

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION

JUAN ANGEL GUERRA, )  
Complainant )

V. )

Civil Action No. \_\_\_\_\_

COUNTY OF WILLACY, TEXAS; )  
RAYMONDVILLE, WILLACY COUNTY, )  
TEXAS; )

SIMON SALINAS, AS EX COUNTY )  
JUDGE; )

UVALDO ZAMORA, INDIVIDUALLY )  
AND AS POLICE CHIEF OF )  
RAYMONDVILLE, WILLACY COUNTY, )  
TEXAS; )

MERVYN MOSBACKER, )  
INDIVIDUALLY AND AS SPECIAL )  
PROSECUTOR FOR WILLACY )  
COUNTY, TEXAS; )

JURY DEMAND

GUSTAVO GARZA, INDIVIDUALLY )  
AND AS SPECIAL PROSECUTOR FOR )  
WILLACY COUNTY, TEXAS; )

DANIEL CAVAZOS, JR., INDIVIDUALLY )  
AND AS DETECTIVE FOR THE )  
RAYMONDVILLE POLICE )  
DEPARTMENT; )

MIGDALIA LOPEZ, INDIVIDUALLY )  
AND AS DISTRICT JUDGE OF )  
WILLACY COUNTY, TEXAS; )

JANET LEAL, INDIVIDUALLY AND AS )  
DISTRICT JUDGE OF CAMERON )  
COUNTY, TEXAS; )

DAVID MARTINEZ, INDIVIDUALLY )  
AND AS DEPUTY OF SHERIFF'S )  
OFFICE OF WILLACY COUNTY, TEXAS; )

GILBERT LOZANO, INDIVIDUALLY )  
AND AS DISTRICT CLERK OF )

WILLACY COUNTY, TEXAS; )  
WACKENHUT CORRECTIONS )  
CORPORATION ALSO KNOWN AS )  
GEO GROUP INCORPORATED; )  
HALE MILLS CONSTRUCTION, LTD; )  
HALE MILLS CONSTRUCTION, INC.; )  
EDDIE LUCIO, INDIVIDUALLY AND )  
A SENATOR OF DISTRICT 27; )  
JAMES PARKEY, INDIVIDUALLY AND )  
AS REPRESENTATIVE OF CORPLAN )  
CORRECTIONS CORPORATION; )  
CORPLAN CORRECTIONS )  
CORPORATION; )  
MICHAEL HARLING, INDIVIDUALLY )  
AND AS REPRESENTATIVE OF )  
MUNICIPAL CAPITAL MARKETS, INC;) )  
MUNICIPAL CAPITAL MARKETS, INC; )  
RAMON VELA, INDIVIDUALLY; )  
PHIL PARKER, INDIVIDUALLY AND )  
AS REPRESENTATIVE OF HALE )  
MILLS CONSTRUCTION LTD; )  
J C CONNER, INDIVIDUALLY AND AS )  
REPRESENTATIVE OF MANAGEMENT) )  
AND TRAINING CORPORATION, INC; )  
MANAGEMENT AND TRAINING )  
CORPORATION, INC.; )  
BILL BRYAN, INDIVIDUALLY; )  
R. SCOTT MARQUARDT, )  
INDIVIDUALLY AND AS )  
REPRESENTATIVE OF MANAGEMENT) )  
AND TRAINING CORPORATION, INC; )  
CLETE BUCKALOO, INDIVIDUALLY )  
AND AS CAPTAIN OF THE TEXAS )  
RANGERS; )  
DONALD DEGABRIELLE, )  
INDIVIDUALLY AND AS U. S. )  
ATTORNEY FOR THE SOUTHERN )  
DISTRICT OF TEXAS; )  
TIM JOHNSON, OFFICIAL CAPACITY )  
AS U. S. ATTORNEY FOR THE )

SOUTHERN DISTRICT OF TEXAS; )  
ALBERTO GONZALES, INDIVIDUALLY )  
AND OFFICIAL CAPACITY AS U. S )  
ATTORNEY; )  
Defendants )

**ORIGINAL COMPLAINT**

**A. Jurisdiction and Venue**

1 This action is being filed by Complainant pursuant to **42 U.S. C. § 1983 and 42 U.S. C. §1985** to address injuries sustained by the Complainant for deprivation of rights under color of state law secured by the First, Fourth, Fifth, Sixth, Eight and Fourteen Amendments to the United States Constitution. The court has jurisdiction pursuant to **28 U.S.C §1331 and §1343** and all other applicable laws.

2 Venue is proper in the United States District Court, Southern District of Texas, Brownsville Division, pursuant to **28 U.S.C. §1391**.

3 The Complainant further brings his action pursuant to state law in negligence, gross negligence, assault, intentional infliction of emotional distress, malicious prosecution, false imprisonment, false arrest, defamation, civil conspiracy and official oppression. This court has jurisdiction of the state claims pursuant to **28 U.S.C. §1367 and Rule 18 Federal Rules and Civil Procedure**.

**B. Parties**

**Complainant**

4. Juan Angel Guerra is a natural person and was the duly elected county/district attorney for the District/County Attorney’s Office of

Willacy County, Texas, at all the relevant times of this lawsuit. Juan Angel Guerra is a resident of Willacy County, Texas.

**Defendants**

5 The County of Willacy, Texas, is a duly designated county in the State of Texas, and may be served by serving the county judge

6 Simon Salinas or his successor is a natural person who had resided in Willacy County, Texas who was at the initial stage of the circumstances involved herein as County Judge for Willacy County, Texas. This Defendant or his successor is being sued in his official capacity for the acts undertaken as County Judge.

7 David Martinez is an individual and was the Chief Deputy for the Sheriff's Office for Willacy County, Texas. He is being sued in his official capacity as well as his individual capacity and may be served in Cameron County, Texas.

8 Gilbert Lozano is an individual and is the district clerk of Willacy County, Texas and was such during the time relevant to this complaint.

9 Migdalia Lopez is an individual and is the district judge for the 197<sup>th</sup> District Court of Willacy County, Texas. She is being sued in her official capacity as well as her individual capacity and may be served as such. She is the only district judge authorized by law (by statute) to perform the official duties as a district judge in Willacy County, Texas. She may be served at her office in the Willacy County Courthouse, Raymondville, Willacy County, Texas, 2<sup>nd</sup> Floor.

10 Janet Leal is an individual and is the district judge for the 103<sup>rd</sup> District Court of Cameron County, Texas. She is being sued in her official capacity as well as her individual capacity and may be served

as such. She may be served at her Cameron County Courthouse in Brownsville, Texas, 3<sup>rd</sup> floor.

11 Gustavo Garza is an individual and was hired to prepare and present accusations to the grand jury of Willacy County, Texas, against Complainant and he is being sued in his official capacity as well as his individual capacity and may be served as such. He then prepared the indictments and presented them to the grand jury of Willacy County, Texas. He was appointed special prosecutor. No oath of office was ever filed.

12 Mervyn Mosbacker is an individual and was hired to prepare and present accusations to the grand jury of Willacy County, Texas against Complainant and he is being sued in his official capacity as well as his individual capacity and may be served as such. He then prepared the indictments and presented them to the grand jury of Willacy County, Texas. He was appointed special prosecutor. No oath of office was ever filed.

13 The City of Raymondville, Texas is a municipal corporation duly chartered and organized under the laws of the State of Texas and may be served by service on the Mayor. At all times relevant to this complaint, the City of Raymondville, Texas, had delegated to the Chief of Police all law enforcement authority.

14 Uvaldo Zamora is a natural person resident of Willacy County, Texas and at all relevant times is the Chief of Police for the City of Raymondville, Willacy County, Texas and is being sued in his official capacity as well as his individual capacity and may be served as such. At all times relevant to this complaint, Defendant Zamora had been

delegated final decision-making law enforcement authority by the City of Raymondville, Texas.

15 Daniel Cavazos, Jr. is an individual and currently occupies the position of detective in the Raymondville Police Department, Raymondville, Willacy County, Texas and he is being sued in his official capacity as well as in his individual capacity and may be served as such. At all times relevant to this complaint, Defendant Cavazos had been delegated final decision-making law enforcement authority by the City of Raymondville, Texas.

16 State Senator Eddie Lucio is an individual and currently occupies the position of State Senator of District 27 and he is being sued in his official capacity as well as in his individual capacity and may be served as such.

17 Ramon Vela is an individual and is being sued as an individual and may be served in Hidalgo County, Texas.

18 Wackenhut Corrections Corporation is also known as GEO Group, Inc. and may be served by serving its registered agent for service.

19 CorPlan Corrections Corporation and may be served by serving its registered agent for service

20 James Parkey is an individual and is being sued as his individual capacity and official capacity as representative of the CorPlan Corrections Corporation and may be served in Dallas County, Texas.

21 Municipal Capital Markets, Inc. and may be served by serving its registered agent for service.

22 Michael Harling is an individual and is being sued as his individual capacity and official capacity as representative of the Municipal Capital Markets, Inc. and may be served in Dallas County, Texas.

23 Hale Mills Construction, Ltd is a business entity may be served by serving its registered agent for service.

24 Hale Mills Construction, Inc. is a corporation and may be served by serving its registered agent for service.

25 Management and Training Corporation, Inc. is a corporation and may be served by serving its registered agent for service.

26 R. Scott Marquardt is an individual and is being sued in his individual capacity and in his official capacity as representative of the Management and Training Corporation, Inc. and may be served in Travis County, Texas.

27 J C Conner is an individual and is being sued in his individual capacity and in his official capacity as representative of the Management and Training Corporation, Inc. and may be served in Travis County, Texas.

28 Bill Bryan is an individual and is being sued as an individual and may be served in Travis County, Texas.

29 Phil Packer is an individual and is being sued in his individual capacity and in his official capacity as representative of Hale Mills Construction, Ltd and may be served in Harris County, Texas.

30 Clete Buckaloo in his individual capacity and in his official capacity as Captain of the Texas Rangers may be served as such in Travis County, Texas.

31 Alberto Gonzales in his individual capacity and in his official capacity as U. S. Attorney and may be served as such in Bexar County, Texas.

32 Donald DeGabrielle in his individual capacity and in his official capacity as U. S. Attorney for the Southern District and may be served as such in Harris County, Texas.

33 Tim Johnson in his official capacity as United States Attorney for the Southern District of Texas and may be served as such in Harris County, Texas.

### **C. FACTS**

34 The case at bar deals with high profile/level officials that were using their respective positions to halt and derail the investigation of private prisons in Willacy County, Texas, for their own personal gain.

35 Complainant started investigating the death of Gregorio De La Rosa which occurred in April 26, 2001. De La Rosa died in a private prison being run by Wackenhut Corrections Corporation also known as GEO Group. Complainant soon learned that even though the victim was killed by two or more inmates, the operators of said private prison failed to do their duty to protect the victim and were subsequently involved with some form of cover-up.

36 Complainant's investigation quickly expanded into possible "kick-back" schemes of some elected officials involving the private prisons. Complainant continued his own investigation and discovered that Armando Rubalcaba, the County Auditor for Willacy County, Texas, was involved in an embezzlement of several hundreds of thousands of dollars from the county and from the Private Facility

Corporation, a corporation which supervises the private prisons in Willacy County, Texas.

37 On February 26, 2004, Armando Rubalcaba was indicted by the Willacy County grand jury. Complainant offered probation to Armando Rubalcaba in exchange for his guilty plea. Rubalcaba plead guilty for embezzling over \$100,000.00 and was given ten years probation with the condition inter alia that he cooperate with law enforcement officers and with Complainant in the investigation of a “kick-back” scheme involving some Willacy County commissioners.

38 At that time, Complainant asked the Federal Bureau of Investigations (FBI) to consider taking over the investigation since it was apparent to Complainant that local as well as high level officials were participating in the said “kick-back” scheme. The Assistant U. S. Attorney (AUSA) assigned to the case was Jim McAlister.

39 Complainant met with Jim McAlister, an assistant U.S. Attorney from Houston, Harris County, Texas, who heads the office of Public Integrity Unit. This meeting took place at Complainant’s office in Willacy County, Texas.

40 Armando Rubalcaba received federal immunity by AUSA Jim McAllister in exchange for his cooperation. With the assistance of Complainant and the cooperation of Rubalcaba, AUSA McAllister was able to charge Willacy County commissioners, Israel Tamez and Joe Jimenez, with accepting “kick-backs” from certain private prison companies.

41 On January 4, 2005, Tamez and Jimenez went before the Hon. Federal Judge Andrew Hanen and pled guilty to accepting ten thousand dollars each in “kick-backs” for awarding CorPlan

Corrections Corp. the prison contract. Both were offered light sentences if they agreed to cooperate with AUSA McAllister as to who gave them each the ten thousand dollars “kickback”.

42 Soon thereafter, Tamez and Jimenez implicated David Cortez as the individual who had given them the money. David Cortez was a consultant working for CorPlan Corrections Corp. at the time that David Cortez gave the kickback to Tamez and Jimenez in exchange for awarding CorPlan Corrections the prison contract.

43 On March 25, 2005, David Cortez, consultant for CorPlan Corrections, went before the Hon. Judge Andrew Hanen and pled guilty in federal court as to giving the “kick-back” monies to Tamez and Jimenez. In exchange for his cooperation, AUSA McAllister once again offered a light sentence.

44 Defendant Senator Eddie Lucio was a consultant along side David Cortez for CorPlan Corrections. Defendant Eddie Lucio was on the payroll of CorPlan Corrections during that time in violation of Article 36.09 of the Texas Penal Code. Defendant Lucio was receiving hundreds of thousands of dollars as “kickback” in violation of Article 36.07 of the Texas Penal Code, disguised as consultant fees from CorPlan Corrections, Management and Training Corporation (MTC), Aguirre, Inc., Hale Mills Corporation and Municipal Capital Markets. Defendant Eddie Lucio had worked as “consultant” for Corplan and Management Training in 2003 and 2004. Defendant Lucio had allegedly suspended his “consultant” work in 2005 for Corplan and MTC due to the bribery “kickbacks” investigation that was headed by AUSA Jim McAllister. Complainant had learned that Defendant Eddie Lucio had in fact been in Corplan’s payroll since 1999 and that

said fees “kickback” had not been reported until 2004 with mounting pressure of the investigation being lead by AUSA Jim McAllister.

45 The Hon. Judge Andrew Hanen postponed the sentencing of Tamez, Jimenez and Cortez so that they could continue cooperating with AUSA McAllister. Jim McAllister twice went before the Hon. Court Andrew Hanen and asked that the sentence be postponed because the investigation into private prison corruption was continuing.

46 On June 19, 2006, James Parkey, CEO for CorPlan Corrections Corp., visited Willacy County to discuss another prison contract worth about sixty million. The project was explained to Willacy County Commissioners by Bill Bryan, another prison consultant, as a “hush-hush” project that was coming all the way from the top man, President Bush. The sixty million dollar project was to be built within (6) six weeks and once again it was to be a “no-bid” project. The other individuals and companies in tow with CorPlan Corrections were Hale Mills, Municipal Capital Markets, Mike Harling and Senator Eddie Lucio.

47 County Judge Simon Salinas commissioners were hesitant to work with a company tied to the criminal investigation that was continuing. Again, CorPlan Corrections and the aforementioned companies and individuals relied on “kickbacks”. This time they promised Willacy County commissioners that the county would get eight million dollars within the first seven months and that the county could do whatever they wanted to do with the money, to include but not limited to, given themselves raises, built roads, parks and etc.

48 The following week Defendant Lucio asked to meet with Complainant. Defendant Lucio and Complainant made it clear to Complainant that he worked for Corplan and that James Parkey was his boss. Defendant Lucio admitted to being on the payroll of Hale Mills and MTC and was meeting with Complainant as a “consultant” and not as a Senator. Defendant Simon Salinas or “his successor” publicly remarked “you can’t imagine what relief taxpayers will have, he says. Maybe someday, someday we’ll have enough revenue from [the federal jail and the detention center] to not have taxes.”

49 Michael Harling represented to the commissioners that within 2 years, the county would be making a profit of over ten million dollars a year and as such the people of Willacy County would have no need to pay taxes.

50 All of which was not true and which is, in fact, a crime for the county to profit. The county is only allowed to make an administrative fee of no more than 2 or 3 dollars per diem. Today, the county has not seen a penny of said promises.

51 Defendant Ramon Vela was allegedly representing Willacy County in this new sixty million dollar venture, but at the same time was on the payroll of some of the companies in the consortium. Furthermore, Defendant Vela represented to the County Commissioners that Complainant was wrong and that the County could in fact be paid millions of dollars and that said money could be used to include non-prison related expenses in lieu of taxes. Said statement was completely false. Defendant Vela signed off on various documents as Willacy County’s attorney which in fact he did not hold

such position and Complainant, the duly elected Willacy County Attorney, did not authorize Defendant Vela of same.

52 The cost of the construction by Hale Mills was inflated to fifty million dollars even though the actual building cost was a much less.

53 On December 6, 2006, CorPlan Corrections, towing the same individuals Hale Mills, Municipal Capital Markets, Mike Harling and Senator Eddie Lucio, approached the Willacy County commissioners' court in order to discuss yet another prison project. This was estimated at forty million dollars.

54 The Commissioners combined both projects and once again awarded the contract to Corplan Corrections Corporation and the aforementioned individuals. The combined total of the "no-bid" contract was now over one hundred eleven million dollars of which is now outstanding as bonds against the County of Willacy.

(On October 12, 2006, a final judgment found that the death of Gregorio De La Rosa, Jr. was a wrongful death proximately caused by the negligence, gross negligence and malice of the Defendants Wackenhut Correction now known as GEO Group, Inc. and Warden David Forrest. The court awarded them over sixty millions dollars including punitive damages.)

55 The investigation under AUSA McAllister lasted until November 21, 2006, when Tamez and Cortez went before Federal Judge Andrew Hanen for sentencing. Jose Jimenez died in the interim.

56 AUSA McAllister and his supervisor, Don DeGabriel, U. S. Attorney for the Southern District of Texas, requested leniency on

behalf of Tamez and Cortez due to their cooperation so that the investigation could continue.

57 Israel Tamez was sentenced to six months for having accepted “kick-backs” in exchange for awarding the contract to CorPlan Corrections Corporation.

58 David Cortez was sentenced to three (3) months for having given “kick-backs” in exchange for awarding the contract to CorPlan Corrections. Both were sentenced by Judge Andrew Hanen.

59 Prior to being sentenced, AUSA McAllister informed Complainant Juan Angel Guerra that he was very pleased with the information that he had obtained from Tamez, Jimenez and Cortez and stated to Complainant that he would be requesting leniency for Tamez and Cortez in exchange for their cooperation.

60 AUSA McAllister assured Complainant that the investigation was far from over and that high profiled officials had by then been implicated.

61 A week later, AUSA McAllister informed Complainant that he, Jim McAllister, had been ordered to stop the investigation.

62 McAllister encouraged Complainant to continue with the investigation of private prison corruption and assured Complainant that Complainant had jurisdiction as Willacy County District Attorney. Jim McAllister was ordered by his supervisor Donald J. DeGabrielle, U. S. attorney for the Southern District of Texas, to halt the investigation of the private prisons in Willacy County.

63 Donald J. DeGabrielle, U. S. Attorney for the Southern District of Texas, had received orders from Alberto Gonzales, who was the U. S. Attorney General, to halt the investigation on possible private

prison corruption in Willacy County, Texas. A short lived statute, found within the Patriot Laws, empowered the U.S. Attorney to fire any assistant U. S. Attorney. (FN1) Albert Gonzales, the then U. S. Attorney, fired eight assistant U. S. attorneys. The Assistant U. S. Attorney for the Southern District of Texas was not fired. In October, the attorney for the Southern District of Texas went ahead and obeyed the orders not to continue the investigations. The investigation he was told to cease, was the one which included the corruption of the prison system in Willacy County, Texas.

64 On November 26, 2006, Complainant took over the investigation of corruption and “kick-backs” of private prisons in Willacy County, Texas and in the month following, Complainant took his findings to the grand jury (referred to as the Chandler-grand jury).

65 Judge Migdalia Lopez appointed Gustavo Garza as special prosecutor on January 17, 2007. Once the Complainant, Juan Angel Guerra, learned of the appointment of Gustavo Garza to investigate Complainant and Complainant’s staff, Complainant petitioned Judge Migdalia Lopez to appoint anyone else but Gustavo Garza because inter alia he had run against Complainant. Judge Migdalia Lopez took an indifferent attitude and stated “I appointed Gustavo Garza because I can”; in other words she could appoint anyone she wanted without regards to the law. Defendant Garza was not qualified to be a special prosecutor in that he is the sole public defender of the County of Willacy. He is also a justice of the peace, although for an adjoining county, Cameron County. Defendant Garza had also been defeated by Complainant during the last three elections for the position of

District/County Attorney for Willacy County, Texas.(Case No. 13-09-165-C Court of Appeals, Corpus Christi/Edinburg)

66 Complainant immediately filed a motion to have Judge Migdalia Lopez recused. Judge Migdalia Lopez, because of the recusal motion, was prevented as a matter of law, to issue any other orders other than to forward recusal motion to the administrative Judge Banales pursuant to Rule 18a (c) of Texas Rules of Civil Procedure-recusal or disqualification of judges.

67 Having heard of some illegal activity on the part of the Complainant, Defendant Garza investigated the alleged activity. Defendant Garza found out that nothing was true of the allegations he had heard. Defendant Garza further spoke with state law enforcements officials, to include Texas Rangers and the Federal Bureau of Investigation (FBI) and all were in agreement that Complainant had committed no wrong doings according to their investigations. However, perjured statements of the alleged allegations were made and based upon the perjured testimony, Defendant Garza proceeded to obtain a search warrant and an arrest warrant against Complainant.

68 Complainant sought the help of the Texas Rangers, specifically Captain Clete Buckaloo.

69 Complainant personally met with Captain Buckaloo in San Antonio, Texas and was informed by Captain Buckaloo that he himself had already met with Gustavo Garza and that his officers ( the Texas Rangers)had found no criminal wrongdoings on the part of Complainant and/or Complainant's staff.

70 Complainant asked for assistance from Captain Buckaloo and Buckaloo unequivocally stated that neither he nor his officers would get involved with what was happening in Willacy County. Buckaloo would not allow any of his officers to get involved.

71 In violation of Rule 18a(c) Texas Rules of Civil Procedure, Defendant Lopez contacted Defendant Judge Janet Leal and with the help of Defendant Gustavo Garza, convinced Judge Janet Leal that she had jurisdiction to issue a search warrant on Complainant's office in Willacy County. Said search warrant was later determined to be an illegal warrant in that the information relied upon was perjured and totally false and Judge Janet Leal, who signed on the search warrant, had no jurisdiction over Willacy County matters. The search warrant was for contraband none of which was found at Complainant's office. Judge Janet Leal of the 103<sup>rd</sup> Cameron County District Court did the favor for Defendant Judge Lopez in signing the search warrant notwithstanding she had no jurisdiction on the matter. Furthermore, Complainant had filed motion to recuse Defendant Lopez and Defendant Lopez knew about said motions. Defendant Lopez could take no action other than to notify the 5<sup>th</sup> Circuit administrator Judge of the recuse hearing pursuant to Rule 18a of the Texas Rules of Civil Procedure.

72 On February 10, 2007, Daniel Cavazos, Jr., a special investigator with the Raymondville Police Department, alleged in an affidavit that he had probable cause to believe that Complainant had committed certain criminal acts. In his affidavit, Cavazos requested a search warrant to investigate those acts. Garza then presented the affidavit to Judge Janet Leal of the 103<sup>rd</sup> District Court of Cameron

County, whereupon Judge Leal issued the warrant, authorized the search and seizure of various items within the Willacy County District Attorney's Office.

73 On February 11, 2007, Cavazos drafted an affidavit for warrant of arrest under Garza's supervision, which led to the issuance of three warrants against Complainant. The warrants accused Complainant of two counts of theft by public servant and one count of attempted theft by public servant. Later that day, police officers with the Raymondville Police Department, acting under Garza's direction, executed a search of the district attorney's office and seized a number of items. Complainant was also arrested in the process for allegedly interfering with the search. Complainant was then placed in a jail cell without a bed and without a pillow for his night in jail. Complainant had to sleep on a metal bench and used the roll of toilet tissue as his pillow.

74 All information sought could have been found in the original form in the district clerk's office, the county clerk's office, the county treasurer's office and the county auditor's office and in the sheriff's office. Therefore, for all practical purposes the search warrant for the district attorney's office was useless and would serve only as a "fishing expedition" and to physically invade the district attorney's office.

75 On February 23, 2007, the complaints against Complainant—three felony counts of theft by public servant and the later added charge of interfering with public duties—were dismissed by Raymondville Municipal Judge Hector Huerta. Complainant had not been able to put his office into operation in that Judge Janet Leal had not released the computers Defendant law-enforcement officers took.

They also took personal records belonging to Complainant and Complainant's staff. This has caused Complainant inconvenience and emotional distress. The charges were three (3) felony theft-types. One allegation charged that Complainant had accepted \$800.00 overpayment on a reimbursement that was totally false and easy to prove that said accusations were false. The second allegation was theft of the monies paid for a forfeiture of an automobile.

76 All the Defendants had to do was to find a judgment ordering the sale of the auto, the advertisement in the newspaper, then the sale by a licensed auctioneer and lastly, the delivery of the check to the county treasurer.

77 The third charge alleged Complainant tried to extort \$10,000.00 from a bonding company when the statutes of the State of Texas authorize the district attorney and only the district attorney to settle with the bail bond companies. If the bail bond company was instructed to bring some money was because she needed to pay her judgment debt. As per statutory requirements, if there is a defaulted bail bond, the bond company can not operate as a bail bond company. There was no extortion at all; Complainant is totally and completely innocent of all charges. Defendant Lopez and her special prosecutor Defendant Garza conspired to bring the false groundless charges against Complainant and said charges were without probable cause.

78 Gus Garza, with help of Judge Migdalia Lopez, "high-jacked" the grand jury (the Chandler grand jury) and did not allow the Complainant, Juan Angel Guerra, to continue presenting evidence to the grand jury of private prison corruption in Willacy County. All three arrest warrants issued by Municipal Judge Hector Huerta.

Judge Hector Huerta relied on perjured affidavits and false statements from Danny Cavazos, Raymondville Police Investigator and Chief Deputy of Willacy County Sheriff's Office, David Martinez.

79 Another grand jury was impaneled in January 2007 (referred to as the Salinas grand jury). Complainant immediately started presenting evidence to the grand jury (Salinas grand jury) of possible corruption in private prisons in Willacy County.

80 On February 11, 2007, the Salinas grand jury was interrupted by Defendant Gustavo Garza, special prosecutor, Uvaldo Zamora, chief of Police, and David Martinez, Chief Deputy for Sheriff's Office for Willacy County, Texas. Defendant Gustavo Garza instructed the Salinas grand jury that their meeting was illegal and they were subject to be arrested if they continued with their meeting. Complainant was arrested by the Raymondville Police officers and Willacy County officers under the directions of Gustavo Garza, special prosecutor, and Uvaldo Zamora, chief of police of Raymondville, Willacy County, Texas.

81 The Salinas grand jury decided not to continue to serve as grand jury due to the threats made by Uvaldo Zamora, Chief of Police, and Gustavo Garza, special prosecutor.

82 Defendant Gustavo Garza and the Raymondville Police Department took over the office of the District Attorney for at least one week; neither Complainant nor his staff was allowed into office of the district attorney.

83 Defendant Gustavo Garza and Ubaldo Zamora and officers from the Willacy County Sheriff's office removed all the computers from the district attorney's office along with numerous files.

84 Complainant was incarcerated for one night in jail and was arraigned the next morning, he was obligated to post a \$64,000.00 bond. Defendant Gustavo Garza refused to recommend a personal recognizance bond and instead had the judge order Complainant not to leave the county without his permission.

85 Complainant Juan Angel Guerra requested an examining trial. Defendant Gustavo Garza refused to put any evidence and all charges were dismissed by municipal court, Judge Hector Huerta. Complainant is totally and completely innocent of all charges. There was absolutely no probable cause for any of the charges and none for the arrest. All Defendants acted with malice, knowingly and intentionally with a calloused disregard for the truth.

86 Complainant Juan Angel Guerra learned that Judge Migdalia Lopez appointed Mervyn Mosbacker, an ex-U. S. Attorney for the Southern District of Texas, as special prosecutor to assist Gustavo Garza for the investigation of Complainant and Complainant's staff.

87 Due to the direct interference of Judge Migdalia Lopez, the county commissioners paid for the defense of some of Defendants' herein, to include Migdalia Lopez's defense, however, the county refused to pay for the defense of Complainant and refuse to pay for the defense of Complainant's staffers. Furthermore, due to the influence of Judge Migdalia Lopez, the county commissioners refused to allow the Complainant to hire an assistant district attorney.

88 Mervyn Mosbacker, being an ex-U. S. Attorney for the Southern District of Texas, was in direct conflict in that the investigation of private prison corruption started by Complainant in 2001 with the death of Gregorio De La Rosa. Defendant Mosbacker should have

declined his appointment in that in 2001, on the onset of the investigation, Defendant Mosbacher was the U. S. Attorney for the Southern District of Texas.

89 On March 14, 2007, Complainant filed with the court of appeals a Petition for writ of injunction (Temporary Restraining Order) and Motion for Stay of Execution of Order of the 197<sup>th</sup> District Court. The Court of Appeals granted Complainant stay motion on March 15, 2007 ordering the trial court's order of January 17, 2007 stayed and setting the matter for a hearing to be held on April 4, 2007.

90 On March 21, 2007, the Chandler grand jury met and issued a subpoena directed to Defendant Garza, the subpoena requested that Garza give to the grand jury the drafted indictments against Complainant and his staff that Defendant Garza had allegedly previously prepared. Defendant Garza provided the grand jury with those indictments and the grand jury issued the indictments that same day. As a result, Complainant was once again arrested.

91 On March 22, 2007, Complainant filed a motion for contempt, contending that Defendant Judge Migdalia Lopez and Garza had violated the Court of Appeals' stay order. Defendant Lopez and Garza individually filed a motion to dismiss Complainant's motion for contempt, and subject thereto, a response and counter motion for sanctions. Accordingly, the court of appeals issued an order setting the motion for an evidentiary hearing. Defendant Lopez and Garza were ordered to appear before the court of appeals on April 4, 2007, to respond to Complainant motion and show cause why they should not be held in contempt of court and punished for their alleged failure to comply with the Court's March 15, 2007 order.

92 On March 31, 2007, while a decision on Complainant's petition was pending before the court of appeals, Complainant's motion to recuse Defendant Lopez in the pending criminal matters against Complainant was granted by Judge J. Manuel Banales, the presiding judge of the Fifth Administrative Judicial Region.

93 Complainant Juan Angel Guerra filed an original proceeding in the court of appeals requesting that the investigation by Judge Migdalia Lopez, Gustavo Garza and Mervyn Mosbacker, be halted because they were now making the District Attorney's Office a nullity due to their interfering with Complainant preventing him from continuing the investigation of the corruption in the private prisons in Willacy County, Texas.

94 Within 24 hours, the court of appeals ordered Judge Migdalia Lopez, Gustavo Garza, and Mervyn Mosbacker to cease to investigate and to interfere with the operation of the Complainant's office as District Attorney and an evidentiary hearing was ordered to be held on April 4, 2007.

95 Defendant, Judge Migdalia Lopez, Gustavo Garza, and Mervyn Mosbacker, acting in concert, went counter to the orders of the court of appeals and proceeded to get Complainant indicted along with part of his staff. On April 9, 2007, Defendant Mosbacker, via a letter, requested Judge Manuel Banales to appoint him to continue investigating criminal wrong doing allegedly done by Complainant.

96 Defendant Gilbert Lozano issued an illegal arrest warrant and said arrest warrant was not properly approved by a district judge as required by the Article 23.03 of the Texas Code of Criminal Procedure. Said illegal arrest warrant was executed by Uvaldo

Zamora, City Police Chief, and Complainant was once again arrested in public and taken to the county jail.

97 Once again, Complainant sought help from Federal Bureau of Investigation and the Texas Rangers, and even though the local FBI agents and agents for Texas Rangers wanted to help Complainant, they were ordered by their respective supervisors not to get involved.

98 Arrest warrants were issued by Judge Rudy Cantu for Uvaldo Zamora and Gustavo Garza for interfering and threatening members of the Salinas grand jury.

99 Also, an arrest warrant was issued for David Martinez for making a false report to a police officer. The arrest warrants were issued by Judge Rudy Cantu.

100 The Texas Rangers refused to have said individuals detained or to honor the arrest warrants.

101 Complainant sought another grand jury and another grand jury was impaneled (the Rains grand jury) . The Rains grand jury was a product of corrupt summoning and/or being summoned by a method not provided by the Texas Code of Criminal Procedure. The illegal summoning of the Rains grand jury was done by Defendant, Gilbert Lozano.

102 Complainant gathered evidence of grand jury tampering and illegal summoning of grand jurors and Complainant took the evidence to the Texas Rangers. Once again, the local Texas Rangers agreed with Complainant regarding possible criminal wrong doings with the grand jury selection, but were ordered by Captain Buckaloo, not to get involved.

103 The court of appeals on September 2007 found that Judge Migdalia Lopez was wrong in appointing Gustavo Garza to investigate Complainant and Complainant's office.

104 The case was appealed to the Supreme Court of Texas by Judge Migdalia Lopez and the decision was affirmed.

105 Judge Banales appointed Ron Barroso as special prosecutor to replace Gustavo Garza and Mervyn Mosbacker and to handle the investigation against Complainant and staff.

106 On October 17, 2008, Ron Barroso found that the indictments issued were illegally obtained by Gustavo Garza and Mosbacker and did not comply with constitutional requirements; as such he found the indictment were "herein void".

107 In addition, Ron Barroso found that "the underlying facts do not support the allegations in the indictment and a review of those facts further indicates a lack of merits to the charges".

108 On the 21<sup>st</sup> of October 2008, the court, Judge Banales, officially signed the dismissal of the indictment against Complainant and his staff.

109 In July 2008, a grand jury was impaneled using the proper method and Complainant presented to said grand jury (the Rodriguez grand jury) evidence of corruption within the private prisons.

110 Having heard evidence for over 4 months and having heard from numerous witnesses from throughout the country, on November 18, 2008, the Rodriguez grand jury returned indictments against high profiled officials for a stream of alleged offenses from organized criminal activity, murder/manslaughter, accepting fees from private

prison firms by virtue of public office to official oppression to include but not limited to the following:

**Engaging in Organized Activity**

U. S. Attorney, Alberto Gonzales and Vice President Dick Cheney

**Accepting of Honorarium**

State Senator Eddie Lucio

**Official Abuse Of Official Capacity Official Oppression**

District Judge, Migdalia Lopez

Special Prosecutor, Gustavo Garza

Special Prosecutor, Mervin Mosbacher

District Clerk, Gilbert Lozano

District Judge, Janet Leal

**Murder and Manslaughter**

Wackenhut, also known as GEO Group

111 On November 20, 2008, Defendant Eddie Lucio and Defendant Michael R. Cowen made slanderous remarks against Complainant.

112 In December 2008, without looking at the evidence, Judge Manuel Banales quickly moved to have the indictments dismissed, and ordered that Complainant not go before the grand jury anymore. Judge Manuel Banales further ordered the Texas Rangers to confiscate all evidence of private prison corruption from Complainant. A de facto removal of the District Attorney occurred as Complainant was relieved of his duties as district attorney and Alfredo Padilla was appointed prosecutor.

**Effect and Consequences**

113 The objective was initially for the purpose of frustrating the investigation of the corruption within the private prison system in

Willacy County, Texas. There is a possibility that within the lower echelons of the participators in this action, the individuals did not know or comprehend the effect and consequences or even comprehend the ultimate intent of the plans. Notwithstanding, they still participated in doing acts that are not allowed, which are crimes, and are not acceptable in a free society.

114 This concerted effort to stop the investigation grew to such a point that made winning the election for Complainant impossible. However, the ultimate consequences are, inter alia, that the elected prosecutors must now receive orders as to who may be prosecuted. Indictments will not be sought because of the ill acts that have been committed but they will be obtained only against those who have no political standing.

115 Even the federal court accepted recommendations for reduced sentences when Tamez and Jimenez were presented before a federal bench. Such investigation ceased to be when orders from the then political powers in the White House were given. In more understandable terms: “if our boy steals from the government, it is okay as long as it is our boy”; the damage done by the losing of the election for district attorney is miniscule compared to the ultimate effect of having such a policy. Such a policy is a folly and a disgrace.

116 The news that the people of the County of Willacy County, Texas, received, were horrible: the District Attorney indicted and two (2) of his staffers. There is no wonder that Complainant lost the election. Then, to find out that all that was said was false and done with ill-will is most disconcerting. Said statements were defamatory and then to find out that all of it was false and accomplished through

the use of the power of each Defendants' office, gives more than a chilling effect. But, the election is over.

117 Judge Janet Leal signed the search warrant based perjure affidavits and under false representations given by Defendant Lopez and Defendant Garza.

118 The Defendant Garza sought and obtained search warrants and arrest warrants based on those perjured affidavits.

#### **D. Claims for Relief**

##### **42 U.S.C. §1983: Fourteenth Amendment Violations**

119 Complainant Juan Angel Guerra incorporate by reference all of the foregoing and further allege as follows:

Defendants acting under color of state law, engaged in misconduct, including but not limited to: securing the false arrest of the Complainant for a crime that the Defendants knew or should have known the Complainant did not commit.

120 All of these actions taken by the Defendants were done intentionally or with deliberate indifference for the Complainant clearly established due process rights under the Fourteenth Amendment not to be wrongfully arrested and charged for a crime that they did not commit and those Defendants knew or should have known that they had not committed said crimes.

##### **42 U.S.C. §1983 AND §1985: Civil Conspiracy To Violate Constitutional Rights**

121 Complainant incorporate all of the foregoing by reference and further allege as follows:

122 Although the Defendants knew that the Complainant had not committed any crime and, in particular, knew that they had not committed the crime of theft under any section to include **§31.03 of the Texas Penal Code**, they nevertheless conspired among themselves and other persons outside of the county attorney's office to bring this false charge for the sole purpose having the Complainant arrested and humiliated publicly. Each party acted in concert for the aforementioned purpose.

123 In taking these actions, the Defendants conspired among themselves and others to hinder, obstruct and impede the due course of justice and deprive the Complainant of their due process rights and equal protection of the laws. Complainant further allege that these actions were further caused by the failure of the Defendant Willacy County to properly supervise, screen, educate and train the defendants.

#### **42 U.S.C. § 1983: Claims against Willacy County**

124 Complainant incorporate all of the foregoing by reference and further allege as follows:

125 Upon information and belief, Defendant, Willacy County, through its Sheriff's office, and those in control, brought in false accusations and used fictitious complaints. By taking no action, Willacy County ratified the Sheriff's Office actions.

#### **False Imprisonment and Official Oppression**

126 Complainant incorporate all of the foregoing by reference and further allege as follows:

127 Defendant individually, acted together and in concert with other persons to falsely accuse the Complainant of a crime that they

did not commit and prepared a false affidavit to support an arrest warrant for a crime that did not occur.

128 Defendants individually and in their official capacities under color of their office intentionally subjected the Complainant and others to being arrested knowing that such arrest was unlawful.

129 The actions of the Defendants both jointly and severally, deprived the Complainant of their protected rights under the United States Constitution, various federal statutes, common law, and the laws of the State of Texas.

#### **Fourth Amendment Claim**

130 All paragraphs above alleged are herein incorporated by reference as if plead verbatim for purposes of this claim.

131 The Defendants are acting with deliberate and conscious indifference to the constitutional rights of Complainant to cause singularly and in concert the assault, intentional infliction of emotional distress, malicious prosecution, false imprisonment, unreasonable seizure, denial of procedural due process and equal protection violations thereby violating Complainant's rights under the Fourth Amendment to the United States Constitution and are liable to Complainant for all injuries and damages occasioned by such conduct for which Complainants hereby sue.

132 The actions of the Defendants in concocting and creating "make-believe" charges as herein alleged, violated Complainant clearly established constitutional rights and was done purposeful, intentional and with malice. Such conduct does not entitle the Defendants to qualified immunity. *Harlow v. Fitzgerald*, 457 U.S. 800,815, 102 S. Ct. 2727, 2736, 73L Ed. 396(1982).

**State Claim: Infliction of Bodily Injury - Assault**

133 Complainant hereby incorporates, as if plead verbatim, all paragraphs hereinabove alleged.

134 Defendants are liable for assault because the officers arrested him in a disgusting and offensive manner.

**State Claim: Intentional Infliction of Emotional Distress**

135 Complainant hereby incorporate, as if plead verbatim, all paragraphs hereinabove alleged.

136 Defendants singularly and jointly are liable to Complainant for intentional infliction of emotional distress the Complainant suffered due to Defendants by the arrest and causing the arrest to be undertaken, by the jailing and causing of the jailing of the Complainant.

**State Claim: Malicious Prosecution**

137 Complainant hereby incorporates, as if plead verbatim, all paragraphs hereinabove alleged.

138 Defendants singularly and jointly are liable to Complainant for malicious prosecution because they caused and labored in concert to cause the criminal prosecution of the Complainant as herein alleged based on an investigation of the Complainant comprised of manufactured affidavits, evidence, lack or any probable cause, and perjured testimony that lead to the arrest and the causing of the arrest of Complainant, and against the orders of a Court of Appeals , which resulted in the jailing and the causing of the jailing of the Complainant.

139 From information and belief, Chandler grand jury went to the extent of ordering Garza and Mosbacker to go against the orders of

the court of appeals, deliver the alleged already prepared indictments, or the grand jury would have them incarcerated. Garza and Mosbacker, instead of seeking a protection order from the court of appeals, decided to commit an illegal act and gave copies of the indictment they had prepared to the grand jury foreperson. Garza and Mosbacker knew or should have known that neither one had taken an oath of office.

**State Claim: False Imprisonment**

140 Complainant hereby incorporates, as if plead verbatim, all paragraphs hereinabove alleged.

141 Defendants are singularly and jointly liable to Complainant for false imprisonment because they caused the false imprisonment of Complainants and acted in concert to cause the false imprisonment of the Complainant by their acts and conduct as above alleged: specifically, initiating an investigation that targeted the Complainant based on manufactured affidavits, evidence, lack of probable cause, and perjured testimony that lead to the arrest and the causing the various arrests of Complainant which resulted in the jailing of the Complainant and the causing of the jailing of the Complainants.

**Defamation**

142 Complainant hereby incorporates as if pleading verbatim, all paragraphs herein above alleged.

143 Defendants defamed Complainant by maliciously and/or intentionally bringing false charges, in that they knew or should have known that the accusations were false, and they had said statements published.

### **Damages**

144 As a proximate result of Defendants' action, the Complainant has suffered the deprivation of his liberty as well as distress, pain and suffering for which he is entitled to compensatory damages.

145 In addition, the acts of the Defendants, were done with malice and with the intentional disregard for the rights of the Complainant for which the Complainant is entitled to punitive damages against these Defendants.

146 In that Defendants' plan worked in having had Complainant defeated in the election, Complainant lost his position. Complainant had been the District/County Attorney in Willacy County for about fourteen (14) years.

### **Prayer**

147 In order to remedy the wrongs committed by the Defendants, the Complainant pray that this court grant the Complainant trial by jury and after trial that this court enter a judgment for the Complainant for: compensatory damages, punitive damages, find Defendants jointly and severally liable against the Defendants; reasonable and necessary attorney's fees pursuant to **42 U.S.C. §1988** or any other applicable law: prejudgment and post-judgment interest; and such other and further relief to which the Complainant may be justly entitled to receive.

Respectfully submitted,

Juan Angel Guerra, Pro Se  
P. O. Box 912  
Sebastian, Texas 78594

## FOOT NOTES

FN1 Mervyn Mosbacher – President Bill Clinton appointed Mosbacher to serve as the United States Attorney for the Southern District of Texas in 1999. He served in that position through May, 2001.

Michael Taylor Shelby - Michael Selby is the twentieth United States Attorney for the Southern District of Texas. He was appointed by President George W. Bush on May 10, 2002, although he began his service as the judicially appointed United States Attorney in December, 2001.

Donald J. DeGabrielle, Jr. - Sworn in on March 17, 2006, in Corpus Christi, Texas. Donald J. DeGarielle, Jr. became the twenty-first Residentially appointed United States Attorney for the Southern District of Texas. President George W. Bush nominated Mr. DeGabrielle to serve as United States Attorney for the district on February 13, 2006. He resigned on November 2008.

Tim Johnson – November 2006 to present Is the interim U. S. Attorney for the Southern District of Texas.

FN2 One may see the abhorrent results of actions taken when said actions are outside the norms and avenues set by the statutes of our system of government. In that the district attorney had not been removed from his office, and an arrest was obtained by artificial means, the judge conducting its magistrate duties had a most distasteful situation.

There were about six (6) other detainees who had to be “magistrated,” and in that the district attorney was also there with them, the district attorney was also handcuffed to another detainee. Even handcuffed, the judge had to be asking the detainee district attorney for his recommendation on each of the detainees’ bond. Such undesired results only occur when proper procedures are not taken and the law is taken into someone’s own hands. Such acts are malicious and should have never happened.

FN3 The Patriot Improvement and Reauthorization Act of 2005 enabled the President of the United States, through the office of the Attorney General to arrange for the resignation and then replacement with political appointees. These appointments did not need to be confirmed by the Senate when a vacancy arises. On December 7, 2006, U. S. Attorney Gonzales fired seven (7) U. S. Attorneys using this provision. The fired U. S. Attorneys complained that they were asked to do things that they thought were not ethical and or proper.

The newly appointed Assistant U. S. Attorneys were to serve at the pleasure of the President of the United States. They would be appointed

until the end of the President's term. Prior to this law and now after this section of the law was repealed, the appointment is for 120 days and then each appointee must be confirmed by the Senate. Congress rescinded this provision by very large majorities in March 2007.