

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

Richmond Division

NICOLAS REYES,

Plaintiff,

v.

CASE NO. 3:18CV00611

HAROLD W. CLARKE, *et al.*,

Defendants.

RULE 12 MOTION TO DISMISS

COME NOW Defendants Clarke, Robinson, Kiser, Barksdale, Mathena, Gallihar, Duncan, Collins, Kiser, Gilbert, Adams, Lambert, Lee, Huff, Trent, McDuffie, and Herrick, by counsel, and move this Court, pursuant to Rules 12(b)(3) and 12(b)(6) of the *Federal Rules of Civil Procedure*, to dismiss the claims against them. Pursuant to Fed. R. Civ. P. 12(g), Defendants have consolidated their Rule 12 defenses into this single motion. The reasons in support of these motions are set forth in separate supporting memoranda, which are being contemporaneously-filed with the Court.

Respectfully submitted,

HAROLD CLARKE, A. DAVID ROBINSON,
JEFFREY KISER, RANDALL MATHENA, EARL
BARKSDALE, ARVIL GALLIHAR, AMEE
DUNCAN, LARRY COLLINS, JUSTIN KISER,
CHRISTOPHER GILBERT, GARRY ADAMS,
JAMES LAMBERT, WILLIAM LEE, TERRANCE
HUFF, D. TRENT, EVERETT ELLISON
MCDUFFIE, and STEVEN HERRICK

By: _____ /s/
Margaret Hoehl O'Shea, AAG, VSB #66611
Attorney for named Defendants
Office of the Attorney General
Criminal Justice & Public Safety Division
202 North 9th Street
Richmond, Virginia 23219
(804) 225-2206
(804) 786-4239 (Fax)
Email: moshea@oag.state.va.us

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of October, 2018, I electronically filed the foregoing Rule 12 Motion to Dismiss with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

Claire Gastanaga (VSB #14067)
Vishal Agraharkar (*pro hac vice*)
Eden B. Heilman (*pro hac vice*)
American Civil Liberties Union of Va.
701 E. Franklin Street, Ste. 1412
Richmond, VA 23219
(804) 532-2151
claire@acluva.org
vagraharkar@acluva.org
eheilman@acluva.org

Maggie E. Filler (*pro hac vice*)
Roderick & Solange MacArthur Justice Ctr.
745 Atlantic Avenue, 8th Floor
Boston, MA 02111
(857) 284-1455
maggie.filler@macarthurjustice.org

Locke E. Bowman (*pro hac vice*)
Roderick & Solange MacArthur Justice Ctr.
375 East Chicago Avenue
Chicago, IL 60611
(312) 503-0844
l-bowman@law.northwestern.edu
Counsel for Plaintiff

And I hereby certify that I have mailed the document by United States Postal Service to the following non-filing user: N/A

/s/
Margaret Hoehl O'Shea, AAG, VSB #66611
Attorney for named Defendants
Criminal Justice & Public Safety Division
Office of the Attorney General
202 North 9th Street
Richmond, Virginia 23219
(804) 225-2206
(804) 786-4239 (Fax)
Email: moshea@oag.state.va.us