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DUGARD, individually, and as  
9 GUARDIAN AD LITEM for her MINOR  
CHILDREN

10  
11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA  
13

14 JAYCEE DUGARD, individually, and  
as GUARDIAN AD LITEM for her  
15 MINOR CHILDREN,

16 Plaintiffs,

17 vs.

18 THE UNITED STATES OF  
AMERICA, and DOES 1 through 50,  
19 inclusive,

20 Defendants.  
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CASE NO.

COMPLAINT FOR DAMAGES

## INTRODUCTION

1. For nearly the entirety of their lives, plaintiffs Jaycee Dugard (“Jaycee”) and her two daughters were held captive, abused and irreparably damaged by a deranged and maniacal felon, Phillip Garrido. In 1991, Garrido kidnapped 11-year old Jaycee outside of her home and drove her miles away to his mother’s residence in Antioch, California to become his private possession. There he sequestered Jaycee in ragged sheds and tent-like structures in his backyard – removed from any semblance of normalcy and functioning society – where he raped Jaycee hundreds of times and over the course of many years. It was also there that Jaycee’s two daughters, each fathered by Garrido, were born and raised in the grotesque dysfunction that Garrido created and perpetuated.

2. Garrido should have been in federal prison in 1991. In 1977, Garrido was convicted of kidnapping and forcible rape and was sentenced to 50 years in federal prison. Rather than being released in 2027, however, Garrido was released on parole in 1988, after serving less than 11 years of his 50-year sentence.

3. After he was released on parole, Garrido immediately violated the conditions of his parole, which should have resulted in Garrido’s parole being revoked and Garrido being returned to federal prison.

4. Indeed, within his first couple of years of being paroled, Garrido tested positive multiple times for drugs and alcohol – including, without limitation, methamphetamines, amphetamines and marijuana, all serious parole violations for a sex offender. One such test showed that Garrido’s blood alcohol level was 0.45% – a reading typically associated with unconsciousness and possible death. When confronted by his parole officer about his positive test results, Garrido admitted to using drugs and alcohol and also admitted to “flushing” his system with excessive amounts of water at other times to avoid producing positive drug test results. Despite the U.S. Parole Commission’s “zero tolerance” policy regarding drug use for parolees and despite the violations of Garrido’s special conditions of parole,

1 Garrido's parole officers did not report Garrido's illegal drug use or alcohol use to  
2 the Parole Commission as required by law.

3 5. In addition to the drug and alcohol violations, federal authorities were  
4 also aware of Garrido's continuing endangerment to society, and women in  
5 particular. Garrido's federal parole officers, therapists and counselors described him  
6 at various times throughout his federal parole term as follows: "a time bomb," "like  
7 a pot boiling with no outlet valve," "potentially very volatile," "potential for causing  
8 great physical harm is present," "problems with sexual overtones," "did not seem  
9 honest...as if he was putting on an act," "possible danger to the community is high,"  
10 "major problems are presented in this case," "there is always threat of repeat  
11 [kidnap/rape]," "still seems dangerous to the public... is liable to give little or no  
12 warning," "substantial risk to women," "is always a threat to women," "potential  
13 rapist."

14 6. Despite Garrido's well-known propensities, federal parole authorities  
15 ignored report after report of sexual misconduct by Garrido. For example, Garrido's  
16 parole officers were informed by his 1976 rape victim that, shortly after being  
17 paroled, Garrido appeared at her workplace and made an alarming comment to her.  
18 Inexplicably, the federal parole authorities responsible for Garrido's direct  
19 supervision disregarded the victim's concerns as mere "hysteria" even though  
20 Garrido's time cards indicated he was not at work during the hours he was alleged to  
21 have been seen by the victim. Upon learning of the victim's statement, Garrido's  
22 own counselor suggested that Garrido be placed on electronic monitoring. Garrido's  
23 parole officer, however, ignored this recommendation and concluded that "to subject  
24 this individual to electronic monitoring would be too much of a hassle..."

25 7. In addition, on or about the one-year anniversary of Garrido's federal  
26 parole supervision, his parole officer learned that a co-worker at the nursing home  
27 where Garrido was employed had made charges of sexual harassment against  
28 Garrido. Four months later, another young woman was forced to quit her job at the

1 nursing home due to Garrido's unsolicited and unwanted "attention." Shockingly,  
2 federal parole authorities never followed up on any of these claims and failed to  
3 bring these alarming incidents to the attention of the U.S. Parole Commission.

4 8. With this type of resume, it is hard to imagine that Garrido, a parolee  
5 classified as "High Activity" supervision, would have received anything other than  
6 the utmost scrutiny and supervision by federal parole authorities. Garrido, however,  
7 received nothing of the sort. In fact, although mandated to conduct monthly  
8 personal visits with Garrido, federal parole officers routinely went months at a time  
9 without seeing Garrido and even failed to make a single visit to Garrido's home  
10 during at least three of the 10 years he was under federal parole supervision – most  
11 notably, in 1990 (the year immediately prior to Jaycee's abduction), 1992 (the year  
12 immediately following Jaycee's abduction) and 1994 (the year Jaycee gave birth to  
13 her first daughter). Indeed, during the decade Garrido was under federal parole  
14 watch, the parole officers who supervised Garrido visited him at his residence less  
15 than a dozen times total.

16 9. Truly, the failures of federal parole authorities in handling Garrido's  
17 case management are as outrageous and inexcusable as they are numerous. Thus,  
18 despite Garrido's countless parole violations and warning signs, Garrido remained  
19 out on parole, such that in 1991 – three years after he was released from federal  
20 prison – Garrido was free to kidnap 11-year-old Jaycee and to harbor her in his  
21 backyard for 18 years. Had federal parole authorities demonstrated a modicum of  
22 vigilance – indeed, had they simply performed their duties and obligations as  
23 required by federal law and internal policies – Jaycee and her daughters would not  
24 have been forced to endure a virtual lifetime of physical and mental abuse from a  
25 detonated "time bomb."

**PARTIES**

10. Both currently and at the time of the acts giving rise to the cause(s) of action alleged herein, Jaycee is and was a citizen of the State of California and resident within the jurisdiction of this Court.

11. Jaycee is the mother and custodial parent of two minor daughters, born August 18, 1994 and November 13, 1997, who are also citizens of the State of California and resident within the jurisdiction of this Court. Jaycee brings this action on behalf of herself and also as Guardian Ad Litem for her two daughters (collectively, "Plaintiffs").

12. Pursuant to the Federal Tort Claims Act, 28 U.S.C. §§ 2671 *et seq.* ("FTCA"), Defendant United States of America ("United States") is the proper party defendant in this action for damages and personal injury resulting from the unlawful actions and omissions of its agencies, the United States Parole Commission ("USPC"), the United States Probation Office ("USPO"), the Federal Bureau of Prisons ("BOP"), and the agents and employees thereof.

13. Plaintiffs are unaware of the true names and capacities of the defendants sued herein as Does 1 through 50, inclusive, and Plaintiffs therefore sue these defendants by fictitious names. Plaintiffs will amend this Complaint to allege the true names and capacities of these defendants when ascertained. Plaintiffs allege, on information and belief, that each of the fictitiously named defendants is responsible for the occurrences herein alleged, and that the damages sustained by Plaintiffs were proximately caused by each of the fictitiously named defendants' conduct.

14. Plaintiffs are informed and believe and on that basis allege that Defendant United States and Does 1-50, inclusive (collectively, "Defendants") were at all times mentioned the agents, servants and employees of each other, or otherwise acting with the full knowledge and consent of each other. Plaintiffs are further informed and believe and on that basis allege that in doing all of the things

1 alleged in this Complaint, Defendants were acting within the scope and authority of  
2 their agency, servitude or employment or otherwise within the scope of such  
3 knowledge and consent.

4 15. Pursuant to 28 U.S.C. § 2401(b), Plaintiffs timely filed administrative  
5 tort claims for the events and incidents described throughout this Complaint. By  
6 letter dated May 6, 2011, the Chairman of the USPC informed that Plaintiffs'  
7 administrative claims were denied.

### 8 9 JURISDICTION AND VENUE

10 16. This Court has jurisdiction of this action by virtue of the Federal Tort  
11 Claims Act, 28 U.S.C. § 1346(b), *et seq.* and 28 U.S.C. § 2671, *et seq.*

12 17. Pursuant to 28 U.S.C. § 1402(b), venue is proper in this Court because  
13 Plaintiffs reside in the district and because some of the events or omissions which  
14 give rise to Plaintiffs' claims occurred in this district.

### 15 16 STATEMENT OF FACTS

#### 17 A. Garrido Is Convicted of Rape and Kidnapping and Sentenced to 50 18 Years in Federal Prison and Five Years to Life In State Prison

19 18. Garrido's criminal past is extensive, complicated and, above all,  
20 remarkably terrifying. Garrido spent the 1970s indulging in one vice after another:  
21 LSD trips, cocaine binges, marijuana smoking, public masturbation and perverted  
22 sex.

23 19. In 1972, Garrido was arrested and charged with rape, contributing to  
24 the delinquency of a minor and providing dangerous drugs to a minor after he and  
25 another adult male picked up a 14-year-old girl and her friend near a public library  
26 and, after giving the two girls barbiturates, took them to a local motel and raped  
27 them. The case was dropped after the victim refused to testify.

28

1       20. In June 1976, Garrido struck again. This time, he talked his 19-year-  
2 old female victim into his car. He then handcuffed her, kidnapped her and raped  
3 her. Once again, Garrido escaped conviction.

4       21. Then, on November 22, 1976, Garrido found a new way to satisfy his  
5 twisted sexual fantasies. Garrido, 25 years old and high after taking multiple hits of  
6 LSD, abducted a young woman in the Tahoe area, bound and handcuffed her, and  
7 drove her miles away to a storage unit in Reno. Over a six-hour period, Garrido  
8 repeatedly raped the victim in the storage unit, which he had set up in advance for  
9 this purpose. The investigator in the case described the storage unit as a "sex  
10 palace," with various sex aids, a movie projector, pornography, stage lights and  
11 alcohol. At 3:00 a.m. the next morning, a police officer on routine patrol noticed a  
12 broken lock on the shed and investigated. This led to the rescue of the victim and  
13 the arrest of Garrido.

14       22. For this latest crime, Garrido was tried in a Nevada federal court in  
15 February 1977. At his trial, Garrido's attorneys argued that he was not guilty by  
16 reason of insanity. A psychiatrist also testified that Garrido suffered from deep-  
17 rooted sexual obsessions.

18       23. Garrido himself testified that he regularly masturbated in public and  
19 exposed himself to girls as young as seven years old. Garrido further testified that  
20 he used drugs as sexual stimulants while masturbating at the "side of schools,  
21 grammar schools and high schools, in my own car while I was watching young  
22 females."

23       24. Garrido showed absolutely no remorse for his crimes, instead testifying  
24 that he was the victim of his own sexual fantasies. Garrido said that: "I have had  
25 this fantasy, and this sexual thing has overcome me. I had this fantasy that was  
26 driving me to do this, inside of me... something that was making me want to do it  
27 without—no way to stop it."  
28

1           25. The psychiatrist diagnosed Garrido as having "multiple sexual  
2 deviation" possibly triggered by four years of daily LSD use, along with routine  
3 abuse of marijuana, alcohol and cocaine. Garrido's psychiatrist wrote in his report  
4 that Garrido's condition was "usually associated with compulsive masturbation.  
5 This aspect is clearly present in this man and is part of his multiple sexual  
6 deviation."

7           26. At the conclusion of trial, Garrido was found guilty of kidnapping and  
8 given a 50-year federal sentence. Garrido was subsequently tried on rape charges in  
9 a Nevada state court, where he was found guilty and sentenced to five years to life  
10 for forcible rape. It was ordered that Garrido's two sentences would be served  
11 concurrently.

12           B. After a 35-Minute Jailhouse Interview, Garrido is Released From  
13 Federal Prison Less Than 11 Years Into His 50-Year Sentence

14           27. On information and belief, on November 5, 1987, in a highly unusual  
15 turn of events, examiners from the USPC conducted a 35-minute jailhouse interview  
16 with Garrido to discuss his possible parole from federal prison. Neither the federal  
17 prosecutor nor Garrido's defense lawyer were in attendance. After the 35-minute  
18 meeting and without reviewing Garrido's complete records, the examiners made a  
19 unanimous recommendation to the parole commission to release Garrido – even  
20 though he had served only 10½ years of his 50-year sentence.

21           28. On January 20, 1988, Garrido was paroled from federal prison, where  
22 he was turned over to Nevada state authorities to serve the remainder of his state  
23 prison sentence. Inexplicably, Garrido was paroled from Nevada prison a mere  
24 eight months later in August 1988. At that time, Garrido was transferred back to  
25 federal jurisdiction where he was immediately sent to a halfway house as a  
26 condition of his federal parole.

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1           29. In December 1988, following his time at the halfway house, Garrido  
2 was returned to the community under supervision of the USPO for the Northern  
3 District of California to serve out his federal parole term.

4           30. Garrido would remain under federal parole supervision for roughly 10  
5 years, until March 1999, when his supervision was terminated early and  
6 responsibility was thereafter transferred to the state of California.

7           **C. While on Federal Parole, Garrido Abducts Jaycee Dugard**

8           31. On June 10, 1991, less than three years after he was paroled and while  
9 still under federal parole supervision, Garrido kidnapped Jaycee as she began her  
10 school day. Garrido and his wife Nancy had gone on a “shopping trip” that day for  
11 a young girl for Garrido. They found Jaycee.

12           32. Jaycee, at that time, was 11 years old. That morning, she woke up in  
13 her parents’ home in South Lake Tahoe, California and, as with any other school  
14 day, began walking the couple of blocks to her school bus stop. As Jaycee’s  
15 stepfather watched her from the driveway of their home, a car with a male and  
16 female couple inside pulled up alongside Jaycee, grabbed her into the car and sped  
17 away. Jaycee’s stepfather heard Jaycee scream, quickly jumped on a bicycle and  
18 pedaled frantically after the car in what was ultimately a failed effort to follow it up  
19 a hill. That was the last time Jaycee was seen by her family – indeed, by virtually  
20 anyone – until nearly 18 years later.

21           **D. Held Captive For Almost All Of Their Lives, Plaintiffs Endure A**  
22           **Living Nightmare At The Hands Of Garrido**

23           33. When Jaycee was abducted by Garrido in 1991, she was taken to the  
24 home of Garrido’s mother in Antioch, California. Garrido had apparently already  
25 made preparations for Jaycee’s arrival.

26           34. Tucked in the backyard behind a six-foot-high wall, Garrido had  
27 devised a secret lair – an above-ground catacomb of sheds and tents. It was  
28 primitive, yet at the same time disturbingly complex. Several of the ragged

1 structures, for example, had electricity that was powered by extension cords running  
2 from Garrido's house. There was also a makeshift outhouse and shower. The sheds  
3 were each locked from the outside, and one of the them was soundproof – both of  
4 which features facilitated the sordid purposes for which Garrido would use the  
5 structures. A vehicle like the one used in Jaycee's abduction was also there hidden  
6 beneath a tarp. All of this was situated in an overgrown backyard littered with  
7 rubbish and debris.

8 35. It was here, in Garrido's backyard compound, that Jaycee was locked  
9 away for not weeks, not months, but years. It was also here, in Garrido's backyard,  
10 that Jaycee became a habitual victim of Garrido's sexual depravity.

11 36. Jaycee was Garrido's sex slave. Over the course of years, Jaycee was  
12 raped scores of times by Garrido, who frequently used drugs like speed to keep  
13 Jaycee awake so he could repeatedly rape her. From the age of 11, Jaycee was made  
14 to dress-up in strange clothing and wear make-up to "role play" for Garrido's sexual  
15 gratification. She was also made to perform twisted and perverted sexual acts on  
16 Garrido, as Garrido also did on her. These are things no child should ever witness,  
17 let alone experience. Yet Jaycee experienced these things regularly for over 15  
18 years.

19 37. Amidst this unfathomable sexual abuse, Jaycee gave birth to two  
20 daughters fathered by Garrido. Jaycee was just 14 when her first daughter was born.  
21 A little over three years later, she gave birth to her second. Both of Jaycee's  
22 children were born in the backyard, in the shed-like structures. Unsurprisingly,  
23 Jaycee received no prenatal care in connection with her pregnancies and did not  
24 have the assistance of any doctor before, during or after the births of her children.

25 38. Jaycee's two daughters grew up with Jaycee in Garrido's backyard  
26 chamber. All three lived in a practical state of isolation. They received no medical  
27 care, no formal education, no contact with the outside world. Worse still, they were  
28 perpetually subject to Garrido's command and abuse. Jaycee's two minor

1 daughters, for example, were charged by Garrido with the daily care of his elderly,  
2 demented mother and, in that role, were frequently subject to having to wipe up and  
3 dispose of feces when Garrido's mother defecated herself. Garrido also exploited  
4 Jaycee as free labor for a printing business which he ran out of his home.

5 39. In addition to these abuses, Jaycee and her children were also  
6 psychologically and emotionally tortured by Garrido. Garrido controlled Jaycee and  
7 her children by intimidation and fear, leading Jaycee to believe that the Garrido  
8 home was a "haven" in comparison to the dangers of the outside world.

9 40. In fact, Garrido robbed Plaintiffs of not just their minds, but their entire  
10 identities – even going so far as to manipulate Jaycee into denying to her own  
11 children that she was their mother, instead telling them that she was their older sister  
12 and that Nancy, Garrido's wife, was their mother.

13 41. As Jaycee wrote in a July 5, 2004 diary entry, some 13 years after  
14 being held captive and brainwashed by Garrido, "It feels like I'm sinking. I'm  
15 afraid I want control of my life ... this is supposed to be my life to do with what I  
16 like ... but once again he has taken it away." "How many times is he allowed to take  
17 it away from me? I'm afraid he doesn't see how the things he says makes me a  
18 prisoner." Tragically, at that point, it would be another five years – August 26, 2009  
19 – before Jaycee and her children would be discovered, rescued from Garrido's  
20 imprisonment and, importantly, given the ability to seek redress for their claims.

21 **E. Defendants Make Flagrant Errors In Garrido's Supervision**  
22 **Resulting In Jaycee's Continued Captivity And Torture**

23 **(1) Defendants Ignored Facts Establishing that Garrido Would**  
24 **Harm Again**

25 42. From the start of his federal parole term, Garrido's propensity to harm  
26 again was well-known to Defendants. Indeed, Garrido's probation officers,  
27 therapists and counselors described him at various times throughout his federal  
28 parole supervision as follows: "a time bomb," "like a pot boiling with no outlet

1 valve," "potentially very volatile," "potential for causing great physical harm is  
2 present," "problems with sexual overtones," "did not seem honest...as if he was  
3 putting on an act," "possible danger to the community is high," "major problems are  
4 presented in this case," "there is always threat of repeat [kidnap/rape]," "still seems  
5 dangerous to the public... is liable to give little or no warning," "substantial risk to  
6 women," "is always a threat to women," "potential rapist." Despite being aware that  
7 Garrido was extremely dangerous, federal parole authorities failed to supervise  
8 Garrido adequately. Instead, parole authorities inexplicably ignored dozens of  
9 obvious warning signs.

10 43. Shortly after his release on parole in August 1988, Garrido contacted  
11 his former rape and kidnapping victim at her workplace, ominously calling out to  
12 her, "Hi Katie, I have not had a drink in 11 years." When this incident was reported  
13 to Garrido's parole officer by the victim herself, the USPO disregarded her concerns  
14 as mere "hysteria" even though Garrido's time cards indicated he was not at work  
15 during those hours. Upon learning of the victim's statement, Garrido's own  
16 counselor suggested that Garrido be placed on electronic monitoring. Garrido's  
17 parole officer, however, ignored this recommendation and concluded that "to subject  
18 this individual to electronic monitoring would be too much of a hassle...."

19 44. On or about the one-year anniversary of Garrido's federal parole,  
20 Garrido's parole officer learned that a co-worker at the nursing home where Garrido  
21 was employed had made charges of sexual harassment against Garrido and that  
22 other females at Garrido's workplace stated that they were very nervous in Garrido's  
23 company and had refused his advances. On information and belief, four months  
24 later a young woman was forced to quit her job at the nursing home due to Garrido's  
25 unsolicited and unwanted "attention." Inexplicably, the USPO never followed up on  
26 any of these claims and failed to bring these alarming incidents to the attention of  
27 the USPC.

28

**(2) Defendants Failed to Report Garrido's Multiple Parole Violations**

45. Garrido also violated the conditions of his parole on countless occasions – including, but not limited to, the special conditions of his parole barring him from consumption of drugs and alcohol. Indeed, Garrido tested positive for drugs and alcohol no less than six times during his first year and a half under federal parole supervision. This tally is certain to have been more had Garrido not been routinely “flushing” his system with water in order to produce “false negatives,” as he admitted to his parole officer and was known by the mental health counselor provided to Garrido by the USPC.

46. Garrido's parole officers had a mandatory non-discretionary duty to report Garrido's drug and alcohol violations to the USPC, but failed to do so. The following are just a few examples of Garrido's parole violations that should have been reported to the USPC as required by law, but were not:

- a. On July 18, 1989, Garrido's parole officer noted that Garrido was taking prescription drugs without a prescription and that “This officer is concerned that subject may be obtaining unprescribed medications at the nursing home where he is employed.”
- b. On August 1, 1989, Garrido's parole officer noted that Garrido was believed to be “self-medicating.”
- c. On August 25, 1989, Garrido's parole officer noted that Garrido's urine specimen was “almost water.”
- d. On September 5, 1989, Garrido's parole officer noted that Garrido's urine test results indicate that specimen may have been diluted.
- e. On September 20, 1989, Garrido's parole officer noted that “flushing suspected” regarding Garrido urine samples.
- f. On September 22, 1989, Garrido's urine tested positive for speed.

- 1 g. On September 25, 1989, Garrido's urine tested positive for
- 2 methamphetamine.
- 3 h. On October 5, 1989, Garrido told parole agent he has been "using
- 4 speed for about a month...and used pot since his release from [the
- 5 halfway house]....admitted flushing."
- 6 i. On October 10, 1989, Garrido tested positive for speed.
- 7 j. On October 13, 1989, Garrido tested positive for amphetamines.
- 8 k. On November 9, 1989, Garrido tested positive for methamphetamine.
- 9 l. On November 13, 1989, Garrido tested positive for methamphetamine.
- 10 m. On February 5, 1990, Garrido missed an appointment with his parole
- 11 agent.
- 12 n. On February 20, 1990, Garrido's counselor informed Garrido's federal
- 13 parole agent that Garrido's urine test was "watered down."
- 14 o. On February 26, 1990, Garrido submitted a watered down urine
- 15 sample.
- 16 p. On July 5, 1990, Garrido submitted a watered down urine sample.
- 17 q. On July 20, 1990, Garrido submitted a watered down urine sample.
- 18 r. On July 26, 1990, Garrido submitted a watered down urine sample.
- 19 s. On August 6, 1990, Garrido tested positive for speed.
- 20 t. On August 16, 1990, Garrido submitted a watered down urine sample.
- 21 u. On August 20, 1990, Garrido submitted a watered down urine sample.
- 22 v. On August 22, 1990, Garrido told his parole officer that Garrido "did
- 23 take drugs at the party..."
- 24 w. On September 6, 1990, Garrido submitted a watered down urine
- 25 sample.
- 26 x. On September 10, 1990, Garrido submitted a watered down urine
- 27 sample.
- 28

- 1 y. On September 20, 1990, Garrido submitted a watered down urine  
2 sample.
- 3 z. On November 2, 1990, Garrido's parole officer was informed that  
4 Garrido was no longer working at nursing home and that employees  
5 have reported that Garrido had contacted them looking for connections  
6 to purchase drugs.
- 7 aa. On October 4, 1990, Garrido submitted a watered down urine sample.
- 8 bb. On February 10, 1993, Garrido failed to show up for an appointment  
9 with his parole agent.
- 10 cc. On July 28, 1993, Garrido's parole officer noted that Garrido provided  
11 a "cold and appeared to be altered sample" for his drug test. Garrido's  
12 parole officer also noted that Garrido "may be using illegal substance  
13 as well.... Potential danger in the community is high."
- 14 dd. On August 11, 1993, Garrido's parole officer learned that Garrido's  
15 July drug test was positive for methamphetamines. Instead of reporting  
16 this violation as required, Garrido's parole officer noted that he needed  
17 to "review the subject's drug aftercare condition and see if the  
18 defendant has tested positively previously." Of course, Garrido had  
19 multiple instances of either positive tests, illegal use of prescription  
20 drugs, or attempts to alter tests by flushing or watering down, and  
21 Garrido had admitted to using marijuana since his release, using speed,  
22 and flushing. Nevertheless, Garrido's parole officer did not make a  
23 follow-up report regarding Garrido's July violation or any of his  
24 previous violations.
- 25 47. When viewing this colossal series of failures and violations of duties by  
26 the USPC, it is clear that the USPC's gross neglect borders on virtual complicity.  
27  
28

**(3) Defendants Ignored Existence of Garrido's Backyard Sheds**

48. One month before Jaycee was abducted and during one of the few home searches conducted during his federal supervision period, Garrido took his parole officer on a tour of the Antioch property. The tour was complete with a visit to Garrido's backyard lair and the very soundproofed studio where he would soon imprison and repeatedly rape and drug Jaycee. Garrido's parole officer recorded the home visit in his supervision log, writing that the studio "although small is very well equipped."

49. Notwithstanding knowledge of the extent of Garrido's property and the existence of other structures thereon, Defendants were inexplicably unconcerned with Garrido's concealed compound and never searched the area again.

**(4) Defendants Ignored Requirements to See Garrido Once a Month**

50. Based on the nature of Garrido's criminal offenses and his difficulty in establishing and maintaining personal stability, Garrido was placed under "High Activity" supervision by the USPC. "High Activity" supervision mandates a minimum of one face-to-face personal contact per month between parolee and parole officer.

51. Garrido's supervision during the first six months was not in accordance with the minimum monthly contact standard. Garrido was seen by his parole officer in the office once and at the job site once during this time. Alarming, the USPO did not conduct Garrido's initial home visit until six months after supervision began.

52. Indeed, Garrido's parole officers routinely went months at a time without seeing Garrido and failed to make even a single visit to Garrido's home during at least three years (1990, 1992 and 1994) of the over 10 years he was under federal parole supervision. On information and belief, from shortly after the date of Jaycee's kidnapping, federal parole officers did not attempt a single visit to Garrido's home for 40 straight months (from December 1991 to May 1995).



**(5) Defendants Ignored Requirements to Furnish State  
Authorities with Information about Garrido**

53. On information and belief, during Garrido's federal supervision period, the Nevada Department of Parole and Probation made one or more formal requests to the USPO that it be sent periodic progress reports regarding Garrido's status. The USPO, however, either failed to remit information about Garrido to the Nevada authorities and/or provided inaccurate information regarding Garrido's status. For example, despite Garrido's numerous violations of parole for drug and alcohol use, the USPO informed Nevada authorities that Garrido "has been cooperating with our office with no major problems" and that he "is seen on a bimonthly basis...and has posed no problems thus far."

54. Defendants were equally irresponsible in their dealings with other state parole authorities. In 1999, Garrido's parole was transferred from federal supervision to the state of California. At that time, however, federal parole authorities failed to timely turn over to California parole authorities their records on Garrido, as required. Included in this file was valuable information about Garrido's mental health assessments, failed drug and alcohol tests and 1993 parole revocation. Most importantly, however, was information in the file notifying of the existence of Garrido's backyard sheds where Jaycee and her daughters were being kept, but which California authorities were unaware of.

**FIRST CLAIM FOR RELIEF**

**(Against All Defendants for Negligent Supervision)**

55. Plaintiffs refer to paragraphs 1 through 54 of this Complaint and reallege each and every allegation as though fully set forth herein.

56. Garrido's 10 years under federal parole supervision did not serve to rehabilitate him. Rather, throughout this time, Garrido remained an imminent threat to society and young women in particular.

1           57. Notwithstanding the dangerous and erratic behavior noted above,  
2 Defendants failed to properly supervise Garrido and take the necessary steps to  
3 ensure that he would not offend again. Indeed, Defendants failed to comply with  
4 multiple requirements governing Garrido's parole supervision, including, without  
5 limitation, those set forth in the U.S. Parole Commission Rules and Procedures  
6 Manual, 28 C.F.R. §2.1 *et seq.* (the "Parole Commission Rules") and the  
7 Administrative Office of the U.S. Courts, Publication 106, *The Supervision Process*  
8 ("Publication 106") and Monograph 109, *The Supervision of Federal Offenders*  
9 ("Monograph 109"):

- 10           a. The Parole Commission Rules required Garrido's parole officers to  
11 submit regular supervision reports regarding Garrido's progress, or lack  
12 thereof, while on parole. Pursuant to these Rules, "A supervision  
13 report shall be submitted by the responsible probation officer to the  
14 Commission for each parolee after the completion of 24 months of  
15 continuous supervision and annually thereafter. The probation officer  
16 shall submit such additional reports as the Commission may direct."  
17 [§2.42.] On information and belief, Defendants failed to submit the  
18 required annual reports regarding Garrido for one or more years.
- 19           b. Pursuant to Monograph 109, every six months during the term, parole  
20 officers are required to complete a Semi-Annual Status Report and  
21 Revised Plan ("SASR"). The parole officer is required to identify  
22 supervision issues, which are either conditions of supervision, offender  
23 characteristics, or patterns of behavior that require intervention by the  
24 officer to control or correct. On information and belief, Defendants  
25 failed to submit SASRs for Garrido for one or more required periods.
- 26           c. Pursuant to the Parole Commission Rules and Publication 106, the  
27 "High Activity" supervision level mandates a minimum of one face-to-  
28 face personal contact per month between the parolee and his or her

1 probation officer. [Appendix 5.] On information and belief,  
2 Defendants consistently failed to meet the requirement of monthly  
3 personal contact with Garrido, a “High Activity” parolee, and even  
4 failed to make a single visit to Garrido at his home for over a year.

- 5 d. Pursuant to Publication 106, Defendants were required to complete an  
6 initial supervision plan for Garrido immediately upon his receipt for  
7 supervision and, in any event, no later than 30 days thereafter. [Ch. II,  
8 p.4.] Defendants, however, did not complete Garrido’s initial  
9 supervision plan until eight months after his federal parole supervision  
10 began.
- 11 e. Pursuant to Monograph 109, a parolee’s initial assessment period shall  
12 not exceed 60 days. [Ch. III, p.14.] Nonetheless, Defendants failed to  
13 follow this requirement when, following a brief revocation of Garrido’s  
14 parole in 1993, Garrido’s parole officer did not complete his new  
15 supervision plan until March 1994 – six months after required.
- 16 f. Statutory law specifically prescribes a course of action that Defendants  
17 were required to follow each and every time Garrido tested positive for  
18 drug use. Specifically, pursuant to the Parole Commission Rules, the  
19 Commission’s policy is one of “zero tolerance” regarding illegal drug  
20 use by parolees and any instance of illegal drug use by any parolee  
21 must be reported by the probation officer to the Commission. [§ 2.40-  
22 13(c).] The Parole Commission Rules thus required Garrido’s parole  
23 officers to report Garrido’s illegal drug use to the USPC. Contrary to  
24 mandatory requirements established by the Parole Commission Rules,  
25 Defendants failed to report Garrido’s prolific and well-known drug use  
26 to the USPC.
- 27 g. On information and belief, Defendants imposed a special condition on  
28 Garrido’s parole barring him from the use of alcoholic beverages. The

1 Parole Commission Rules required Defendants to report to the  
2 Commission any violation by Garrido of a special condition of parole.  
3 [§ 2.42-02(b).] Despite this mandate, Defendants failed to report  
4 Garrido's alcohol violations as required.

5 58. But for Defendants' negligent failure to perform these and other duties  
6 as required by law and internal policies and procedures, Defendants would have  
7 recognized the immense danger posed by Garrido and revoked his parole. Garrido  
8 therefore would not have been free to kidnap Jaycee in 1991 or otherwise cause  
9 injury to Plaintiffs.

10 59. As a direct and proximate result of Defendants' negligence, Plaintiffs  
11 have been damaged in an amount that has not yet been ascertained but which is in  
12 excess of the minimum jurisdictional amount of this Court.

## 13 **SECOND CLAIM FOR RELIEF**

### 14 **(Against All Defendants for Negligent Failure to Consider All Relevant** 15 **Information in Reaching Parole Decision)**

16 60. Plaintiffs refer to paragraphs 1 through 59 of this Complaint and  
17 reallege each and every allegation as though fully set forth herein.

18 61. Prior to the decision to parole Garrido, the BOP had an affirmative,  
19 non-discretionary duty to provide the parole board with Garrido's records. Similarly  
20 the parole board had a mandatory non-discretionary duty to consider these and other  
21 records in determining whether to release Garrido on parole. [18 U.S.C. § 4207]  
22

23 62. On information and belief, the BOP did not provide the parole board  
24 with Garrido's complete records, and thus the parole board did not consider the  
25 required records in determining whether to release Garrido on parole.

26 63. Defendants thus released Garrido without considering the records they  
27 were required by law to consider. For example, on information and belief,  
28 Defendants did not review Garrido's trial record or psychiatric reports. On

1 information and belief, included in the records were psychiatric reports detailing  
2 Garrido's sexual deviation and Garrido's trial testimony evidencing Garrido's lack  
3 of remorse for his actions.

4 64. Had Defendants not breached their mandatory non-discretionary duties  
5 as described above, Garrido would not have been granted early parole and would not  
6 have been free to kidnap Jaycee in 1991 or otherwise cause injury to Plaintiffs.

7 65. As a direct and proximate result of Defendants' negligence, Plaintiffs  
8 have been damaged in an amount that has not yet been ascertained but which is in  
9 excess of the minimum jurisdictional amount of this court.

10  
11 **THIRD CLAIM FOR RELIEF**

12 **(Against All Defendants for Failure to Conduct Mental Health Examination)**

13 66. Plaintiffs refer to paragraphs 1 through 65 of this Complaint and  
14 reallege each and every allegation as though fully set forth herein.

15 67. At all relevant times herein, Defendants had an affirmative, non-  
16 discretionary duty to examine inmates who were alleged to be insane or of unsound  
17 mind or otherwise defective and report the findings to the Attorney General. [18  
18 U.S.C. § 4241]

19 68. Once committed, the prisoner was required to remain hospitalized  
20 "until in the judgment of the superintendent of said hospital, the prisoner shall be  
21 restored to sanity or health or until the maximum sentence, without deduction for  
22 good time or commutation of sentence, shall have been served." [18 U.S.C. § 4241]  
23 On information and belief, at his federal kidnapping trial, as well as during his time  
24 in federal prison, Garrido was alleged to be insane or of unsound mind or otherwise  
25 defective.

26 69. On information and belief, Defendants did not examine Garrido as  
27 required.

1       70. Had Defendants performed this non-discretionary duty as described  
2 above, Garrido would have been placed in a mental institution for the remainder of  
3 his full federal prison sentence and would not have been free to kidnap Jaycee in  
4 1991 or otherwise cause injury to Plaintiffs.

5       71. As a direct and proximate result of Defendants' failures, Plaintiffs have  
6 been damaged in an amount that has not yet been ascertained but which is in excess  
7 of the minimum jurisdictional amount of this court.

8  
9                                   **FOURTH CLAIM FOR RELIEF**

10       **(Against All Defendants for Negligence in Treating Garrido's Mental Health**  
11                                   **Problems)**

12       72. Plaintiffs refer to paragraphs 1 through 71 of this Complaint and  
13 reallege each and every allegation as though fully set forth herein.

14       73. Once Garrido was paroled, Defendants undertook to provide  
15 psychiatric treatment to Garrido. Indeed, as a condition of his parole, Garrido was  
16 required to see a mental health counselor. Once Defendants undertook to provide  
17 treatment to Garrido, they had a duty not to do so negligently.

18       74. From March 1989 until September 1995, Garrido saw the same  
19 government-provided counselor who was unqualified to treat Garrido and who  
20 failed to provide competent mental health treatment to him. Simply by way of  
21 example, in July 1990, after Garrido's counselor received the results of a test  
22 showing Garrido had a 0.45% blood alcohol content, she opined that Garrido had a  
23 medical problem versus an "alcohol problem." The very next month, when Garrido  
24 tested positive for speed and claimed that "someone spiked his drink," Garrido's  
25 counselor "believe[d] he [was] telling the truth in his denial of knowingly using  
26 drugs." Remarkably, in 1995, Garrido's counselor concludes that Garrido is no  
27 longer in need of therapy. According to his counselor, Garrido "indicated that he  
28

1 would voluntarily seek help if at any point in the future he believes he is in need of  
2 such services.”

3 75. In September 1993, Garrido begins sessions with another psychologist  
4 provided by Defendants whom he continued to see for 16 years until 2009. As with  
5 his previous counselor, this psychologist gave Garrido a multitude of ongoing  
6 positive evaluations during the very years Garrido was imprisoning Plaintiffs.  
7 These evaluations, of course, could not have been more inaccurate. Notably, on  
8 November 13, 1997, Garrido’s counselor stated that Garrido’s “response to  
9 treatment is excellent. His prognosis is excellent... I do not suspect he will ever be  
10 at risk for violence.” Coincidentally, also on November 13, 1997, Jaycee gave birth  
11 to her second daughter fathered by Garrido.

12 76. On information and belief, the above-described treatment provided by  
13 Defendants was negligent. Had Defendants adequately evaluated and/or treated  
14 Garrido while on parole, Garrido would not have kidnapped Jaycee in 1991 or  
15 otherwise caused injury to Plaintiffs.

16 77. As a direct and proximate result of Defendants’ negligence, Plaintiffs  
17 have been damaged in an amount that has not yet been ascertained but which is in  
18 excess of the minimum jurisdictional amount of this Court.

19  
20 **FIFTH CLAIM FOR RELIEF**

21 **(Negligent Failure to Provide Information Regarding Garrido to the State**  
22 **Authorities)**

23 78. Plaintiffs refer to paragraphs 1 through 77 of this Complaint and  
24 reallege each and every allegation as though fully set forth herein.

25 79. In 1999, when Garrido’s parole responsibility was transferred to the  
26 state of California, Defendants had an affirmative, non-discretionary duty to provide  
27 information concerning Garrido to the state of California. [18 U.S.C. § 4203]  
28

1        80. On information and belief, despite California's request for Garrido's  
2 file, Defendants did not provide their entire parole file on Garrido to the state of  
3 California.

4        81. The federal parole file contained material information that would have  
5 materially altered the way in which California parole authorities supervised Garrido.  
6 Had California parole authorities had this information earlier, they would have  
7 rescued Plaintiffs many years earlier.

8        82. Included in the federal parole file was information about Garrido's  
9 mental health assessments, failed drug and alcohol tests, and a 1993 probation  
10 violation which led to Garrido being briefly detained. This information would have  
11 influenced the parole agent's supervision level for Garrido.

12        83. Also included in the federal parole file was information regarding a  
13 federal agent's search of the soundproofed studio that Garrido maintained in the  
14 back of his residence. Had Defendants provided this information to California  
15 parole authorities, California parole authorities would have searched and discovered  
16 Garrido's backyard compound and uncovered the presence of and rescued Plaintiffs.

17        84. In addition, on information and belief, the Nevada Department of  
18 Parole and Probation made one or more formal requests to Defendants that it be sent  
19 periodic progress reports regarding Garrido's status. The Nevada Department of  
20 Parole and Probation expressed that due to the nature of Garrido's offense, it was  
21 necessary for Nevada authorities to verify that Garrido was being actively  
22 supervised in California and would be under supervision for a substantial length of  
23 time.

24        85. Pursuant to the Parole Commission Rules, Defendants were required to  
25 disclose this information to the Nevada authorities. [28 CFR § 2.37(b).]  
26 Defendants, however, either failed to remit information about Garrido to the Nevada  
27 authorities and/or provided inaccurate information regarding Garrido's status. On  
28 information and belief, even after Garrido was taken back into federal custody for



1 committing five violations of his parole conditions, Defendants told Nevada  
2 authorities that Garrido had "posed no problems thus far."

3 86. Had Defendants provided accurate and truthful information to Nevada  
4 authorities regarding Garrido's many parole violations and other misconduct,  
5 Nevada authorities would have been allowed to, and would have, revoked Garrido's  
6 parole, thereby either preventing him from kidnapping Jaycee in 1991 and/or  
7 allowing authorities to uncover the presence of and to rescue Plaintiffs.

8 87. As a direct and proximate result of Defendants' negligence, Plaintiffs  
9 have been damaged in an amount that has not yet been ascertained but which is in  
10 excess of the minimum jurisdictional amount of this Court.

11  
12 **Prayer For Relief**

13 WHEREFORE, Plaintiffs pray for judgment as follows:

- 14 1. For general damages according to proof, but in excess of the minimum  
15 jurisdictional amount of this Court;  
16 2. For special damages according to proof;  
17 3. For costs of suit herein incurred; and  
18 4. For such other and further relief as the Court deems just and proper.

19  
20 DATED: September 22, 2011

Respectfully submitted,  
KINSELLA WEITZMAN ISER KUMP &  
ALDISERT LLP

21  
22  
23 By: 

24 Dale F. Kinsella  
25 Attorneys for Plaintiffs JAYCEE  
26 DUGARD, individually, and as  
27 GUARDIAN AD LITEM for her MINOR  
28 CHILDREN