

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

JOSE DECASTRO

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

**CASE NO.: C-24-381730-A  
23-CR-013015**

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**APPEAL FROM A JUDGMENT OF CONVICTIONS,  
LAS VEGAS TOWNSHIP JUSTICE COURT  
THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT  
JUDGE DISTRICT COURT CASE NO. C-24-381730-A**

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**OPENING BRIEF APPENDIX VOLUME I**

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5  
6 **DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

7  
8 JOSE DECASTRO )  
Appellant, ) **CASE NO.: C-24-381730-A**  
9 vs. ) **23-CR-013015**  
10 THE STATE OF NEVADA, )  
11 Respondent. )  
12 )  
13 )

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14 **OPENING BRIEF APPENDIX VOLUME I**

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<u>VOLUME</u>	<u>PLEADINGS</u>	<u>PAGE NO.</u>
I	Appeal From Las Vegas Justice Court - March 26, 2024	0039-0087
I	Minute Order - No Hearing Held - April 09, 2024	0127-0127
I	Motion for Bail, or in the Alternative, for Own Recognizance Release - March 26, 2024	0089-0101
I	Motion for Bail, or in the Alternative, for Own Recognizance Release - April 04, 2024	0109-0123

1	I	Motion for Production of Discovery - September 1st, 2023	0001-0008
2			
3	I	Notice of Appearance of Counsel - April 04, 2024	0124-0125
4			
5	I	Notice of Hearing - April 04, 2024	0126-0126
6			
7	I	Order Setting Hearing In District Court XII On Criminal Appeal From Las Vegas Justice Court - March 28, 2024	0102-0105
8			
9	I	Receipt for Documents - March 26, 2024	0088-0088
10			
11	I	Renewed motion for production of Discovery - November 28, 2023	0009-0017
12			
13	I	Reporter's Transcript of Proceeding -bail motion - April 1, 2024	0106-0108
14			
15	I	Reporter's Transcript of Proceedings bench trial - March 19, 2024	0022-0038
16			
17			
18	I	States notice of motion and motion to continue - November 30, 2023	0018-0021
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 6th day of May, 2024, I served a true and correct copy of the  
3 foregoing document entitled APPELLANT’S OPENING BRIEF APPENDIX VOLUME I to  
4 the Clark County District Attorney’s Office and all other parties associated with this case by  
5 electronic mail as follows:

6 STEVE WOLFSON  
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15 *By: /s/ Savannah Card*  
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10 **LAS VEGAS JUSTICE COURT**

11 **CLARK COUNTY, NEVADA**

12 STATE OF NEVADA,

13 Plaintiff,

14 vs.

15 JOSE DECASTRO,

16 Defendant.

CASE No. 23-CR-013015

Dept. No.: 8

17 **MOTION FOR PRODUCTION OF**  
**DISCOVERY**

18 **HEARING REQUESTED**

19 DATE OF HEARING: 9/6/2023

20 TIME OF HEARING: 8:00 AM

21 COMES NOW, Defendant, JOSE DECASTRO by and through his attorney of record,  
22 MICHAEL MEE, ESQ., of LIBERATORS CRIMINAL DEFENSE, and hereby files the  
23 following MOTION FOR DISCOVERY. This motion is based upon the points and authorities  
24 herein and upon any other pleadings filed in this case.

25 DATED this 1<sup>st</sup> day of September, 2023

26 /s/ Michael Mee, Esq.

27 Michael Mee, Esq.

28 Nevada Bar No. 13726

400 S. 4th St. #500

Las Vegas, Nevada 89101

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. LEGAL ARGUMENT.**

**A. FAILURE BY THE STATE TO PROVIDE DISCOVERY IS A VIOLATION OF DUE PROCESS UNDER THE U.S. CONSTITUTION AND THE NEVADA STATE CONSTITUTION.**

The State must produce to the defense all exculpatory evidence in its actual or constructive possession. *See Brady v. Maryland*, 373 U.S. 83 (1963). Failure to do so results in a violation of the Due Process Clauses of the Fifth and Fourteenth Amendments of the United States Constitution. Likewise, Article 1, Section 8 of the Nevada Constitution guarantees every defendant the right to due process. Thus the State's failure to provide discovery not only violates the United States Constitution but also violates the Nevada Constitution. *Jimenez v. State*, 112 Nev. 610, 618 (1996).

This rule applies regardless of how the State has chosen to structure its discovery process. *See Brady*, general. Furthermore, this duty is continuous and "exists regardless of whether the State uncovers the evidence before trial, during trial, or after the defendant has been convicted." *Imbler v. Pachtman*, 424 U.S. 409, 427 (1976).

Whether such evidence is admissible or not at the time of trial or whether the State believes such evidence to be unreliable or unbelievable has no bearing on the States' obligation to produce it. *See Lay v. State*, 116 Nev. 1185, 1196 (2000).

**B. THE STATE MUST PROVIDE ALL EVIDENCE THAT IS MATERIAL, RELEVANT TO GUILT OR PUNISHMENT, FAVORABLE TO THE ACCUSED AND WITHIN ITS ACTUAL OR CONSTRUCTIVE POSSESSION.**

*Brady* commands the State to turn over any and all information and/or evidence ("Brady material)" which is material, relevant to guilt or punishment, favorable to the accused, and within the actual or constructive possession of anyone acting on behalf of the State. *See Brady* 373 U.S.

1 at 87. The State's good faith or bad faith in failing to produce said evidence is immaterial in  
2 determining that the State has violated its duty. *Id.* Furthermore, a defendant's failure to request  
3 favorable evidence does not leave the State free of all obligation. *Kyles v. Whitley*, 514 U.S. 419,  
4 432 (1995).

5  
6 **1. Evidence is Material if There Exists a Reasonable Possibility that it Would  
Affect the Judgment of the Trier of Fact.**

7 Evidence is material if there is a reasonable probability that the result would have been  
8 different had the evidence been disclosed. The defense does not have to show that the disclosure  
9 would have resulted in an acquittal. *Kyle v. Whitley* at 434. The defense need only show that there  
10 was a reasonable probability that the nondisclosure undermines the confidence in the outcome of  
11 the trial. *Id.* However, after a specific request for evidence is made, omitted evidence is material  
12 if there is a reasonable *possibility* that it would have affected the outcome. *Lay v. State*, 116 Nev.  
13 1185, 1194 (2000).  
14

15  
16 **2. Evidence Relevant to Guilt or Punishment is Any Evidence that Could Assist  
the Defense at Either the Guilt or Sentencing Phase of the Case.**

17 *Brady* material applies not only to evidence which might affect the defendant's guilt but  
18 also includes evidence which could serve to mitigate a defendant's sentence if convicted. *See*  
19 *State v. Bennett* 81, P.3d 1,9 (2003). In *Brady*, the petitioner argued he was denied due process  
20 when a statement by his accomplice, in which the accomplice admitted to being the one who did  
21 the actual killing, was withheld by the State. *Brady* at 84-85. *Brady* was given the death penalty.  
22 The court found that this was a violation of due process and that a lower court was correct to give  
23 *Brady* a new hearing on penalty. *Id.*  
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25  
26 Other examples of this kind of evidence could be evidence of a diminished mental state,  
27 even if not rising to a legal defense, evidence that the defendant was using drugs or alcohol at the  
28

1 time of the offense, evidence that the defendant was under some kind of duress or mistaken belief,  
2 evidence that the defendant tried to turn himself in, evidence that the defendant tried to seek help,  
3 evidence of cooperation with law enforcement, and any other similar type of evidence.

4 **3. Evidence Favorable to the Accused Encompasses More Than Mere**  
5 **Exculpatory Evidence.**

6 The Nevada Supreme Court has defined what is considered “favorable to the accused.” In  
7 *Mazzan v. Warden*, 116 Nev. 48, 67 (2000) the Court held that the State must disclose any evidence  
8 that provides grounds for the defense to attack the reliability, thoroughness, and good faith of the  
9 police investigation, to impeach the credibility of the State’s witnesses, or to bolster the defense  
10 case against prosecutorial attacks. *Id.*

12 In essence, evidence favorable to the defense includes any evidence that is exculpatory,  
13 may mitigate punishment or can be used to impeach a state’s witness. *See State v. Huebler*, 275  
14 P.3d 91, 95 (Nev. 2012). Accordingly, it is defined broadly and would include any of the  
15 following: inconsistent statements by victims or witnesses; any pending charges or benefits or  
16 promises made to anyone material to the case; investigative leads or ordinarily appropriate  
17 investigation which were not followed-up on or completed by law enforcement; any criminal  
18 history or other evidence concerning State’s witnesses which might show their bias or otherwise  
19 impeach their credibility; any forensic testing done any evidence; any medical or psychological  
20 treatment of any victim or witness; evidence that the alleged victim has been the alleged victim  
21 of a number of crimes; evidence showing that someone else committed the charged crime and  
22 evidence that no crime was in fact committed. Further, evidence favorable to the defense includes  
23 any information relating to the credibility of any witness including law enforcement officers or  
24 other agents of the state.  
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1           **4. The State Must Disclose Any Information or Materials in its Actual or**  
2           **Constructive Knowledge And/or Possession.**

3           A prosecutor is not only responsible for turning over *Brady* material in his or her actual  
4 possession, he or she is equally responsible for *Brady* material known by or in the possession of  
5 law enforcement or any other State agents acting on its behalf. *Jimenez*, 112 Nev. At 620. In *Kyles*,  
6 the United States Supreme Court likewise held that “the individual prosecutor has a duty to learn  
7 of any favorable evidence known to the others acting on the government’s behalf in the case,  
8 including police.” 514 US at 437-48. Accordingly, exculpatory evidence cannot be kept out of the  
9 hands of the defense just because the prosecutor does not have it, where an investigating agency  
10 does have it. *U.S. v. Zuno-Arce*, 44 F.3d 1420, 1427 (9<sup>th</sup> Cir. 1995). Furthermore, even if the  
11 evidence is being held by an out-of-jurisdiction agent that is in cooperation with local law  
12 enforcement, the prosecutor is deemed to have constructive knowledge. *See State v. Bennet*, 119  
13 Nev. 589 (2003).

14           Thus, the State maintains an affirmative responsibility and the prosecutor cannot turn a  
15 blind eye and claim ignorance or rely on law enforcement or other government agents to come  
16 forward with the information; it must be sought out. Other state agents such as probation and  
17 parole officers, Child Protective Service workers and their agents, employees of Department of  
18 Motor Vehicles, jail personnel, out-of-state police agencies, law enforcement personnel, and  
19 similar agents of the State are included amongst those with whom the State shares constructive  
20 possession of *Brady* material.  
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1 **C. PURSUANT TO HIS CONSTITUTIONAL RIGHTS, DEFENDANT MAKES**  
2 **SPECIFIC DISCOVERY REQUESTS.**

3 Pursuant to the foregoing law, Mr. DeCastro specifically requests that the State produce  
4 the following *Brady* materials without delay:

5 1. Copy of any and all crime scene analysis and/or forensic reports, results, requests  
6 for examination and/or testing performed on any of the physical or biological evidence collected  
7 in relation to this case, specifically but not limited to, the results of any testing involving blood,  
8 DNA, hair, fingerprints, shoeprints or other samples taken, and information of evidence gathered  
9 but not tested in this case;

10 2. Copy of any and all recorded interviews and respective transcripts conducted in  
11 connection with this case;

12 3. Copy of any and all audio recordings and related documentation including but not  
13 limited to 911 calls, CAD to CAD, dispatch calls, communication logs and any otherwise  
14 memorialized communications related to this case;

15 4. Copy of any and all photographs taken and or gathered, crime scene diagrams  
16 drafted and investigative reports prepared by law enforcement in connection with this case,  
17 including but not limited to, property inventory reports, impound reports and images of the scene  
18 of the alleged incident;

19 5. Disclosures of any and all details of any compensation, express or implies  
20 promises of favorable treatment or leniency or any other benefit that any of the State's witnesses  
21 received or expect to receive in exchange for their cooperation with this prosecution, including  
22 but not limited to, any promise made to any witness to provide monetary support, counseling  
23 and/or treatment;

24 6. Copy of any and all written statements, reports and/or information provided by the  
25 alleged victims.

26 7. Copy of any and all video and/or audio recordings of the alleged incident and/or  
27 otherwise related to the allegations in this case, including but not limited to body camera video  
28 recordings.

8. Complete criminal histories of all States witness;

9. Any and all information bearing on the truthfulness or bad character of the State  
witnesses, including but not limited to, any contempt citations issued against the witnesses, any  
past instances of dishonesty, fraud, lying or violence on the part of the witness that is known to  
the State or its agents;

10. Any and all statements made by any State witness or any other person that are in

1 any manner inconsistent with the written and/or recorded statements previously provided to the  
2 defense.

3 Finally, Mr. DeCastro specifically requests the following materials specifically anticipated  
4 to be in the State's possession and relevant to defense(s) to be established at the time of trial in  
5 this matter:

6 1. Any written material, or voice recording, involving any law enforcement officer  
7 or other state personnel in which the defendant Jose DeCastro is mentioned by name or  
8 reference.

9 2. Copies of the personnel/discipline files for any law enforcement officer or other  
10 state personnel involved in this action including any past or prior discipline or reprimand for said  
11 officer's actions which were alleged or found to have violated the civil rights or liberties of other  
12 individuals.

13 3. Any materials, written or otherwise recorded, relating to training any officer  
14 involved in the underlying case has received training said officers about the First Amendment,  
15 the rights of citizens to film officers, and the relation between the First Amendment and  
16 obstruction of an officer's duties, including any policy manuals provided to any officer in this  
17 case which addresses those issues.

18 Thus far, Mr. DeCastro has made several written requests to the State to provide these  
19 additional discovery materials. Mr. DeCastro through undersigned counsel has not received a  
20 response. For this reason, Defendant has no choice but to now file the present motion seeking to  
21 compel the production of discovery.

### 22 CONCLUSION

23 Based on the above, Defendant requests that this Court grant the relief requested in the  
24 above motion.

25 DATED this 1<sup>st</sup> day of September, 2023

26 /s/ Michael Mee, Esq.  
27 Michael Mee, Esq.  
28 Nevada Bar No. 13726  
400 S. 4th St. #500  
Las Vegas, Nevada 89101

**CERTIFICATE OF SERVICE**

I HEREBY SERVED this MOTION FOR DISCOVERY via online e-filing on this 1<sup>st</sup> day of September, 2023, upon the Clark County District Attorney's office via electronic service and e-mail to the designated District Attorney handling this matter.

/s/ Michael Mee

Attorney for Defendant

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1 **MOTN**

2 Michael Mee, Esq.

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9 *Attorney for Defendant*

10 **LAS VEGAS JUSTICE COURT**

11 **CLARK COUNTY, NEVADA**

12 STATE OF NEVADA,

13 Plaintiff,

14 vs.

15 JOSE DECASTRO,

16 Defendant.

CASE No. 23-CR-013015

Dept. No.: 8

17 **RENEWED MOTION FOR PRODUCTION**  
**OF DISCOVERY**

18 **HEARING REQUESTED**

19 DATE OF HEARING:

20 TIME OF HEARING:

21 COMES NOW, Defendant, JOSE DECASTRO by and through his attorney of record,  
22 MICHAEL MEE, ESQ., of LIBERATORS CRIMINAL DEFENSE, and hereby files the  
23 following RENEWED MOTION FOR DISCOVERY. This motion is based upon the points  
24 and authorities herein and upon any other pleadings filed in this case.

25 DATED this 28<sup>th</sup> day of November, 2023.

26 /s/ Michael Mee, Esq.  
27 Michael Mee, Esq.  
28 Nevada Bar No. 13726  
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**MEMORANDUM OF POINTS AND AUTHORITIES**

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The State must produce to the defense all exculpatory evidence in its actual or constructive possession. *See Brady v. Maryland*, 373 U.S. 83 (1963). Failure to do so results in a violation of the Due Process Clauses of the Fifth and Fourteenth Amendments of the United States Constitution. Likewise, Article 1, Section 8 of the Nevada Constitution guarantees every defendant the right to due process. Thus the State’s failure to provide discovery not only violates the United States Constitution but also violates the Nevada Constitution. *Jimenez v. State*, 112 Nev. 610, 618 (1996). This rule applies regardless of how the State has chosen to structure its discovery process. *See Brady*, general. Furthermore, this duty is continuous and “exists regardless of whether the State uncovers the evidence before trial, during trial, or after the defendant has been convicted.” *Imbler v. Pachtman*, 424 U.S. 409, 427 (1976).

The Defendant previously filed a Motion for Production of Discovery on September 1, 2023. At that time, counsel for defendant appeared before this Court seeking several general requests, as well as the following narrowed specific requests:

- “1. Any written material, or voice recording, involving any law enforcement officer or other state personnel in which the defendant Jose DeCastro is mentioned by name or reference.
2. Copies of the personnel/discipline files for any law enforcement officer or other state personnel involved in this action including any past or prior discipline or reprimand for said officer’s actions which were alleged or found to have violated the civil rights or liberties of other individuals.
3. Any materials, written or otherwise recorded, relating to training any officer involved in the underlying case has received training said officers about the First Amendment, the rights of citizens to film officers, and the relation between the First Amendment and obstruction of an officer’s duties, including any policy manuals provided to any officer in this case which addresses those issues.” *See* Motion of 9-1-2023 Prior Written Discovery Requests to State of Nevada.

1 At the time of the hearing on the matter, the State objected to being required to produce responses  
2 to these discovery requests. The Court ruled that it would not order production of discovery in  
3 these categories (but did grant discovery in reference to video recordings). The Defendant now  
4 renews his motion.  
5

6 ***Legal Standard***

7 *Brady* commands the State to turn over any and all information and/or evidence (“Brady  
8 material)” which is material, relevant to guilt or punishment, favorable to the accused, and within  
9 the actual or constructive possession of anyone acting on behalf of the State. *See Brady* 373 U.S.  
10 at 87. The Nevada Supreme Court has defined what is considered “favorable to the accused.” In  
11 *Mazzan v. Warden*, 116 Nev. 48, 67 (2000) the Court held that the State must disclose any  
12 evidence that provides grounds for the defense to attack the reliability, thoroughness, and good  
13 faith of the police investigation, to impeach the credibility of the State’s witnesses, or to bolster  
14 the defense case against prosecutorial attacks. *Id.*  
15  
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17 Each category requested by the defendant is aimed at producing material which would be  
18 helpful to the defense.  
19

- 20 **1. Any written material, or voice recording, involving**  
21 **any law enforcement officer or other state personnel**  
22 **in which the defendant Jose DeCastro is mentioned**  
23 **by name or reference.**

24 Mr. DeCastro is a prominent member of the media and new media. Mr. DeCastro has  
25 353,000 subscribers on Youtube. *See Ex. A – Youtube Page.* His YouTube page “DeleteLawz” is  
26 a page that deals with (as the name suggests), laws, politics, and philosophical issues related to  
27 law enforcement. His videos are often critical of law enforcement and argue that law enforcement,  
28 in general or in particular instances, is violating the rights of individuals in the United States.

1 The case at bar involves an incident in which Mr. DeCastro was filming law enforcement  
2 officers. This is consistent with Mr. DeCastro's past practices of filming law enforcement officers  
3 for matters of public interest relating to whether or not they are following the law. As such this  
4 type of recording falls squarely within the First Amendment right to film law enforcement officers  
5 and to produce media about law enforcement officer conduct.

6  
7 Because Mr. Decastro is a prominent figure in this media realm, and because his media  
8 focuses squarely on recording law enforcement for public policy / public consumption purposes,  
9 he is entitled to discovery on whether the law enforcement officers involved in his case have  
10 expressed any written or other recorded statements about Mr. Decastro, other than those in the  
11 incident report which have already been provided.

12  
13 Such statements about, pertaining to, or referencing Mr. Decastro and his activities (which  
14 are often perceived by law enforcement officers as "anti-police" regardless of whether or not they  
15 are protected by the First Amendment) are highly probative and would be "favorable to the  
16 accused" if produced. Such material, statements, recordings, or references, would be relevant to  
17 confront law enforcement witnesses about motive, bias, and motive to testify falsely, all of which  
18 are always relevant in a criminal proceeding. Such statements would also reveal if Las Vegas  
19 Metropolitan Police Department, or the officers involved in this case, had received any specific  
20 training on dealing with Mr. DeCastro or other 'first amendment auditors' given law enforcement  
21 was likely aware of the existence of this form of new media / law enforcement recording, prior to  
22 this event.  
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1                   **2. Copies of the personnel/discipline files for any law**  
2                   **enforcement officer or other state personnel involved in this action**  
3                   **including any past or prior discipline or reprimand for said**  
4                   **officer's actions which were alleged or found to have violated the**  
5                   **civil rights or liberties of other individuals.**

6                   Law enforcement disciplinary files are relevant impeachment materials pursuant to *Brady*.  
7 States have recognized that the federal discovery requirements of *Brady* apply to State  
8 misdemeanor criminal proceedings. “The requirements of *Brady*, on the other  
9 hand, apply to misdemeanors.” *Schmidt*, 56 Ill. 2d at 574. ” *People v. Ryan*, 336 Ill. App. 3d 268,  
10 272 (Ill. App. Ct. 2003). Defendants who are charged with misdemeanor offenses are entitled  
11 to disclosure of certain information, such as a list of witnesses ( 725 ILCS 5/114-9 (West 2002)),  
12 production of a defendant's confession ( 725 ILCS 5/114-10 (West 2002)), and any evidence that  
13 would negate defendant's guilt (see *Brady v. Maryland*, 373 U.S. 83, 10 L. Ed. 2d 215, 83 S. Ct.  
14 1194 (1963)). See *Schmidt*, 56 Ill. 2d 572, 309 N.E.2d 557. *People v. Toft*, 355 Ill. App. 3d 1102,  
15 1106 (Ill. App. Ct. 2005).

16  
17                   New York has, for example, recently applied very broad discovery into law enforcement  
18 discipline in a misdemeanor case:

19                   While an officer's prior misconduct could tend to “impeach the  
20 credibility of a testifying witness” on the stand, (C.P.L. §  
21 245.20[1][k][iv]), it could also be favorable in other ways. For  
22 instance, it could tend to “negate the defendant's guilt” or “support a  
23 potential defense.” (See C.P.L. § 245.20[1][k][i], [iii]). In the  
24 constitutional context, New York's federal courts agree. (See, e.g.,  
25 *United States v. Jackson*, 345 F.3d 59, 70-73 [2d Cir. 2003]). “The fact  
26 that [an informant] did not testify at the defendants’ trial presents no  
27 obstacle to application of *Brady* and its progeny.” (Id. at 70). “A  
28 contrary conclusion would permit the government to avoid disclosure  
of exculpatory or impeachment material simply by not calling the  
relevant witness to testify.” (Id. at 71).

This case presents a clear example of why disclosure of prior  
misconduct is not limited to witnesses whom the People choose to call

1 to testify. Officer Mena was one of two responding officers who  
2 allegedly first observed the charged offense. (Pr. Resp. at 15). The  
3 People are not calling him to testify. (Id. at 5-6). Officer Rodriguez  
4 arrived later, was “debriefed by the first responding officers,” and then  
5 made the arrest. (Id. at 15). The People will call Officer Rodriguez to  
6 testify. (See id. at 6).

7 Undermining the credibility of Officer Mena would tend to be  
8 favorable to the defense, even if the People do not call him to testify.  
9 It would, for instance, tend to “negate the defendant’s guilt” and  
10 “support a potential defense,” (C.P.L. §§ 245.20[1][k][i], [iii]), as it  
11 would undermine the credibility of an informant “in the investigation  
12 that led to [the instant] arrest[ ],” (Jackson, 345 F.3d at 73; see also  
13 *Kyles v. Whitley*, 514 U.S. 419, 442 n.18, 115 S.Ct. 1555, 131 L.Ed.2d  
14 490 [1995] [recognizing that a non-testifying informant’s suspected  
15 role in unrelated crimes could be favorable to the defense as a “reason  
16 for [him] to ingratiate himself with” and lie to the police]).

17 *See People v. Fugeroa* (2022), Docket CR-018891-21BX, September  
18 7, 2022, Bronx County

19 Such material is particularly relevant here not only for impeachment and cross-  
20 examination, but also substantively. A likely issue at trial in this matter is whether or not the law  
21 enforcement officers involved were issuing lawful or unlawful orders to the Defendant prior to  
22 arresting him for obstruction of justice. The perceptions and state of mind of the law enforcement  
23 officer issuing the order is relevant to this determination. For example, if the officer has a pattern  
24 of rash conduct when confronted with protestors or other people exercising their civil rights,  
25 and/or has been found to have acted improperly in the past with respect to such individuals, and/or  
26 has received special training as it relates to such individuals, this information is relevant to  
27 probing the reliability of the eye-witness testimony of the officer. An officer with a pattern of  
28 unjustified response to civil rights protestors, for example, might have a less credible perception  
of events, or less credible judgment in similar circumstances, in the future. This is all relevant  
material defendant is entitled to discovery pursuant to *Brady*.

**3. Any materials, written or otherwise recorded, relating to**

1           **training any officer involved in the underlying case has received**  
2           **training said officers about the First Amendment, the rights of**  
3           **citizens to film officers, and the relation between the First**  
4           **Amendment and obstruction of an officer's duties, including any**  
5           **policy manuals provided to any officer in this case which addresses**  
6           **those issues." See Motion of 9-1-2023 Prior Written Discovery**  
7           **Requests to State of Nevada.**

8           Likewise, materials pertaining to officer training, especially First Amendment training, or  
9           training relating to citizen filming of law enforcement officers, is highly probative in this case.  
10          Defendant is entitled to know whether the officers involved in this case had or had not received  
11          training on the most recent constitutional limits of their ability to order citizens to stop filming  
12          them, for example. Defendant is entitled to discover whether the reason unlawful orders were  
13          issued to him by the law enforcement officers in this case were a result of their lack of training or  
14          improper training, as this would be an absolute defense to obstruction of justice.

15          In essence, evidence favorable to the defense includes any evidence that is exculpatory,  
16          may mitigate punishment or can be used to impeach a state's witness. *See State v. Huebler*, 275  
17          P.3d 91, 95 (Nev. 2012). Accordingly, it is defined broadly and would include any of the  
18          following: inconsistent statements by victims or witnesses; any pending charges or benefits or  
19          promises made to anyone material to the case; investigative leads or ordinarily appropriate  
20          investigation which were not followed-up on or completed by law enforcement; any criminal  
21          history or other evidence concerning State's witnesses which might show their bias or otherwise  
22          impeach their credibility; any forensic testing done any evidence; any medical or psychological  
23          treatment of any victim or witness; evidence that the alleged victim has been the alleged victim  
24          of a number of crimes; evidence showing that someone else committed the charged crime and  
25          evidence that no crime was in fact committed. Further, evidence favorable to the defense includes  
26          any information relating to the credibility of any witness including law enforcement officers or  
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other agents of the state.

The three categories of evidence fit within this framework and must be disclosed under Nevada law and pursuant to *Brady* if responsive material is in State or law enforcement possession.

**CONCLUSION**

Based on the above, Defendant requests that this Court grant the relief requested in the above motion and order the State and law enforcement to determine whether they possess materials responsive to the above three specific requests and if so to produce those to the defense in advance of trial in this matter.

DATED this 28<sup>th</sup> day of November, 2023.

/s/ Michael Mee, Esq.  
Michael Mee, Esq.  
Nevada Bar No. 13726  
400 S. 4th St. #500  
Las Vegas, Nevada 89101

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**CERTIFICATE OF SERVICE**

I HEREBY SERVED this RENEWED MOTION FOR DISCOVERY via online e-filing on this 28<sup>th</sup> day of November, 2023, upon the Clark County District Attorney's office via electronic service and e-mail to the designated District Attorney handling this matter.

/s/ Michael Mee

Attorney for Defendant

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1 STEVEN B. WOLFSON  
2 Clark County District Attorney  
3 Nevada Bar #001565  
4 TIANNA JEFFERSON  
5 Deputy District Attorney  
6 Nevada Bar #015751  
7 200 Lewis Avenue  
8 Las Vegas, Nevada 89155-2212  
9 (702) 671-2500  
10 Attorney for Plaintiff

JUSTICE COURT, LAS VEGAS TOWNSHIP  
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,  
9 Plaintiff,

10 -vs-

CASE NO: 23CR013015

11 JOSE DECASTRO,  
12 #1669561

DEPT NO: 8

13 Defendant.

14 STATE'S NOTICE OF MOTION AND MOTION TO CONTINUE

15 DATE OF HEARING: DECEMBER 6, 2023  
16 TIME OF HEARING: 9:30 A.M.

17 TO: JOSE DECASTRO, Defendant; and

18 TO: MICHAEL MEE, Attorney for Defendant

19 YOU, AND EACH OF YOU WILL PLEASE TAKE NOTICE that the State

20 respectfully moves this Court to continue the above entitled case.

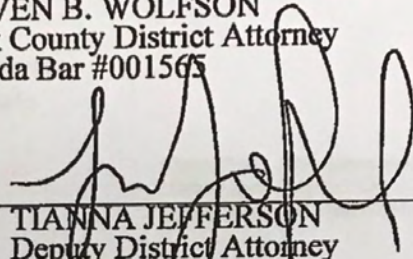
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This Motion, which will be heard in Justice Court on the 6th day of December, 2023,  
at 9:30 o'clock, A.M., is based upon Hill v. Sheriff of Clark County, 85 Nev. 234 (1969), and  
is supported by the following Affidavit.

DATED this 30<sup>th</sup> day of November, 2023.

STEVEN B. WOLFSON  
Clark County District Attorney  
Nevada Bar #001565

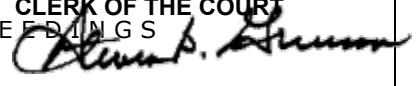
BY   
TIANNA JEFFERSON  
Deputy District Attorney  
Nevada Bar #015751





06/27/2023 *by Defense*  
 09/01/2023 **Minute Order - Department 08**  
 09/06/2023 **Motion**  
     *Motion for Production of Discovery*  
 09/06/2023 **Motion** (8:00 AM) (Judicial Officer Zimmerman, Ann E.)  
     NO BAIL POSTED  
     Result: Matter Heard  
 09/06/2023 **Motion to Continue - Defense**  
     *by Defense for production of discovery no objection by State- granted*  
 09/06/2023 **Future Court Date Stands**  
     09/12/2023 at 9:30am for Bench Trial  
 09/06/2023 **Minute Order - Department 08**  
 09/12/2023 **Bench Trial** (9:30 AM) (Judicial Officer Zimmerman, Ann E.)  
     No bail posted  
     Result: Matter Heard  
 09/12/2023 **Motion to Continue - Defense**  
     *to review additional discovery - No objection by State - Granted*  
 09/12/2023 **Bench Trial Date Reset**  
 09/12/2023 **Minute Order - Department 08**  
 11/28/2023 **Motion**  
     *Renewed Motion for Discovery*  
 11/30/2023 **Motion** (8:00 AM) (Judicial Officers Pro Tempore, Judge, Jansen, William D.)  
     No bail posted  
     Result: Matter Heard  
 11/30/2023 **Motion**  
     *by Defense for Discovery - State represents all discovery in their possession has been turned over - Denied*  
 11/30/2023 **Comment**  
     *State represents they will be filing a Hill Motion to Continue the Bench Trial as the lead officer is unavailable.*  
 11/30/2023 **Future Court Date Stands**  
     12/6/23 at 9:30 am for Bench Trial  
 11/30/2023 **Minute Order - Department 08**  
 11/30/2023 **Notice of Motion**  
     *State's Notice of Motion and Motion to Continue*  
 12/06/2023 **Bench Trial** (9:30 AM) (Judicial Officer Zimmerman, Ann E.)  
     No bail posted

4/22/2024 12:59 PM  
LAS VEGAS, CLARK COUNTY, NEVADA,  
MARCH 19, 2024 9:30 A.M.  
Steven D. Grierson  
CLERK OF THE COURT  
PROCEEDINGS



1 CASE NO. C-24-381730-A

2

3 IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP  
4 COUNTY OF CLARK, STATE OF NEVADA

5

6

7 THE STATE OF NEVADA, )

8 Plaintiff, )

9 vs. ) CASE NO. 23CR013015

10 JOSE DECASTRO, )

11 Defendant. )

12 \_\_\_\_\_ )

13

14 REPORTER'S TRANSCRIPT OF PROCEEDINGS  
15 BEFORE THE HONORABLE ANN E. ZIMMERMAN  
16 JUSTICE OF THE PEACE  
17 TUESDAY, MARCH 19, 2024

16 9:30 A.M.

17

18 APPEARANCES:

19 For the State:

A. BOTELHO, ESQ.  
B. MCKAY, ESQ.  
DEPUTY DISTRICT ATTORNEYS

20 For the Defendant:

M. MEE, ESQ.  
ATTORNEY AT LAW

21

22

23 Reported by: CHRISTA BROKA, CCR. No. 574

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THE COURT: Jose Decastro, 23CR013015.

MS. BOTELHO: Good morning, Your Honor.

Agnes Botelho and Blake McKay for the record for the State.

THE COURT: Good morning.

MR. MEE: Good morning. Michael Mee on behalf of the Defendant who is present with me this morning.

THE COURT: So I have signed two media requests that permit recording or photographing these proceedings. I have not granted any other request to record or live stream these proceedings. So I need Mr. Decastro and everybody else who wants to stay in the courtroom to surrender their phones or you can leave. I need Mr. Decastro to empty all of his pockets.

THE DEFENDANT: What's that?

THE COURT: Empty your pockets.

THE MARSHALL: Empty your pockets and give up your phones.

THE DEFENDANT: I have to give you my

1 INDEX

2 WITNESS PAGE

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5 Cross-Examination by Mr. Mee 28

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8 JOSE DECASTRO

9 Direct Examination by Mr. Mee 47

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13 EXHIBITS ADMITTED

14 State's Exhibit 1 - 22

15

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1 phones?

2 THE COURT: Yep.

3 THE DEFENDANT: My phones have to be completely off?

4 THE COURT: Yep. I don't really want to be part of your You Tube channel.

5 THE DEFENDANT: You already are.

6 THE COURT: Great.

7 THE DEFENDANT: You already are.

8 THE COURT: Awesome.

9 THE DEFENDANT: I'm not going to give them to this guy though.

10 THE COURT: No. They're going to go to my marshall.

11 THE DEFENDANT: He's a pig.

12 THE COURT: Excuse me?

13 THE DEFENDANT: I said he's a pig.

14 THE COURT: Okay. Sir, I'm not going to permit you to speak to anybody in my courtroom in that manner. If you don't want to apologize, I'm going to hold you in contempt.

15 THE DEFENDANT: I apologize to the Court, Your Honor.

16 THE COURT: No. You can apologize -- they've done nothing to you.

1 THE DEFENDANT: Actually Your Honor, when  
2 you weren't here he came over and gave me a directive  
3 for no reason and start telling me what to do.

4 THE COURT: Okay.

5 THE DEFENDANT: I have all the respect in  
6 the world for the Court. I follow the rule of law all  
7 the time.

8 THE COURT: No. It is their job to maintain  
9 the safety and security of the courtroom.

10 THE DEFENDANT: I agree with you, Your  
11 Honor.

12 THE COURT: So if you want to speak like  
13 that in my courtroom, I'm going to hold you in contempt.  
14 If I hold you in contempt, you're going to jail. That  
15 is not my wish. Okay?

16 THE DEFENDANT: Not my wish either.

17 THE COURT: So I need you to empty your  
18 pockets too. Suit pocket. Pants pocket.

19 THE DEFENDANT: This is illegal. This is a  
20 violation of my Fourth Amendment.

21 THE COURT: No, it isn't.

22 THE DEFENDANT: Yes, it is. I don't have  
23 any recording devices on me. What are you talking  
24 about?

25 THE COURT: What about your suit jacket?

1 THE DEFENDANT: I don't have anything on me.  
2 This is preposterous.

3 THE COURT: No, it's not.

4 THE DEFENDANT: It really is.

5 THE COURT: No, it's not.

6 THE DEFENDANT: Yes, it is.

7 THE COURT: Mr. Mee, your phone too. Off.

8 THE DEFENDANT: They are recording  
9 everything.

10 THE COURT: They have a media request.

11 THE DEFENDANT: Your guy took my phone. His  
12 phone is not on. You're going to take the lawyer's  
13 phone too?

14 THE COURT: No, I'm not going to take your  
15 lawyer's phone. He's an officer of the court. All  
16 right. Do we have everybody's phones? Are they off?  
17 All right. Good.

18 This is the time set for the trial of State  
19 of Nevada versus Jose Decastro, 23CR013105. Is the  
20 State ready to proceed?

21 MS. BOTELHO: Yes we are, Your Honor.

22 THE COURT: How many witnesses do you have?

23 MS. BOTELHO: We anticipate one.

24 THE COURT: Is the Defense ready to proceed?

25 MR. MEE: Yes, Your Honor.

1 THE COURT: I have your request to convert  
2 counsel to standby counsel. I am going deny that  
3 request. Either you represent him or he should have  
4 previously should have requested a Faretta canvas to  
5 represent himself. That I just consider that a delay  
6 tactic so that request is denied. Are you ready to  
7 proceed otherwise, I am assuming you are?

8 MR. MEE: Yes, Your Honor.

9 THE COURT: State please call their first  
10 witness.

11 MS. BOTELHO: The State calls Branden  
12 Borque.

13 THE COURT: Good morning.

14 THE MARSHALL: Please remain standing and  
15 raise your right hand to be sworn by the clerk.

16 THE CLERK: Do you solemnly swear to tell  
17 the truth, the whole truth, and nothing but the truth?

18 THE WITNESS: I do.

19 THE CLERK: Please be seated. State your  
20 name for the record and spell it first and last name  
21 please.

22 THE WITNESS: It's Branden Borque. Branden  
23 is B-R-A-N-D-E-N. Bourque, B-O-U-R-Q-U-E.

24 THE COURT: Please go ahead.

25 MS. BOTELHO: Thank you.

1 DIRECT EXAMINATION

2 BY MS. BOTELHO:

3 Q. Sir, good morning.

4 A. Good morning, ma'am.

5 Q. Sir, how are you employed?

6 A. I'm a police officer with the Las Vegas  
7 Metropolitan Police Department.

8 Q. How long have you been employed with Metro?

9 A. Just over eight years.

10 Q. What is your like -- what's your occupation there  
11 like where are you assigned?

12 A. I'm currently a field training officer at  
13 Summerlin Area Command.

14 Q. Are you a patrol officer?

15 A. Yes, ma'am.

16 Q. That also trains newer officers?

17 A. Yes.

18 Q. Were you employed with Metro, I'm assuming you  
19 are because you've been employed for eight years, back  
20 on March 15th of 2023?

21 A. Yes, I was.

22 Q. Were you a patrol officer at that time?

23 A. Yes, I was.

24 Q. As a patrol do you wear a uniform?

25 A. Yes, I do.

1 Q. Can you describe the uniform.  
 2 A. It would be the same uniform I'm wearing today.  
 3 Q. For the record you are wearing a tan uniform with  
 4 the logos Las Vegas Metropolitan Police Department  
 5 located throughout your shirt?  
 6 A. Yes.  
 7 Q. As a patrol officer do you have access to or  
 8 utilize a marked patrol vehicle?  
 9 A. Yes.  
 10 Q. Can you describe what this marked patrol vehicle  
 11 looks like?  
 12 A. It's black and white in color and it was LVMPD's  
 13 logo on all sides.  
 14 Q. Is it also equipped with lights and sirens?  
 15 A. Yes.  
 16 Q. So you were employed as a patrol officer back on  
 17 March 15th of 2023?  
 18 A. Yes.  
 19 Q. At some point in time did you conduct a traffic  
 20 stop while you were working in that capacity?  
 21 A. Yes, I did.  
 22 Q. On that date?  
 23 A. Yes.  
 24 Q. And was that for a vehicle bearing license plate  
 25 748 Z, like zebra, T like Tom, B like boy?

1 A. Yes.  
 2 Q. And what -- why did you stop that vehicle?  
 3 A. I had conducted a DMV records check on that  
 4 license plate and it came back expired and suspended.  
 5 Q. Where is it that you stopped this vehicle?  
 6 A. It was 4155 South Grand Canyon which was near  
 7 Target.  
 8 Q. Is that over on Flamingo and Grand Canyon?  
 9 A. Yes.  
 10 Q. And that's here in Las Vegas, Clark County,  
 11 Nevada, sir?  
 12 A. Yes.  
 13 Q. And you indicated it was for a license plate that  
 14 was expired and suspended?  
 15 A. Yes.  
 16 Q. When you initiated the traffic stop what did you  
 17 do or how did you do that?  
 18 A. I approached the driver. Let her know the reason  
 19 for the stop and obtained her identifying information,  
 20 registration and insurance.  
 21 Q. Okay. I forgot to ask you earlier pursuant to  
 22 your uniform and as a patrol officer are you equipped  
 23 with a body worn camera?  
 24 A. Yes, I am.  
 25 Q. And do you also have a radio?

1 A. Yes, I do.  
 2 Q. Are those items both the body worn camera and the  
 3 radio on your uniform today?  
 4 A. Yes, they are.  
 5 Q. Is that how the body worn camera and/or the radio  
 6 were on your uniform back on March 15th of 2023?  
 7 A. Yes.  
 8 Q. To your knowledge was your body worn camera  
 9 functioning at that time?  
 10 A. Yes, it was functioning.  
 11 Q. And so you made contact with the driver of that  
 12 Hyundai?  
 13 A. Yes, I did.  
 14 Q. How would you characterize the nature of your  
 15 encounter or the -- yeah, the nature of your encounter  
 16 with that driver?  
 17 A. She was cooperative with me. I explained the  
 18 reason for the stop. She seemed confused. Not sure  
 19 exactly it had how become suspended but she was friendly  
 20 and cooperative.  
 21 Q. Okay. And she identified herself?  
 22 A. She did. She had a picture of her license on her  
 23 phone.  
 24 Q. Okay. At some point, sir, did you go back to  
 25 your patrol vehicle to further your investigation?

1 A. I did.  
 2 Q. As you were -- let me ask you this: When you  
 3 effectuated the traffic stop on this vehicle where did  
 4 you park or stop your vehicle in relation to the Hyundai  
 5 that you had stopped?  
 6 A. I parked approximately ten, fifteen feet behind  
 7 the stopped vehicle. We ended up in the parking lot.  
 8 Q. Okay. Was the driver the sole occupant of the  
 9 vehicle?  
 10 A. Yes.  
 11 Q. And so when you returned to your patrol vehicle  
 12 to conduct your further investigation was the driver  
 13 within eyesight?  
 14 A. Yes, she was.  
 15 Q. Is it your habit and custom and also your  
 16 training to keep an individual that you are dealing with  
 17 within eyesight?  
 18 A. Yes.  
 19 Q. And so at some point while you were still in your  
 20 vehicle, your patrol vehicle, did something occur that's  
 21 causing you to have to testify before Judge Zimmerman  
 22 today?  
 23 A. Yes. I had an unrelated person come over and  
 24 start recording the traffic stop.  
 25 Q. Okay. And we talked about body worn camera

- 1 previously but did you activate your body worn camera  
 2 prior to the traffic stop?  
 3 A. Yes, I did.  
 4 Q. Just before you initiated the traffic stop?  
 5 A. I initiated the stop and then I immediately  
 6 activated the camera.  
 7 Q. Okay. And how is it that body worn camera is  
 8 activated on your uniform, sir?  
 9 A. I have a battery pack that's on my belt in front  
 10 and I press the activation button which is in front.  
 11 Q. Okay. So it is just a tap of that activation  
 12 button?  
 13 A. It's a double tap on front, yes.  
 14 Q. Okay. And how is it that you would stop  
 15 recording?  
 16 A. I would hold down that same power button.  
 17 Q. Okay.  
 18 A. Or it can be turned off there's a toggle switch  
 19 on the top. It slides on and off.  
 20 Q. Okay. Your body worn camera was running as of,  
 21 you know, the stop the traffic stop?  
 22 A. Yes.  
 23 Q. Okay. And so you described an unrelated  
 24 individual coming over to your stop?  
 25 A. Yes.

- 1 Q. Can you describe this individual?  
 2 A. He was a white male adult. He was wearing a  
 3 bright colored hoodie and blue jeans.  
 4 Q. Okay. That individual do you see him here in  
 5 court today?  
 6 A. Yes.  
 7 Q. Could you please point to him and describe  
 8 something he's wearing.  
 9 A. He's wearing a suit and blue tie.  
 10 MS. BOTELHO: Your Honor, please let the  
 11 record reflect identification of the Defendant.  
 12 THE COURT: So ordered.  
 13 BY MS. BOTELHO:  
 14 Q. And so what do you do upon seeing this individual  
 15 approach the driver of the vehicle you had stopped?  
 16 A. Initially when I saw him he was just recording, I  
 17 ignored him and continued my records check. Then when  
 18 he came over to the driver and started speaking with  
 19 them I got out of the car, approached the driver, and  
 20 told Decastro to back up.  
 21 Q. When you first noticed -- you identified the  
 22 unknown or unrelated related male subsequently; correct?  
 23 A. Yes.  
 24 Q. What was his name?  
 25 A. Jose Decastro.

- 1 Q. And that's the individual you identified here in  
 2 court?  
 3 A. Yes.  
 4 Q. When you first laid eyes on the Defendant  
 5 approximately how far away was he from the driver of the  
 6 vehicle in the Hyundai?  
 7 A. Approximately somewhere within five to ten feet.  
 8 Q. Okay. And you indicated that he was recording?  
 9 A. Yes.  
 10 Q. What did you see that lead you to believe he was  
 11 recording?  
 12 A. He had his cellphone camera pointed directly at  
 13 me.  
 14 Q. So is that when upon seeing him being that close  
 15 to the driver is that when you told him -- you walked up  
 16 to the driver of the stopped vehicle and asked  
 17 Mr. Decastro to back up?  
 18 A. Yes. Once he started talking to the driver.  
 19 Q. Okay. And why is it that you did that, Officer?  
 20 A. Well, I can't have unrelated people next to my  
 21 traffic stops. I don't know if he's a dangerous person,  
 22 armed. He could be the boyfriend of the stopped person.  
 23 It's for my safety and the safety of the person I  
 24 stopped.  
 25 Q. Because you're also in charge of the safety of

- 1 the individual that this unrelated individual's making  
 2 contact with; is that fair to say?  
 3 A. Yes.  
 4 Q. And you saw it as an officer's safety issue as  
 5 well as a safety issue for the driver?  
 6 A. Yes.  
 7 Q. And so when you approached -- you said he was  
 8 recording, the Defendant was recording, at any time did  
 9 you tell him to stop recording?  
 10 A. No. In fact I told him he could continue  
 11 recording.  
 12 Q. He can continue to record given what?  
 13 A. I said as long as he backed up and gave me the  
 14 appropriate distance to work.  
 15 Q. When you asked the Defendant to back up did he  
 16 follow your order?  
 17 A. No, he did not.  
 18 Q. So what did you do next?  
 19 A. I gave him three additional warnings to back up.  
 20 Q. Okay. Did he obey those orders?  
 21 A. No, he did not.  
 22 Q. What, if anything, did you do with the driver of  
 23 the stopped vehicle the Hyundai?  
 24 A. At that point I chose to release the driver of  
 25 the Hyundai and then focus my attention on Jose

1 Decastro.  
 2 Q. Okay. For the record, Officer, at that point in  
 3 time were you the only uniformed officer, the only  
 4 officer present at the scene?  
 5 A. Yes, ma'am.  
 6 Q. So at this point you were dealing with a stopped  
 7 driver as well as an unrelated individual and having to  
 8 make contact -- or maintain visual of both?  
 9 A. Yes.  
 10 Q. And at that point the Defendant was not being  
 11 cooperative?  
 12 A. Correct, yes.  
 13 Q. Okay. So you release the driver of the Hyundai.  
 14 What do you tell that person to let her go?  
 15 A. I just said that she was free to go.  
 16 Q. And subsequently did you turn your attention on  
 17 the Defendant?  
 18 A. Yes.  
 19 Q. Can you tell Judge Zimmerman the nature of your  
 20 interactions with Defendant after that.  
 21 A. I ordered Decastro to the front of my patrol  
 22 vehicle pointing at it and told him he was detained.  
 23 Q. What was the purpose of detaining him?  
 24 A. For obstructing my initial traffic stop with the  
 25 Hyundai.

1 Q. And did he obey your lawful order?  
 2 A. No, he did not.  
 3 Q. And what happened next?  
 4 A. He continued filming me. I continued pointing  
 5 toward my patrol vehicle. Continued telling him he was  
 6 detained. All the while he just continued shifting his  
 7 body around recording me on the phone and refused to go  
 8 to the car.  
 9 Q. Okay. What did you do in response?  
 10 A. I use my hand to escort him to the patrol  
 11 vehicle. So I placed my hand on his shoulder and at  
 12 that point he swatted my hand away.  
 13 Q. What happened next?  
 14 A. That's when I grabbed him by the shirt and I spun  
 15 him around and we ended up at the front of my patrol  
 16 vehicle. Both still standing.  
 17 Q. At some point did you request additional units to  
 18 respond to the scene?  
 19 A. I did. That was before I grabbed him.  
 20 Q. Okay.  
 21 A. When I initially detained him.  
 22 Q. Once you had him at your patrol vehicle the front  
 23 the hood of your patrol vehicle what happened next?  
 24 A. Officer Dingle another officer in the area that  
 25 arrived. He came over to help me handcuff him.

1 Q. And were you successful or did the Defendant  
 2 cooperate in being handcuffed?  
 3 A. He did not cooperate. I told him seven times to  
 4 face my patrol vehicle. He did not listen. I told him  
 5 six times to turn around. He did not listen. It wasn't  
 6 until I told him that he was going to do to jail that  
 7 was the consequence of not listening that allowed us to  
 8 handcuff him.  
 9 Q. After he was handcuffed -- when he was handcuffed  
 10 was it just you and Officer Dingle present?  
 11 A. Yes.  
 12 Q. Once he was handcuffed what, if anything,  
 13 happened next?  
 14 A. He continued to argue with my partners Officer  
 15 Dingle and other officers that were starting to show up.  
 16 Then I focussed my role in completing the report and  
 17 calling the sergeant because he requested a supervisor.  
 18 Q. Okay. At some point was he arrested for a count  
 19 of obstructing a public officer?  
 20 A. Yes.  
 21 Q. And also for resisting a public officer or  
 22 resisting arrest?  
 23 A. Yes.  
 24 Q. At any point in time during your interaction with  
 25 him or your continued visual interaction with other

1 officers did he cooperate with any of the officers  
 2 present at the scene?  
 3 A. No. He kept shifting around and normally we have  
 4 people stand still in front of our car. I did hear him  
 5 arguing with the other officers.  
 6 Q. You indicated you had your body worn camera  
 7 turned on at this time?  
 8 A. Yes.  
 9 Q. Did you have an opportunity to look at your body  
 10 worn camera prior to court today?  
 11 A. Yes, I did.  
 12 MS. BOTELHO: We are going to be screen  
 13 sharing through Zoom.  
 14 BY MS. BOTELHO:  
 15 Q. Officer, are you able to see? There's not a  
 16 screen over there so I might have to bring mine over to  
 17 you with the Court's permission.  
 18 THE COURT: Okay.  
 19 BY MS. BOTELHO:  
 20 Q. Okay. Officer, I'm showing you my computer  
 21 screen. Is it fair to say that what's being shared on  
 22 screen as well as what's showing up on my computer  
 23 screen is are two files, one labelled 416B.MP4. The  
 24 other one labelled 468#1.MP4?  
 25 A. Yes.

1 MS. BOTELHO: For the record, Your Honor,  
 2 all body worn camera footage have been disclosed to the  
 3 Defense well in advance of today's trial.  
 4 BY MS. BOTELHO:  
 5 Q. I am going to show you a brief snippet of the one  
 6 labelled 468\_#1.MP4. Do you recognize what's depicted  
 7 here?  
 8 A. Yes. This is the initial Hyundai that I had  
 9 stopped.  
 10 Q. Okay. Do you recognize this particular file as  
 11 the body worn camera of your interaction first with the  
 12 Hyundai and then with the Defendant on March 15th of  
 13 2023?  
 14 A. Yes.  
 15 Q. And does this show the time that you activated  
 16 your camera?  
 17 A. Yes.  
 18 Q. Similar to what you testified to earlier?  
 19 A. Yes.  
 20 Q. You've had an opportunity to see this entire  
 21 twelve and a half minute long video; is that right?  
 22 A. Yes.  
 23 Q. Does it fairly and accurately depict the traffic  
 24 stop and also your interaction with the Defendant on the  
 25 date and time we've been discussing?

1 A. Yes.  
 2 Q. At the location we've been discussing?  
 3 A. Yes.  
 4 MS. BOTELHO: Your Honor, I'd move to admit  
 5 and subsequently publish 468\_#1.MP4.  
 6 THE COURT: Defense?  
 7 MR. MEE: No objection.  
 8 THE COURT: It will be admitted and  
 9 published.  
 10 MS. BOTELHO: Thank you.  
 11 (Playing video.)  
 12 BY MS. BOTELHO:  
 13 Q. I'm pausing at timestamp nine minutes and sixteen  
 14 seconds. At this point, Officer, do you see the  
 15 unrelated male that you've been talking about enter  
 16 camera view?  
 17 A. Yes, I do.  
 18 Q. Could you point to where he is in the video on my  
 19 screen.  
 20 A. Yes. Right here.  
 21 MS. BOTELHO: Let the record reflect he  
 22 identified a male wearing a light-colored blue jacket  
 23 towards the middle of the screen.  
 24 BY MS. BOTELHO:  
 25 Q. And is this the individual that you've been

1 talking about the Defendant here today?  
 2 A. Yes.  
 3 Q. I'll continue. Officer, at 1138 or a little bit  
 4 before another officer comes on screen. Who is that?  
 5 A. Officer Dingle.  
 6 Q. Okay.  
 7 (Playing video.)  
 8 MS. BOTELHO: That concludes the twelve  
 9 minute twenty-one second video marked 468\_#1.MP4.  
 10 BY MS. BOTELHO:  
 11 Q. Officer, at some point after this interaction  
 12 that we just saw did you come to realize that your body  
 13 worn camera had accidentally or inadvertently turned off?  
 14 A. Yes.  
 15 Q. At what point in time did it turn off?  
 16 A. It would have turned off at the completion of the  
 17 video that we just saw prior to --  
 18 Q. Prior to what?  
 19 A. Prior to the handcuffing.  
 20 Q. Okay. Did you at some -- we noticed that Officer  
 21 Dingle showed up to the scene though?  
 22 A. Yes.  
 23 Q. Okay. And do you know whether he had has body  
 24 worn camera turned on?  
 25 A. Yes. It was activated.

1 Q. Okay. So what was -- what would have been missed  
 2 by the inadvertent turning off of your body worn camera  
 3 would have been captured on Officer Dingle's body worn  
 4 camera?  
 5 A. Yes.  
 6 Q. Okay. Did I allow you to look at that video  
 7 footage from Officer Dingle this morning prior to  
 8 testifying here today?  
 9 A. Yes, you did.  
 10 Q. Did you have an opportunity to look at it to  
 11 determine whether it was in fact the video related to  
 12 this event?  
 13 A. Yes. I looked at it and it was the video  
 14 related.  
 15 Q. So I'm turn your attention now to the video  
 16 labelled 416B.MP4. I'm just going to --  
 17 THE COURT: Is it says 4168.  
 18 MS. BOTELHO: I think it's 416B.MP4.  
 19 THE COURT: Okay.  
 20 MS. BOTELHO: Or 8.  
 21 THE COURT: Okay.  
 22 BY MS. BOTELHO:  
 23 Q. And I just played the first thirteen seconds but  
 24 actually I am going to fast forward. For the record the  
 25 video is upside down, it recorded upside down?

1 A. Yes, it did.  
 2 THE COURT: Why would it record upside down?  
 3 THE WITNESS: Ma'am, there's a setting in  
 4 the application where you can rotate it and this officer  
 5 may not have checked that beforehand.  
 6 BY MS. BOTELHO:  
 7 Q. Stopping or starting at 454 timestamp on the  
 8 video that we've been talking about, do you recognize  
 9 what's depicted at least in this still portion?  
 10 A. Yes. This is me and Decastro in front of my  
 11 patrol vehicle.  
 12 Q. So to your knowledge after having watched this  
 13 does this fairly and accurately depict your interaction  
 14 with the Defendant on March 15th of 2023 as caught on  
 15 camera by Officer Dingle's body worn camera?  
 16 A. Yes.  
 17 MS. BOTELHO: Move to admit 416B or 8.  
 18 THE COURT: Defense?  
 19 MR. MEE: No objection.  
 20 THE COURT: Do you know if it's a B or 8 for  
 21 sure?  
 22 MR. MEE: It looks like a B to me, Your  
 23 Honor.  
 24 MS. BOTELHO: Thank you.  
 25 THE COURT: Two out of three, I lose. All

1 right. 416B.MP4 will be admitted and published.  
 2 MS. BOTELHO: I'm going start at 454. May I  
 3 approach, Your Honor?  
 4 THE DEFENDANT: Can we move the water bottle  
 5 so we can see it too?  
 6 THE COURT: Of course.  
 7 MS. BOTELHO: You can come up.  
 8 (Playing video.)  
 9 THE DEFENDANT: Can you tilt it? I can't  
 10 see.  
 11 (Playing video.)  
 12 MS. BOTELHO: I'm to going stop it at 1135.  
 13 BY MS. BOTELHO:  
 14 Q. Officer, did the body worn camera portions that  
 15 we played or that I played fairly and accurately depict  
 16 your interaction with the Defendant on March 15th of  
 17 2023?  
 18 A. Yes, it did.  
 19 Q. Concerning -- I just want to talk a little bit  
 20 about what was depicted in the video. In the video from  
 21 your body worn camera it shows, you know, the state of  
 22 your stop with the Hyundai driver. Do you recall that?  
 23 A. Yes.  
 24 Q. At some point prior to you making contact with  
 25 the Defendant you noticed him kind of recording further

1 away from the vehicle; correct?  
 2 A. Yes.  
 3 Q. At that point in time you didn't have a problem  
 4 with that you didn't really approach the Defendant yet;  
 5 correct?  
 6 A. Correct.  
 7 Q. It was when he started making contact with the  
 8 driver, your stopped driver, that you approached him and  
 9 asked him to back up?  
 10 A. Yes.  
 11 Q. And at some point time in the video it's recorded  
 12 you told him that he is allowed to record but he just  
 13 needed to back up?  
 14 A. Yes.  
 15 Q. Okay. And what was the reason for you trying to  
 16 maintain one, the lack no contact with the stopped  
 17 person and two, trying to gain distance between the  
 18 Defendant, yourself, and the stopped driver?  
 19 A. My first intention is I wasn't trying to delay my  
 20 traffic stop any longer than it had to be. I was trying  
 21 to make it as short as possible for the driver. The  
 22 second was for officer safety. What we're taught in the  
 23 academy is that for a normal humans reaction time with  
 24 open ground anything within twenty-one feet that suspect  
 25 would be able to charge an officer without them being

1 able to react in time.  
 2 Q. And that point in time you were the only officer  
 3 present; correct?  
 4 A. Yes.  
 5 Q. Okay. And when he began -- when the Defendant  
 6 failed to obey your command to back up that's when you  
 7 decide to engage him?  
 8 A. Yes.  
 9 MS. BOTELHO: Court's indulgence. I have no  
 10 more questions for this witness. Thank you.  
 11 THE COURT: Defense?  
 12  
 13 CROSS-EXAMINATION  
 14 BY MR. MEE:  
 15 Q. Good morning, Officer. How are you today?  
 16 A. Good morning, sir. I'm well. How are you?  
 17 Q. Very well. How many feet did you order the  
 18 Defendant to back up specifically?  
 19 A. I never had an opportunity to give him an exact  
 20 distance.  
 21 Q. How far back did you intend to have him back up  
 22 if you had expressed that?  
 23 A. In the background of the video you can see there  
 24 was a parked semi-truck and light pole I would have  
 25 directed him somewhere in that area which would have



1 been outside the twenty-one feet.  
 2 Q. Your testimony is you never told him an exact  
 3 distance to back up; correct?  
 4 A. Yes. He never allowed me to.  
 5 Q. What do you mean never allowed you to?  
 6 A. I asked him to back up and he continued to argue  
 7 with me so I can never specify the exact distance for  
 8 him.  
 9 Q. But you had time to give him five commands to  
 10 back up; is that correct?  
 11 A. Yes.  
 12 Q. Your testimony is he never backed up when you  
 13 were giving him commands; is that correct?  
 14 A. If he backed up, it may have been inches but he  
 15 didn't substantially back up.  
 16 Q. You just reviewed the body worn camera from your  
 17 chest; is that correct?  
 18 A. Yes.  
 19 Q. You didn't notice him backing up every time you  
 20 directed him to back up?  
 21 A. He did not back up.  
 22 Q. So he backed up zero feet in your opinion?  
 23 A. Not zero feet.  
 24 Q. What was that?  
 25 A. He didn't back up zero feet. He was moving his

1 feet. As to exactly how far he moved back I don't know  
 2 but it wasn't substantial.  
 3 Q. What would have been substantial in your opinion?  
 4 What do you mean by that?  
 5 A. I would have guided him, if he wasn't arguing  
 6 with me, back towards the light pole and the parked  
 7 semi-truck which would have outside of twenty-one feet.  
 8 That was my goal.  
 9 Q. So in your opinion you have the ability or you  
 10 would at any traffic stop ask somebody to move back  
 11 twenty-one feet; is that correct?  
 12 A. Yes, per our training.  
 13 Q. And what was that training?  
 14 A. That while we're conducting lawful activity we  
 15 are allowed a reasonable distance to conduct our  
 16 activity.  
 17 Q. Where did you get that twenty-one feet number  
 18 from specifically?  
 19 A. That's taught to us in the academy. It's based  
 20 on reaction -- normal human reaction time to a threat.  
 21 Q. So your is position anytime you're engaging in  
 22 law enforcement activity you would create a  
 23 twenty-one feet perimeter?  
 24 A. Not necessarily. It depends on other  
 25 environmental factors such as obstacles and barriers.

1 Q. So your testimony is that every time you conduct  
 2 a traffic stop as long as there's no barriers you would  
 3 order a pedestrian to back up to twenty-one feet; is  
 4 that correct?  
 5 A. I would, yes.  
 6 Q. What training do you have in regards to the First  
 7 Amendment?  
 8 A. Standard academy training.  
 9 Q. Can you explain what that entails.  
 10 A. Usually includes a classroom setting power point  
 11 taught by the police officer academy officer.  
 12 Q. Do you remember receiving that training  
 13 specifically?  
 14 A. Yes.  
 15 Q. How long ago was that?  
 16 A. When I was first employed about eight years ago.  
 17 Q. Did you have any follow-up training?  
 18 A. Specifically on First Amendment we've had some  
 19 follow-up training regarding First Amendment auditors.  
 20 Q. Okay. Can you explain what that follow-up  
 21 training was.  
 22 A. The follow-up training was to -- just a refresher  
 23 on the First Amendment and how the department wants to  
 24 handle or react to First Amendment auditors.  
 25 Q. In that training did they explain any case law

1 governing how many feet somebody has to move back or  
 2 anything like that?  
 3 MS. BOTELHO: Objection, Your Honor. At  
 4 this point relevance. I think it is beyond the scope  
 5 of, you know, the charges you are to determine guilt at  
 6 this time.  
 7 THE COURT: Can you tell me what's the  
 8 relevance?  
 9 MR. MEE: Yes, Your Honor. He detained the  
 10 Defendant after issuing commands to back up a particular  
 11 distance. He's testified he received training. I  
 12 should be entitled to cross-examine him about what that  
 13 training is and how he's coming up with the specific  
 14 numbers he used.  
 15 THE COURT: I think her objection was with  
 16 respect to the case law that you're inquiring about.  
 17 MR. MEE: Your Honor, our position is that  
 18 he is issuing commands that are contrary to case law and  
 19 he has been trained on that case law but there can't be  
 20 an obstruction of justice.  
 21 THE COURT: So I'm going to sustain the  
 22 objection and ask that you move along.  
 23 BY MR. MEE:  
 24 Q. Have you had any prior issues enforcing the First  
 25 Amendment?

1 A. No.

2 Q. Prior to this event taking place had you heard of

3 Jose Decastro?

4 A. No.

5 Q. Do you recall when you first heard about First

6 Amendment auditors specifically?

7 A. It would have been in the academy.

8 Q. When you were first trained you had heard about

9 the auditors back then?

10 A. Yes. When we were learning about the First

11 Amendment they would typically bring up issues that

12 might be a frequently seen thing and the First Amendment

13 auditors are typically the ones that we encounter when

14 first when First Amendment claims against us.

15 Q. Do you have any belief that First Amendment

16 auditors are likely to be violent?

17 MS. BOTELHO: Objection. Relevance.

18 THE COURT: What's the relevance? I am only

19 concerned with Mr. Decastro.

20 MR. MEE: Your Honor, one of the legal

21 issues at question here is whether or not these commands

22 are reasonable. I think that has to be based on his

23 past experiences in training.

24 THE COURT: Sustained.

25 ///

1 BY MR. MEE:

2 Q. During this traffic stop in particular what

3 specific factors lead you to believe there might be a

4 danger to officer safety?

5 A. Based on his proximity to my driver. Based on

6 his demeanor being argumentative. Based on his physical

7 demeanor. His veins were popping out of his neck as he

8 was yelling at me.

9 Q. You can see his veins popping out of his neck

10 from back where your vehicle is?

11 A. When I was at the driver's side window I could

12 see that but not at my car.

13 Q. When you see him walking up from your car what is

14 your specific concern regarding officer safety at that

15 point in time?

16 A. It's my safety and the safety of the driver. I

17 don't know who this person is. I've never met him

18 before. He can be peaceful. He can be violent. I just

19 don't know. There's so many unknown factors and I also

20 have a responsibility to protect that driver. If I were

21 in that driver's position, I wouldn't want to be

22 approached by some random person recording me and

23 interviewing me.

24 Q. Did you ever ask the driver of their opinion

25 about whether they wanted him there or not?

1 A. No.

2 MS. BOTELHO: Objection. Relevance.

3 THE COURT: Sustained.

4 BY MR. MEE:

5 Q. Was your primary concern he was speaking to the

6 driver or him not backing up?

7 A. My primary concern was safety. I don't know if

8 he was armed or what his intention was.

9 Q. Do you presume someone is armed and dangerous

10 just because they're in public?

11 A. I can't rule out that he's unarmed.

12 Q. But you had no reason to believe he was armed on

13 this particular occasion?

14 A. No. Nobody had told me he was armed and I didn't

15 see any weapons visible but he was wearing clothing that

16 could have easily concealed weapons.

17 Q. When he first came upon the scene you were in

18 your vehicle typing on your computer; is that correct?

19 A. Yes.

20 Q. What were you doing in relation to that traffic

21 stop?

22 A. Conducting a background to see if her license was

23 valid, to see if she had any criminal history to help

24 make a decision whether to warn her or issue a citation.

25 Q. You stated your belief was that the driver was

1 entitled to privacy?

2 A. I did say that.

3 Q. What did you mean by that?

4 A. I instead of continuing to give him commands to

5 back up, I said something different to try and help him

6 understand. She's really not entitled to privacy but

7 she's entitled to safety.

8 Q. So your explanation is that you said that because

9 you were trying to convince him to back up not because

10 you believed it?

11 A. Yes. If I continued to give the command to back

12 up and he's not listening, I can't expect something

13 different to happen if I just keep saying back up.

14 Q. In your police report do you recall referencing

15 the fact that he had due notice in your opinion of what

16 you were commanding him to do?

17 A. Yes. When I gave him four commands to back up

18 that was due notice.

19 Q. You'll agree with me that he did not have notice

20 as to the distance you wanted to him to back up; is that

21 correct?

22 A. That's correct.

23 Q. Approximately how long were you issuing these

24 commands before you decide to detain him?

25 A. Approximately fifteen, twenty seconds.

- 1 Q. And your testimony is you didn't have any time  
2 during that back and forth to tell him a specific  
3 distance to back up?  
4 A. Not time but no opportunity.  
5 Q. How so?  
6 A. Well, every time I tried to speak with him he  
7 would argue. He wasn't listening at all. So if he's  
8 not understanding back up, how would you explain  
9 something that was more complex?  
10 Q. What was preventing you from saying back up to a  
11 particular location?  
12 A. First I would want him to back up and if he  
13 didn't back up far enough, I would give him an exact  
14 location.  
15 Q. Okay. But you never did; correct?  
16 A. No. I never did.  
17 Q. Did the Defendant's verbal comments towards you  
18 influence what you decided to do that day?  
19 A. No.  
20 Q. On the video did you see that point in time when  
21 you decided to detain him was specifically after he made  
22 an insulting comment towards you?  
23 A. That wasn't why I choose to detain him. I  
24 realized that he wasn't going to back up at that time.  
25 Q. His comments didn't make you angry at him?

- 1 A. No.  
2 Q. In your review of the video just now he had both  
3 hands in front of him the entire time; is that correct?  
4 A. No. At one point he reaches towards his back  
5 pocket to pull out his second phone.  
6 Q. Did you quickly see that it was a second phone he  
7 was going for?  
8 A. Yes.  
9 Q. Once you see him produce a second phone in his  
10 hands he's obviously not reaching for weapon; is that  
11 correct?  
12 A. At that time, no, he wasn't.  
13 Q. What time of day did this occur at?  
14 A. If I remember correctly 4:30 in the afternoon.  
15 Q. This was in a broad public place?  
16 A. Yes.  
17 Q. Does the fact that this occurred in broad  
18 daylight in a public influence your decision making as  
19 far as issuing commands to the Defendant?  
20 A. It could. In this particular case it didn't.  
21 Q. Why is that?  
22 A. There was nobody around us other than me and the  
23 driver and Decastro.  
24 Q. You testified he swatted your hand away; is that  
25 your testimony today?

- 1 A. Yes, that's the best way I can describe.  
2 Q. You saw his arm do this or you just felt it?  
3 A. I saw it and felt it.  
4 Q. Do you recall in your police report stating that  
5 you did not believe his intent was to harm you?  
6 A. Yes. I wrote that.  
7 Q. What is your basis for reaching that conclusion?  
8 A. He could have been charged for a battery on a  
9 police officer which would have been more severe but I  
10 didn't think his intent was to hurt me so I didn't  
11 charge him with that.  
12 Q. You testified today one of the things you were  
13 concerned about was him not going over to your vehicle;  
14 is that true?  
15 A. Yes.  
16 Q. Will you agree with me that he actually did walk  
17 over to your vehicle at some point during the  
18 interaction?  
19 A. Yes but it wasn't reasonable the amount of time  
20 it took him.  
21 Q. What would be a reasonable amount of time?  
22 A. Asking him to step in front of my car and him  
23 doing so immediately.  
24 Q. How fast is immediately?  
25 A. This is isn't based off of time my response.

- 1 It's based off on the interaction. I had to tell him he  
2 was detained multiple times. I made it clear what he  
3 was detained for. I said he was detained for  
4 obstructing. I gave him several commands to step in  
5 front of my car. I would think a reasonable person  
6 would walk over to my car then we'd have a conversation  
7 there.  
8 Q. How specifically did his presence obstruct your  
9 ability to complete the traffic stop?  
10 A. Again I don't know what his intention is. I  
11 don't know if he's armed. All I saw him was him  
12 recording which again I had no issue with and I told him  
13 I didn't have an issue with. At some point in time if I  
14 were to issue a citation to the driver my focus would be  
15 on the driver and what's inside her car. At that point  
16 I hadn't pulled her out. I hadn't pat her down. I  
17 don't know if she has any weapons in the car or what her  
18 intent was if there was anything underlying. My  
19 intention on having Decastro back up was so that I  
20 didn't have split attention. It was too close for me to  
21 have split attention.  
22 Q. One of the things you stated you were concerned  
23 about I guess for a safety point of view was that he  
24 didn't identify himself; is that true?  
25 A. No, I didn't care about his identity until I had

- 1 him detained.
- 2 Q. Okay. At any point during, I guess the detention
- 3 of the Defendant, did you pat him down to determine he
- 4 didn't have any weapons?
- 5 A. I did.
- 6 Q. Okay. When was that during the duration of the
- 7 interaction?
- 8 A. That was immediately after handcuffing.
- 9 Q. Did you discover any weapons on him?
- 10 A. No, I did not.
- 11 Q. From your police car while he's walking up you
- 12 essentially have a complete view of his movements and
- 13 what he's doing at that point in time?
- 14 A. Yes.
- 15 Q. You never saw him during that time period before
- 16 you got out of your car reach for weapons or anything
- 17 like that?
- 18 A. No.
- 19 Q. Were there other individuals around the traffic
- 20 stop other than Defendant and the driver?
- 21 A. Not that I can remember.
- 22 Q. Do you recall anyone walking through the scene
- 23 and asking about the restaurant next door?
- 24 A. I don't remember that.
- 25 Q. But your testimony is if there was someone else

- 1 on video, you would have ordered that person to back up
- 2 twenty-one feet?
- 3 A. I would have first asked them to back up and most
- 4 people do. If they did not comply then I would give
- 5 them a specific area to back up to.
- 6 Q. You ordered him not to speak to the driver; is
- 7 that correct?
- 8 A. Yes. Well -- I remember asking him to back up.
- 9 I don't remember if I remember specifically asked him
- 10 not to speak to the driver. I think I might have said
- 11 don't talk to her or something to that effect.
- 12 Q. Did he speak to her before you got out of your
- 13 patrol vehicle or afterwards?
- 14 A. Before. I saw Decastro filming. I stayed in my
- 15 vehicle and continued my business. Then when I saw him
- 16 speaking to the driver that's when I exited.
- 17 Q. Did you see him speak to the driver after you
- 18 exited the vehicle at any point?
- 19 A. I don't remember if he spoke to the driver after
- 20 I exited.
- 21 Q. At any point did you hear specifically what he
- 22 may have said to the driver?
- 23 A. No. I was too far away and it was windy.
- 24 Q. Is it your position that anytime you're engaged
- 25 in a traffic stop nobody can speak to the driver?

- 1 A. They can speak to them at a reasonable distance.
- 2 Q. Is that the twenty-one feet?
- 3 A. It could be. It could be shorter. It could be
- 4 longer. Again it depends on the environment. The
- 5 totality of the circumstances.
- 6 Q. Do you think people can easily verbally
- 7 communicate at twenty-one feet?
- 8 A. No, not without shouting.
- 9 Q. At some point the Defendant informed you that he
- 10 was a member of the press?
- 11 A. He did.
- 12 Q. Did that influence any of the orders you chose to
- 13 give or not give to the Defendant?
- 14 A. No. It doesn't matter.
- 15 Q. Why does it not matter? What is your basis of
- 16 that statement, I guess?
- 17 A. Media reporters and standard citizens I treat
- 18 them all the same.
- 19 Q. So you becoming aware that somebody is a member
- 20 of the press does not affect your decision making in
- 21 reference to your First Amendment training?
- 22 A. No. And how was I to know that was a member of
- 23 the press? Whenever I interact with members of the
- 24 press they usually identify what station they're with or
- 25 group that they're with. They usually have some sort of

- 1 identification badge and we have a good relationship
- 2 with press out here. They don't approach us the way
- 3 that Decastro did.
- 4 Q. Are you familiar with the difference between
- 5 traditional press and independent media?
- 6 A. Yes. But again independent media would approach
- 7 us more respectfully than Decastro.
- 8 Q. Is your opinion that traditional media has
- 9 different rights than new media, independent media?
- 10 MS. BOTELHO: Objection, Your Honor. At
- 11 this point I think we are well beyond the scope.
- 12 THE COURT: Sustained.
- 13 MS. BOTELHO: Thank you.
- 14 MR. MEE: Court's indulgence.
- 15 BY MR. MEE:
- 16 Q. Your testimony is that, if I recall correctly,
- 17 that you received First Amendment training when you
- 18 initially went through your officer training?
- 19 A. Yes.
- 20 Q. And you received one follow-up after that?
- 21 A. No. It was more than one. I don't know exactly
- 22 how many. Typically that training is annual.
- 23 Q. Your testimony just to reiterate this is the
- 24 first time you've experienced a First Amendment issue of
- 25 this nature in your career?

1 MS. BOTELHO: Objection. I believe I  
2 objected to that question when it was posed as a violent  
3 encounter. I also objected on the grounds of relevance.  
4 As the Court indicated what we're concerned about is his  
5 interaction with the Defendant specifically. So I  
6 object.

7 THE COURT: Sustained. I'm only concerned  
8 about this interaction.

9 BY MR. MEE:

10 Q. Do you recall during your interactions with the  
11 Defendant that you told him that you believed First  
12 Amendment auditors often pull out guns and shoot people?

13 A. I didn't say that they often do that.

14 Q. Do you recall what you said?

15 A. I don't. I would have said he was a stranger to  
16 me and that officers get ambushed all the time. It  
17 could have been a First Amendment auditor. It could  
18 have been a regular citizen. It could have been a cook  
19 from one of the places nearby. I wouldn't have  
20 specifically said that First Amendment auditors are a  
21 higher risk.

22 Q. Again just to reiterate your testimony is --

23 MS. BOTELHO: Objection. Anytime it's  
24 prefaced as just to reiterate, I should object on asked  
25 and answered grounds and I did not just to hear it but

1 just sounds like a reiteration of questions that have  
2 been previously asked. So my objection is asked and  
3 answered.

4 THE COURT: I am going let him ask the  
5 question before I rule on your objection.

6 BY MR. MEE:

7 Q. Again I am trying to clarify because I think it's  
8 ambiguous but do you recall the Defendant telling you he  
9 was a member of the press during the interaction?

10 MS. BOTELHO: Asked and answered.

11 THE COURT: Sustained.

12 MR. MEE: No further questions, Your Honor.

13 THE COURT: Any redirect?

14 MS. BOTELHO: No. Thank you.

15 THE COURT: Thank you, Officer. You may  
16 step down.

17 THE WITNESS: Thank you, Your Honor.

18 THE COURT: Does the State rest?

19 MS. BOTELHO: At this point we do.

20 THE COURT: Does the Defense have any

21 witnesses?

22 MR. MEE: Your Honor, I call Jose Decastro.

23 THE COURT: All right.

24 THE MARSHALL: Remain standing, raise your  
25 right hand, and be sworn by the clerk.

1 THE CLERK: Do you solemnly swear to tell  
2 the truth, the whole truth, and nothing but the truth?

3 THE DEFENDANT: Yes, I do.

4 THE CLERK: Be seated.

5 THE COURT: Mr. Decastro, before you testify  
6 I'm obligated to inform you that you have the right to  
7 testify in this proceeding but you also have the right  
8 to remain silent and should you choose to remain silent  
9 I may not hold that against you in making my decision.  
10 Do you understand that?

11 THE DEFENDANT: I do.

12 THE COURT: Do you still wish to testify?

13 THE DEFENDANT: Yes, I do.

14 THE COURT: All right.

15  
16 DIRECT EXAMINATION

17 BY MR. MEE:

18 Q. You own a You Tube channel?

19 A. Yes, I do.

20 Q. Can give us some insight into what that channel  
21 is about?

22 MS. BOTELHO: Objection. Relevance.

23 THE COURT: What's the relevance?

24 MR. MEE: Your Honor, the relevance is that  
25 we're presenting a First Amendment defense. The

1 Defendant is a member of the press. There's different  
2 standards for First Amendment rulings where there's  
3 public policy at issue. He can give you insight into  
4 that.

5 THE COURT: I'm going to allow it for a bit  
6 to see where it goes.

7 THE DEFENDANT: Yes, I do have a -- first, I  
8 do have a You Tube channel. The reason I have a You  
9 Tube channel is because how many cops kill people every  
10 year. How many cops hurt, maim, torture, rape, and kill  
11 people every single year. It's such an epidemic that  
12 the rest of the world -- I get thousands of e-mails  
13 saying only in America does this happen. I started  
14 filming cops because when I was cheated in 2002 --

15 MS. BOTELHO: Objection, at this point.  
16 Relevance. Narrative.

17 THE COURT: So can you ask him a question?

18 MR. MEE: Yes, Your Honor.

19 BY MR. MEE:

20 Q. What type of films do you make for your You Tube  
21 channel?

22 A. I only film police in their official capacity.  
23 I'm known across the country and across the world.

24 Q. Why do you engage in that type of filming?

25 MS. BOTELHO: Relevance.

1 THE COURT: I am asking you, Mr. Mee, to  
2 direct the questions about the incident in question.  
3 THE DEFENDANT: The reason I was filming --  
4 MS. BOTELHO: Objection, Your Honor. There  
5 wasn't a question.  
6 BY MR. MEE:  
7 Q. Mr. Decastro, on the date in question why did you  
8 approach that vehicle?  
9 A. I was filming that cop because that's what I do  
10 for a living. I am a member of the press. I invoked my  
11 right to be press. I always invoke my right to be press  
12 within that first ten seconds of engaging with police  
13 and I have thousands of videos to prove this.  
14 THE COURT: So this is how you make money?  
15 THE DEFENDANT: This is not how specifically  
16 I make money. I make money from selling legal documents  
17 to people.  
18 BY MR. MEE:  
19 Q. Do you recall the Officer telling you to back up?  
20 A. Yes, I do.  
21 Q. What did you do after he told you to back up?  
22 A. I took a couple steps back. I just showed him I  
23 was willing to back up a little bit, however, if I may?  
24 In Arizona --  
25 MS. BOTELHO: Objection. Relevance. We are

1 not in Arizona. It's the State of Nevada.  
2 THE COURT: So I am going to allow it  
3 because I think that goes to why he kept saying ten feet  
4 in the video. Even though I will take judicial notice  
5 that you're not in the State of Arizona. You are in the  
6 State of Nevada.  
7 THE DEFENDANT: A federal judge struck it  
8 down, Your Honor. And --  
9 THE COURT: Stop. Can you ask him a  
10 question?  
11 MR. MEE: Yes, Your Honor.  
12 BY MR. MEE:  
13 Q. Approximately how many feet did you back up?  
14 A. I backed up a foot or two. I was at least ten  
15 feet away from the car that the driver was pulled over  
16 in.  
17 Q. When you spoke to the driver what did you say?  
18 A. I asked her if she was okay. The reason I film  
19 police is because they abuse people so often.  
20 Q. Do you recall the Officer telling you not to  
21 speak with the driver?  
22 A. Yes.  
23 Q. Did you make any statements to the driver after  
24 this command was given?  
25 A. Absolutely not.

1 Q. Did the Officer ever give you a specific distance  
2 to back up to?  
3 A. No. He didn't.  
4 Q. If he did, would you have complied with that?  
5 A. Sure.  
6 Q. Did you believe you were complying with the  
7 Officer's commands?  
8 A. 100 percent. I also informed him I was a member  
9 of the press and a Constitutional law scholar this is  
10 what I do.  
11 Q. Do you recall the Officer explaining to you why  
12 he decided to arrest you?  
13 A. There's several parts to the reason why he said  
14 he was going to arrest me because I wouldn't turn my  
15 head a certain direction. If I didn't turn and face the  
16 car with my head that he'd place me under arrest instead  
17 of just giving me a ticket.  
18 Q. Do you recall him explaining why he decided to  
19 detain you before he arrested you?  
20 A. He decided to detain me because he said I was  
21 obstructing which from my understanding is a physical  
22 act where I would have to get in the way. He said that  
23 the driver deserved privacy. I believe my First  
24 Amendment rights are not up for feelings.  
25 Q. Did he explain to you that the basis of your

1 detention was related primarily to the issue of privacy  
2 or the issue you of backing up?  
3 A. Well, I think from the Officer's testimony we can  
4 see he's scared of the driver, scared of me, scared of  
5 everything. They teach them to be afraid of everything.  
6 So I had two cameras out, identified as a member of the  
7 press -- I'm sorry, repeat the question. I want to get  
8 it specific for the record.  
9 Q. Sure. The question was: Did the Officer explain  
10 to you that the basis of your detention was you not  
11 backing up or because of a privacy issue?  
12 A. It was both. He said that -- he told me to back  
13 up and I backed up a little bit. Then he said she  
14 deserves privacy. Then I told him to go get in your car  
15 little doggy and write your ticket. At that point his  
16 face turned beat red and his veins in his neck stuck  
17 out because we were over twenty feet away. You had to  
18 holler to hear each other because the wind was 30 miles  
19 an hour.  
20 Q. Did you at anytime attempt to hit any officers  
21 involved?  
22 A. No. Absolutely not.  
23 Q. Did you intentionally swat at any officers?  
24 A. Absolutely not. He was giving me unlawful  
25 commands. I should have not been detained after I

1 identified as a member of the press. If he ever reached  
2 a hand out towards me, I wrestle and teach MMA and I  
3 have for 30 years so it's just a natural reaction when  
4 retreating from somebody. If I may have put my hand up  
5 as he said as he testified himself, I certainly am a law  
6 abiding citizen I don't break the law. I would have not  
7 tried to assault an officer under any circumstances.

8 Q. Is it possible during the interaction there was  
9 inadvertent contact?

10 A. Sure. He decided to go hands on with me when he  
11 was giving me unlawful commands. There was absolutely  
12 no reason for it. I was willing to comply with anything  
13 he asked within reason because I don't want to have a  
14 fist fight with another man on the street.

15 Q. Do you recall the Officer ordering you to go to  
16 his patrol vehicle?

17 A. I do.

18 Q. And what did you do in response to that?

19 A. Initially I told him no. But then when he began  
20 to get physical with me and start to grab me and touch  
21 me, I said okay I'll go over to your car. His car was  
22 35 feet away. I then lead him to his car. It's on  
23 video you can see it. I walked right up to his car and  
24 he insisted still on grabbing me after he saw me pull  
25 out an additional phone. Which that's what press people

1 do, we have lots of cameras on us.

2 Q. Did you inform the Officer that you were a member  
3 of the press?

4 A. Oh, several times. It's in the transcripts.  
5 I've transcribed them myself. Several times I told him  
6 I'm a member of the press.

7 Q. Did you explain to the Officer that you have  
8 background in Constitutional law?

9 A. Yes. I'm told him that I'm a Constitutional law  
10 scholar which was a monicker given to me by other people  
11 who are also -- they have their own channels their own  
12 press and that's what some other lawyers on another  
13 channel called me three years ago and I since adapted  
14 the monicker.

15 Q. Just to get some further background, were you  
16 looking for police to record on this particular day?

17 A. No. The cops hide on the side of the road to  
18 pull people over. It's pretty regular in our country.  
19 I was just in the parking lot there and I saw that  
20 Mr. Bourque had somebody pulled over concerned for her  
21 safety I began to film.

22 Q. Why do you think law enforcement traffic stops  
23 are relevant to the public?

24 A. That's where most people get killed.

25 MS. BOTELHO: Objection. Relevance --

0035

1 THE COURT: Sustained --

2 MS. BOTELHO: Move to strike.

3 THE COURT: Sustained.

4 MR. MEE: I'll pass the witness, Your Honor.

5 THE COURT: State?

6 MS. BOTELHO: I have no questions for this  
7 witness. Thank you.

8 THE COURT: Thank you, sir. You may step  
9 down. Does the Defense rest?

10 MR. MEE: Yes, Your Honor.

11 THE COURT: Any argument by the State?

12 MS. BOTELHO: Your Honor, the State asks you  
13 find the Defendant guilty of both the obstructing a  
14 public officer as well as resisting a public officer  
15 charged against him. The video very adequately portrays  
16 what the context was of the interaction with the  
17 Officer. I would venture to say had the Defendant just  
18 complied with the original order to not engage with the  
19 driver and to back up we wouldn't be here. He wouldn't  
20 have found himself further engaging Officer Bourque.  
21 This is not a First Amendment issue. As you heard over  
22 and over and over again on the video Officer Bourque did  
23 not have a problem with the Defendant recording. It's  
24 not a First Amendment issue, it's an officer safety  
25 issue. Here you have an officer who conducted a lawful

1 traffic stop. You saw the nature of the stop. There  
2 was no animosity between the officer and the driver. It  
3 was rather peaceful and they engaged in banter back and  
4 forth. He would have as he testified he was trying to  
5 determine whether he was going to cite her or let her go  
6 with a warning. Then you have an individual the  
7 Defendant introduce himself into the situation. Traffic  
8 stops, Your Honor, are inherently dangerous particularly  
9 in parking lots and I guess anywhere, you know, I would  
10 venture to say. This Officer was reasonable in thinking  
11 that anyone who would approach in the manner that the  
12 Defendant approached his scene would have a reason to  
13 fear for his safety or at least be suspicious of this  
14 individual's motives coming in. The Officer had no  
15 problem with him recording. The Officer had no problem  
16 with the Defendant observing. It was when he inserted  
17 himself into this lawful detention that was occurring  
18 with the Hyundai driver that the Officer turned his  
19 attention to the Defendant. This is not a First  
20 Amendment issue. This is an individual who took his  
21 what he perceived to be his rights too far. The Officer  
22 was well within his rights as well as acting reasonably  
23 when he asked him to back up. That twenty-one foot rule  
24 it's appropriate. He said that was the training that  
25 they received in terms of the distance that's allowed

1 for someone who means to do them harm. It's a threat  
 2 assessment. We don't know when the Defendant approached  
 3 whether he had a gun concealed, whether he had a knife  
 4 concealed, whether he had other weapons. You'll hear  
 5 multiple times in the video Officer Bourque yelling stop  
 6 reaching, stop reaching. This is an unknown -- you know  
 7 when Defense Counsel asked Officer Bourque all these  
 8 questions about how it is that you do this and Officer  
 9 Bourque had been responding it depends on the situation.  
 10 It depends upon the totality of the circumstances. Here  
 11 was an officer acting alone engaged one to one with a  
 12 driver that he had no problem with. You insert another  
 13 individual who enters the scene in the manner that the  
 14 Defendant did and now this Officer's attention is going  
 15 to be divided. He had every reason to fear for his  
 16 safety as well as that of the driver. Again, if he had  
 17 just complied with the Officer's commands or demands to  
 18 back up, and you know, a lot was made about hey, he  
 19 didn't have an opportunity to tell the Defendant exactly  
 20 how far back. As the Officer testified even just with  
 21 the hey back up the Defendant didn't back up. The  
 22 Defendant didn't back up not willingly. That's why the  
 23 Officer had to continue to engage with him and force him  
 24 into this situation. Had he complied he would not have  
 25 been charged with obstruction. He had complied

1 initially he would not have been charged with the  
 2 resisting. Officers -- you are going to have to assess  
 3 credibility. There's nothing in the video or Officer  
 4 Bourque's testimony that would cause the Court to  
 5 question his veracity or his intention for that matter.  
 6 He was very honest in that he didn't believe that the  
 7 Defendant was trying to harm him necessarily with the  
 8 swat that's why the Defendant wasn't charged with a  
 9 battery on a protected person or a police officer but  
 10 that swat, Your Honor, I would argue was meant to resist  
 11 at that point in time the Officer was trying to detain  
 12 him and subsequently arrest him on the obstruction as  
 13 depicted in the video. So I think at this point I think  
 14 we've proved by beyond a reasonable doubt that the  
 15 Defendant did hinder Officer Bourque's investigation and  
 16 detention of the Hyundai driver and that he resisted the  
 17 Officer's arrest or attempt to arrest him. So we would  
 18 ask that you find the Defendant guilty of both charges.  
 19 THE COURT: Thank you. Defense?  
 20 MR. MEE: Yes, Your Honor. First of all,  
 21 you cannot obstruct an unlawful order. I disagree with  
 22 the State that is not a First Amendment issue. The  
 23 First Amendment in this context actually has two parts.  
 24 There's the filming and the right to film within a  
 25 reasonable distance. The case law in all the federal

1 circuits, Your Honor, there's no twenty-one foot rule  
 2 that's been approved by court of which I am aware.  
 3 There is a ten-foot rule that seems to be the rule that  
 4 is applied by most of the federal circuits in  
 5 interpreting the First Amendment. I submitted a bench  
 6 brief that kinds of goes through that issue.  
 7 THE COURT: I don't have that. When did you  
 8 submit it?  
 9 MR. MEE: It was submitted yesterday, Your  
 10 Honor.  
 11 MS. BOTELHO: At this point I move to strike  
 12 because it's untimely. I got it this morning when I  
 13 walked into court.  
 14 THE COURT: Go ahead.  
 15 MR. MEE: The Officer's testimony that  
 16 there's essentially this 21-foot distance where anybody  
 17 can charge an officer and cause physical harm to an  
 18 officer if that is applied universally, Your Honor, it  
 19 totally diminishes and violates the First Amendment.  
 20 That is as the Officer testified a 21-foot radius that  
 21 he can attempt to impose I believe his testimony was  
 22 anytime there's not an obstacle between a person and  
 23 somebody that law enforcement is interacting with.  
 24 That's just not what the law requires, Your Honor. The  
 25 First Amendment gives the media, new media, old media it

1 gives individuals the right to film government agents.  
 2 There is no dispute that that's the requirement. If the  
 3 Officer is applying this 21-foot circumference to all  
 4 law enforcement interactions he's affectively eliminated  
 5 the ability to film law enforcement going about their  
 6 duties. The commands to not to talk to the driver are  
 7 also not based on actual legal justification. There is  
 8 no right to privacy in public. There's no requirements  
 9 or no statute, no law, that citizens can't interact with  
 10 drivers that are interacting with law enforcement. So  
 11 what's taken place here, Your Honor, is that this  
 12 Officer has taken it upon himself to essentially act as  
 13 the legislature and created these rules that have no  
 14 basis in any law and are in fact contrary to the First  
 15 Amendment. Again, you can't obstruct an unlawful  
 16 demand. There's no obstruction of justice here.  
 17 Resisting arrest, Your Honor, the Court can see the  
 18 video. Essentially what happened is he walked over to  
 19 the front of the vehicle. There was some dispute about  
 20 why he was being detained. That was discussed. The  
 21 case law in that area, Your Honor, is that if it's an  
 22 unlawful arrest which it was in this case because  
 23 they're essentially arresting him for violating these  
 24 unlawful orders that they're pronouncing. Again the  
 25 case law you can passively resist an unlawful arrest.



1 That's all that occurred here, Your Honor. Thank you.  
 2 THE COURT: All right. Mr. Decastro, please  
 3 stand. The problem with the argument that your attorney  
 4 makes is it completely fails to consider the safety of  
 5 the officer and the safety of the driver. The Officer  
 6 doesn't know who you are and the driver doesn't know who  
 7 you are. You don't have any right to interfere with  
 8 that officer doing his investigation in deciding if he  
 9 wants to issue a ticket to this driver. You also don't  
 10 have any business approaching the driver. The driver  
 11 didn't ask you for help. The driver didn't say help,  
 12 help, you know? You didn't see an altercation happening  
 13 between the Officer and this driver. The Officer didn't  
 14 protest that you were filming. There's no problem with  
 15 filming. You can film. It's fine. All right? But you  
 16 did interfere with his investigation. You did interfere  
 17 with his ability to do his job. You did put him in a  
 18 position where he is concerned for his safety and the  
 19 safety of the driver. So I believe the State has met  
 20 their burden beyond a reasonable doubt. I'm going to  
 21 find you guilty of obstructing a public officer and  
 22 resisting a public officer. I'd like to hear from State  
 23 and then your attorney prior to sentencing.  
 24 MS. BOTELHO: Your Honor, in terms of  
 25 sentencing I would ask that the Defendant enter and

1 complete an impulse control class. I would ask that the  
 2 Court lobby a \$500 fine or the equivalent in community  
 3 service. I would ask that the Defendant be ordered to  
 4 stay out of trouble for the pendency of the case. I  
 5 would ask for a 90-day suspended sentence. That's as to  
 6 each count to run concurrent. That's our request.  
 7 THE COURT: Defense?  
 8 MR. MEE: Your Honor, I'm asking the Court  
 9 to sentence the Defendant to credit for time served for  
 10 these offenses. Even if the Court concludes and the  
 11 Court did conclude that he didn't have the right to do  
 12 what he did, I think the Court can see that he sincerely  
 13 believes that he had the right to do so. That's based  
 14 on his past experiences and the training he received in  
 15 reference to the First Amendment. I don't think there's  
 16 any intent from the Defendant to engage in any  
 17 wrongdoing in this case, Your Honor. That being the  
 18 case especially because of the public policy interest at  
 19 issue --  
 20 THE COURT: When you say he doesn't wish to  
 21 engage in any wrongdoing, it seems to me from observing  
 22 him in the video he wants -- he wants this. He wants to  
 23 get arrested. He wants to get into an altercation with  
 24 the police officers. He welcomes this. This helps his  
 25 You Tube channel. He called the officers here in my

1 courtroom today pigs. He called -- and he's nodding his  
 2 head up and down.  
 3 THE DEFENDANT: I agree.  
 4 THE COURT: So apparently he hates every law  
 5 enforcement officer in the United States. Please stand  
 6 up, sir. Are you finished?  
 7 MR. MEE: I would emphasize, Your Honor,  
 8 that the Defendant testified and he sincerely believes  
 9 he is providing a public service when he reviews and  
 10 films these incidents. I understand the Court might  
 11 have a different view of that but when we're talking  
 12 First Amendment public policy issues such as supervising  
 13 people involved in government, I think that is something  
 14 the Court can take into consideration. I will submit.  
 15 THE COURT: All right. Mr. Decastro, please  
 16 stand. I hereby sentence you to 90 days in the Clark  
 17 County Detention Center on Count 1. 90 days in the  
 18 Clark County Detention Center on Count 2 to run  
 19 consecutive for a total of 180 days in custody. Thank  
 20 you.  
 21 THE DEFENDANT: Sentence suspended or --  
 22 THE COURT: Oh, no. It's going to start  
 23 right now.  
 24 ///  
 25 ///

1 \* \* \* \* \*  
 2  
 3 ATTEST: FULL, TRUE AND ACCURATE  
 4 TRANSCRIPT OF PROCEEDINGS.  
 5  
 6       \s\Christa Broka        
 7 CHRISTA D. BROKA, CCR 574  
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1 IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP  
2 COUNTY OF CLARK, STATE OF NEVADA  
3 -o0o-  
4

5 STATE OF NEVADA, )  
6 Plaintiff, )  
7 vs. ) Case No. 23CR013015  
8 JOSE DECASTRO, ) ATTEST RE: NRS 239B.030  
9 Defendant, )  
10 \_\_\_\_\_ )  
11

12 STATE OF NEVADA)  
13 ) ss  
14 COUNTY OF CLARK)

15 I, Christa D. Broka, a Certified Shorthand  
16 Reporter within and for the county of Clark and the  
17 State of Nevada, do hereby certify:  
18 That REPORTER'S TRANSCRIPT OF PROCEEDINGS was  
19 reported in open court pursuant to NRS 3.360 regarding  
20 the above proceedings in Las Vegas Justice Court 8,  
21 2024, Lewis Avenue, Las Vegas, Nevada.

22 That said TRANSCRIPT:  
23 X Does not contain the Social Security number  
24 of any person.  
25 \_\_\_ Contains the Social Security number of a  
person.

1 ATTEST: I further certify that I am not  
2 interested in the events of this action.  
3

4 \s\Christa Broka  
5 CHRISTA D. BROKA, CCR 574  
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*Andrew J. Levin*  
CLERK OF THE COURT

**JUSTICE COURT, LAS VEGAS TOWNSHIP**

**CLARK COUNTY, NEVADA**

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**FILED**  
2024 MAR 20 P 1:34  
JUSTICE COURT  
LAS VEGAS NEVADA  
BY \_\_\_\_\_  
DEPUTY

DeCastro, Jose

Appellant,

District Court Case No.: C-24-381730-A

-vs-

Justice Court Case No.: 23-CR-013015

STATE OF NEVADA

Respondent,

**APPEAL FROM  
LAS VEGAS JUSTICE COURT**

**APPEARANCES**

FOR APPELLANT:

FOR RESPONDENT:

Attorney: Micheal Mee, Esq.  
400 S. 4<sup>th</sup> Street #500  
Las Vegas, Nevada 89101

STEVE WOLFSON  
DISTRICT ATTORNEY  
CLARK COUNTY COURTHOUSE  
LAS VEGAS, NEVADA

**CERTIFICATION**

I hereby certify the following to be the original proceedings of the above case.  
WITNESS my hand this date: March 20, 2024.

*Ann E. Zimmerman*  
Ann E. Zimmerman  
Justice of the Peace, Las Vegas Township

23 - CR - 013015  
APA  
Appeal from LVJC - Appearances  
16921463



IMAGED  
JV

1 **MICHAEL MEE, ESQ.**  
2 LIBERATORS CRIMINAL DEFENSE  
3 Nevada Bar 13726  
4 400 S. 4<sup>th</sup> Street #500  
5 Las Vegas, NV 89101  
6 [mmee@defenselawyervegas.com](mailto:mmee@defenselawyervegas.com)  
7 702-990-0190  
8 *Counsel for Defendant/Appellant*

**LAS VEGAS JUSTICE COURT**

9 STATE OF NEVADA,

10 Plaintiff,

11 v.

Case No.: 23-CR-013015

12 JOSE DECASTRO,

Dept. No.: 8

13 Defendant.

14 **NOTICE OF APPEAL**

15 COMES NOW, Defendant/Appellant JOSE DECASTRO, by and through his counsel  
16 MICHAEL MEE, ESQ., and hereby submits this NOTICE OF APPEAL. Defendant hereby  
17 appeals to the Eighth Judicial District Court, pursuant to LVJCLR 5.15; NRS Chapter 189 from  
18 this Court's Verdict, Judgment and Conviction of the Defendant, the Sentence imposed as  
19 announced on March 19, 2024, and from all preceding rulings prior to final judgment, including  
20 this Court's denial of Defendant's Pretrial Motions and Motions for Discovery, and all other  
21 rulings made by the Court in this matter relating to the final judgment.  
22

23 DATED this 19th day of March, 2024.

24  
25 /s/ Michael Mee, Esq.  
26 MICHAEL MEE, ESQ.  
27 Nevada BAR #13726

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**CERTIFICATE OF SERVICE**

The undersigned hereby certified that the foregoing NOTICE OF APPEAL was served upon the State of Nevada via electronic service on the below date.

DATED this 19th day of March, 2024.

/s/ Michael Mee, Esq.  
MICHAEL MEE, ESQ.  
Nevada BAR #13726

03-15-23 22:03 DSD RECORDS

23CR013015 (8) 6/13

FILED

2023 MAR 29 P 3:16

TRUE AND CORRECT COPY  
LAS VEGAS  
METROPOLITAN  
POLICE DEPARTMENT

JUSTICE COURT  
LAS VEGAS NEVADA  
BY CV  
DEPUTY

BY: DIFLOOB  
DATE: 3-23-2023

ID#: 11069561

\* CLASS II \* Sgt. Thompson 9077  
22-08-1015  
23030006417  
State of Nevada Citation # LVM1148905  
Accident #  
Violation Date/Time 03/15/2023 1829  
Home District/Time 03/15/2023 1829  
In the Court where tried will LAS VEGAS JUSTICE COURT  
POB Lynwood CA  
Ney Mil

VIOLATION(S)	
1)	MUNINRS 197.190 CITATION : Obstructing a Public Officer TO WIT DID WILLFULLY HINDER, DELAY OR OBSTRUCT A PUBLIC OFFICER, OFFICER B. BOURQUE P#15725 WITH THE LVMPD, IN THE LAWFUL DISCHARGE OF HIS OFFICIAL DUTIES INVESTIGATING A TRAFFIC VIOLATION ON A TRAFFIC STOP BY WALKING UP TO AND ENGAGING WITH THE DRIVER WHO HE HAD NO INVOLVEMENT WITH. ADDITIONALLY DECASTRO WAS WARNED TO BACK AWAY FROM THE STOP AND REFUSED SEVERAL TIMES AFTER IT WAS EXPLAINED THAT HE WOULD OTHERWISE BE DETAINED FOR OBSTRUCTING.
2)	MUNINRS 190.280 CITATION : Resist a Police Officer or Resist Arrest TO WIT DID WILLFULLY RESIST A PUBLIC OFFICER, B. BOURQUE P#15725 WITH THE LVMPD, IN THE LAWFUL DISCHARGE OF HIS/HER DUTIES INVESTIGATING A TRAFFIC STOP ON A TRAFFIC VIOLATION, BY TENSING UP HIS ARMS AND BODY AFTER BEING DETAINED. DECASTRO WAS GIVEN SEVERAL OPPORTUNITIES TO FOLLOW LAWFUL COMMANDS BUT HE REFUSED AND RESISTED OFFICERS WHILE THEY ATTEMPTED TO DETAIN HIM IN HANDCUFFS.

Failure to comply with this complaint or future dates relating to this complaint will constitute a separate offense  
Court: LAS VEGAS JUSTICE COURT  
Address: 200 Lewis Avenue First Floor, Las Vegas, NV 89101  
Same as Physical  
Phone: 702-871-3444  
https://www.lasvegasjusticecourt.us/

You are hereby ordered to appear to answer the above charges on the day and time  
06/13/2023 at 09:00  
SSN: 556-33-2585  
07:30

<input type="checkbox"/> Juvenile No	<input type="checkbox"/> School Zone	<input type="checkbox"/> Radar Confirms Min/Major
Type: NON TRAFFIC	Grwt: NONE	

PEDESTRIAN							
LAST NAME DECASTRO		FIRST JOSE		MIDDLE			
RESIDENCE ADDRESS 1022 TABOR HILL AVE						PHONE	
CITY HENDERSON			STATE NV		ZIP CODE 89074		
DRIVER LICENSE NUMBER 4100754041		DL CLASS C	DL STATE NV	COL No			
DOB 09/11/1974	AGE 48	SEX M	RACE W	HEIGHT 509	WEIGHT 180	EYE GRN	HAIR BRO
RESTRICTIONS None		ENDORSEMENTS None/Not Applicable					

VEHICLE INFORMATION			
LICENSE PLATE	STATE NV	REG EXP	COLOR
MAKE	MODEL	TYPE	
VIN	YEAR	CMV No	HADNAT No
TRAILER PLATE	TRAILER STATE NV	VEH IS TRAILER No	US DOT#
CURRENT PROOF OF INSURANCE? No		INS CARD EXP DATE	

REGISTERED OWNER	SAME AS SUS?: No
NAME	
ADDRESS NV	

LOCATION
4155 S GRAND CANYON DR LV NV 89147

CITED SPEED (MPH)	POSTED SPEED (MPH)	ACT SPEED (MPH)	CASE NO 23030006417
CONSTR ZONE No	SCHOOL ZONE No	ACCIDENT No	
DIR OF TRAV R3	BEAT/AREA Clear	COND/WEATHER Clear	TRAFFIC
SPEED DETERMINED		ROAD	

23-CR-013015  
CITIM  
Citation Image  
15820044



0042

July

ADDITIONAL INFORMATION		
NAME		
ADDRESS	PHONE	
CITY	STATE NV	ZIP CODE

OFFICER INFORMATION
B. BOURQUE 15725
UNIT
I certify (or Declare) under penalty of perjury under the laws of the state of Nevada that I have reasonable grounds to believe that the defendant is the person named herein. <small>(NRS 484.799 and NRS 484.801)</small>
Officer Signature: <i>[Signature]</i>
Complainant Signature:

Without admitting having committed the above offense(s), I hereby promise to respond as directed on this notice and agree to pay the total amount immediately indicated on this notice (NRS 484.799 and NRS 484.801)

Defendant Signature: *[Signature]*

**INSTRUCTIONS FOR THE DEFENDANT  
PLEASE READ CAREFULLY**

THIS CITATION MAY BE DISPOSED OF ONLY BY TRIAL IN THE COURT HAVING JURISDICTION OVER THE ALLEGED OFFENSE OR BY OTHER OFFICIAL ACTION BY A JUDGE OF SUCH COURT.

EXCEPT AS NOTED BELOW, YOU MAY COMPLY WITH THIS CITATION BY EXERCISING ONE OF THE FOLLOWING OPTIONS:

Option 1: PERSONALLY APPEAR IN COURT AT THE TIME AND PLACE INDICATED ON THIS CITATION AND ENTER A PLEA TO THE OFFENSE CHARGED. YOUR COUNSEL MAY APPEAR FOR YOU.

Option 2: BRING OR MAIL THIS CITATION TO THE COURT ALONG WITH A CASHIER'S CHECK OR MONEY ORDER FOR THE AMOUNT SHOWN IN THE "Total Bail" SPACE ON THIS CITATION.

Option 3: SIGN THE BAIL FORFEITURE REQUEST BELOW AND EITHER BRING OR MAIL THIS CITATION TO THE COURT ALONG WITH A CASHIER'S CHECK OR MONEY ORDER FOR THE AMOUNT SHOWN IN THE "Total Bail" SPACE ON THIS CITATION.

NOTICE: -YOU MUST APPEAR IN COURT AT THE TIME AND PLACE INDICATED WHENEVER THERE IS NO AMOUNT WRITTEN IN THE "Total Bail" SPACE ON THIS CITATION, OR WHENEVER THE WORD "COURT" HAS BEEN WRITTEN IN THIS SPACE.  
-THE COURT MAY IN ANY CASE REQUIRE YOU TO APPEAR FOR A HEARING.

-IF YOU CHOOSE OPTION 2 OR OPTION 3 ABOVE, THIS CITATION AND THE AMOUNT SHOWN UNDER THE "Total Bail" MUST REACH THE COURT BEFORE THE DATE AND TIME WHEN THIS CITATION REQUIRES YOU TO APPEAR IN COURT.

-THE COURT WILL NOT ACCEPT PERSONAL CHECKS AND WILL ONLY ACCEPT CASH OVER THE COUNTER AT THE COURT.

-A RECORD OF CONVICTION WILL BE FORWARDED TO THE DEPARTMENT OF MOTOR VEHICLES WHENEVER YOU ARE CONVICTED OF A TRAFFIC OFFENSE OTHER THAN ILLEGAL STANDING OR PARKING  
-A FORFEITURE OF BAIL IS CONSIDERED A CONVICTION.

**BAIL FORFEITURE REQUEST**

I, THE UNDERSIGNED, DO HEREBY WAIVE MY RIGHT TO APPEAR IN COURT AND REQUEST OF THE COURT THAT MY POSTED BAIL BE FORFEITED IN LIEU OF A FINE. I UNDERSTAND THAT SINCE IT IS NOT THE PAYMENT OF FINE, THE COURT RESERVES THE RIGHT TO ORDER MY APPEARANCE IN COURT IF CIRCUMSTANCES SO REQUIRE.

Defendant's Signature: \_\_\_\_\_

Address: \_\_\_\_\_

Driver's License State: \_\_\_\_\_ Number: \_\_\_\_\_

**ADMINISTRATIVE ASSESSMENTS**

WHEN A DEFENDANT PLEADS OR IS FOUND GUILTY OF A MISDEMEANOR OFFENSE, EXCEPT METERED PARKING, NEVADA LAW REQUIRES THE COURT TO INCLUDE AN ADMINISTRATIVE ASSESSMENT AND MUST RENDER A JUDGEMENT AGAINST THE DEFENDANT FOR THE ASSESSMENT.

MONEY COLLECTED FOR AN ADMINISTRATIVE ASSESSMENT CANNOT BE DEDUCTED FROM THE FINE IMPOSED BY THE COURT BUT MUST BE TAXED AGAINST THE DEFENDANT IN ADDITION TO ANY FINE.

**FAILURE TO APPEAR**

NEVADA LAW MAKES IT UNLAWFUL FOR ANY PERSON TO VIOLATE HIS/HER WRITTEN PROMISE TO APPEAR AND A WARRANT MAY BE ISSUED FOR SUCH VIOLATION.

Citation # LVM1148005 *[Handwritten mark]*



84/3

### Administrative

Location 4155 S Grand Canyon Dr LV, NV 89147  
Occurred On (Date / Time) Wednesday 3/15/2023 4:29:00 PM  
Reporting Officer 15725 - Bourque, Branden  
Entered By 15725 - Bourque, Branden  
Related Cases

Or Between (Date / Time)  
Reported On 3/15/2023  
Entered On 3/15/2023 5:24:57 PM  
Jurisdiction

FILED R3  
Sector/Beat

2023 MAR 29 P 3:16  
Clark County

Traffic Report Place Type Accident Involved

JUDICIAL COURT  
LAS VEGAS NEVADA  
CV  
BY DEPUTY

### Offenses:

False Statement To/Obstruct Public Officer(M)-NRS 197.19  
Completed Yes Domestic Violence  
Entry Premises Entered  
Weapons  
Criminal Activities

Hate/Bias None (No Bias)  
Type Security  
Location Type Parking Lot/Garage

Tools

### Victims:

#### Name:

Victim Type Society/Public Written Statement Can ID Suspect  
Victim of 52312 - False Statement To/Obstruct Public Officer(M)-NRS 197.19

DOB Age Sex Race Ethnicity  
Height Weight Hair Color Eye Color  
Employer/School  
Occupation/Grade Work Schedule  
Injury Injury Weapons

Addresses  
Phones

#### Offender Relationships

Notes:

TRUE AND CORRECT COPY  
LAS VEGAS  
METROPOLITAN  
POLICE DEPARTMENT  
BY: D17260B  
DATE: 3-23-2023

### Arrestees:

Name: Decastro, Jose Maria

Alias:  
Scope ID 1669561 DOB 9/11/1974 Age 48 Race White Ethnicity Not Hispanic or Latino  
Sex Male Height 5' 8" Weight 170 Hair Color Brown Eye Color Green  
Employer/School Occupation/Grade

Addresses

Residence 1022 Tabor Hill Ave Henderson, NV 89074 United States

Phones

Notes: Also charged with Resisting Arrest - NRS 199.280 - County Booking Code 52990  
Charge not added to "Offenses" tab to comply with NVIBR reporting.

23 - CR - 013015  
SDS  
Supplemental Documentation Submitted with C  
15820045

### Witnesses:



### Other Entities:

### Properties: ()

### Narrative

On 3/15/2023 I, Officer B. Bourque, P#15725, while operating as marked patrol unit 3R1, had conducted a traffic stop on a vehicle bearing NV license plate 748ZTB for being both expired and suspended. After pulling the driver over she pulled into the east side parking lot of the Target located at 4155 S Grand Canyon Dr, LV, NV 89147.

After identifying the driver, I returned to my patrol vehicle to conduct a criminal and DMV records check. While at my patrol vehicle an unrelated white male adult approached the driver side window of the detained driver approximately 10 feet away and began engaging the driver in conversation. This male was later verbally identified as Jose Maria Decastro, DOB 9/11/1974. I exited my patrol vehicle, stood near the detained driver's front driver side window, and gave verbal commands to Decastro to back up. The following exchange occurred between Decastro and me.

[Officer Bourque]: "You can film, but you need to stay away from my driver. Back up."

IMAGED  
BN



Decastro continued video recording me with his cell phone and did not move.

[Officer Bourque]: "Back up or I'm going to detain you. Get away from my car stop."

[Decastro]: "I am at least 10 feet away, Officer... I am a constitutional law scholar."

[Officer Bourque]: "She deserves privacy."

[Decastro]: "Mind your own fucking business. Mind your business... I'm a member of the press. Go get in your car and do your job, little doggie!"

The only applicable charges I had against my original detained driver during the traffic stop were driving with expired and suspended registration. The driver had no criminal history and was honest about her violations when initially confronted on my first approach. Decastro was in such proximity of the driver that I would not have been able to safely complete the traffic encounter to either issue a warning or citation for either minor traffic offenses. Based on the totality of the circumstances I chose to release the driver on the original traffic stop and conducted a separate person stop on Decastro whom I had established probable cause to cite or arrest for obstructing a public officer.

I approached Decastro and pointed toward my patrol vehicle.

[Officer Bourque]: "You're being detained right now. Come over to my car (2 times)."

I walked behind Decastro to contain him between me and my patrol vehicle. Simultaneously, I directed Decastro toward my patrol vehicle while pointing toward it with my hands.

[Decastro]: "Don't put your hands on me."

[Officer Bourque]: "I am going to put my hands on you."

Because Decastro was being physically uncooperative, argumentative, and disobeying lawful commands while being detained for obstructing my original traffic stop, I requested that additional patrol officers respond to assist.

[Officer Bourque]: "Come over here to my car. Come over here."

Again, I pointed toward my patrol vehicle and signaled with my hands that Decastro should walk toward my patrol vehicle.

[Officer Bourque]: "Come over to the car (2 times). I'm Officer Bourque and you're being detained for obstruction. You need to set the phone down on the hood."

[Decastro]: "No. I'm a constitutional law scholar."

[Officer Bourque]: "Set the phone down on the hood. You are being detained."

I placed my left hand on Decastro's right shoulder to escort him toward my patrol vehicle since he was still not complying with my verbal commands. Decastro swatted my hand away. I do not believe his intent was to harm me, but he neither complied with my verbal commands nor my escort. Decastro was facing me, so I grabbed him by his shirt, turned him around, and swung his momentum toward my patrol vehicle. I ordered Decastro to face my patrol vehicle but he resisted physically and would not turn around willingly.

Officer C. Dingle, P#19359, while operating as marked patrol unit 3R11, arrived at my location and helped me control Decastro who was still physically resisting both officers.

[Officer Bourque]: "Put your hands behind your back, you're going in handcuffs. Put your hands behind your back. Face the hood. Turn around. Right now, you are going to get a ticket. If you do not put your hands behind your back you're going to jail. Put your hands behind your back."

[Decastro]: "Is it for officer safety?"

[Officer Bourque]: "Yes. It is for officer safety."

At no point did Decastro fully cooperate with officers, but he reluctantly turned around and put his hands behind his back to allow himself to be handcuffed. Meanwhile, I ordered that Decastro remain facing forward but he did not comply during the remainder of the encounter.

The above information was captured on my body worn camera. However, I noticed that my body worn camera battery pack was switched to the "Off" position after Decastro had been placed in handcuffs. After review of my body worn camera, I saw that it was accidentally turned off when Decastro was face to face with officers prior to handcuffing. It was likely accidentally switched off by either my clothing or Decastro's clothing while he resisted arrest. Officer Dingle had already arrived and should have body worn camera video available from his perspective at the moment mine turned off. I reactivated my body worn camera as soon as I returned to my patrol vehicle and kept it on for the remainder of the encounter, except when calling a patrol Sergeant on the phone and out of earshot of Decastro.

I later learned that Decastro has multiple social media accounts under the name of DeleteLawz. During conversation with Decastro he admitted that he has been arrested 4 times previously for similar crimes in various states. Decastro also admitted that he was an "Executive" who quit his job and took a pay cut to try and "bridge the gap" between police and their community members by filming patrol officers on car stops and posting videos of officers to his social media accounts.

Decastro did after due notice, willfully hinder, delay or obstruct a public officer, Officer B. Bourque P#15725 with the LVMPD, in the lawful discharge of his duties of investigating a traffic stop by engaging with the detained driver, refusing to give the officer reasonable space to work, and refusing to obey lawful commands after being advised that he was detained.

Decastro did willfully resist, obstruct, or delay a public officer, Officer B. Bourque P#15725 with the LVMPD, in the lawful discharge of his duties of investigating a traffic stop by swatting my hand away, physically tensing up his body, physically resisting handcuffing by tensing up his arms, and refusing to obey lawful commands after being advised that he was detained.

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Because Decastro was physically uncooperative with officers, admitted to being in trouble numerous times in the past for similar reasons, and would not even allow officers to explain to [redacted] why he was detained or placed in handcuffs, we [redacted] determined that he was not a good candidate for a citation and release. Because of Decastro's actions it was clear that his criminal behavior would continue in the area if police did not act.

Based on the above facts and circumstances Decastro was issued a class II citation for both obstructing a public officer and resisting arrest, transported to Clark County Detention Center, and was booked accordingly.

IMAGED  
BN

Justice Court, Las Vegas Township  
Clark County, Nevada

Court Minutes

Department: 08



L016914086

23-CR-013015 State of Nevada vs. DECASTRO, JOSE

Lead Atty: Michael Mee

3/19/2024 9:30:00 AM Bench Trial (No bail posted)

Result: Matter Heard

**PARTIES PRESENT:**  
State Of Nevada Botelho, Agnes  
State Of Nevada McKay, Blake Averey  
Attorney Mee, Michael  
Defendant DECASTRO, JOSE

**Judge:** Zimmerman, Ann E.

**Court Reporter:** Broka, Christa

**Court Clerk:** Montrone, Lauren

PROCEEDINGS

**Exhibits:** Document, Photograph, Etc. (ID: 1) Admitted  
Document, Photograph, Etc. (ID: 2) Admitted

**Events:** Bench Trial Held  
*Motion to Exclude Witnesses by State - Motion Granted*  
*States Witnesses:*  
*1. Branden Bourque - Witness Identified Defendant*  
*State Rests.*  
*Defense Witnesses:*  
*1. Jose Decastro Sworn In and Testified.*  
*Defense Rests*  
*Motion to Dismiss and Argument In Favor of Said Motion by Defense Argument Against Said Motion by State*  
  
*Thereupon the Court Found the Defendant Guilty.*  
*Arguments made by parties regarding sentencing.*  
**Judgment Entered**  
**Remand - Cash or Surety**  
*Counts: 001; 002 - \$0.00/\$0.00 Total Bail*  
**Case Closed - Court Order**  
**Comment**  
*Both (2) of Defendant's cell phones where returned to his counsel and is in M. Mee, Esq. possession.*

**Plea/Disp:** 001: False stmt to/obstruct pub off [52312]  
Disposition: Guilty as Charged  
  
Sentence: Misdemeanor Sentence  
Sentence To CCDC:  
  
Remand Term: 0 Months 90 Days Consecutive Case #: per count  
CTS: 0 Specific Days Scenario: Total CTS, This Case, All Lodgings

002: Resist public officer [52990]  
Disposition: Guilty as Charged

**Justice Court, Las Vegas Township  
Clark County, Nevada**

Sentence: Misdemeanor Sentence

Sentence To CCDC:

Remand Term: 0 Months 90 Days      Consecutive Case #: per count

CTS: 0 Specific Days      Scenario: Total CTS, This Case, All Lodgings

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Justice Court, Las Vegas Township  
Clark County, Nevada

Court Minutes

Department: 08



L016844485

23-CR-013015 State of Nevada vs. DECASTRO, JOSE

Lead Atty: Michael Mee

2/26/2024 9:30:00 AM Bench Trial (No Bail Posted)

Result: Matter Heard

<b>PARTIES PRESENT:</b>	State Of Nevada	Porazzo, Kelly
	Attorney	Mee, Michael
	Defendant	DECASTRO, JOSE

**Judge:** Zimmerman, Ann E.

**Court Reporter:** Broka, Christa

**Court Clerk:** Montrone, Lauren

**PROCEEDINGS**

**Hearings:** 3/19/2024 9:30:00 AM: Bench Trial Added

**Events:** **Remote Appearance by**  
*Defendant via Zoom*

**Motion to Continue - Defense**  
*Counsel is in Trial - No objection by State - Granted*

**Bench Trial Date Reset**

Justice Court, Las Vegas Township  
Clark County, Nevada

Department: 08

Court Minutes



L016755725

23-CR-013015 State of Nevada vs. DECASTRO, JOSE

Lead Atty: Michael Mee

1/23/2024 9:30:00 AM Bench Trial (No Bail  
Posted)

Result: Matter Continued

**PARTIES PRESENT:** State Of Nevada Attorney Bosa-Edwards, Dominique Whipple, Bret O

**Judge:** Zimmerman, Ann E.

**Court Reporter:** Ott, Shawn

**Court Clerk:** Veloz, Edward

PROCEEDINGS

**Attorneys:** Whipple, Bret O DECASTRO, JOSE MARIA Added

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**Hearings:** 2/26/2024 9:30:00 AM: Bench Trial Added

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**Events:** **Motion to Continue - Defense**  
*Due to medical reasons. No objection by State - Granted*  
**Bench Trial Date Reset**  
*Firm Setting.*

IMAGED

Justice Court, Las Vegas Township  
Clark County, Nevada

Court Minutes

Department: 08



L016606798

23-CR-013015 State of Nevada vs. DECASTRO, JOSE

Lead Atty: Michael Mee

12/6/2023 9:30:00 AM Bench Trial (No bail posted)

Result: Matter Heard

**PARTIES PRESENT:**  
State Of Nevada Merback, William  
Attorney Mee, Michael  
Defendant DECASTRO, JOSE

**Judge:** Zimmerman, Ann E.

**Court Reporter:** Broka, Christa

**Court Clerk:** Brogan, Erin

PROCEEDINGS

**Hearings:** 1/23/2024 9:30:00 AM: Bench Trial Added

**Events:** **Hill Motion by State to Continue - Granted**  
*Witness unavailable until after the start of the year.*  
**Bench Trial Date Reset**

Justice Court, Las Vegas Township  
Clark County, Nevada

Court Minutes

Department: 08



L016587905

23-CR-013015 State of Nevada vs. DECASTRO, JOSE

Lead Atty: Michael Mee

11/30/2023 8:00:00 AM Motion (No bail posted)

Result: Matter Heard

<b>PARTIES PRESENT:</b>	State Of Nevada Attorney	Jefferson, Tianna A. Mee, Michael
<b>Judge:</b>	Pro Tempore, Judge	
<b>Court Reporter:</b>	Ott, Shawn	
<b>Pro Tempore:</b>	Jansen, William D.	
<b>Court Clerk:</b>	Brogan, Erin	

**PROCEEDINGS**

**Events: Motion**

*by Defense for Discovery - State represents all discovery in their possession has been turned over - Denied*

**Comment**

*State represents they will be filing a Hill Motion to Continue the Bench Trial as the lead officer is unavailable.*

**Future Court Date Stands**

*12/6/23 at 9:30 am for Bench Trial*

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Justice Court, Las Vegas Township  
Clark County, Nevada

Court Minutes

Department: 08



L016350398

23-CR-013015 State of Nevada vs. DECASTRO, JOSE

Lead Atty: Michael Mee

9/12/2023 9:30:00 AM Bench Trial (No bail posted)

Result: Matter Heard

**PARTIES PRESENT:**  
State Of Nevada Attorney Defendant  
Castro, Tanner Lucas  
Mee, Michael  
DECASTRO, JOSE

**Judge:** Zimmerman, Ann E.  
**Court Reporter:** Broka, Christa  
**Court Clerk:** Montrone, Lauren

PROCEEDINGS

**Hearings:** 12/6/2023 9:30:00 AM: Bench Trial Added

**Events:** **Motion to Continue - Defense**  
*to review additional discovery - No objection by State - Granted*  
**Bench Trial Date Reset**

Justice Court, Las Vegas Township  
Clark County, Nevada

Department: 08

Court Minutes



L016330437

**23-CR-013015 State of Nevada vs. DECASTRO, JOSE**

Lead Atty: Michael Mee

**9/6/2023 8:00:00 AM Motion (NO BAIL POSTED)**

Result: Matter Heard

**PARTIES PRESENT:** State Of Nevada Attorney Botelho, Agnes Mee, Michael

**Judge:** Zimmerman, Ann E.

**Court Reporter:** Broka, Christa

**Court Clerk:** Montrone, Lauren

**PROCEEDINGS**

**Events:** **Motion to Continue - Defense**  
*by Defense for production of discovery no objection by State- granted*  
**Future Court Date Stands**  
*09/12/2023 at 9:30am for Bench Trial*

Justice Court, Las Vegas Township  
Clark County, Nevada

Court Minutes

Department: 08



L016118693

23-CR-013015 State of Nevada vs. DECASTRO, JOSE

Lead Atty: Michael Mee

6/27/2023 8:00:00 AM Negotiations (NO BAIL  
POSTED)

Result: Matter Heard

**PARTIES PRESENT:** State Of Nevada Attorney Leon, Maricela Mee, Michael

**Judge:** Zimmerman, Ann E.

**Court Reporter:** Tavaglione, Dana

**Court Clerk:** Montrone, Lauren

PROCEEDINGS

**Hearings:** 9/12/2023 9:30:00 AM: Bench Trial

Added

**Events:** Defendant Rejected the State's Offer  
Plea of Not Guilty Entered  
*by Defense*

Justice Court, Las Vegas Township  
Clark County, Nevada

Court Minutes

Department: 08



L016073439

23-CR-013015 State of Nevada vs. DECASTRO, JOSE

Lead Atty: Michael Mee

6/13/2023 8:00:00 AM Arraignment (NO BAIL  
POSTED)

Result: Matter Heard

**PARTIES PRESENT:** State Of Nevada Attorney Porazzo, Kelly Mee, Michael

**Judge:** Zimmerman, Ann E.

**Court Reporter:** Broka, Christa

**Court Clerk:** Montrone, Lauren

PROCEEDINGS

**Hearings:** 6/27/2023 8:00:00 AM: Negotiations Added

**Events:** Counsel Confirms as Attorney of Record

*M. Mee, Esq.*

**Arraignment Completed**

*Defense advised of Charges on Criminal Complaint, Waives Reading of Criminal Complaint*

**Discovery Given to Counsel in Open Court**

**Early offer received in open court**

*Continued for negotiations*

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**MOTN**  
Michael Mee, Esq.  
Nevada Bar No. 13726  
**LIBERATORS CRIMINAL DEFENSE**  
400 S. 4th St #500  
Las Vegas, Nevada 89101  
Tel: (702) 990-0190  
Fax: (702) 442-9616  
*Attorney for Defendant*

**LAS VEGAS JUSTICE COURT**  
**CLARK COUNTY, NEVADA**

STATE OF NEVADA,  
  
Plaintiff,  
  
vs.  
  
JOSE DECASTRO,  
  
Defendant.

CASE No. 23-CR-013015  
  
Dept. No.: 8

**DEFENDANT'S REQUEST TO CONVERT  
COUNSEL TO STANDBY COUNSEL**

**HEARING REQUESTED**

DATE OF HEARING: 03/19/24  
TIME OF HEARING: 9:30 am

COMES NOW, Defendant, JOSE DECASTRO by and through his attorney of record,  
MICHAEL MEE, ESQ., of LIBERATORS CRIMINAL DEFENSE, and hereby files the  
following DEFENDANT'S REQUEST TO CONVERT COUNSEL TO STANDBY  
COUNSEL This motion is based upon the points and authorities herein and upon any other  
pleadings filed in this case.

DATED this 18<sup>TH</sup> DAY OF March, 2024.

/s/ Michael Mee, Esq.  
Michael Mee, Esq.  
Nevada Bar No. 13726  
400 S. 4th St. #500  
Las Vegas, Nevada 89101

**MEMORANDUM OF POINTS AND AUTHORITIES**

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The Courts may appoint “standby counsel” to advance the defendant’s Sixth Amendment rights to self-representation and/or the right to counsel. *See Faretta v. California*, 422 U.S. 806, 834-35 n.46 (1975) (recognizing a trial court may appoint standby counsel).

Defendant has requested that counsel request that the Court permit counsel to convert to standby counsel such that the Defendant may present his own opening statement and closing argument at time of trial while standby counsel would conduct the examination of witnesses. Counsel submits Defendant’s request to this Court’s discretion to grant Defendant’s request to partially represent himself in the forthcoming bench trial.

DATED this 18<sup>th</sup> day of March, 2024

/s/ Michael Mee, Esq.  
Michael Mee, Esq.  
Nevada Bar No. 13726  
400 S. 4th St. #500  
Las Vegas, Nevada 89101

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**CERTIFICATE OF SERVICE**

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I HEREBY SERVED this **DEFENDANT'S REQUEST TO CONVERT COUNSEL TO STANDBY COUNSEL** via online e-filing on this 18<sup>th</sup> day of March, 2024, upon the Clark County District Attorney's office via electronic service and e-mail to the designated District Attorney handling this matter.

/s/ Michael Mee

Attorney for Defendant

**Julie Olness-Weiner**

---

**From:** Magpie Kiwi <magpiekiwi02@gmail.com>  
**Sent:** Tuesday, March 12, 2024 5:42 PM  
**To:** LVJC Department 8  
**Subject:** Jose Maria DeCastro court case Tuesday 19 March - planning to pack the court

Dear Julie Olness-Weiner  
Regarding

- Case Number: 23-CR-013015 / 23-PC-013015 / Las Vegas MPD Report #LLV230300064617

Tuesday 19th March 2024 scheduled for 0930hrs In Judge Zimmerman's court.

In the last week on this person's YouTube channel DeleteLawz he has been asking his 'followers' to support him in court. He is attempting to flood the court with 'supporters' in an attempt to delay his case even more as he has run out of other delaying tactics. I am just giving you this information so you can be aware of any potential issues that might arise that day. It may not happen as Mr DeCastro may be calling for it - but in actuality his supporters hopefully are not so stupid to actually do it.

Also be aware that he has indicated during his live streams that he will potentially be 'recording' his hearing. He tends to record everything on his phone(s) - he has several. He then uses it for his YouTube Channel lives to make money off it by putting his version of commentary on it. While he will be actually represented by a lawyer for this case, it will not stop him from disrupting the court in any way he can.

regards  
MagpieKiwi

23 - CR - 013015  
CNFD  
Confidential Document  
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VA



JUSTICE COURT, LAS VEGAS TOWNSHIP  
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

-vs-

JOSE DECASTRO

Defendant

CASE NO.: 23-CR-013015

DEPT. NO.: JC Department 8

ORDER REGARDING MEDIA REQUEST  
FOR ELECTRONIC COVERAGE OF  
COURT PROCEEDINGS

FILED

2024 JAN 29 A 11:00

JUSTICE COURT  
LAS VEGAS, NEVADA

WHEREAS, the Court has reviewed the media request received from ONSCENE.TV  
and has considered the following factors:

- a) The impact of coverage upon the right of any party to a fair trial;
- b) The impact of coverage upon the right of privacy of any party or witness;
- c) The impact of coverage upon the safety and well-being of any party, witness or juror;
- d) The likelihood that coverage would distract participants or would detract from the dignity of the proceedings;
- e) The adequacy of the physical facilities of the court for coverage; and
- f) Any other factor affecting the fair administration of justice.

IT IS HEREBY ORDERED THAT:

The media request is **GRANTED** for the following requested method(s):

- Audio Broadcasting (live)       Televising (live)       Live-streaming audio and/or video
- Audio Broadcasting (not live)       Televising (not live)       Recording       Photographing
- Other: \_\_\_\_\_

because there is a presumption that all courtroom proceedings that are open to the public are subject to electronic coverage, and the factors set forth above favor such coverage in this case.

The media request is **GRANTED** for the following additional reason(s): \_\_\_\_\_

The media request is **DENIED** because it was submitted less than 24 hours before the scheduled proceeding was to commence, and no "good cause" has been shown to justify granting the request on shorter notice.

The media request is **DENIED** for the following additional reason(s): \_\_\_\_\_

The requested media access will remain in effect for each and every hearing in the above-entitled case, at the discretion of the Court, and unless otherwise ordered. **This Order is specific to the above-entitled case only. No other cases on calendar may be broadcast, televised, recorded, photographed, and/or live-streamed without the Court's express, written permission.** Media access may be revoked in the event of noncompliance or if it is shown that electronic coverage of the judicial proceedings is interfering in any way with the proper administration of justice. This Order is made in accordance with Supreme Court Rules 229-246, inclusive, at the discretion of the judge, and is subject to reconsideration upon motion of any party.

IT IS FURTHER ORDERED that this document shall be made a part of the record of these proceedings.

Dated this 29 day of Jan, 2024

Ana Zimmerman  
JUSTICE OF THE PEACE

23-CR-013015  
MDRO  
Order Regarding Media Request for Electronic  
16744937



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IMAGED  
VA

JUSTICE COURT, LAS VEGAS TOWNSHIP  
CLARK COUNTY, NEVADA

STATE OF NEVADA

Plaintiff,

CASE NO.: 23-CR-013015

DEPT. NO.: 8

vs.

JOSE DECASTRO

Defendant.

FILED

2024 JAN 24 10:44

JUSTICE COURT  
LAS VEGAS NEVADA  
BY DEPUTY

MEDIA REQUEST FOR  
ELECTRONIC COVERAGE  
OF COURT PROCEEDINGS

(Form Revision Date: 2/6/19)

E-Mail Request to:

LvjCamera@ClarkCountyNV.gov

DOUG ROBERTS

(name),

of ONSCENE.TV (media organization), hereby requests permission to begin:

**(CHECK ALL THAT APPLY:)**

- Audio Broadcasting (live)       Televising (live)       Live-streaming audio and/or video via Internet
- \* For live usage, I hereby acknowledge that Section 8A of the Nevada Constitution grants specific protections to victims of crime and that my media organization will make the following reasonable efforts to prevent the inadvertent disclosure of confidential information about victims (for example: 3-second delay, pixelation, etc.): \_\_\_\_\_
- I further acknowledge that representatives of my media organization will comply with any specific restrictions that may be imposed by the judge prior to, or during, the court proceeding to be presented live.
- Audio Broadcasting (not live)       Televising (not live)       Recording       Photographing
- Other due to public interest, camera deployment will be in person.

proceedings held in open Court, in the above entitled case, in Department No. 8, on the 26 day of FEBRUARY, 2024, at the hour of 9:30 A.M.

I hereby certify that I am familiar with, and will comply with, the Nevada Supreme Court's RULES ON ELECTRONIC COVERAGE OF COURT PROCEEDINGS (Supreme Court Rules 229-246, inclusive). If this request is being submitted less than twenty-four (24) hours before the above-described proceedings commence, the following facts provide good cause for the Court to grant the request on such short notice:

It is further understood that any media camera pooling arrangements shall be the sole responsibility of the media and must be arranged prior to coverage, without asking for the Court to mediate disputes.

It is further understood that **this request is specific to the above-entitled case only. No other cases on calendar may be broadcast, televised, recorded, photographed, and/or live-streamed without the Court's express, written permission.**

Dated this 24 day of JANUARY, 2024.

SIGNATURE: \_\_\_\_\_

PHONE: 707-940-5483

E-MAIL: droberts@livecoreproductions.com

23-CR-013015  
MREC  
Media Request for Electronic Coverage  
16744933



IMAGED  
VA

**Julie Olness-Weiner**

---

**From:** Shawn McKisson <shawnmckisson@gmail.com>  
**Sent:** Monday, January 22, 2024 11:47 PM  
**To:** LVJC Department 8  
**Subject:** Jose DeCastro trying to film in court

Hello,

There is a hearing tomorrow, Jan 23rd, 2024 for Jose DeCastro during which I believe he will try to record the proceedings on his cellphone without the courts permission.

In the hearing prior to this one, it appeared he was using his phone to record while at the defendants table.

I believe he will try to do the same thing in his next appearance.

I wanted to bring this to the courts attention in the event that they might want to take preventative measures to stop this from happening.

Regards,

Shawn McKisson

23-CR-013015  
CNFD  
Confidential Document  
16733449



1 STEVEN B. WOLFSON  
Clark County District Attorney  
2 Nevada Bar #001565  
3 TIANNA JEFFERSON  
Deputy District Attorney  
4 Nevada Bar #015751  
200 Lewis Avenue  
5 Las Vegas, Nevada 89155-2212  
(702) 671-2500  
6 Attorney for Plaintiff

7 JUSTICE COURT, LAS VEGAS TOWNSHIP  
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,  
9 Plaintiff,

10 -vs-

CASE NO: 23CR013015

11 JOSE DECASTRO,  
12 #1669561

DEPT NO: 8

13 Defendant.

14 STATE'S NOTICE OF MOTION AND MOTION TO CONTINUE

15 DATE OF HEARING: DECEMBER 6, 2023  
16 TIME OF HEARING: 9:30 A.M.

17 TO: JOSE DECASTRO, Defendant; and

18 TO: MICHAEL MEE, Attorney for Defendant

19 YOU, AND EACH OF YOU WILL PLEASE TAKE NOTICE that the State  
20 respectfully moves this Court to continue the above entitled case.

21 ///

22 ///

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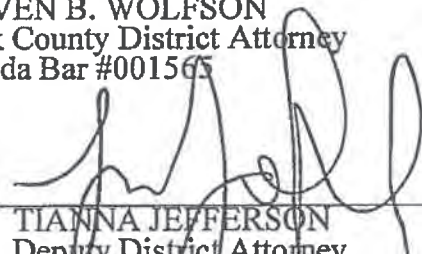
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1 This Motion, which will be heard in Justice Court on the 6th day of December, 2023,  
2 at 9:30 o'clock, A.M., is based upon Hill v. Sheriff of Clark County, 85 Nev. 234 (1969), and  
3 is supported by the following Affidavit.

4 DATED this 30<sup>th</sup> day of November, 2023.

5 STEVEN B. WOLFSON  
6 Clark County District Attorney  
7 Nevada Bar #001565

8 BY



9 TIANNA JEFFERSON  
10 Deputy District Attorney  
11 Nevada Bar #015751

AFFIDAVIT

STATE OF NEVADA        }  
COUNTY OF CLARK       }ss:

TIANNA JEFFERSON, being first duly sworn, deposes and says:

1. That Branden Bourque is a witness for the State of Nevada in this matter; that his present address is Las Vegas Metropolitan Police Department ;

2. That the following efforts were made to procure the attendance of this witness at the preliminary hearing scheduled in this matter for December 6, 2023; that a subpoena was issued on November 29, 2023; that I personally contacted Officer Bourque by email on November 29, 2023 for his attendance. Officer Bourque responded on November 29, 2023 stating he is out on leave;

3. That Branden Bourque is an essential witness in that he is the officer who issued the citation for the Defendant; that to affiant's present knowledge there is no other witness who could so testify;

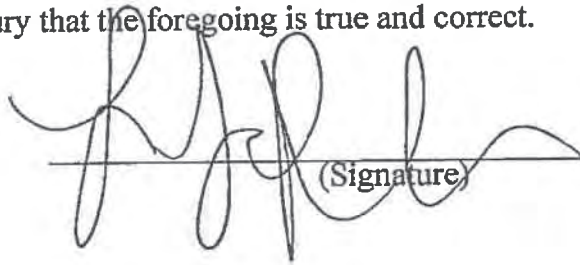
4. That said witness will be available to testify after January 2, 2024; that it will be necessary to seek a continuance in this matter due to the unavailability of this witness; that affiant first learned on November 29, 2023, that this witness would not be available to testify at the scheduled trial in that he is current on leave under the Family Medical Leave Act ;

5. That this Motion is made in good faith and not for the purpose of delay.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on

11/30/23  
(Date)

  
(Signature)

TJ/ckb/L4

1 **MOTN**

2 Michael Mee, Esq.

3 Nevada Bar No. 13726

4 **LIBERATORS CRIMINAL DEFENSE**

5 400 S. 4th St #500

6 Las Vegas, Nevada 89101

7 Tel: (702) 990-0190

8 Fax: (702) 442-9616

9 *Attorney for Defendant*

10 **LAS VEGAS JUSTICE COURT**

11 **CLARK COUNTY, NEVADA**

12 STATE OF NEVADA,

13 Plaintiff,

14 vs.

15 JOSE DECASTRO,

16 Defendant.

CASE No. 23-CR-013015

Dept. No.: 8

17 **RENEWED MOTION FOR PRODUCTION**  
**OF DISCOVERY**

18 **HEARING REQUESTED**

DATE OF HEARING: 11/30/23

TIME OF HEARING: 8 am

19 COMES NOW, Defendant, JOSE DECASTRO by and through his attorney of record,  
20 MICHAEL MEE, ESQ., of LIBERATORS CRIMINAL DEFENSE, and hereby files the  
21 following RENEWED MOTION FOR DISCOVERY. This motion is based upon the points  
22 and authorities herein and upon any other pleadings filed in this case.

23 DATED this 28<sup>th</sup> day of November, 2023.

24 /s/ Michael Mee, Esq.

25 Michael Mee, Esq.

26 Nevada Bar No. 13726

27 400 S. 4th St. #500

28 Las Vegas, Nevada 89101

MEMORANDUM OF POINTS AND AUTHORITIES

1  
2 The State must produce to the defense all exculpatory evidence in its actual or constructive  
3 possession. *See Brady v. Maryland*, 373 U.S. 83 (1963). Failure to do so results in a violation of  
4 the Due Process Clauses of the Fifth and Fourteenth Amendments of the United States  
5 Constitution. Likewise, Article 1, Section 8 of the Nevada Constitution guarantees every  
6 defendant the right to due process. Thus the State’s failure to provide discovery not only violates  
7 the United States Constitution but also violates the Nevada Constitution. *Jimenez v. State*, 112  
8 Nev. 610, 618 (1996). This rule applies regardless of how the State has chosen to structure its  
9 discovery process. *See Brady*, general. Furthermore, this duty is continuous and “exists regardless  
10 of whether the State uncovers the evidence before trial, during trial, or after the defendant has  
11 been convicted.” *Imbler v. Pachtman*, 424 U.S. 409, 427 (1976).  
12  
13

14 The Defendant previously filed a Motion for Production of Discovery on September 1,  
15 2023. At that time, counsel for defendant appeared before this Court seeking several general  
16 requests, as well as the following narrowed specific requests:  
17

18 “1. Any written material, or voice recording, involving any law  
19 enforcement officer or other state personnel in which the defendant  
Jose DeCastro is mentioned by name or reference.

20 2. Copies of the personnel/discipline files for any law  
21 enforcement officer or other state personnel involved in this action  
22 including any past or prior discipline or reprimand for said officer’s  
23 actions which were alleged or found to have violated the civil rights  
or liberties of other individuals.

24 3. Any materials, written or otherwise recorded, relating to  
25 training any officer involved in the underlying case has received  
26 training said officers about the First Amendment, the rights of citizens  
27 to film officers, and the relation between the First Amendment and  
28 obstruction of an officer’s duties, including any policy manuals  
provided to any officer in this case which addresses those issues.” *See*  
Motion of 9-1-2023 Prior Written Discovery Requests to State of  
Nevada.



1 At the time of the hearing on the matter, the State objected to being required to produce responses  
2 to these discovery requests. The Court ruled that it would not order production of discovery in  
3 these categories (but did grant discovery in reference to video recordings). The Defendant now  
4 renews his motion.  
5

6 ***Legal Standard***

7 *Brady* commands the State to turn over any and all information and/or evidence (“Brady  
8 material)” which is material, relevant to guilt or punishment, favorable to the accused, and within  
9 the actual or constructive possession of anyone acting on behalf of the State. *See Brady* 373 U.S.  
10 at 87. The Nevada Supreme Court has defined what is considered “favorable to the accused.” In  
11 *Mazzan v. Warden*, 116 Nev. 48, 67 (2000) the Court held that the State must disclose any  
12 evidence that provides grounds for the defense to attack the reliability, thoroughness, and good  
13 faith of the police investigation, to impeach the credibility of the State’s witnesses, or to bolster  
14 the defense case against prosecutorial attacks. *Id.*  
15

16 Each category requested by the defendant is aimed at producing material which would be  
17 helpful to the defense.  
18

- 19 **1. Any written material, or voice recording, involving**  
20 **any law enforcement officer or other state personnel**  
21 **in which the defendant Jose DeCastro is mentioned**  
22 **by name or reference.**

23 Mr. DeCastro is a prominent member of the media and new media. Mr. DeCastro has  
24 353,000 subscribers on Youtube. *See* Ex. A – Youtube Page. His YouTube page “DeleteLawz” is  
25 a page that deals with (as the name suggests), laws, politics, and philosophical issues related to  
26 law enforcement. His videos are often critical of law enforcement and argue that law enforcement,  
27 in general or in particular instances, is violating the rights of individuals in the United States.  
28

1 The case at bar involves an incident in which Mr. DeCastro was filming law enforcement  
2 officers. This is consistent with Mr. DeCastro's past practices of filming law enforcement officers  
3 for matters of public interest relating to whether or not they are following the law. As such this  
4 type of recording falls squarely within the First Amendment right to film law enforcement officers  
5 and to produce media about law enforcement officer conduct.

6  
7 Because Mr. Decastro is a prominent figure in this media realm, and because his media  
8 focuses squarely on recording law enforcement for public policy / public consumption purposes,  
9 he is entitled to discovery on whether the law enforcement officers involved in his case have  
10 expressed any written or other recorded statements about Mr. Decastro, other than those in the  
11 incident report which have already been provided.

12  
13 Such statements about, pertaining to, or referencing Mr. Decastro and his activities (which  
14 are often perceived by law enforcement officers as "anti-police" regardless of whether or not they  
15 are protected by the First Amendment) are highly probative and would be "favorable to the  
16 accused" if produced. Such material, statements, recordings, or references, would be relevant to  
17 confront law enforcement witnesses about motive, bias, and motive to testify falsely, all of which  
18 are always relevant in a criminal proceeding. Such statements would also reveal if Las Vegas  
19 Metropolitan Police Department, or the officers involved in this case, had received any specific  
20 training on dealing with Mr. DeCastro or other 'first amendment auditors' given law enforcement  
21 was likely aware of the existence of this form of new media / law enforcement recording, prior to  
22 this event.  
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1                   **2. Copies of the personnel/discipline files for any law**  
2                   **enforcement officer or other state personnel involved in this action**  
3                   **including any past or prior discipline or reprimand for said**  
4                   **officer's actions which were alleged or found to have violated the**  
5                   **civil rights or liberties of other individuals.**

6                   Law enforcement disciplinary files are relevant impeachment materials pursuant to *Brady*.  
7                   States have recognized that the federal discovery requirements of *Brady* apply to State  
8                   misdemeanor criminal proceedings. "The requirements of *Brady*, on the other  
9                   hand, apply to misdemeanors." *Schmidt*, 56 Ill. 2d at 574. " *People v. Ryan*, 336 Ill. App. 3d 268,  
10                  272 (Ill. App. Ct. 2003). Defendants who are charged with misdemeanor offenses are entitled  
11                  to disclosure of certain information, such as a list of witnesses ( 725 ILCS 5/114-9 (West 2002)),  
12                  production of a defendant's confession ( 725 ILCS 5/114-10 (West 2002)), and any evidence that  
13                  would negate defendant's guilt (see *Brady v. Maryland*, 373 U.S. 83, 10 L. Ed. 2d 215, 83 S. Ct.  
14                  1194 (1963)). See *Schmidt*, 56 Ill. 2d 572, 309 N.E.2d 557. *People v. Toft*, 355 Ill. App. 3d 1102,  
15                  1106 (Ill. App. Ct. 2005).

16                  New York has, for example, recently applied very broad discovery into law enforcement  
17                  discipline in a misdemeanor case:  
18

19                  While an officer's prior misconduct could tend to "impeach the  
20                  credibility of a testifying witness" on the stand, (C.P.L. §  
21                  245.20[1][k][iv]), it could also be favorable in other ways. For  
22                  instance, it could tend to "negate the defendant's guilt" or "support a  
23                  potential defense." (See C.P.L. § 245.20[1][k][i], [iii]). In the  
24                  constitutional context, New York's federal courts agree. (See, e.g.,  
25                  United States v. Jackson, 345 F.3d 59, 70-73 [2d Cir. 2003]). "The fact  
26                  that [an informant] did not testify at the defendants' trial presents no  
27                  obstacle to application of *Brady* and its progeny." (Id. at 70). "A  
28                  contrary conclusion would permit the government to avoid disclosure  
29                  of exculpatory or impeachment material simply by not calling the  
30                  relevant witness to testify." (Id. at 71).

31                  This case presents a clear example of why disclosure of prior  
32                  misconduct is not limited to witnesses whom the People choose to call

1 to testify. Officer Mena was one of two responding officers who  
2 allegedly first observed the charged offense. (Pr. Resp. at 15). The  
3 People are not calling him to testify. (Id. at 5-6). Officer Rodriguez  
4 arrived later, was “debriefed by the first responding officers,” and then  
5 made the arrest. (Id. at 15). The People will call Officer Rodriguez to  
6 testify. (See id. at 6).

7 Undermining the credibility of Officer Mena would tend to be  
8 favorable to the defense, even if the People do not call him to testify.  
9 It would, for instance, tend to “negate the defendant’s guilt” and  
10 “support a potential defense,” (C.P.L. §§ 245.20[1][k][i], [iii]), as it  
11 would undermine the credibility of an informant “in the investigation  
12 that led to [the instant] arrest[ ],” (Jackson, 345 F.3d at 73; see also  
13 *Kyles v. Whitley*, 514 U.S. 419, 442 n.18, 115 S.Ct. 1555, 131 L.Ed.2d  
14 490 [1995] [recognizing that a non-testifying informant’s suspected  
15 role in unrelated crimes could be favorable to the defense as a “reason  
16 for [him] to ingratiate himself with” and lie to the police]).

17 See *People v. Fugeroa* (2022), Docket CR-018891-21BX, September  
18 7, 2022, Bronx County

19 Such material is particularly relevant here not only for impeachment and cross-  
20 examination, but also substantively. A likely issue at trial in this matter is whether or not the law  
21 enforcement officers involved were issuing lawful or unlawful orders to the Defendant prior to  
22 arresting him for obstruction of justice. The perceptions and state of mind of the law enforcement  
23 officer issuing the order is relevant to this determination. For example, if the officer has a pattern  
24 of rash conduct when confronted with protestors or other people exercising their civil rights,  
25 and/or has been found to have acted improperly in the past with respect to such individuals, and/or  
26 has received special training as it relates to such individuals, this information is relevant to  
27 probing the reliability of the eye-witness testimony of the officer. An officer with a pattern of  
28 unjustified response to civil rights protestors, for example, might have a less credible perception  
of events, or less credible judgment in similar circumstances, in the future. This is all relevant  
material defendant is entitled to discovery pursuant to *Brady*.

**3. Any materials, written or otherwise recorded, relating to**

1                   **training any officer involved in the underlying case has received**  
2                   **training said officers about the First Amendment, the rights of**  
3                   **citizens to film officers, and the relation between the First**  
4                   **Amendment and obstruction of an officer's duties, including any**  
5                   **policy manuals provided to any officer in this case which addresses**  
6                   **those issues." See Motion of 9-1-2023 Prior Written Discovery**  
7                   **Requests to State of Nevada.**

8                   Likewise, materials pertaining to officer training, especially First Amendment training, or  
9                   training relating to citizen filming of law enforcement officers, is highly probative in this case.  
10                  Defendant is entitled to know whether the officers involved in this case had or had not received  
11                  training on the most recent constitutional limits of their ability to order citizens to stop filming  
12                  them, for example. Defendant is entitled to discover whether the reason unlawful orders were  
13                  issued to him by the law enforcement officers in this case were a result of their lack of training or  
14                  improper training, as this would be an absolute defense to obstruction of justice.

15                  In essence, evidence favorable to the defense includes any evidence that is exculpatory,  
16                  may mitigate punishment or can be used to impeach a state's witness. *See State v. Huebler*, 275  
17                  P.3d 91, 95 (Nev. 2012). Accordingly, it is defined broadly and would include any of the  
18                  following: inconsistent statements by victims or witnesses; any pending charges or benefits or  
19                  promises made to anyone material to the case; investigative leads or ordinarily appropriate  
20                  investigation which were not followed-up on or completed by law enforcement; any criminal  
21                  history or other evidence concerning State's witnesses which might show their bias or otherwise  
22                  impeach their credibility; any forensic testing done any evidence; any medical or psychological  
23                  treatment of any victim or witness; evidence that the alleged victim has been the alleged victim  
24                  of a number of crimes; evidence showing that someone else committed the charged crime and  
25                  evidence that no crime was in fact committed. Further, evidence favorable to the defense includes  
26                  any information relating to the credibility of any witness including law enforcement officers or  
27  
28

1 other agents of the state.

2 The three categories of evidence fit within this framework and must be disclosed under  
3 Nevada law and pursuant to *Brady* if responsive material is in State or law enforcement  
4 possession.

5 **CONCLUSION**

6  
7 Based on the above, Defendant requests that this Court grant the relief requested in the  
8 above motion and order the State and law enforcement to determine whether they possess  
9 materials responsive to the above three specific requests and if so to produce those to the defense  
10 in advance of trial in this matter.

11 DATED this 28<sup>th</sup> day of November, 2023.

12  
13 /s/ Michael Mee, Esq.  
14 Michael Mee, Esq.  
15 Nevada Bar No. 13726  
16 400 S. 4th St. #500  
17 Las Vegas, Nevada 89101  
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**CERTIFICATE OF SERVICE**

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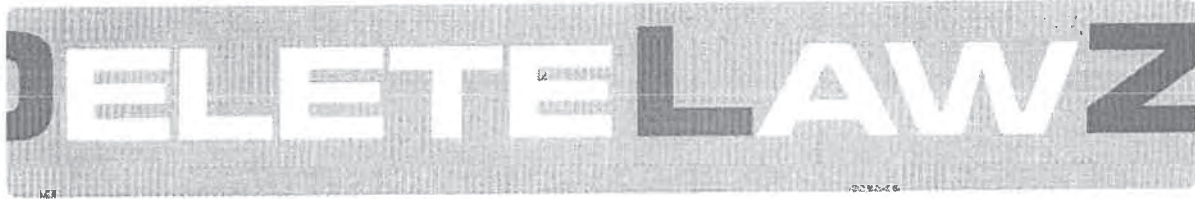
I HEREBY SERVED this RENEWED MOTION FOR DISCOVERY via online e-filing on this 28<sup>th</sup> day of November, 2023, upon the Clark County District Attorney's office via electronic service and e-mail to the designated District Attorney handling this matter.

/s/ Michael Mee

Attorney for Defendant

# EXHIBIT A





### Delete Lawz

@DeleteLawz1984 · 360K subscribers · 2K videos

When we overturn Terry v. Ohio there will be an immediate and overwhelming change that

[deletelawz.com](#) and 2 more links

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#Audit Constitutional Law Scholar Whips #LAPD #Cop; Rodrig...

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Get your "We Don't Stop" T-shirt and your Indestructible Tri-Fold on DeleteLawz dot com - We Don't Stop -

...  
[READ MORE](#)

1 **MOTN**

2 Michael Mee, Esq.

3 Nevada Bar No. 13726

4 **LIBERATORS CRIMINAL DEFENSE**

5 400 S. 4th St #500

6 Las Vegas, Nevada 89101

7 Tel: (702) 990-0190

8 Fax: (702) 442-9616

9 *Attorney for Defendant*

10 **LAS VEGAS JUSTICE COURT**

11 **CLARK COUNTY, NEVADA**

12 STATE OF NEVADA,

13 Plaintiff,

14 vs.

15 JOSE DECASTRO,

16 Defendant.

CASE No. 23-CR-013015

Dept. No.: 8

17 **MOTION FOR PRODUCTION OF**  
**DISCOVERY**

18 **HEARING REQUESTED**

19 DATE OF HEARING: 9/6/2023

20 TIME OF HEARING: 8:00 AM

21 COMES NOW, Defendant, JOSE DECASTRO by and through his attorney of record,  
22 MICHAEL MEE, ESQ., of LIBERATORS CRIMINAL DEFENSE, and hereby files the  
23 following MOTION FOR DISCOVERY. This motion is based upon the points and authorities  
24 herein and upon any other pleadings filed in this case.

25 DATED this 1<sup>st</sup> day of September, 2023

26 /s/ Michael Mee, Esq.

27 Michael Mee, Esq.

28 Nevada Bar No. 13726

400 S. 4th St. #500

Las Vegas, Nevada 89101

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. LEGAL ARGUMENT.**

3 **A. FAILURE BY THE STATE TO PROVIDE DISCOVERY IS A VIOLATION OF**  
4 **DUE PROCESS UNDER THE U.S. CONSTITUTION AND THE NEVADA STATE**  
5 **CONSTITUTION.**

6 The State must produce to the defense all exculpatory evidence in its actual or constructive  
7 possession. *See Brady v. Maryland*, 373 U.S. 83 (1963). Failure to do so results in a violation of  
8 the Due Process Clauses of the Fifth and Fourteenth Amendments of the United States  
9 Constitution. Likewise, Article 1, Section 8 of the Nevada Constitution guarantees every  
10 defendant the right to due process. Thus the State’s failure to provide discovery not only violates  
11 the United States Constitution but also violates the Nevada Constitution. *Jimenez v. State*, 112  
12 Nev. 610, 618 (1996).

13  
14 This rule applies regardless of how the State has chosen to structure its discovery process.  
15 *See Brady*, general. Furthermore, this duty is continuous and “exists regardless of whether the  
16 State uncovers the evidence before trial, during trial, or after the defendant has been convicted.”  
17 *Imbler v. Pachtman*, 424 U.S. 409, 427 (1976).

18  
19 Whether such evidence is admissible or not at the time of trial or whether the State believes  
20 such evidence to be unreliable or unbelievable has no bearing on the States’ obligation to produce  
21 it. *See Lay v. State*, 116 Nev. 1185, 1196 (2000).

22 **B. THE STATE MUST PROVIDE ALL EVIDENCE THAT IS MATERIAL,**  
23 **RELEVANT TO GUILT OR PUNISHMENT, FAVORABLE TO THE ACCUSED AND**  
24 **WITHIN ITS ACTUAL OR CONSTRUCTIVE POSSESSION.**

25 *Brady* commands the State to turn over any and all information and/or evidence (“Brady  
26 material”) which is material, relevant to guilt or punishment, favorable to the accused, and within  
27 the actual or constructive possession of anyone acting on behalf of the State. *See Brady* 373 U.S.  
28

1 at 87. The State's good faith or bad faith in failing to produce said evidence is immaterial in  
2 determining that the State has violated its duty. *Id.* Furthermore, a defendant's failure to request  
3 favorable evidence does not leave the State free of all obligation. *Kyles v. Whitley*, 514 U.S. 419,  
4 432 (1995).

5  
6 **1. Evidence is Material if There Exists a Reasonable Possibility that it Would  
Affect the Judgment of the Trier of Fact.**

7 Evidence is material if there is a reasonable probability that the result would have been  
8 different had the evidence been disclosed. The defense does not have to show that the disclosure  
9 would have resulted in an acquittal. *Kyle v. Whitley* at 434. The defense need only show that there  
10 was a reasonable probability that the nondisclosure undermines the confidence in the outcome of  
11 the trial. *Id.* However, after a specific request for evidence is made, omitted evidence is material  
12 if there is a reasonable *possibility* that it would have affected the outcome. *Lay v. State*, 116 Nev.  
13 1185, 1194 (2000).  
14  
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16 **2. Evidence Relevant to Guilt or Punishment is Any Evidence that Could Assist  
the Defense at Either the Guilt or Sentencing Phase of the Case.**

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18 *Brady* material applies not only to evidence which might affect the defendant's guilt but  
19 also includes evidence which could serve to mitigate a defendant's sentence if convicted. *See*  
20 *State v. Bennett* 81, P.3d 1,9 (2003). In *Brady*, the petitioner argued he was denied due process  
21 when a statement by his accomplice, in which the accomplice admitted to being the one who did  
22 the actual killing, was withheld by the State. *Brady* at 84-85. *Brady* was given the death penalty.  
23 The court found that this was a violation of due process and that a lower court was correct to give  
24 *Brady* a new hearing on penalty. *Id.*  
25

26 Other examples of this kind of evidence could be evidence of a diminished mental state,  
27 even if not rising to a legal defense, evidence that the defendant was using drugs or alcohol at the  
28

1 time of the offense, evidence that the defendant was under some kind of duress or mistaken belief,  
2 evidence that the defendant tried to turn himself in, evidence that the defendant tried to seek help,  
3 evidence of cooperation with law enforcement, and any other similar type of evidence.

4 **3. Evidence Favorable to the Accused Encompasses More Than Mere**  
5 **Exculpatory Evidence.**

6 The Nevada Supreme Court has defined what is considered “favorable to the accused.” In  
7 *Mazzan v. Warden*, 116 Nev. 48, 67 (2000) the Court held that the State must disclose any evidence  
8 that provides grounds for the defense to attack the reliability, thoroughness, and good faith of the  
9 police investigation, to impeach the credibility of the State’s witnesses, or to bolster the defense  
10 case against prosecutorial attacks. *Id.*

12 In essence, evidence favorable to the defense includes any evidence that is exculpatory,  
13 may mitigate punishment or can be used to impeach a state’s witness. *See State v. Huebler*, 275  
14 P.3d 91, 95 (Nev. 2012). Accordingly, it is defined broadly and would include any of the  
15 following: inconsistent statements by victims or witnesses; any pending charges or benefits or  
16 promises made to anyone material to the case; investigative leads or ordinarily appropriate  
17 investigation which were not followed-up on or completed by law enforcement; any criminal  
18 history or other evidence concerning State’s witnesses which might show their bias or otherwise  
19 impeach their credibility; any forensic testing done any evidence; any medical or psychological  
20 treatment of any victim or witness; evidence that the alleged victim has been the alleged victim  
21 of a number of crimes; evidence showing that someone else committed the charged crime and  
22 evidence that no crime was in fact committed. Further, evidence favorable to the defense includes  
23 any information relating to the credibility of any witness including law enforcement officers or  
24 other agents of the state.  
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1           **4. The State Must Disclose Any Information or Materials in its Actual or**  
2           **Constructive Knowledge And/or Possession.**

3           A prosecutor is not only responsible for turning over *Brady* material in his or her actual  
4 possession, he or she is equally responsible for *Brady* material known by or in the possession of  
5 law enforcement or any other State agents acting on its behalf. *Jimenez*, 112 Nev. At 620. In *Kyles*,  
6 the United States Supreme Court likewise held that “the individual prosecutor has a duty to learn  
7 of any favorable evidence known to the others acting on the government’s behalf in the case,  
8 including police.” 514 US at 437-48. Accordingly, exculpatory evidence cannot be kept out of the  
9 hands of the defense just because the prosecutor does not have it, where an investigating agency  
10 does have it. *U.S. v. Zuno-Arce*, 44 F.3d 1420, 1427 (9<sup>th</sup> Cir. 1995). Furthermore, even if the  
11 evidence is being held by an out-of-jurisdiction agent that is in cooperation with local law  
12 enforcement, the prosecutor is deemed to have constructive knowledge. *See State v. Bennet*, 119  
13 Nev. 589 (2003).

14  
15  
16           Thus, the State maintains an affirmative responsibility and the prosecutor cannot turn a  
17 blind eye and claim ignorance or rely on law enforcement or other government agents to come  
18 forward with the information; it must be sought out. Other state agents such as probation and  
19 parole officers, Child Protective Service workers and their agents, employees of Department of  
20 Motor Vehicles, jail personnel, out-of-state police agencies, law enforcement personnel, and  
21 similar agents of the State are included amongst those with whom the State shares constructive  
22 possession of *Brady* material.  
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1 **C. PURSUANT TO HIS CONSTITUTIONAL RIGHTS, DEFENDANT MAKES**  
2 **SPECIFIC DISCOVERY REQUESTS.**

3 Pursuant to the foregoing law, Mr. DeCastro specifically requests that the State produce  
4 the following *Brady* materials without delay:

5 1. Copy of any and all crime scene analysis and/or forensic reports, results, requests  
6 for examination and/or testing performed on any of the physical or biological evidence collected  
7 in relation to this case, specifically but not limited to, the results of any testing involving blood,  
8 DNA, hair, fingerprints, shoeprints or other samples taken, and information of evidence gathered  
9 but not tested in this case;

10 2. Copy of any and all recorded interviews and respective transcripts conducted in  
11 connection with this case;

12 3. Copy of any and all audio recordings and related documentation including but not  
13 limited to 911 calls, CAD to CAD, dispatch calls, communication logs and any otherwise  
14 memorialized communications related to this case;

15 4. Copy of any and all photographs taken and or gathered, crime scene diagrams  
16 drafted and investigative reports prepared by law enforcement in connection with this case,  
17 including but not limited to, property inventory reports, impound reports and images of the scene  
18 of the alleged incident;

19 5. Disclosures of any and all details of any compensation, express or implies  
20 promises of favorable treatment or leniency or any other benefit that any of the State's witnesses  
21 received or expect to receive in exchange for their cooperation with this prosecution, including  
22 but not limited to, any promise made to any witness to provide monetary support, counseling  
23 and/or treatment;

24 6. Copy of any and all written statements, reports and/or information provided by the  
25 alleged victims.

26 7. Copy of any and all video and/or audio recordings of the alleged incident and/or  
27 otherwise related to the allegations in this case, including but not limited to body camera video  
28 recordings.

8. Complete criminal histories of all States witness;

9. Any and all information bearing on the truthfulness or bad character of the State  
witnesses, including but not limited to, any contempt citations issued against the witnesses, any  
past instances of dishonesty, fraud, lying or violence on the part of the witness that is known to  
the State or its agents;

10. Any and all statements made by 10 State witness or any other person that are in

1 any manner inconsistent with the written and/or recorded statements previously provided to the  
2 defense.

3 Finally, Mr. DeCastro specifically requests the following materials specifically anticipated  
4 to be in the State's possession and relevant to defense(s) to be established at the time of trial in  
5 this matter:

6 1. Any written material, or voice recording, involving any law enforcement officer  
7 or other state personnel in which the defendant Jose DeCastro is mentioned by name or  
8 reference.

9 2. Copies of the personnel/discipline files for any law enforcement officer or other  
10 state personnel involved in this action including any past or prior discipline or reprimand for said  
11 officer's actions which were alleged or found to have violated the civil rights or liberties of other  
12 individuals.

13 3. Any materials, written or otherwise recorded, relating to training any officer  
14 involved in the underlying case has received training said officers about the First Amendment,  
15 the rights of citizens to film officers, and the relation between the First Amendment and  
16 obstruction of an officer's duties, including any policy manuals provided to any officer in this  
17 case which addresses those issues.

18 Thus far, Mr. DeCastro has made several written requests to the State to provide these  
19 additional discovery materials. Mr. DeCastro through undersigned counsel has not received a  
20 response. For this reason, Defendant has no choice but to now file the present motion seeking to  
21 compel the production of discovery.

### 22 CONCLUSION

23 Based on the above, Defendant requests that this Court grant the relief requested in the  
24 above motion.

25 DATED this 1<sup>st</sup> day of September, 2023

26 /s/ Michael Mee, Esq.  
27 Michael Mee, Esq.  
28 Nevada Bar No. 13726  
400 S. 4th St. #500  
Las Vegas, Nevada 89101



**CERTIFICATE OF SERVICE**

I HEREBY SERVED this MOTION FOR DISCOVERY via online e-filing on this 1<sup>st</sup> day of September, 2023, upon the Clark County District Attorney's office via electronic service and e-mail to the designated District Attorney handling this matter.

/s/ Michael Mee

Attorney for Defendant

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JUSTICE COURT, LAS VEGAS TOWNSHIP  
CLARK COUNTY, NEVADA

4/27

STATE OF NEVADA,

Plaintiff,

-vs-

JOSE DECASTRO

Defendant

FILED

2023 APR -3 A 11:

JUSTICE COURT  
LAS VEGAS NEVADA

CASE NO.: 23-CR-013015

DEPT. NO.: JC Department 8

ORDER REGARDING MEDIA REQUEST  
FOR ELECTRONIC COVERAGE OF  
COURT PROCEEDINGS

WHEREAS, the Court has reviewed the media request received from Alex Falconi of Our Nevada Judges and has considered the following factors:

- a) The impact of coverage upon the right of any party to a fair trial;
- b) The impact of coverage upon the right of privacy of any party or witness;
- c) The impact of coverage upon the safety and well-being of any party, witness or juror;
- d) The likelihood that coverage would distract participants or would detract from the dignity of the proceedings;
- e) The adequacy of the physical facilities of the court for coverage; and
- f) Any other factor affecting the fair administration of justice.

IT IS HEREBY ORDERED THAT:

The media request is **GRANTED** for the following requested method(s):

- Audio Broadcasting (live)
- Audio Broadcasting (not live)
- Other:
- Televising (live)
- Televising (not live)
- Recording
- Photographing

because there is a presumption that all courtroom proceedings that are open to the public are subject to electronic coverage, and the factors set forth above favor such coverage in this case.

The media request is **GRANTED** for the following additional reason(s):

The media request is **DENIED** because it was submitted less than 24 hours before the scheduled proceeding was to commence, and no "good cause" has been shown to justify granting the request on shorter notice.

The media request is **DENIED** for the following additional reason(s):

The requested media access will remain in effect for each and every hearing in the above-entitled case, at the discretion of the Court, and unless otherwise ordered. **This Order is specific to the above-entitled case only. No other cases on calendar may be broadcast, televised, recorded, photographed, and/or live-streamed without the Court's express, written permission.** Media access may be revoked in the event of noncompliance or if it is shown that electronic coverage of the judicial proceedings is interfering in any way with the proper administration of justice. This Order is made in accordance with Supreme Court Rules 229-246, inclusive, at the discretion of the judge, and is subject to reconsideration upon motion of any party.

IT IS FURTHER ORDERED that this document shall be made a part of the record of these proceedings.

Dated this 3 day of April, 2023

Alex Zimmerman  
JUSTICE OF THE PEACE

23 - CR - 013015  
MDRO  
Order Regarding Media Request for Electronic  
15830089



0086

JUSTICE COURT, LAS VEGAS TOWNSHIP  
CLARK COUNTY, NEVADA

STATE OF NEVADA \_\_\_\_\_ )

Plaintiff, )

vs. )

JOSE DECASTRO \_\_\_\_\_ )

Defendant. )

CASE NO.: 23-CR-013015

DEPT. NO.: 8

**MEDIA REQUEST FOR  
ELECTRONIC COVERAGE  
OF COURT PROCEEDINGS**

(Form Revision Date: 2/6/19)

E-Mail Request to: LvjCamera@ClarkCountynev.gov

ALEX FALCONI \_\_\_\_\_ (name),

of OUR NEVADA JUDGES \_\_\_\_\_ (media organization), hereby requests permission to begin:

**(CHECK ALL THAT APPLY:)**

- Audio Broadcasting (live)       Televising (live)       Live-streaming audio and/or video via Internet
- \* For live usage, I hereby acknowledge that Section 8A of the Nevada Constitution grants specific protections to victims of crime and that my media organization will make the following reasonable efforts to prevent the inadvertent disclosure of confidential information about victims (for example: 3-second delay, pixelation, etc.): pixelation
- I further acknowledge that representatives of my media organization will comply with any specific restrictions that may be imposed by the judge prior to, or during, the court proceeding to be presented live.
- Audio Broadcasting (not live)     Televising (not live)     Recording     Photographing
- Other due to public interest, camera deployment will be in person.

proceedings held in open Court, in the above entitled case, in Department No. 6, on the 13 day of JUNE, 2023, at the hour of 8:00 A.M.

I hereby certify that I am familiar with, and will comply with, the Nevada Supreme Court's RULES ON ELECTRONIC COVERAGE OF COURT PROCEEDINGS (Supreme Court Rules 229-246, inclusive). If this request is being submitted less than twenty-four (24) hours before the above-described proceedings commence, the following facts provide good cause for the Court to grant the request on such short notice: N/A

It is further understood that any media camera pooling arrangements shall be the sole responsibility of the media and must be arranged prior to coverage, without asking for the Court to mediate disputes.

It is further understood that **this request is specific to the above-entitled case only. No other cases on calendar may be broadcast, televised, recorded, photographed, and/or live-streamed without the Court's express, written permission.**

Dated this 29 day of MARCH, 2023.

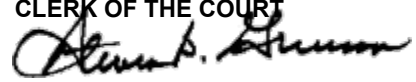
SIGNATURE: Alexander Falconi

PHONE: 702-374-3530

E-MAIL: admin@ournevadajudges.com

23 - CR - 013015  
MREC  
Media Request for Electronic Coverage  
15822106





# District Court

Clark County, Nevada

Jose Decastro, Appellant(s)  
vs  
State of Nevada, Respondent(s)

Case No.: C-24-381730-A  
Department 12  
Lower Court Case: 23-CR-013015

To Appellant's Attorney: Michael Mee  
To Respondent's Attorney: Steven B Wolfson

## RECEIPT FOR DOCUMENTS

You are hereby notified that the Clerk of District Court has filed the following:  
Notice of Appeal filed 03/26/2024

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Salevao Asifoa

\_\_\_\_\_  
Deputy Clerk of the Court

## CERTIFICATE OF SERVICE

I hereby certify that this 26th day of March, 2024

A copy of the foregoing Receipt for Document was electronically mailed to:

[mmee@defenselawyervegas.com](mailto:mmee@defenselawyervegas.com)  
[Steven.Wolfson@clarkcountyda.com](mailto:Steven.Wolfson@clarkcountyda.com)

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Salevao Asifoa

\_\_\_\_\_  
Deputy Clerk of the Court

1 **MOT**  
CHRISTOPHER R. ORAM, ESQ.  
2 Nevada Bar No. 4349  
520 S. Fourth Street, Second Floor  
3 Las Vegas, Nevada 89101  
Telephone: (702) 384-5563  
4 [contact@christopheroramlaw.com](mailto:contact@christopheroramlaw.com)  
*Attorney for Jose DeCastro*

5 **JUSTICE COURT, LAS VEGAS TOWNSHIP**  
6 **CLARK COUNTY, NEVADA**

7 )  
8 JOSE DECASTRO, )

9 Defendant, )

10 vs. )

11 STATE OF NEVADA, )

12 Plaintiff. )

CASE NO.: 23-CR- 013015

DEPT: VIII

**HEARING REQUESTED**

13 **MOTION FOR BAIL, OR IN THE ALTERNATIVE,**

14 **FOR OWN RECOGNIZANCE RELEASE**

15 COMES NOW the Defendant, Jose DeCastro, by and through his attorney of record on  
16 appeal, CHRISTOPHER R. ORAM, ESQ., and hereby moves this Honorable Court to set a  
17 reasonable bail or in the alternative release Defendant on his own recognizance.

18 This Motion is made and based on the papers and pleadings on file herein, the attached  
19 Memorandum and Points and Authorities in support hereof, the Declaration of Christopher R.  
20 Oram, Esq., and any oral argument that may be entertained by this Court at the time set for  
21 hearing in this Motion.

22 Dated this 26<sup>th</sup> day of March 2024.

*/s/ Christopher R. Oram*

23 Christopher R. Oram, Esq.  
Nevada Bar No. 4349  
520 S. Fourth Street, Second Floor  
24 Las Vegas, NV 89101  
*Attorney for Jose DeCastro*

1 **NOTICE OF MOTION**

2 TO: THE STATE OF NEVADA, Plaintiff; and

3 TO: OFFICE OF THE DISTRICT ATTORNEY, Counsel for Defendant

4 YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that the undersigned will  
5 bring the above and foregoing **MOTION FOR BAIL, OR IN THE ALTERNATIVE, FOR**  
6 **OWN RECOGNIZANCE RELEASE** for hearing before Department VIII of the above-titled  
7 Court of the \_\_\_ day of \_\_\_\_\_, 2024, at the hour of \_\_\_\_\_.

8 DATED this 26<sup>th</sup>, day of March 2024

9  
10 */s/ Christopher R. Oram*  
11 Christopher R. Oram, Esq.  
12 Nevada Bar No. 4349  
13 520 S. Fourth Street, Second Floor  
14 Las Vegas, NV 89101  
15 *Attorney for Jose DeCastro*  
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. STATEMENT OF RELEVANT FACTS**

3 Mr. DeCastro is convicted of Obstructing a Public Officer and Resisting Public Officer  
4 that occurred when he was arrested on the 15<sup>th</sup> day of March 2023, while filming a traffic stop  
5 that occurred in a commercial parking lot. Mr. DeCastro appeared for an Arraignment on June  
6 13<sup>th</sup>, 2023, in the Las Vegas Township Justice Court Department 8. Bench Trial began on March  
7 19<sup>th</sup>, 2024, and judgment was entered on the same day. On March 19<sup>th</sup>, 2024, Mr. DeCastro was  
8 sentenced to one-hundred and eighty (180) days in the Clark County Detention Center.

9 Following his sentencing, on March 19<sup>th</sup>, 2024, Mr. DeCastro filed a Notice of Appeal  
10 from the Judgment of Convictions. On March 20<sup>th</sup>, 2024, the case was remanded to the District  
11 Court.

12  
13 **II. LEGAL ARGUMENT**

14 **Mr. Castro's Right to Bail under Nevada law.**

15 NRS § 178.488, states in relevant part that “[p]ending appeal to a district court, bail may  
16 be allowed by the trial justice, by the district court, or by any judge thereof, to run until final  
17 termination of the proceedings in all courts.” NV Rev Stat § 178.488 (2015).

18 NRS § 178.135, states that “[a]dmission to bail upon appeal shall be provided in this  
19 title”. NV Rev Stat § 178.135 (2015).

20 “Bail may be imposed only where it is necessary to reasonably ensure the defendant’s  
21 appearance at court proceedings or to protect the community, including the victim and the  
22 victim’s family”. Valdez-Jimenez v. Eighth Judicial Dist. Court of Nev., 136 Nev. 155.

23 In the instant case, Mr. DeCastro is appealing the Judgment of Convictions following a  
24 Bench Trial raising the issue of the denial of his constitutional rights as guaranteed by United

1 States Constitution and the Nevada State Constitution. Mr. DeCastro's case is pending appeal in  
2 a district court and thus he may be entitled to reasonable bail to run until the final termination of  
3 the proceedings in court. NV Rev Stat § 178.488 (2015).

4 Mr. DeCastro is appealing the conviction of two (2) non-violent misdemeanor violations  
5 of Obstructing a Public Officer and Resisting Public Officer following his arrest while filming a  
6 traffic stop that occurred in a commercial parking lot. Mr. DeCastro's appeal raises significant  
7 constitutional issues that were not litigated prior to trial.

8 Mr. DeCastro is regretful of his disrespectful behavior in Court and hopes to correct his  
9 behavior and rectify his reputation by adhering to established Court Room etiquette.

10 Mr. De Castro has no prior convictions and since arriving in Las Vegas in 1999 has built  
11 a longstanding reputation within the community amongst his family, friends, and co-workers.  
12 Mr. DeCastro is joined in Las Vegas by his loving family including his sister Maria, niece Tierra  
13 and nephew Mason Jr. whom he visits frequently. As well as spending time with his family, for  
14 nearly twenty (20) years Mr. De Castro has contributed to the community by regularly  
15 volunteering as a youth wrestling coach with the Athletic Training Center.

16 Along with his excellent reputation, Mr. DeCastro is known for being a dedicated and  
17 motivated worker. Since moving to Las Vegas, Mr. DeCastro has invested in the community by  
18 starting several businesses. Mr. DeCastro built and operates three (3) separate online  
19 companies, including a legal literature store, an apparel store, and a digital media site. With his  
20 business endeavors Mr. DeCastro employs three (3) full-time employees that operate within  
21 Nevada and has hired an additional six (6) full-time employees around the country.

22 In the instant case, Mr. DeCastro is appealing two (2) misdemeanors with a 90-day  
23 sentence. Mr. DeCastro's motivation remains focused on preparing a thorough appeal and  
24 ultimately returning to his family and carrying on the responsibilities of a small business owner.



1 Furthermore, Mr. DeCastro is prepared and motivated to litigate his appeal while adhering to all  
2 possible conditions set by the Court.

3 **CONCLUSION**

4 For these reasons, Mr. DeCastro respectfully requests that this Honorable Court grant his  
5 request for reasonable bail or in the alternative, a release on his own recognizance with the added  
6 condition of high-level electronic monitoring.

7  
8 DATED this 26<sup>th</sup> day of March 2024.

9 */s/ Christopher R. Oram*  
10 Christopher R. Oram, Esq.  
11 Nevada Bar No. 4349  
12 520 S. Fourth Street, 2nd Floor  
13 Las Vegas, NV 89101  
14 *Attorney for Jose DeCastro*  
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1 **NOTICE OF MOTION**

2 TO: STATE OF NEVADA, Plaintiff;

3 TO: STEVEN B. WOLFSON, District Attorney, Attorney for Plaintiff;

4 YOU, AND EACH OF YOU, will please take notice that the undersigned will bring the  
5 foregoing MOTION FOR BAIL, OR IN THE ALTERNATIVE, FOR OWN RECOGNIZANCE  
6 RELEASE on for hearing at the Las Vegas Justice Court, 200 Lewis Avenue in Department  
7 VIII of the Las Vegas Justice Court, on the \_\_\_\_\_ day of \_\_\_\_\_, 2024, at  
8 the hour of \_\_\_\_\_ a.m./p.m. or as soon thereafter as Counsel may be heard.

9  
10  
11 Dated this 26<sup>th</sup> day of March 2024.

12 */s/ Christopher R. Oram*  
13 Christopher R. Oram, Esq.  
14 Nevada Bar No. 4349  
15 520 S. Fourth Street, 2nd Floor  
16 Las Vegas, NV 89101  
17 *Attorney for Jose DeCastro*  
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 26<sup>th</sup> day of March 2024, I served a true and correct copy of  
3 the foregoing document entitled **MOTION FOR BAIL, OR IN THE ALTERNATIVE, FOR OWN**  
4 **RECOGNIZANCE RELEASE** to the Clark County District Attorney’s Office and all other parties  
5 associated with this case by electronic mail as follows:

6 CLARK COUNTY DISTRICT ATTORNEY  
7 [motions@clarkcountyda.com](mailto:motions@clarkcountyda.com)  
8 [pdmotions@clarkcountyda.com](mailto:pdmotions@clarkcountyda.com)

9  
10 By:     /s/ Tyler G. Perry  
11 An employee of Christopher R. Oram, Esq.

# Exhibit A

Michael Ehline, Esq.

(Texas SBN: 24130824; California SBN 236202)  
612 El Loro Rd  
Las Vegas, Nevada 89138

Your Honor,

I am writing to provide a character reference and to express my support for Jose (Chille) DeCastro, who is currently in custody pending appeal. As a California lawyer, I have had the privilege of knowing Chille personally and professionally, and I can attest to his outstanding character, integrity, and contributions to our community. I am presently grooming Mr. DeCastro for acceptance into the California State Bar Law Office Study Program. I have known Mr. DeCastro for approximately one year.

My observations are that Chille DeCastro is a dedicated individual who has always demonstrated a strong commitment to upholding the law and serving the community. In his work with me, he has exhibited professionalism, diligence, and a genuine passion for justice. His unwavering dedication to his work and his ethical conduct make him an exemplary member of our society. I firmly believe that Chille DeCastro is not a flight risk and poses no danger to the community. He has deep roots in the community and strong ties to his family and friends, who are supportive of him during this challenging time.

It is in the interest of justice to allow him to be released from custody pending the outcome of his appeal. Granting him bail would enable him to continue working with his legal team to prepare his case effectively while also allowing him to support his family and contribute positively to society.

I respectfully urge the Nevada Courts to consider Chille DeCastro's character, contributions, and the merits of his case when deciding on his bail application. I am confident that he will continue to uphold the law and abide by any conditions imposed by the court if granted bail.

Thank you for considering my letter in support of Chille DeCastro. Please do not hesitate to contact me if you require any further information.

Sincerely,

Michael Ehline, Esq.

To Your Honor,

I am writing this letter to share my experience and relationship with a defendant Jose (J.D.) DeCastro, currently in Clack County Jail.

We are neighbors in business, and I have enjoyed sharing space and conversations with JD. It is my opinion; he is the furthest thing from a person who should be in jail. He is not a violent man, and he has proven to be very responsible to his obligations. His job as an online creator can come across as abrasive and confrontational, but his personal side is charming and agreeable.

One time, after a rolling cart was stolen from my business frontal area, JD express shipped an Amazon replacement cart to me, knowing it would be a thoughtful and valuable gift, never once asking for reciprocation. We have become friends over the last year plus and his behavior has always been kind, cheerful and empathetic.

Incarnation serves no purpose here other than to take a productive member of our community away. Please reconsider your decision with Jose DeCastro.

Thank you for reading this letter.

Steve Berg,

Owner,  
Vegas Homebrew  
5140 W. Charleston Blvd.  
LV, NV 89146

FROM: DICK HELLER  
Supreme Court Case  
D.C vs. HELLER  
Washington, DC

~~~~~

If it may please The Court;

I am a retired police officer having worked both on the street and for the Federal Bureau of Prisons in Washington, DC.

With my background of advocating in court for civil rights, it certainly would not be in my professional best interest to associate with or much less link up and to work with someone that condoned violence in any way. As such, DeCastro has no criminal record, no convictions, and is a non-violent productive man.

Mr. DeCastro has a clean record, first time offender, and no convictions. For the above reasons, I pray the court will provide him with a reasonable bail.

Most sincerely,

/S/ Dick Heller



Your Honor,

Jose DeCastro is a grounded citizen here in Las Vegas, please let him out.

He's an upstanding citizen of the community. I've known him for over 25 years, and he's been a great friend to all around him and never one to hurt a person.

Gene Samuel

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ORDR

DISTRICT COURT  
CLARK COUNTY, NEVADA

JOSE DECASTRO,

Appellant,

vs.

STATE OF NEVADA,

Respondent.

Case No.: C-24-381730-A

DEPT. No.: XII

**ORDER SETTING HEARING IN DISTRICT COURT XII ON CRIMINAL APPEAL  
FROM LAS VEGAS JUSTICE COURT**

IT IS HEREBY ORDERED THAT:

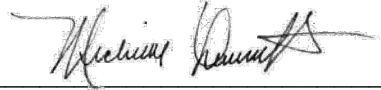
- A. The above-entitled Criminal Appeal from Las Vegas Justice Court has been set for hearing on **Wednesday, July 10, 2024, at 9:00 a.m.** in Department XII of the District Court.
- B. Within Ten (10) days after filing of the Notice of Appeal, the transcript should have been ordered for inclusion in the record on appeal unless a greater amount of time has been allowed. The transcript shall be ordered by the Appellant.
- C. The parties are hereby ordered to submit appellate briefs as follows:
  - 1. Appellant’s Opening Brief shall be filed by **May 6, 2024** with the District Court Clerk and served on Respondent.
  - 2. The Respondent shall serve an Answering Brief by June 5, 2024.
  - 3. After service of Respondent’s Brief, any Reply Brief must be served and filed by June 19, 2024.
- E. Original Briefs shall be filed with the District Court Clerk. Courtesy copies of

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briefs shall be submitted to Department XII of the Eighth Judicial District Court at dept12lc@clarkcountycourts.us.

F. Failure to comply with this Order shall result in the dismissal of the appeal or any other remedy deemed appropriate by the Court.

Dated this 28th day of March, 2024



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**CDA 505 B40D 8341  
Michelle Leavitt  
District Court Judge**

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CERTIFICATE OF SERVICE

I hereby certify on the date filed, this document was electronically served to the email addresses and/or by Fax transmission or by standard mail to:

Michael Mee, Esq.  
[mmee@defenselawyervegas.com](mailto:mmee@defenselawyervegas.com)

Agnes Botelho, Chief Deputy District Attorney  
[Agnes.botelho@clarkcountyda.com](mailto:Agnes.botelho@clarkcountyda.com)

*Pamela Osterman*

---

Pamela Osterman  
Judicial Executive Assistant  
Department XII  
Eighth Judicial District Court

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Jose Decastro, Appellant(s)

CASE NO: C-24-381730-A

7 vs

DEPT. NO. Department 12

8 State of Nevada, Respondent(s)

9  
10 **AUTOMATED CERTIFICATE OF SERVICE**

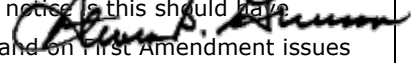
11 This automated certificate of service was generated by the Eighth Judicial District  
12 Court. The foregoing Order was served via the court's electronic eFile system to all  
13 recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 3/28/2024

15 Brittany Falconi

media@ournevadajudges.com

4/22/2024 3:01 PM  
Steven D. Grierson  
CLERK OF THE COURT



1 CASE NO. C-24-381730-A

2

3 IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP  
4 COUNTY OF CLARK, STATE OF NEVADA

5

6

7 THE STATE OF NEVADA, )

8 Plaintiff, )

9 vs. ) CASE NO. 23CR013015

10 JOSE DECASTRO, )

11 Defendant. )

12 \_\_\_\_\_ )

13

14 REPORTER'S TRANSCRIPT OF PROCEEDINGS  
15 BEFORE THE HONORABLE ANN E. ZIMMERMAN  
16 JUSTICE OF THE PEACE  
17 MONDAY, APRIL 1, 2024

18

8:00 A.M.

19

20 APPEARANCES:

21 For the State: A. BOTELHO, ESQ.  
22 DEPUTY DISTRICT ATTORNEY

23 For the Defendant: C. ORAM, ESQ.  
24 ATTORNEY AT LAW

25

26

27

28 Reported by: CHRISTA BROKA, CCR. No. 574

1 marshall he did this to here. I don't see how I saw  
2 seem to be significant Constitutional issues. The Court  
3 addressed it but what I did notice is this should have  
4 really been briefed beforehand on First Amendment issues  
5 so the Court could have had that, that's no fault, but I  
6 think it should have been done beforehand. I also  
7 noticed at the time of sentencing the State asked for a  
8 suspended sentence but Mr. Decastro just pushed it,  
9 pushed it, pushed it, and I see that reasonably agitated  
10 and irritated the Court causing a sentence that is now  
11 six months. This man from what I can tell, Your Honor,  
12 has no prior felony convictions whatsoever. I'm doing  
13 that upon information and belief. I haven't run his  
14 scope. I know the State can do that but I don't see  
15 that he has any felony convictions. He's made his  
16 appearances. I think the time in jail has been shocking  
17 to him. I know it has because I can tell the reaction  
18 of the calls everyday and how difficult it is for him.  
19 I think he pushed this and has -- is learning a very  
20 very difficult lesson in life. I would ask the Court to  
21 consider based on his ties to the community with a  
22 sister here, nephew, he has a whole bunch of people that  
23 wanted to come to court which I suggested if they come  
24 here be respectful and mindful of what's already  
25 occurred in this court. But what I'd ask the Court to

1 LAS VEGAS, CLARK COUNTY, NEVADA,  
2 APRIL 1, 2024 AT 8:00 A.M.  
3 P R O C E E D I N G S

4  
5 THE COURT: Jose Decastro, 23CR013015. Good  
6 morning.

7 MR. ORAM: Good morning, Your Honor.  
8 Christopher Oram on behalf of Mr. DeCastro. He is  
9 present in custody.

10 THE COURT: Nice to see you, Chris.

11 MS. BOTELHO: Agnes Botelho for the State  
12 bar number 11064.

13 THE COURT: This is your motion.

14 MR. ORAM: Yes, Your Honor. First of all,  
15 I've had a chance to watch the video of the trial. I  
16 watched Mr. Decastro come into your courtroom in an  
17 extraordinarily disrespectful fashion and refer to the  
18 marshall in an inappropriate way. I then saw some other  
19 things that I would consider very poor courtroom antics.  
20 Mr. Decastro was convicted. He was given six months in  
21 jail. One thing I know that he wanted to do today is  
22 for no other purpose no matter what your ruling he wants  
23 to say sorry. I've asked him if he'd say sorry to the  
24 Court. I understand that you may see it as that he  
25 should apologize to the marshall. I don't see the

1 do given his lack of any serious criminal history, his  
2 remorse for his behavior in this courtroom during the  
3 trial, and the fact that the State at the time did not  
4 want jail time, I'd ask for an appeal bond, Your Honor.  
5 So the issue can be -- these issues can be properly  
6 raised. And so with that, Your Honor, I'd ask for an  
7 O.R. I would just say a reasonable bail. I would  
8 suggest that since he came to the trial and he has since  
9 gotten a taste of what inappropriate behavior in a  
10 courtroom looks like and feels like, I would ask for a  
11 bail in the amount of 10 or \$20,000 -- an appeal bond in  
12 the amount 10 or \$20,000. With that, Your Honor, I  
13 would submit.  
14 THE COURT: State?  
15 MS. BOTELHO: Your Honor, may I respond  
16 orally? Typically pursuant to the Nevada Rules of  
17 Criminal Practice the State has ten days to file an  
18 opposition but this was placed on calendar very quickly.  
19 So I would ask for leave of the the Court to answer  
20 orally.  
21 THE COURT: Okay.  
22 MS. BOTELHO: Your Honor, I am in receipt of  
23 Mr. Oram's motion for bail or in the alternative for his  
24 own recognizance release. I would note that NRS 178.488  
25 does make it discretionary upon this Court whether you

1 would allow bail pending appeal. Mr. Decastro there has  
 2 been a briefing schedule set before Judge Leavitt in  
 3 District Court on the appeal but it's not set to be  
 4 heard until July. It's discretionary, Your Honor. The  
 5 State would oppose this Court setting a bail at this  
 6 point. There seems to be this assumption that this  
 7 Court sentenced Mr. Decastro to six months in the Clark  
 8 County Detention Center just because of his conduct or  
 9 his inappropriate conduct in court. I would venture to  
 10 say that Your Honor presided over the trial to where you  
 11 found guilt beyond a reasonable doubt for both the  
 12 obstructing a police officer and resisting a police  
 13 officer. You saw his conduct in the body worn camera by  
 14 the officer and I would venture to say and I would  
 15 submit to the Court that the six-month sentence that you  
 16 imposed isn't simply for his behavior in court or his  
 17 behavior to your marshall but that is an appropriate  
 18 sentence placed on upon the Defendant by the Court due  
 19 to the charges and the evidence that you saw during  
 20 trial. There's also been this claim that Mr. Decastro  
 21 has stayed trouble free for most of his life. I would  
 22 venture to say, yes, he does not have felony  
 23 convictions. He does not have gross misdemeanor  
 24 convictions. But he does have pretty consistent contact  
 25 with law enforcement. He does have a warrant out of

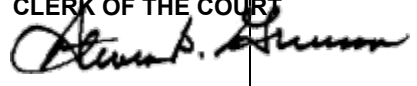
1 Ohio a trespass and I understand that's a piddley  
 2 misdemeanor, however, it is in warrant status. He has a  
 3 pending case in Las Vegas Justice Court for the very  
 4 same offenses that this Court heard during the trial  
 5 here. As to the claim that, you know, hey, there were  
 6 issues before trial and there were First Amendment  
 7 issues raised and briefed prior to, Your Honor Defense  
 8 Counsel was able to argue the First Amendment defense.  
 9 Your Honor, heard these arguments both during the trial  
 10 and during closing arguments. Mr. Decastro when he took  
 11 the stand raised them as a defense. But Your Honor held  
 12 after listening to all of the evidence and applying the  
 13 law, Your Honor held -- found him guilty regardless.  
 14 This was not a First Amendment issue. The State stands  
 15 by that. This was simply the Defendant breaking the law  
 16 and he was sentenced accordingly for his behavior. It  
 17 was conduct -- it was a consequence an appropriate  
 18 sentence imposed by the Court to the Defendant. We  
 19 would oppose any kind of change or bail setting or O.R.  
 20 at this point. This is not a pretrial detention. This  
 21 is not pretrial -- Valdez-Jiminez was cited also in the  
 22 Defense Counsel's motion. Valdez-Jiminez is about  
 23 pretrial detention. Mr. Decastro is no longer cloaked  
 24 with the presumption of innocence. He has been found  
 25 guilty beyond a reasonable doubt by Your Honor. At this

1 point I would ask that the six-month sentence that you  
 2 imposed stand and he remain in custody.  
 3 MR. ORAM: May I reply?  
 4 THE COURT: I'm going to ask the interpreter  
 5 to quit reading. Thank you.  
 6 MR. ORAM: Your Honor, the statute we cited  
 7 is in fact just discretionary to you to determine  
 8 pending appeal whether an appeal bond can be issued. I  
 9 hear the State. I recognize you found him guilty. I am  
 10 not trying to in anyway argue that. On appeal there are  
 11 legitimate issues. The Court can see there are some  
 12 First Amendment issues just from watching the video  
 13 things that a Court can consider on appeal so that's the  
 14 only basis I'm bringing that up on. But given the fact  
 15 that I think he really is contrite for what he's done --  
 16 THE COURT: I disagree. Have you watched  
 17 the videos that have been posted since he has been  
 18 incarcerated?  
 19 MR. ORAM: I am in a murder trial, Your  
 20 Honor.  
 21 THE COURT: I guess he can apologize to me  
 22 in a minute but that's not what he's saying on -- what  
 23 he's publishing online and in his phone calls from the  
 24 jail. That's not what he's saying at all. Are you  
 25 aware that he has a trial pending in Las Vegas Municipal

1 Court, he has a case pending in Good Springs Justice  
 2 Court where he continues to manufacture situations where  
 3 he will get arrested?  
 4 MR. ORAM: Your Honor, I represent that's  
 5 what he was sort of doing for a living. He's now been  
 6 incarcerated --  
 7 THE COURT: What he is saying in the couple  
 8 of weeks since he's been incarcerated when he calls from  
 9 the jail and publishes them on his website is not what  
 10 he's about to say to me. Okay? So he's going to  
 11 apologize to me now but that's not what he's doing  
 12 publicly. Okay?  
 13 MR. ORAM: Okay. I won't have him speak at  
 14 this time. But I would still ask you to consider that  
 15 there may be legitimate issues, I think there are, for  
 16 Judge Leavitt to consider. I think these are sort of  
 17 issues of first impression that was the other thing I  
 18 saw is in the State of Nevada I can't find any case law  
 19 that specifically talks about this filming of police  
 20 officers. What I would say to the Court is I recognize  
 21 it's obnoxious behavior is what it appears to be.  
 22 Whether it's protected is another thing that I think  
 23 higher courts need to look at. I can see if the Court  
 24 has already made up its mind --  
 25 THE COURT: I want to be clear that I did







**MOT**  
CHRISTOPHER R. ORAM, ESQ.  
Nevada Bar No. 4349  
520 S. Fourth Street, Second Floor  
Las Vegas, Nevada 89101  
Telephone: (702) 384-5563  
[contact@christopheroramlaw.com](mailto:contact@christopheroramlaw.com)  
*Attorney for Jose DeCastro*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

JOSE DECASTRO,  
Defendant,  
vs.  
STATE OF NEVADA,  
Plaintiff.

CASE NO.: C-24-381730-A  
DEPT: XII

**HEARING REQUESTED**

**MOTION FOR BAIL, OR IN THE ALTERNATIVE,  
FOR OWN RECOGNIZANCE RELEASE**

COMES NOW the Defendant, Jose DeCastro, by and through his attorney of record on appeal, CHRISTOPHER R. ORAM, ESQ., and hereby moves this Honorable Court to set a reasonable bail or in the alternative release Defendant on his own recognizance.

This Motion is made and based on the papers and pleadings on file herein, the attached Memorandum and Points and Authorities in support hereof, the Declaration of Christopher R. Oram, Esq., and any oral argument that may be entertained by this Court at the time set for hearing in this Motion.

Dated this 4<sup>th</sup> day of April 2024.

/s/ Christopher R. Oram

Christopher R. Oram, Esq.  
Nevada Bar No. 4349  
520 S. Fourth Street, Second Floor  
Las Vegas, NV 89101  
*Attorney for Jose DeCastro*

1 **NOTICE OF MOTION**

2 TO: THE STATE OF NEVADA, Plaintiff; and

3 TO: OFFICE OF THE DISTRICT ATTORNEY, Counsel for Defendant

4 YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that the undersigned will  
5 bring the above and foregoing **MOTION FOR BAIL, OR IN THE ALTERNATIVE, FOR**  
6 **OWN RECOGNIZANCE RELEASE** for hearing before Department VIII of the above-titled  
7 Court of the \_\_\_ day of \_\_\_\_\_, 2024, at the hour of \_\_\_\_\_.

8 DATED this 4<sup>th</sup>, day of April 2024

9 */s/ Christopher R. Oram*  
10 Christopher R. Oram, Esq.  
11 Nevada Bar No. 4349  
12 520 S. Fourth Street, Second Floor  
13 Las Vegas, NV 89101  
14 *Attorney for Jose DeCastro*

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. STATEMENT OF RELEVANT FACTS**

3 Mr. DeCastro is convicted of Obstructing a Public Officer and Resisting Public Officer  
4 that occurred when he was arrested on the 15<sup>th</sup> day of March 2023, while filming a traffic stop  
5 that occurred in a commercial parking lot. Mr. DeCastro appeared for an Arraignment on June  
6 13<sup>th</sup>, 2023, in the Las Vegas Township Justice Court Department 8. Bench Trial began on March  
7 19<sup>th</sup>, 2024, and judgment was entered on the same day. On March 19<sup>th</sup>, 2024, Mr. DeCastro was  
8 sentenced to one-hundred and eighty (180) days in the Clark County Detention Center.

9 Following his sentencing, on March 19<sup>th</sup>, 2024, Mr. DeCastro filed a Notice of Appeal  
10 from the Judgment of Convictions. On March 20<sup>th</sup>, 2024, the case was remanded to the District  
11 Court.

12 On March 26<sup>th</sup>, 2024, Mr. DeCastro filed a Motion for Bail, or in the Alternative, For  
13 Own Recognizance Release in the Las Vegas Justice Court. On April 1<sup>st</sup>, 2024, a hearing on the  
14 motion was held in Department 8 before the Honorable Judge Zimmerman, and Mr. DeCastro's  
15 motion was denied.

16  
17 **II. LEGAL ARGUMENT**

18 **Mr. Castro's Right to Bail under Nevada law.**

19 NRS § 178.488, states in relevant part that "[p]ending appeal to a district court, bail may  
20 be allowed by the trial justice, by the district court, or by any judge thereof, to run until final  
21 termination of the proceedings in all courts." NV Rev Stat § 178.488 (2015).

22 NRS § 178.135, states that "[a]dmission to bail upon appeal shall be provided in this  
23 title". NV Rev Stat § 178.135 (2015).

1           “Bail may be imposed only where it is necessary to reasonably ensure the defendant’s  
2 appearance at court proceedings or to protect the community, including the victim and the  
3 victim’s family”. Valdez-Jimenez v. Eighth Judicial Dist. Court of Nev., 136 Nev. 155.

4           In the instant case, Mr. DeCastro is appealing the Judgment of Convictions following a  
5 Bench Trial raising the issue of the denial of his constitutional rights as guaranteed by United  
6 States Constitution and the Nevada State Constitution. Mr. DeCastro’s case is pending appeal in  
7 a district court and thus he may be entitled to reasonable bail to run until the final termination of  
8 the proceedings in court. NV Rev Stat § 178.488 (2015).

9           Mr. DeCastro is appealing the conviction of two (2) non-violent misdemeanor violations  
10 of Obstructing a Public Officer and Resisting Public Officer following his arrest while filming a  
11 traffic stop that occurred in a commercial parking lot. Mr. DeCastro’s appeal raises significant  
12 constitutional issues that were not litigated prior to trial. Additionally, Mr. DeCastro has no  
13 criminal history of violence and has no prior felony convictions.

14           Furthermore, it should be noted that in the instant case, at sentencing the State requested  
15 that the Court grant Mr. DeCastro a suspended sentence.

16           Mr. DeCastro is regretful of his disrespectful behavior in Justice Court, during trial, and  
17 hopes to correct his behavior and rectify his reputation by adhering to established Court Room  
18 etiquette.

19           Upon information and belief, since arriving in Las Vegas in 1999, Mr. DeCastro has built  
20 a longstanding reputation within the community amongst his family, friends, and co-workers.  
21 Mr. DeCastro is joined in Las Vegas by his loving family including his sister Maria, niece Tierra  
22 and nephew Mason Jr. whom he visits frequently. As well as spending time with his family, for  
23 nearly twenty (20) years Mr. De Castro has contributed to the community by regularly  
24 volunteering as a youth wrestling coach with the Athletic Training Center.

1 Along with his excellent reputation, Mr. DeCastro is known for being a dedicated and  
2 motivated worker. Since moving to Las Vegas, Mr. DeCastro has invested in the community by  
3 starting several businesses. Mr. DeCastro built and operates three (3) separate online  
4 companies, including a legal literature store, an apparel store, and a digital media site. With his  
5 business endeavors Mr. DeCastro employs five (5) full-time employees that operate within  
6 Nevada and around the country.

7 In the instant case, Mr. DeCastro is appealing two (2) misdemeanors of which each carry  
8 a 90-day sentence. Mr. DeCastro's motivation remains focused on preparing a thorough appeal  
9 and ultimately returning to his family and carrying on the responsibilities of a small business  
10 owner. Furthermore, Mr. DeCastro is prepared and motivated to litigate his appeal while  
11 adhering to all possible conditions set by the Court.

12 **CONCLUSION**

13 For these reasons, Mr. DeCastro respectfully requests that this Honorable Court grant his  
14 request for reasonable bail or in the alternative, a release on his own recognizance with the added  
15 condition of high-level electronic monitoring.

16  
17 DATED this 4<sup>th</sup> day of April 2024.

18 */s/ Christopher R. Oram*  
19 Christopher R. Oram, Esq.  
20 Nevada Bar No. 4349  
21 520 S. Fourth Street, 2nd Floor  
22 Las Vegas, NV 89101  
23 *Attorney for Jose DeCastro*  
24



1 **NOTICE OF MOTION**

2 TO: STATE OF NEVADA, Plaintiff;

3 TO: STEVEN B. WOLFSON, District Attorney, Attorney for Plaintiff;

4 YOU, AND EACH OF YOU, will please take notice that the undersigned will bring the  
5 foregoing MOTION FOR BAIL, OR IN THE ALTERNATIVE, FOR OWN RECOGNIZANCE  
6 RELEASE on for hearing at the Clark County Eighth Judicial District Court, 200 Lewis Avenue  
7 in Department XII of the Eighth Judicial District Court, on the \_\_\_\_\_ day of  
8 \_\_\_\_\_, 2024, at the hour of \_\_\_\_\_ a.m./p.m. or as soon thereafter as Counsel  
9 may be heard.

10  
11  
12 Dated this 4<sup>th</sup> day of April 2024.

13 */s/ Christopher R. Oram*  
14 Christopher R. Oram, Esq.  
15 Nevada Bar No. 4349  
16 520 S. Fourth Street, 2nd Floor  
17 Las Vegas, NV 89101  
18 *Attorney for Jose DeCastro*  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 4<sup>th</sup> day of April 2024, I served a true and correct copy of the foregoing document entitled **MOTION FOR BAIL, OR IN THE ALTERNATIVE, FOR OWN RECOGNIZANCE RELEASE** to the Clark County District Attorney’s Office and all other parties associated with this case by electronic mail as follows:

CLARK COUNTY DISTRICT ATTORNEY  
[motions@clarkcountyda.com](mailto:motions@clarkcountyda.com)  
[pdmotions@clarkcountyda.com](mailto:pdmotions@clarkcountyda.com)

By: /s/ Tyler G. Perry  
An employee of Christopher R. Oram, Esq.



# Exhibit A

Michael Ehline, Esq.

(Texas SBN: 24130824; California SBN 236202)  
612 El Loro Rd  
Las Vegas, Nevada 89138

Your Honor,

I am writing to provide a character reference and to express my support for Jose (Chille) DeCastro, who is currently in custody pending appeal. As a California lawyer, I have had the privilege of knowing Chille personally and professionally, and I can attest to his outstanding character, integrity, and contributions to our community. I am presently grooming Mr. DeCastro for acceptance into the California State Bar Law Office Study Program. I have known Mr. DeCastro for approximately one year.

My observations are that Chille DeCastro is a dedicated individual who has always demonstrated a strong commitment to upholding the law and serving the community. In his work with me, he has exhibited professionalism, diligence, and a genuine passion for justice. His unwavering dedication to his work and his ethical conduct make him an exemplary member of our society. I firmly believe that Chille DeCastro is not a flight risk and poses no danger to the community. He has deep roots in the community and strong ties to his family and friends, who are supportive of him during this challenging time.

It is in the interest of justice to allow him to be released from custody pending the outcome of his appeal. Granting him bail would enable him to continue working with his legal team to prepare his case effectively while also allowing him to support his family and contribute positively to society.

I respectfully urge the Nevada Courts to consider Chille DeCastro's character, contributions, and the merits of his case when deciding on his bail application. I am confident that he will continue to uphold the law and abide by any conditions imposed by the court if granted bail.

Thank you for considering my letter in support of Chille DeCastro. Please do not hesitate to contact me if you require any further information.

Sincerely,

Michael Ehline, Esq.

To Your Honor,

I am writing this letter to share my experience and relationship with a defendant Jose (J.D.) DeCastro, currently in Clack County Jail.

We are neighbors in business, and I have enjoyed sharing space and conversations with JD. It is my opinion; he is the furthest thing from a person who should be in jail. He is not a violent man, and he has proven to be very responsible to his obligations. His job as an online creator can come across as abrasive and confrontational, but his personal side is charming and agreeable.

One time, after a rolling cart was stolen from my business frontal area, JD express shipped an Amazon replacement cart to me, knowing it would be a thoughtful and valuable gift, never once asking for reciprocation. We have become friends over the last year plus and his behavior has always been kind, cheerful and empathetic.

Incarnation serves no purpose here other than to take a productive member of our community away. Please reconsider your decision with Jose DeCastro.

Thank you for reading this letter.

Steve Berg,

Owner,  
Vegas Homebrew  
5140 W. Charleston Blvd.  
LV, NV 89146

FROM: DICK HELLER  
Supreme Court Case  
D.C vs. HELLER  
Washington, DC

~~~~~

If it may please The Court;

I am a retired police officer having worked both on the street and for the Federal Bureau of Prisons in Washington, DC.

With my background of advocating in court for civil rights, it certainly would not be in my professional best interest to associate with or much less link up and to work with someone that condoned violence in any way. As such, DeCastro has no criminal record, no convictions, and is a non-violent productive man.

Mr. DeCastro has a clean record, first time offender, and no convictions. For the above reasons, I pray the court will provide him with a reasonable bail.

Most sincerely,

/S/ Dick Heller

Your Honor,

Jose DeCastro is a grounded citizen here in Las Vegas, please let him out.

He's an upstanding citizen of the community. I've known him for over 25 years, and he's been a great friend to all around him and never one to hurt a person.

Gene Samuel

Your Honor,

I am writing this letter to express concern and worry for my tenant and friend Jose. I own My Charleston Plaza and Jose (we call him JD) has been a tenant there for over a year and a half. Over that time I have become good friends with JD and even allowed him to have keys to my building. He is the type of person you feel like you've known forever after a few weeks of knowing him.

When JD told me he was in jail I thought he was joking! JD is such a nice, calm, and level headed person. He's an ideal tenant and I wish all of mine with like him! He pays on time, comes to me directly with any issues he has in a constructive way, and always does things with a smile on his face.

It's preposterous that he is in jail - a man like him should not be in a place like that. I can vouch for his character and hope to see him released as soon as possible.

Thank you,

David A. Levy

702-355-5102

Have A Nice **GREEN** Day®

To whom it may concern:

My name is Tierra, I am the niece of Jose DeCastro, and I live in Las Vegas with my husband and four kids.

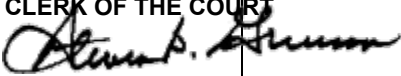
I have lived in Las Vegas almost my entire life, as Jose DeCastro moved my family, my mother (his sister) and two brothers, out here when I was a toddler.

Jose is a pillar in our lives. He takes part in my children's extracurriculars, such as competitive youth wrestling, and is present in our day to day lives.

He is an upstanding family member to me and my children and adds value being in our lives.

Thank you

Tierra



1 **NOA**  
CHRISTOPHER R. ORAM, ESQ.  
2 Nevada Bar No. 4349  
520 S. Fourth Street, Second Floor  
3 Las Vegas, Nevada 89101  
Telephone: (702) 384-5563  
4 [contact@christopheroramlaw.com](mailto:contact@christopheroramlaw.com)  
*Attorney for Jose DeCastro*

5  
6 **DISTRICT COURT  
CLARK COUNTY, NEVADA**

7 )  
8 JOSE DECASTRO, )  
Appellant, ) CASE NO.: C-24-381730-A  
9 vs. ) DEPT: XII  
10 STATE OF NEVADA, )  
11 Respondent. )  
12 )

13 **NOTICE OF APPEARANCE OF COUNSEL**

14 TO: STATE OF NEVADA, Plaintiff; and  
15 TO: COUNTY DISTRICT ATTORNEY’S OFFICE, Counsel for Respondent:  
16 Appellant, JOSE DECASTRO, by and through counsel, hereby gives notice that  
17 CHRISTOPHER R. ORAM, ESQ., of THE LAW OFFICE OF CHRISTOPHER ORAM, is  
18 appearing as counsel for Mr. DeCastro.

19 This Notice is necessary because Counsel was retained as counsel in the above-  
20 mentioned case, and Counsel wishes to appear on behalf of Mr. DeCastro.

21 Dated this 4<sup>th</sup> day of April 2024. */s/ Christopher R. Oram*  
22 Christopher R. Oram, Esq.  
23 Nevada Bar No. 4349  
520 S. Fourth Street, Second Floor  
24 Las Vegas, NV 89101  
*Attorney for Jose DeCastro*



1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 4<sup>th</sup> day of April 2024, I served a true and correct copy of the  
3 foregoing document entitled **NOTICE OF APPEARANCE OF COUNSEL** to the Clark County  
4 District Attorney's Office and all other parties associated with this case by electronic mail as  
5 follows:

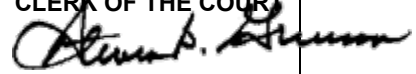
6 CLARK COUNTY DISTRICT ATTORNEY  
7 [motions@clarkcountyda.com](mailto:motions@clarkcountyda.com)  
8 [pdmotions@clarkcountyda.com](mailto:pdmotions@clarkcountyda.com)

9  
10 By:     /s/ Tyler G. Perry  
11 An employee of Christopher R. Oram, Esq.  
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DISTRICT COURT  
CLARK COUNTY, NEVADA

\*\*\*\*

Electronically Filed  
4/4/2024 4:36 PM  
Steven D. Grierson  
CLERK OF THE COURT



Jose Decastro, Appellant(s)

Case No.: C-24-381730-A

vs

State of Nevada, Respondent(s)

Department 12

**NOTICE OF HEARING**

Please be advised that the Defendant's Motion for Bail, or in the Alternative, for Own  
Recognizance Release in the above-entitled matter is set for hearing as follows:

**Date:** April 10, 2024

**Time:** 9:00 AM

**Location:** RJC Courtroom 14D  
Regional Justice Center  
200 Lewis Ave.  
Las Vegas, NV 89101

**NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the  
Eighth Judicial District Court Electronic Filing System, the movant requesting a  
hearing must serve this notice on the party by traditional means.**

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Marie Kramer  
Deputy Clerk of the Court

**CERTIFICATE OF SERVICE**

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion  
Rules a copy of this Notice of Hearing was electronically served to all registered users on  
this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Marie Kramer  
Deputy Clerk of the Court

C-24-381730-A

Jose Decastro, Appellant(s)  
vs  
State of Nevada, Respondent(s)

Department 12

April 09, 2024

12:29 PM

Minute Order

HEARD BY: Leavitt, Michelle

COURTROOM: Chambers

COURT CLERK: Villatoro, Reina

RECORDER:

REPORTER:

PARTIES PRESENT:

**JOURNAL ENTRIES**

The court having reviewed the Motion for Bail or in the Alternative for Own Recognizance Release, does hereby deny Apellants request for bail. The hearing scheduled for April 10, 2024 is vacated.