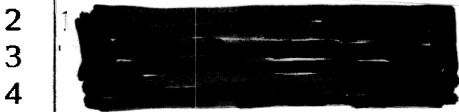


1 Terrence Bressi



5 Defendant

6 **Pima County Justice Court**
7 **Pima County, Arizona**

State of Arizona,) Civil Traffic Citation No.: 81557

)

Plaintiff,)

) Motion For Pre-Hearing Discovery

vs.)

)

Terrence Bressi,)

)

Defendant.)

)

)

8 Defendant, Terrence Bressi, representing himself, hereby moves this Court, pursuant to Rule
9 13(a) of 17B A.R.S. *Traffic Violation Cases Civil Procedure Rules*, for pre-hearing discovery regarding
10 Citation No. 81557. If this court grants discovery, a continuance of sufficient length to pursue
11 discovery is requested prior to any scheduled hearing.

12 Rule 13(a) allows for pre-hearing discovery under extraordinary circumstances. Specifically,
13 Rule 13 (a) states:

14 *“Rule 13. Discovery; Officer's Notes*
15 *(a) No pre-hearing discovery shall be permitted absent extraordinary*
16 *circumstances.”* (emphasis mine)

17 The extraordinary circumstances justifying pre-hearing discovery are described below.

1 Facts

2 While traveling Eastbound on SR86 in Southern Arizona at approximately 1615 on December
3 20, 2008, Defendant was stopped and seized by U.S. Border Patrol agents with *Customs and Border*
4 *Protection* in the *Department of Homeland Security*. The seizure took place near mile marker 146 in
5 the Eastbound lane of traffic at a suspicionless internal Homeland Security checkpoint. Armed Border
6 Patrol agents manning the checkpoint stopped and seized Defendant in front of two temporary stop
7 signs erected to either side of the lane of traffic. The stopping agent refused to identify himself during
8 the seizure but admitted to knowing Defendant based upon previous videotaped encounters at the
9 checkpoint over the course of the last year. Nonetheless, the agent continued detaining Defendant for
10 close to three minutes, all the while refusing to identify himself. Defendant left the checkpoint less
11 than 10 seconds after the stopping agent ordered him to do so.

12 At some point during the short interval Defendant was being detained by federal agents at the
13 checkpoint, Tohono O'odham Police Officer Richard Carrasco arrived on scene and stationed himself
14 to the South side of the road just behind Defendant's vehicle in the Homeland Security checkpoint
15 staging area. As Defendant left the checkpoint, Officer Carrasco pulled in behind Defendant and turned
16 on his enforcement lights as Defendant was accelerating up to speed.

17 Defendant pulled over and came to a stop shortly after noticing Officer Carrasco's lights.
18 Officer Carrasco approached the passenger side door with his arm up to block his face, name tag and
19 insignia from Defendant's view. Officer Carrasco initially refused to identify himself, who he worked
20 for or the reason for the traffic stop while demanding Defendant's identification. Given the
21 circumstances and the Officer's initial refusal to identify himself, he was initially mistaken for a federal
22 agent from the checkpoint.

23 As the traffic stop progressed, several Border Patrol agents from the checkpoint arrived on
24 scene. Officer Carrasco spent a lengthy period of time consulting with the Border Patrol supervisor
25 who stopped & detained Defendant at the Homeland Security checkpoint. In the meantime, another
26 Border Patrol agent stood guard over Defendant and his vehicle. Neither federal agent was wearing a
27 name tag preventing them from being identified.

28 Up to four Border Patrol agents and their vehicles were present during the traffic stop at one
29 point and two agents remained on scene throughout the duration of the traffic stop. Even though the
30 Border Patrol agents who responded to assist Officer Carrasco refused to identify themselves to the

1 Defendant, Officer Carrasco appeared to share Defendant's license, registration and insurance
2 information with the federal agents.

3 After further consultation with the Border Patrol supervisor from the checkpoint, Officer
4 Carrasco returned to Defendant's vehicle and cited him with impeding traffic. Total elapsed time from
5 the checkpoint stop to the end of the subsequent traffic stop was on the order of 45 minutes.

6 After returning home from the encounter, Defendant cross-referenced Officer Carrasco's name
7 with a Tohono O'odham police department work assignment memo from 2002. This memo was
8 procured by Defendant during the limited discovery phase of an ongoing civil rights lawsuit against
9 four Tohono O'odham police officers. Officer Carrasco was a participant in the 2002 tribal roadblock
10 that led to the ongoing lawsuit in question. Coincidentally or not, Officer Carrasco's traffic stop and
11 citation took place exactly one month after oral argument was heard by the 9th Circuit Court of Appeals
12 in the lawsuit and six years to the day from the tribal police roadblock incident leading to the lawsuit.

13 **Extraordinary Circumstances**

14 **A. Federal Witnesses Refused to Identify Themselves**

15 Officer Carrasco is citing Defendant with impeding traffic while Defendant was stopped &
16 seized in front of (2) stop signs by armed U.S. Border Patrol agents at a Homeland Security checkpoint
17 located along State Route 86 near mile marker 146. The U.S. Border Patrol agents stationed at the
18 checkpoint left their posts in order to assist Officer Carrasco with the subsequent traffic stop after
19 waving Defendant through the checkpoint. Despite multiple requests, the U.S. Border Patrol agents
20 who seized Defendant at the checkpoint and later assisted Officer Carrasco during the ensuing traffic
21 stop refused to identify themselves. In fact, they went so far as to remove their name tags from their
22 uniforms in order to keep from being identified.

23 **B. Citing Officer Worked Closely with Federal Agents at Federal Checkpoint & During The**
24 **Traffic Stop**

25 Officer Carrasco is citing Defendant for impeding traffic during the time frame he was stopped
26 & seized by armed federal agents at a federal checkpoint in the Eastbound lane of traffic. The total time
27 Defendant was stopped at the checkpoint was less than three minutes. The stopping agent admitted he

1 knew who the Defendant was shortly after stopping him. Since the alleged scope of the checkpoint was
2 to check for illegal immigrants, the agent was obligated to wave Defendant through upon recognizing
3 him and lacking probable cause to believe he had violated any law. Nonetheless, the agent detained
4 Defendant in the lane of traffic for several minutes longer than justified under the circumstances.

5 In hindsight, it is likely the agent continued the detention in order to give Officer Carrasco an
6 opportunity to arrive on scene while creating conditions conducive to justifying a citation. Officer
7 Carrasco did in fact position himself in the checkpoint's staging area upon arrival. Given the remote
8 location of the checkpoint, Officer Carrasco's proximity to the operation during the two minutes and 49
9 seconds Defendant was seized and the assistance federal agents provided Officer Carrasco during the
10 subsequent traffic stop indicate Officer Carrasco and U.S. Border Patrol agents were working closely
11 together to create the circumstances necessary to maliciously cite Defendant with impeding traffic.

12 **C. Citing Officer May Have Acted Based Upon Personal Reasons As Opposed To Legitimate**
13 **Legal Concerns**

14 Defendant is currently engaged in an ongoing five year civil rights lawsuit against four tribal
15 police officers, including the TOPD Chief of Police. TOPD Officer Richard Carrasco has worked with,
16 or for, all of the named officers during his ten year employment with the TOPD. The lawsuit in
17 question is #CV-04-264-JMR in the U.S. District Court for the District of Arizona and #07-15931 in
18 the U.S. Court of Appeals for the Ninth Circuit. The lawsuit stems from a 2002 tribal roadblock in
19 which Officer Carrasco was a participant. The current traffic stop and citation took place exactly one
20 month after oral argument was heard in the U.S. Court of Appeals for the Ninth Circuit in San
21 Francisco (November 20, 2008). The original tribal roadblock and subsequent malicious prosecution
22 that lead to the lawsuit took place six years earlier (December 20, 2002).

23 Since the Border Patrol checkpoint stop that lead to the citation is a federal operation, Officer
24 Carrasco's presence in his capacity as a state empowered tribal police officer operating off the
25 reservation is quite unusual. Given the animosity that the tribal police and Border Patrol have exhibited
26 towards Defendant in the past for exercising his rights while being seized absent suspicion at such
27 roadblocks and the fact that Defendant was only stopped along SR86 during the time frame in question
28 because he had been seized by federal agents, it is likely Officer Carrasco chose to collude with federal
29 agents to cite Defendant for impeding traffic based upon personal reasons as opposed to any legitimate

1 lawful justification.

2 Conclusion

3 Given the peculiar and extraordinary circumstance surrounding this citation, including the
4 presence and participation of federal agents who refused to identify themselves, Defendant respectfully
5 requests this court grant pre-hearing discovery in order to determine the identity of pertinent witnesses
6 and procure documentation and testimony necessary to assist in Defendant's case regarding the charge
7 of impeding traffic. Additionally, Defendant requests a continuous prior to the scheduled hearing
8 sufficiently lengthy to pursue discovery through the tribal police and the U.S. Border Patrol.

9 Respectfully submitted this 9 day of February, 2009.

10 BY: Terrence Bressi

11 Terrence Bressi
12 Defendant