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Attorney for Defendant

IN THE JUSTICE COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF PIMA

STATE OF ARIZONA,)	Case No. CR17-706020-MI
)	
Plaintiff,)	SECOND SUPPLEMENT TO DEFENDANT'S
)	MOTION FOR DISCLOSURE
vs.)	
)	
TERRENCE HARRY BRESSI,)	
)	
Defendant.)	
)	Hon. Maria Felix

TERRENCE HARRY BRESSI, through Counsel, Adam N. Bleier and Steven P. Sherick, SHERICK & BLEIER, PLLC, respectfully supplements his prior request to this Court, pursuant to Rule 15.1 of the Arizona Rules of Criminal Procedure, the principles set forth in *Brady v. Maryland*, 373 U.S. 83 (1963), and the due process, confrontation, and effective assistance of counsel clauses of the Arizona and United States Constitutions to order the State of Arizona to disclose items and information critical to his legal and factual defense.

At the December 15, 2017, hearing on Defendant's Motion to continue, one issue that was argued was whether information held by the U.S. Border Patrol was available to the State. The State conceded in argument that it had obtained a Border Patrol video of the incident. The

1 prosecutor stated that he was unaware of how the video had been obtained. Attached to this
2 motion is a portion of the report written by Pima County Sheriff's Deputy Kunze regarding the
3 incident:

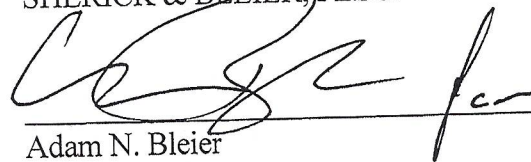
4 I contacted the Watch Commander, Agent Morales, her star number is #T-6, and
5 requested a copy of the videotape from the Border Patrol checkpoint, along with the
Border Patrol incident number.

6 See *PCSO Kunze Report*, attached as **Exhibit A**. Given that the State was able to obtain the Border
7 Patrol's video of the incident without difficulty they should also be able to obtain the incident reports
8 written by the Border Patrol agents involved in Mr. Bressi's arrest and detention. This is especially
9 the case given that the Sheriff's deputies at the time of the incident were working in cooperation with
10 the Border Patrol and being paid by the Department of Homeland Security pursuant to the OPSG
11 grant program. For FY 2016 PCSO received an award of \$1.07M for its participation in OPSG.
12 Under the terms of the grant the activities of the PCSO Deputies participating are coordinated and
13 overseen by Border Patrol and they are required to submit daily activity reports regarding those
14 deployments. See *Excerpts of OPSG Grant to PCSO* attached as **Exhibit B**.

15 Given the extensive coordination involved in OPSG and the required cooperation among
16 agencies it is implausible that the State is unable to obtain the information requested by defendant.

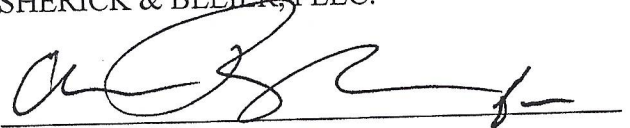
17 **RESPECTFULLY SUBMITTED** this 18th day of December, 2017.

18 SHERICK & BLEIER, PLLC.

19 

20 Adam N. Bleier
Counsel for Defendant

21 SHERICK & BLEIER, PLLC.

22 

23 Steven P. Sherick
Counsel for Defendant

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1
2 Original of the foregoing
3 filed this date with the Clerk
4 of the Pima County Justice Court.
5
6 Copies of the foregoing
7 Mailed/delivered this date to:
8
9 Hon. Maria Felix
10 Pima County Justice Court
11
12 Mr. Ian Daranyi
13 Deputy County Attorney
14 Pima County Attorney's Office
15 32 N. Stone Ave., #1400
16 Tucson, Arizona 85701
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19
20
21
22
23
24

EXHIBIT A

04/14/17
14:07

Pima County Attorney's Office
Detail Incident Report

91215
Page: 6

Incident #: 170410284

obtained a handheld camera. He then came back over to where a Border Patrol agent was asking for my name and badge number. At one point in our conversation, Mr. Bressi asked me for my badge number and I gave it to him. Mr. Bressi said that he wanted to know if the Border Patrol agents were cross certified. I told him that I did not know if they were cross certified.

After this, I turned off the recorder because I believed that Mr. Bressi was done talking with us. He did come back. He saw a Border Patrol agent writing down my name and badge number. He then told me that he wanted whatever information Border Patrol was going to hand me. I told him that they were not giving me any information, after which, he started speaking to the Border Patrol agents and asked them for their card. Deputy Roher did produce a business card and gave it to Mr. Bressi. Mr. Bressi did not ask me for a business card, after which, I did not have any further contact with him.

I contacted the Watch Commander, Agent Morales, her star number is #T-6, and requested a copy of the videotape from the Border Patrol checkpoint, along with the Border Patrol incident number.

NOTE: The recording of the conversation with me and Mr. Bressi will be turned in to Property and Evidence on 04/12/17. This is because at that time I did not have a cord to make the data transfer from the recorder to the computer.

I had no further involvement.

NFI Transcribed by #6022 on Mon Apr 10 20:39:43 MST 2017

End of SUPPLEMENTAL NARRATIVE: (LWSUPL: Supplement Nbr. 1)

=====
SUPPLEMENTAL NARRATIVE: (LWSUPL: Supplement Nbr. 2)
=====

Initial Case Narrative by R. Roher #5347 on 04/10/17 at 1915 hrs.
Total Dictation Time = 15:39 mins.

INVOLVED BORDER PATROL AGENT:

Primary Agent: T. Frye #T739

Senior Agent: E. Lopez #T550

Supervisor: E. Fuentes #T37

VEHICLE INFORMATION:

The vehicle was identified with Arizona license plate of BEW7629. The vehicle was registered to Terrence Bressi.

ARRESTEE INFORMATION:

The arrestee in this case was identified with an Arizona driver's license as Terrence Bressi.

EXHIBIT B

FY 2016 OPSG Grant Award to PCSO Excerpts:

OPSG General Concept

OPSG provides funding to designated localities to enhance cooperation and coordination between Federal, state, local, tribal, and territorial law enforcement agencies in a joint mission to secure the United States Borders along routes of ingress from international borders to include travel corridors in states bordering Mexico and Canada, as well as states and territories with international water borders. Operational periods may be shortened or expanded based on funding levels and or intelligence driven special deployments by Pima County Sheriff Department or the US Border Patrol to include critical incidents and/or incidents of violence related to border crime. Deputies will be deployed in key areas where the criminal element may pass through Pima County. This is in order to best affect the generalized plan to stop the criminal operations. The Pima County Sheriff's Department, in cooperation with OPSG partners and U.S. Border Patrol, will continue to effect and execute a strategic plan, which entails the deployment of deputies along prime roadways prone to invoke illegal activity and national security concerns. If contact and/or interaction are made with certain "persons of interest" notification will be made to the Office of Customs and Border Protection, U.S. Border Patrol or the appropriate agency. Deployments will be monitored and modified to successfully fulfill budget requirements through the grant period. Areas of concern are subject to change depending on the three strategic concepts and agency needs.

...

Border Patrol Responsibilities

- Operational Control: Border Patrol management at the Sector and Station level will closely coordinate with participating agencies and ensure that deployments are in alignment with station and sector objectives.
- Station personnel will work collaboratively with participating agencies to identify border security threats within their respective Area of Responsibility (AOR).
- In the absence of specific named operations, stations will pre-coordinate ad hoc OPSG deployments or create and provide bi-weekly block schedules to participating agencies (dates, times, and locations).
- SLT Officers/Deputies may conduct ad hoc OPSG operations which are not part of a named operation or are not part of the block schedule if pre coordination has taken place with the appropriate Border Patrol Station or identified BP POC
- Border Patrol will identify a sector and/or station point of contact that will:
 - o Coordinate and approve every OPSG deployment.
 - o Review Daily Activity Reports.
 - o Create and provide block schedules.
- When practical, based on the deployment location of OPSG officers and BP station locations, participating agencies should be encouraged to attend station musters.
- If applicable, coordination with the Office of Field Operations regarding outbound operations should be encouraged.
- Station personnel are required to provide OPSG participants with actionable intelligence.

Participating Agency Responsibilities

- Participating agency will work collaboratively to identify border security threats within their Area of Responsibility (AOR).
- Participating agencies will adhere to the station block schedule, pre coordinated ad hoc deployment location or deployment scheme within a specific named CBP Operations Order.*
- Participating deputies/officers will advise Border Patrol dispatch and/or the duty Field Operations Supervisor (shift commander) when beginning and ending their shift.
 - o In the event that a participating agency's jurisdiction covers multiple BP station AORs, a BP single POC can be identified to streamline the process
 - o Notification to the BP Station or identified BP POC can be made by phone prior to the participating officer's departure to the pre-coordinated deployment area
- Participating deputies/officers will provide Border Patrol Stations with intelligence gathered during deployments.
 - o In the event of arrest or seizure, pertinent information such as vehicle registration information, suspect information, seizure location and concealment methods should be included in the narrative section of the

Daily Activity Report

- o In the event that a participating agency's jurisdiction covers multiple BP station AORs, a single Border Patrol POC can be identified receive the information and to streamline the process.
- Participating agencies will provide Border Patrol Stations with a Daily Activity Report within two days after each deployment.