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18
19 IN THE UNITED STATES DISTRICT COURT
20
21 IN AND FOR THE DISTRICT OF ARIZONA
22

Terrence Bressi,

Plaintiff,

vs.

(1) Pima County Sheriff Mark
Napier, in his individual and official
capacities, *et al.*,

Defendants.

Case No. 4:18-cv-00186 DCB

PLAINTIFF’S CONTROVERTING
STATEMENT OF FACTS TO THE
STATEMENT OF FACTS FILED BY
THE COUNTY DEFENDANTS

23
24 Plaintiff, pursuant to Rule 56.1(b), L.R. Civ. P., submits the following
25 Controverting Statement of Facts in response to the Statement of Facts [Doc. 137],
26 filed by the County Defendants on June 17, 2021.

27 1. This fact is disputed. Mr. Bressi was not arrested on April 16, 2017, but
28 rather April 10, 2017.

1 2. This fact is disputed. Mr. Bressi has received one criminal citation from
2 the Pima County Sheriff's Department on April 10, 2017. He has received three civil
3 citations: on December 20, 2008, for blocking or impeding the flow of traffic; on
4 March 29, 2013, for stopping unnecessarily on a highway; and on April 30, 2014, for
5 excessive use of horn. (**Ex. 32**)

6 Additional Facts:

7 3. Deputy Roher admitted that during Mr. Bressi's arrest, he knew who
8 Mr. Bressi was and had seen his videos, and that he had frequently discussed Mr.
9 Bressi with Border Patrol agents prior to the April 10, 2017 arrest. (**Ex. 30:** p. 47,
10 1.17- 49 l. 16; p. 51 ll. 11-18)¹

11 4. Deputy Roher knew of another occasion where a deputy at the
12 checkpoint encountered Mr. Bressi but declined to cite him for obstructing the
13 highway after consulting with the Legal Advisor. (**Ex. 30:** p. 53, ll. 8-17; **Ex. 33**²)

14 5. There have been other incidents where motorists who refused to answer
15 questions but were not recognized as vocal activists were not arrested for similar
16 conduct. (**Ex. 34**)

17 The following facts stated in Plaintiff's Statement of Undisputed Facts in
18 Support of Motion for Partial Summary Judgment (Doc. 105) are also relied upon in

¹ Plaintiff's Exhibit 30 was also filed with Plaintiff's Controverting Statement of Facts to the Federal Defendants' Statement of Facts. The pages listed above are attached here again for the Court's convenience.

² This exhibit is a transcript of a portion of the March 26, 2016, encounter between Mr. Bressi and Deputy McMillan. A video of the entire encounter has been filed by the federal defendants as Exhibit N to their Statement of Facts (Doc. 141).

1 this opposition to the county defendants' motion for summary judgment. When they
2 are cited in this opposition, they are identified as "Plaintiff's Fact." Rather than attach
3 duplicate copies of all the exhibits, Plaintiff will refer to the previously filed
4 Statement of Facts and accompanying exhibits, which are hereby incorporated here
5 by reference:

6 Plaintiff's Fact #28: The Border Patrol is aware that Plaintiff Terrence Bressi
7 is a United States citizen. (**Ex. 12**)

8 Plaintiff's Fact #29: Many Border Patrol agents who often work at the SR-86
9 checkpoint recognize Mr. Bressi and his vehicle on sight. (**Ex. 1**, p. 16)

10 Plaintiff's Fact #30: Border Patrol agents have displayed a poster with Mr.
11 Bressi's name and photograph, with a statement that he is a United States citizen,
12 inside a structure at the SR-86 checkpoint. (**Ex. 12**; **Ex. 6**)

13 Plaintiff's Fact #31: When Mr. Bressi passes through the checkpoint, agents
14 often do not allow him to proceed without stopping him to question him about his
15 citizenship, even when they recognize him. (**Ex. 1**, p. 79)

16 Plaintiff's Fact #32: There is no evidence agents at the SR-86 checkpoint have
17 ever suspected Mr. Bressi of involvement with human smuggling.

18 Dated this 26th day of July 2021.

19 Ralph E. Ellinwood, Attorney at Law, PLLC
20 Knight Law Firm, PC

21
22 /s/ Ralph E. Ellinwood

23 Ralph E. Ellinwood

24 Amy P. Knight

25 Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of July 2021 I electronically transmitted the attached document to the Clerk’s Office using the CM/ECF system for filing the transmittal of a Notice of Electronic Filing.

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

/s/ Ralph E. Ellinwood
Attorney for Plaintiff

ECF copy to:

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