cortes provided Deputy Lakosky her full name and explained that she had a pending U-  
11 visa application, a copy of which was in her glove compartment. Deputy Lakosky  
12 responded that he was not interested in those papers.

13 3. Ultimately, a second PCSO Deputy, Defendant Kristina Stoltz arrived at the  
14 scene, handcuffed Ms. Cortes, locked her in the back of a patrol car, and transported her  
15 against her will to a U.S. Customs and Border Patrol office, where she remained  
16 separated from her children and not released from custody for five days.

17 4. Defendants Lakosky and Stoltz unlawfully detained Ms. Cortes without any  
18 additional justification after the original purpose of the stop was completed, and beyond a  
19 reasonable time required to issue her citation, solely on the basis of her suspected or  
20 actual immigration status, and unlawfully arrested her by involuntarily transporting her  
21 under restraint from the location of the stop.

22  
23 \_\_\_\_\_  
24 <sup>1</sup> Cortes is Plaintiff’s legal surname.

25 <sup>2</sup> “The U nonimmigrant status (U visa) is set aside for victims of certain crimes  
26 who have suffered mental or physical abuse and are helpful to law enforcement or  
27 government officials in the investigation or prosecution of criminal activity.” *See*  
28 <http://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-criminal-activity-u-nonimmigrant-status/victims-criminal-activity-u-nonimmigrant-status>.

1 5. Defendants' unlawful detention and arrest of Ms. Cortes occurred shortly  
2 after Arizona's S.B. 1070 law went into effect. Arizona Revised Statutes § 11-1051(B),  
3 also known as Section 2(B) of S.B. 1070, requires state and local law enforcement  
4 officials, "where reasonable suspicion exists that the person is an alien and is unlawfully  
5 present in the United States" to make a "reasonable attempt . . . when practicable, to  
6 determine the immigration status of the person . . . ." Arizona Revised Statutes § 11-  
7 1051(D), also known as Section 2(D) of S.B. 1070, states in relevant part,  
8 "Notwithstanding any other law, a law enforcement agency may securely transport an  
9 alien who the agency has received verification is unlawfully present in the United States  
10 and who is in the agency's custody to a federal facility in this state or to any other point  
11 of transfer into federal custody that is outside the jurisdiction of the law enforcement  
12 agency."

13 6. To the extent that the deputies prolonged her detention and transported her  
14 to Border Patrol pursuant to S.B. 1070, the application of that statute to Ms. Cortes was  
15 unconstitutional.

16 7. Plaintiff brings this action under the Fourth Amendment to the United  
17 States Constitution and 42 U.S.C. § 1983.

### 18 JURISDICTION AND VENUE

19 8. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343.

20 9. Venue is proper under 28 U.S.C. § 1391(b) because the events or omissions  
21 giving rise to Plaintiff's claims occurred in the District of Arizona.

### 22 PARTIES

23 10. Plaintiff Cortes is a thirty-one year old Mexican national and U-visa holder.  
24 She is and was at all times relevant to this Complaint a resident of Eloy, Arizona.

25 11. Defendant Deputy Chad Lakosky was at all times relevant to this  
26 Complaint a deputy officer for the Pinal County Sheriff's Office ("PCSO"). The traffic  
27 citation that Ms. Cortes received identifies Deputy Lakosky as the initial detaining  
28 officer. At all times relevant to this Complaint, Deputy Lakosky was acting within the

1 scope and course of his employment with PCSO. Defendant Lakosky is sued in his  
2 individual capacity.

3 12. Defendant Deputy Kristina Stoltz was at all times relevant to this  
4 Complaint a deputy officer for the PCSO. The radio log of Ms. Cortes' detention,  
5 obtained from PCSO through a public records act request, identifies Deputy Stoltz as the  
6 second officer involved in Ms. Cortes' unlawful detention and arrest. At all times  
7 relevant to this Complaint, Deputy Stoltz was acting within the scope and course of her  
8 employment with PCSO. She is sued in her individual capacity.

9 13. Defendants "Does 1-10" are individuals whose identities are not currently  
10 known to Plaintiff and who by their actions caused Ms. Cortes' unlawful detention and  
11 arrest. They are sued in their individual capacities. Upon information and belief, they  
12 are and were at all relevant times agents, officers, employees, or otherwise  
13 representatives of PCSO.

14 14. At all times relevant to this Complaint, all Defendants were acting under  
15 the color of law.

## 16 **FACTS**

17 15. Plaintiff Maria Cortes has resided in Eloy, Arizona since 2005 and is the  
18 mother of three children, ages twelve, seven, and five. The two youngest children are  
19 U.S. citizens, and the oldest has derivative status through Ms. Cortes' U-visa. At all  
20 times relevant to this Complaint, Ms. Cortes had full legal and physical custody of her  
21 three children.

22 16. Ms. Cortes suffered horrific acts of domestic violence at the hands of her  
23 former husband, including multiple punches to her face and choking. These attacks took  
24 place in front of her children and resulted in serious physical and psychological injury,  
25 including Post-Traumatic Stress Disorder and depression.

26 17. Based on her husband's abuse and her cooperation with the Eloy Police  
27 Department and the Pinal County Attorney's Office in his prosecution, Ms. Cortes  
28 applied for a U-visa on February 3, 2012.

1           18. Plaintiff's U-visa application was pending at the time she was pulled over  
2 by Defendant Lakosky as described herein; she had documentation of the application  
3 with her when she was stopped. On July 18, 2013, U.S. Citizenship and Immigration  
4 Services granted her application and she currently has a U-visa and authorization to live  
5 and work in the United States.

6           19. On the morning of September 29, 2012, as Ms. Cortes was driving home in  
7 Eloy, Arizona, Defendant Lakosky stopped her vehicle. Deputy Lakosky informed Ms.  
8 Cortes that she was stopped for having a broken windshield. He asked Ms. Cortes for her  
9 driver's license, and she replied that she did not have one. He then asked if she had a  
10 visa, and she told him that she had a pending U-visa application and that a copy was in  
11 her glove compartment. Deputy Lakosky replied that he was not interested in seeing her  
12 application, told her, "one moment," and then returned to his squad car. Upon  
13 information and belief, he then checked her name against a law enforcement or Arizona  
14 Motor Vehicles Department database, which confirmed her identity, and then called for  
15 backup.

16           20. Several minutes later, Defendant Stoltz arrived on the scene in her squad  
17 car and instructed Ms. Cortes to exit her vehicle. She then performed a pat-down of Ms.  
18 Cortes before handcuffing her and locking her in the back of her squad car in order to  
19 investigate her immigration status.

20           21. At no time during the stop did these Defendants have either probable cause  
21 or reasonable suspicion that Ms. Cortes was involved in criminal activity and at no time  
22 was Ms. Cortes told that she was under arrest for any reason. At no time during the stop  
23 did Ms. Cortes believe that she was free to leave the scene.

24           22. While handcuffed in the back of the patrol car, Deputy Stoltz asked Ms.  
25 Cortes about her immigration status, to which Ms. Cortes responded that she had a  
26 pending U-visa application, and that a copy was available in her glove compartment.

27           23. Without her express or implied consent, Defendant Stoltz then transported  
28 Ms. Cortes to the U.S. Customs and Border Patrol ("CBP") office in Casa Grande,

1 Arizona (about 13 miles away from the site of the traffic stop). When they arrived,  
2 Defendant Stoltz finally gave Ms. Cortes a traffic citation, signed by Defendant Lakosky,  
3 and left.

4 24. The citation refers to three civil traffic violations: a cracked windshield,  
5 driving without a license, and failing to show proof of insurance. Deputy Lakosky's  
6 narrative report states that Ms. Cortes was "cited and released" with no mention of her  
7 handcuffing and arrest by PCSO, or transportation to and continued detention by CBP.

8 25. The final entry in the radio log, made by Deputy Stoltz, was more than an  
9 hour after Deputy Lakosky had originally stopped Ms. Cortes.

10 26. The prolonged detention of Ms. Cortes without any lawful authority, after  
11 the original purpose of the traffic stop had been completed, violated her Fourth  
12 Amendment right to be free from unreasonable seizure.

13 27. This detention caused harms to Ms. Cortes, including violation of her  
14 constitutional rights, improper loss of liberty, and emotional distress.

15 28. Defendants' actions in handcuffing Ms. Cortes, locking her in the patrol  
16 car, and transporting her involuntarily to the CBP office constituted an arrest unsupported  
17 by probable cause, in violation of the Fourth Amendment.

18 29. This arrest caused harms to Ms. Cortes including violation of her  
19 constitutional rights, improper loss of liberty, and emotional distress.

20 30. Defendants were apparently unaware and had not been adequately trained  
21 by the PCSO that the extension of a stop for a period longer than required to complete the  
22 purpose for the initial stop constituted an unreasonable seizure.

23 31. Defendants were apparently unaware and had not been adequately trained  
24 by the PCSO that suspicion or knowledge of a person being in the U.S. unlawfully could  
25 **not** serve as the basis for reasonable suspicion to extend a stop or probable cause to make  
26 an arrest.

27  
28

1 32. Defendants were apparently unaware and had not been adequately trained  
2 by the PCSO that handcuffing and involuntary transportation to a different location was  
3 an arrest requiring probable cause of involvement in a crime.

4 33. Defendants unlawfully transferred Plaintiff to the custody of federal  
5 immigration agents, who detained her for an additional five days until October 4, 2012,  
6 during which time she was separated from her children, causing her great anxiety and  
7 emotional distress; these injuries were exacerbated by the continuing disorders resulting  
8 from the domestic violence she suffered.

### 9 **COUNT I**

#### 10 **Fourth Amendment – Extended Detention (42 U.S.C. § 1983)**

11 34. Plaintiff incorporates by reference the foregoing allegations as if fully set  
12 forth herein.

13 35. The Fourth Amendment to the U.S. Constitution prohibits “unreasonable  
14 searches and seizures.”

15 36. Defendants prolonged the detention of Plaintiff after the original purpose of  
16 the stop was completed and/or beyond the time reasonably required to complete the  
17 lawful purpose of the stop. Pursuant to Arizona Revised Statutes § 13-3903, local law  
18 enforcement officials, such as Defendants, have discretion to cite a person in lieu of  
19 detention for certain minor misdemeanors, such as the traffic violations here. After citing  
20 and releasing Plaintiff for minor traffic violations, Defendants detained her without any  
21 lawful justification and solely on the basis of their belief or suspicion that she was  
22 unlawfully present in the United States.

23 37. Plaintiff Cortes suffered loss of fundamental rights and her liberty, as well  
24 as emotional distress, as a result of this action by Defendants.

25 38. It is not a crime for a removable alien to remain present in the United  
26 States. Therefore, Defendants’ belief or suspicion that Plaintiff was unlawfully present in  
27 the United States, or desire to investigate her immigration status, did not provide  
28 constitutional justification for detaining Plaintiff.

1 39. By extending Plaintiff’s detention without reasonable suspicion or probable  
2 cause to believe Plaintiff was engaged in criminal activity after the original purpose of  
3 the stop was completed and/or beyond the time reasonably required to complete the  
4 lawful purpose of the stop, Defendants effected an unreasonable seizure of Plaintiff in  
5 violation of the Fourth Amendment.

6 40. To the extent that Defendants relied upon A.R.S. § 11-1051(B), (D) in  
7 committing the acts against Plaintiff as described herein, the application of that statute to  
8 Plaintiff was unlawful and in violation of the Fourth Amendment.

9 **COUNT II**

10 **Fourth Amendment – Unlawful Arrest (42 U.S.C. § 1983)**

11 41. Plaintiff incorporates by reference the foregoing allegations as if fully set  
12 forth herein.

13 42. The Fourth Amendment requires that arrests be supported by probable  
14 cause that the person to be arrested is engaged in criminal activity.

15 43. After an otherwise routine traffic stop, Defendants handcuffed Plaintiff,  
16 locked her in the back of a patrol car, and involuntarily transported her from a public  
17 street in Eloy, Arizona to a CBP facility in Casa Grande, Arizona.

18 44. Defendants’ actions constituted an unlawful arrest of Plaintiff in violation  
19 of the Fourth Amendment.

20 45. Plaintiff Cortes suffered loss of her fundamental rights and liberty, as well  
21 as emotional distress, as a result of this action by Defendants.

22 46. To the extent that Defendants relied upon A.R.S. § 11-1051(B), (D) in  
23 committing the acts against Plaintiff as described herein, the application of that statute to  
24 Plaintiff was unlawful and in violation of the Fourth Amendment.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiff requests that this Court:

- 27 a. Award compensatory and punitive damages against all Defendants for the  
28 above violations of the United States Constitution;



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

- b. Award prejudgment interest on any award of damages to the extent permitted by law;
- c. Award reasonable attorney’s fees and costs, pursuant to 42 U.S.C. § 1988 and any other applicable law;
- d. Grant such other relief as the Court may deem appropriate.

RESPECTFULLY SUBMITTED on this 25th day of September 2014,

/s/ Christine P. Sun  
AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION IMMIGRANTS’ RIGHTS  
PROJECT

/s/ Daniel Pochoda  
ACLU FOUNDATION OF ARIZONA

*Attorneys for Plaintiff*