

FILED

UNITED STATES COURT OF APPEALS

MAR 2 2017

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

MANUEL DE JESUS ORTEGA
MELENDRES; JESSICA QUITUGUA
RODRIGUEZ; DAVID RODRIGUEZ;
VELIA MERAZ; MANUEL NIETO, Jr.;
SOMOS AMERICA,

Plaintiffs - Appellees,

v.

JOSEPH M. ARPAIO; MARICOPA
COUNTY,

Defendants - Appellants.

Nos. 13-16285 & 13-17238

D.C. No. 2:07-cv-02513-GMS
District of Arizona,
Phoenix

ORDER

Before: Peter L. Shaw, Appellate Commissioner

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Background

Manuel de Jesus Ortega Melendres, the other named appellees, the class of people that the named appellees represent, and the organization Somos America (collectively, “Melendres”), filed a 42 U.S.C. § 1983 class action seeking declaratory and injunctive relief against Joseph M. Arpaio and the Maricopa County Sheriff’s Office (collectively, “Maricopa County”) based on unconstitutional and illegal racial profiling of Latino drivers and passengers on the

pretext of enforcing state and federal immigration-related law. After a bench trial, the district court found that Maricopa County had engaged in an unconstitutional policy of using race to stop and investigate immigration violations and detain Latinos, and entered preliminary and permanent injunctions. A prior appeal addressed the preliminary injunction. *See Melendres v. Arpaio*, 695 F.3d 990, 994 (9th Cir. 2012). After further briefing and a hearing, the district court supplemented the permanent injunction, and Maricopa County appealed the district court permanent injunction orders.

A panel of this court largely affirmed the district court's permanent injunction. The panel first held that the Maricopa County Sheriff's Office ("MCSO") was a non-jural entity; that is, it was incapable of being sued in its own name. The panel substituted Maricopa County as a party in lieu of MCSO. The panel then vacated certain provisions of the injunction that gave broad authority to a court-ordered monitor to assess and report on Maricopa County's implementation of the injunction. The panel ordered the district court to vacate particular provisions of the injunction and tailor them to address only the constitutional violations at issue in the injunction.

Melendres filed a motion for attorneys' fees and non-taxable expenses on appeal pursuant to 42 U.S.C. § 1988(b), and Maricopa County opposed the motion,

