



Pima County Sheriff's Department

Detail Incident Report for 170410284

Incident: 170410284
Nature: TRAF
Location: San Xavier Beat 3

Offense Codes: 3502
Received By: Garcia,Celeste **How Received:** On-Site **Agency:** PCSD
Responding Officers: Roher,Ryan Kunze,Brian P
Responsible Officers: Roher,Ryan **Disposition:** Patrol-Adult arrest 04/10/17
When Reported: 16:47:14 04/10/17 **Occurred Between:** 16:46:00 04/10/17 and 19:00:00 04/10/17

Assigned To: **Detail:** **Date Assigned:** **/**/**
Status: **Status Date:** **/**/** **Due Date:** **/**/**

NOTICE:

PRIVATE OR CONFIDENTIAL INFORMATION, SUCH AS DATE OF BIRTH, SOCIAL SECURITY NUMBER AND HOME ADDRESS, HAS BEEN REDACTED PURSUANT TO ARIZONA LAW.

NARRATIVE:

Initial Case Dictated by R. Roher #5347 in Supp. 2

Radiolog:

Unit: 158 **Enroute:** 16:47:20 04/10/17 **Arrived:** 16:58:47 04/10/17
Completed:

Unit: 496 **Enroute:** **Arrived:** 16:47:16 04/10/17
Completed:17:55:19 04/10/17

ARRESTEES:

Name: [REDACTED]

ARRESTEE:

Name: [REDACTED]

ARREST:

Arrest Date: 16:47:00 04/10/17

Agency: Pima County Sheriff's Dept.

Type: Probable Cause
Arrest

Arresting Officer: Roher,Ryan

Disp: Cite & Release -
Adult

Judicial Age Status: A

OFFENSE: MOTOR VEH
LICENSE/REG
VIOL

Time/Date: 16:47:00 04/10/17

Statute: OBST HWY/PUB
LIC
THOROUGHFA
R

Type: Arizona Law Violation

Class: Class 3
Misdemeanor

Court: JUSTICE COURT #1

Law: Arizona Revised
Statutes

EVIDENCE INFORMATION:

Item Number: BK1

Item Type: EVI

Serial Number:

Item: COMPACT DISK

Brand: AUDIO RECORDING

Model:

Color:

Description: CD W/ AUDIO RECORDING

VEHICLE INFORMATION:

Owner ID Number: [REDACTED] Vehicle Number: [REDACTED] License Plate: [REDACTED]
VIN: [REDACTED] State: AZ Expires: [REDACTED]
Year: 2013 /Make: FORD Model: F150 Type: PK Color: SIL/ Doors: 0
Value: 0 Characteristics:

SUPPLEMENTAL NARRATIVE:

Supplement Dictated by B. P. Kunze #1115 on 04/10/17 at 1942 hrs.

Total Dictation Time = 8:16 mins.

On 04/10/17, I was working in the desert area near Milepost #147 for a Stone Garden Operation. At this time, I was also supervising Deputy R. Roher #5347 for the same operation. At 1647 hours, Deputy Roher came up on the radio and asked a supervisor to respond to an incident that he was investigating at Arizona #86 and Milepost #147. I then responded and arrived at that location at 1658 hours.

Deputy Roher was immediately east of the Border Patrol checkpoint at that location. I could see a male subject who was standing outside of a vehicle in handcuffs in front of Deputy Roher's patrol vehicle. Deputy Roher then showed me an Arizona driver's license which identified this individual as [REDACTED] (DOB ***** Deputy Roher advised me that [REDACTED] had been placed under arrest for Blocking a Public Thoroughfare at the Border Patrol checkpoint. Please see Deputy Roher's report for more information. Deputy Roher told me that [REDACTED] wanted to speak with a supervisor.

I then retained my department-issued digital recorder and responded to where [REDACTED] was. He asked me my name, which I gave to him. I then asked him how I could help him. He responded, "I'm wondering why I am in handcuffs." I advised him, because he was under arrest. He responded, "And why is that?" I then told [REDACTED] that Deputy Roher had already told him that he was under arrest. He then said, "So you don't know why I'm under arrest." [REDACTED] was attempting to be argumentative reference his arrest. I then told him, "Sir, he's already told you. How can I help you?" He then wanted to know if the Pima County Sheriff's Department (PCSD) was fully behind this unlawful arrest. I told him that I did not know that it was an unlawful arrest. I advised [REDACTED] that he was under arrest at that time.

I explained to [REDACTED] the process that was going to happen; that a citation was going to be filled out and he was going to be asked to sign the citation in lieu of going to jail promising to appear in court on a specific date. I advised him that if he did not want to sign the citation, then the other option was for him to go to the Pima County Jail. He then said, "So you're fully backing Deputy Roher here." I advised him that I was. [REDACTED] asked me if Deputy Roher was working with Border Patrol here on a joint task force. I said no. He then asked me who my supervisor was. I gave him my supervisor's name.

Deputy Roher already had the electronic citation completed. I stood by while Deputy Roher took [REDACTED] out of handcuffs, explained the citation, and had

██████████ sign for the citation. At first ██████████ did not want to sign on the computer. He wanted to sign an actual paper. Deputy Roher explained that he needed to sign the computer screen and then he would later print out the ticket. ██████████ did sign the computer screen and Deputy Roher gave him a copy of the citation.

During that time, it was obvious that ██████████ had some type of video camera clipped to his shirt, and at one point, after he had been cited and released, he 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, ██████████ asked me for my badge number and I gave it to him. ██████████ 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 ██████████ 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 ██████████. ██████████ 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 ██████████ 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

SUPPLEMENTAL NARRATIVE:

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 [REDACTED]. The vehicle was registered to [REDACTED].

ARRESTEE INFORMATION:

The arrestee in this case was identified with an Arizona driver's license as [REDACTED].

PROBABLE CAUSE STATEMENT:

[REDACTED] entered the Border Patrol checkpoint. He was traveling eastbound on Arizona State Highway #86. The Border Patrol checkpoint was located at approximately Milepost #147. There were multiple signs indicating a Border Patrol checkpoint was ahead.

As the vehicle entered the checkpoint, the driver of the vehicle cracked his window slightly and would not answer the Border Patrol Agent's questions. The driver of the vehicle delayed traffic for approximately one minute and 15 seconds, to one minute and 30 seconds, based on my viewing of a Border Patrol checkpoint video.

Agent Frye subsequently waived me over. I learned the driver was not reporting whether or not he was a United States citizen and this was the question the Border Patrol Agent was asking of the driver.

I advised the driver of the vehicle it would be quite simple for him to simply answer the question. If he simply answered the question, it would terminate this interaction.

The subject refused to roll down his window and refused to cooperate. There was

probable cause to arrest the driver at this time for obstructing a thoroughfare. He clearly was not moving his vehicle, he had no intention of moving, and despite being told to move into a secondary area, so the Border Patrol Agents could continue their work and the roadway could be cleared, the driver did not move.

There appeared to be, upon my estimation, approximately five to ten vehicles behind the vehicle in question. I therefore had probable cause to arrest the driver for obstructing a thoroughfare.

MOVEMENT:

I ultimately asked the driver to move along. I intended to get into my patrol vehicle and follow the vehicle and effect a traffic stop. I did this, based on the fact I had probable cause to arrest the driver, based on what I had observed.

As I got into my vehicle and began to drive, I noted the vehicle was pulled over to the right side of the road, onto the shoulder and well off of the roadway. The vehicle was beyond the Border Patrol checkpoint, where they had signs indicating No Public Entry.

I noted previously, when Border Patrol Agent Frye was making contact with the vehicle at the checkpoint, I could see the driver with a camera he was manipulating in the vehicle. The camera was being moved back and forth.

APPROACH AND CONTACT WITH DRIVER:

I approached the vehicle from the driver's side. The driver's window was still just cracked, approximately the same width it was previously during the contact at the checkpoint.

I asked the driver to step out of the vehicle. My concern was the driver was going to remain in the vehicle and try to barricade himself inside, and I did not wish for that to happen.

At this point, the driver asked me why and I simply repeated my command. Eventually, he stepped out of the vehicle, after requested to do so.

I asked the driver to identify himself. He had a wallet, which was in plain view on the center console. He then asked why he had to do that. He was eventually identified as [REDACTED]. I immediately recognized the last name [REDACTED], as someone who had had multiple contacts at the Border Patrol checkpoint and who was uncooperative with law enforcement and more specifically

to Border Patrol agents. I also recall [REDACTED] had a web site. I looked previously at that and watched some of the videos he had on there. He had been uncooperative with law enforcement in some of the videos. It appeared he did not approve or did not believe the Border Patrol checkpoints were legal.

[REDACTED] attempted to goad me into some type of legal verbal/judo challenge. I elected, as much as possible, to not participate, but he asked questions like was I participating in a federal grant funded operation. I provided my name and badge number, at his request. I also later provided him with a business card with my name on it.

DETENTION:

I ultimately detained [REDACTED] by placing him into handcuffs. Based on the fact I had probable cause and also based on [REDACTED] mannerisms, I did not feel comfortable with him standing in the open. [REDACTED] is taller than I am and had a height advantage over me. He also appeared to approach me, several times, and although in a non-physically aggressive manner, it appeared at times as if he was trying to get very close to me. The way he was acting made me very uncomfortable and I did not feel safe being around him. I told him to turn around, to which he complied, and I placed him into handcuffs.

During the process of placing [REDACTED] into handcuffs, I told him not to tense up. His hands started to tense up and I again, felt somewhat threatened by him, given his size over me. While it was true I had Border Patrol agents nearby, I still did not feel confident and comfortable being around [REDACTED].

[REDACTED] was placed into handcuffs. I noted in the process of his exiting from his vehicle, he appeared to put on another camera on his lapel. I also noted he was holding a digital camera as well and I also noted what appeared to be a Go Pro in the rear window. I thought there may have been one to two other cameras, but I do not recall where they were.

[REDACTED] wanted to continue to be argumentative with me, but I eventually told him I did not wish to argue with him. I also attempted to explain to him what I observed and at which point, he continuously interrupted me. Eventually, he started cursing at me and I tried to discontinue any conversation with him.

[REDACTED] demanded I have a supervisor respond. I asked Sergeant B. P. Kunze #1115 to do so and he did. I am not really sure what the point of that was, but Sergeant Kunze responded.

I completed a citation, electronically, for [REDACTED]. When Sergeant Kunze

arrived, I discussed with him the situation and what occurred.

I asked [REDACTED] if he would ultimately sign a citation, so I could release him. My concern was he was not willing to be cooperative with us in any way, shape, or form, and my concern about taking him out of handcuffs was that he was going to become difficult and perhaps physically difficult. [REDACTED] stated he would not do so. He then walked over to the back of my patrol vehicle, where he asked to see the citation. I showed him, on my Mobile Data Computer (MDC) screen, the various parts of the citation, to include driver information, vehicle information, location, violation, court information, as well as my name and badge number, which were also present.

[REDACTED] then told me he would sign a piece of paper, but he did not want to sign the MDC screen. I explained to him once again that he either signed that or he would go to jail. It was an accepted method of signature capture for our purposes for the electronic citation program. He ultimately signed my MDC screen and I printed a citation for him.

[REDACTED] remained for awhile and continued to film. He also asked at that time for any business cards and I provided him with mine.

Eventually, [REDACTED] left from the checkpoint location.

I noted [REDACTED] had several different involvements, which involved that specific checkpoint. I heard stories about [REDACTED] previously, namely that he worked at or near the observatory and he was frequently disruptive as he went through the checkpoint. I do not know specifically what his issue with the checkpoint was, but he also started to ask me questions about encroachment and things of that nature; things I was not able to answer.

The bottom line is, [REDACTED] was driving on a public highway, I was working in the area, and this was within Pima County, which was within my jurisdiction. I was waived over by a Border Patrol agent. I developed probable cause to arrest the driver for blocking a roadway or obstructing a thoroughfare. Based on this fact, I arrested [REDACTED].

This concludes my involvement.

NFI Transcribed by #6783 on Mon Apr 10 21:13:40 MST 2017

SUPPLEMENTAL NARRATIVE:

21:15:21 04/12/2017 - Kunze,Brian P
170410284

Border Patrol Incident Number: TUS1704000064

Evidence Items: BK1 - CD with Audio Recording

Narrative:

On 04/12/17 I submitted an audio CD into evidence at the Foothills substation from my digital recorder reference this incident.
