

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

Maria Isabel Perales Serna on her own §  
behalf and as next friend for her minor §  
daughter, K.Z.P.S.; Luisa Ines Barragan §  
Gutierrez on her own behalf and as next §  
friend for her minor son, L.A.B.; §  
Maria del Rosario Teran Uriegas on her §  
own behalf and as next friend for §  
her minor son, S.Z.; Nancy Garcia §  
Castro on her own behalf and as next §  
Friend for her minor children, L.M., §  
J.M. and Y.M. §

C.A. \_\_\_\_\_

Plaintiffs

v.  
Texas Department of State Health §  
Services, Vital Statistics Unit, §  
Commissioner Kirk Cole, in his §  
official capacity, Unit Chief §  
Geraldine Harris, in her official capacity §

Defendants

**COMPLAINT**

**I. Introduction:**

1. The adult Plaintiffs in this case are citizens of Mexico now residing in Texas.

They bring suit on behalf of themselves and as next friend for their children, who were born in Texas and are citizens of the United States.

2. The Defendant officials have refused, and continue to refuse, to provide the adult Plaintiffs with certified copies of the birth certificates for their Texas born children. Such refusal is de facto based upon the immigration status of the Plaintiff parents. The lack of a birth certificate, in turn, is causing serious harm, as discussed herein.

10. Plaintiff Nancy Garcia Castro ("Plaintiff Garcia") is a resident of Hidalgo County, Texas. She brings suit on her own behalf and as next friend for her three minor children, L.M., J.M., and Y.M.
11. Defendant Texas Department of State Health Services, Vital Statistics Unit is the state agency and unit charged with recording Texas births and providing certified birth certificates upon proper applications therefore. State headquarters for the agency are located in Travis County, Texas.
12. Defendant Kirk Coles is the Commissioner of the Texas Department of State Health Services. He resides in Travis County, Texas. He is sued in his official capacity.
13. Defendant Geraldine Harris is the Unit Chief for the Texas Department of State Health Services, Vital Statistics Unit. She is a resident of Travis County, Texas. She is sued in her official capacity.

IV. FACTS:

*A. Introduction:*

14. The Texas Department of State Health Services, Vital Statistics Unit, ("DHS-VSU"), is responsible for registering, collecting, compiling, and preserving all state birth, death, marriage, and adoption records.
15. This duty is carried out through a network of local Vital Records offices located throughout the state. Tex. Health & Saf. Code, Title 3 (Vital Statistics), §191.002.

23. §181.28 (i)(11) (xiv and xv) list the only documents available to persons other than those who can prove their legal status within the United States. This section permits acceptance of Mexican Voter Registration cards and/or a foreign photo identification card.
24. For the last many years, the foreign photo identification has been satisfied by producing official photo identification cards, known as "*matriculas*", issued by the person's local consulate.
25. Should a person have but one of the secondary documents, they may still satisfy the requirements by producing two forms of supporting identification.
26. For the past many months, Defendants have been refusing to accept any of the secondary documents set forth in §181.28 (i)(11) (xiv and xv).
27. As a result, scores of women from Mexico and Central America have been denied birth certificates for their Texas born children.
28. Counsel for these children has also been denied birth certificates for their infant client.
29. This leaves the child with no birth certificate, and both mother and child with no official proof of the parent-child relationship.
30. No amendment to T.A.C. §181.28(11) foreclosing official consular identification and other matters has been promulgated or even proposed.
31. In rejecting the *matricula* and other such documents, the local registrars are acting upon the instructions, policies, and orders of Defendants.

42. As set forth below, Defendants are engaged in actions beyond the scope of their authority and in violation of the U.S. Constitution.

*B. Plaintiffs:*

43. Plaintiff Maria Isabel Perales Serna was born and raised in Mexico.
44. As a young adult, Plaintiff Perales fled to Texas to escape from an abusive husband.
45. Ms. Perales gave birth in Texas to a daughter, "Y", now fourteen years old.
46. To obtain the birth certificate for this U.S. citizen child, Ms. Perales simply presented her *matricula* from the Mexican consulate.
47. The *matricula* is an official photo identification card provided by the Mexican consulate to Mexican citizens residing in the United States. Such persons must provide proof of their Mexican citizenship and identity to the consulate to obtain this identification card.
48. The Texas Vital Statistics office accepted the *matricula* and issued the birth certificate to Ms. Perales, pursuant to Texas Administrative Code §181.28(11)(D)(xv).
49. On November 24, 2014, Plaintiff Perales gave birth to Plaintiff K.Z.P.S. in a McAllen, Texas hospital.
50. Ms. Perales took her hospital records, *matricula*, and Mexican passport to the Vital Statistics office in McAllen, Texas.

60. The officer rejected her *matricula*, suggesting that Ms. Barragan could get into trouble for asking for the document of a U.S. citizen and threatened to report her to U.S. Immigration and Customs Enforcement (I.C.E.).
61. Plaintiff Barragan needs to enroll her child in school, but school officials have told her she must present a certified copy of the birth certificate. They will not accept the other papers.
62. Plaintiff Maria Del Rosario Teran-Urriegas is a citizen of Mexico who has lived in the United States since 1998.
63. She and her husband have 2 children.
64. The first child is 17 months old, and Ms. Teran had no trouble getting a birth certificate for him.
65. The second child, Plaintiff S.Z., was born December 18, 2014.
66. Plaintiff Teran has her *matricula*, passport, hospital papers, and the child's social security card, but no Mexican voter card.
67. In February 2015, Plaintiff Teran went to the Registrar's office to get the birth certificate and spoke to a man there. He would not accept the *matricula* and told her to get a passport.
68. Plaintiff Teran obtained the passport and returned, only to be rejected because she did not have a valid U.S. visa in the passport.

78. Denial of the birth certificate will greatly complicate and/or obstruct the Plaintiff children's right to enroll in schools and other educational and cultural programs, to obtain a passport and travel, and even to receive medical care and assistance.
79. The denial of the birth certificates also interferes with the Plaintiff mothers' ability to properly care for their children, and hence with the parent-child relationship.
80. Should any of the Plaintiff mothers be deported to Mexico in the future, their U.S. born children will later face complications in establishing their citizenship.
81. Every U.S. citizen has a right to receive his or her birth certificate.
82. A minor has no way to obtain his or her own birth certificate other than through his or her parents.
83. The State of Texas is discriminating against U.S. citizen children on the basis of their national origin and their parents' immigration status.
84. There is no state justification for denying a U.S. citizen his or her own birth certificate on the basis of their parents' entry into the United States.
85. The State of Texas is also discriminating against the Plaintiff mothers in this case on the basis of their national origin and immigration status.
86. There is no justification for denying citizens of Mexico or Central America a birth certificate for their Texas born children.
87. This Texas practice and policy interferes with the exclusive federal function of regulating immigration.

certificates to the Texas-born, infant children of undocumented immigrants from Mexico and Central America.

98. The Plaintiff children in this case were born in the United States and are United States citizens.
99. The Plaintiff mothers have produced valid and official identification in seeking the birth certificates for their Texas born children. They were nevertheless denied, pursuant to Defendants' policies and practices.
100. All persons born in the United States are entitled to receive official copies of their own birth certificates.
101. Defendants are violating the Fourteenth Amendment by abridging the privileges and immunities of the Texas born children.
102. Defendants are giving unequal treatment to the Plaintiff children, as compared with the treatment of all otherwise similarly situated children in the State of Texas.
103. Specifically, the Plaintiff children are being denied birth certificates on the basis of their parents' immigration status.
104. The Plaintiff children are further being discriminated against on the basis of their national origin.
105. Defendants have no valid justification for their discriminatory denial of birth certificates to the Plaintiff children.

115. As set forth above, the Plaintiff mothers in this case have proffered valid and official forms of identification, but have been denied the birth certificates for their U.S. citizen children.
116. All parents have the right to receive a birth certificate for their U.S. born children.
117. The denial of this birth certificate deprives the Plaintiff mothers of any official confirmation of their relationship to their own children.
118. Such denial greatly complicates and obstructs the Plaintiffs mothers' rights to consent to urgent medical care, to enroll their children in school, and to obtain other educational, health and cultural benefits for which such U.S. citizen children are eligible.
119. Defendants are treating the Plaintiff mothers unequally to all otherwise similarly situated mothers of U.S. born children.
120. Defendants are discriminating against the Plaintiff mothers on the basis of their immigration status and national origin.
121. Defendants have no adequate justification for their discriminatory denial of birth certificates to Plaintiffs.
122. Defendants have at all times acted knowingly, intentionally and under color of state law.
123. Defendants' conduct violates the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution.



132. Determination of immigration policies, including the treatment, rights and privileges of such immigrants, is the exclusive function of the federal government.
133. Likewise, matters of international diplomacy are solely matters for the federal government.
134. Defendants have no authority to interfere with such matters.
135. Defendants have violated the Supremacy Clause of the United States Constitution by refusing to accept valid consular identification cards and/or valid foreign passports.
136. Plaintiffs have been and will be irreparably harmed by the unconstitutional actions and policies of Defendants.
137. Defendants have at all times acted knowingly and intentionally.
138. Plaintiffs seek declaratory and injunctive relief, declaring Defendants' current practices unconstitutional, and enjoining the current rejection of valid consular *matriculas* and/or passports.
139. Plaintiffs bring this claim pursuant to 42 U.S.C. §1983 and 28 U.S.C. §2201.

FOURTH CAUSE OF ACTION:

PENDANT STATE CLAIM

140. Plaintiffs herein incorporate Paragraphs 1- 93 above.

152. Plaintiffs are suffering and will continue to suffer serious and irreparable harm as a result of these violations.
153. Plaintiffs seek declaratory and injunctive relief, declaring Defendants' current practices unconstitutional, and enjoining the current rejection of valid consular *matriculas*.

WHEREFORE PLAINTIFFS PRAY THAT THIS COURT:

1. GRANT Plaintiffs' request for a Declaratory Judgement, declaring that the denial of birth certificates to U.S. born children on the basis of their parents' immigration status is a violation of the Fourteenth Amendment.
2. GRANT Plaintiffs' request for a Declaratory Judgement, declaring the rejection of the Plaintiff mothers' consular *matriculas* and/or passports, and hence the denial of birth certificates for their U.S. born children, a violation of the Equal Protection Clause.
3. GRANT Plaintiffs' request for a Declaratory Judgement, declaring that the denial of birth certificates to undocumented women for their U.S. born children is preempted by the federal government, and that Defendants' current policies violate the Supremacy Clause.
4. ISSUE an injunction requiring Defendants to once again accept the consular *matriculas* and/or passports of women seeking birth certificates for their U.S. born children.

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