

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
LAS VEGAS DIVISION

JOSE DECASTRO,
Plaintiff,

v.

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT,
STATE OF NEVADA,
BRANDEN BOURQUE,
JASON TORREY,
C. DINGLE,
B. SORENSON,
JESSE SANDOVAL,
C. DOOLITTLE,
and DOES 1 to 50,
Defendants.

Case No. 2:23-cv-00580-APG-EJY

Honorable Judge Andrew Patrick Gordon
Presiding

**JURY TRIAL DEMANDED BY RIGHT AND
PRIVILEGE**

**JENSEN’S MOTION FOR JOINDER
PLAINTIFF’S MOTION TO RECONSIDER
STAY/PRELIMINARY INJUNCTION (ECF.
22)**

COMESNOW, Intervenor Plaintiff, Jason A Jensen (“JENSEN”), under FRCP 20 in Joinder to
Plaintiff’s Motion to Reconsider the Motion to Stay Nevada State Case 23-CR-013015 at the Justice

Court, Las Vegas Township, Clark County, Nevada. JENSEN furthers said Motion with Petition for Extraordinary Writ of Mandamus under FRCP 21 and 28 U.S. Code § 1651 the All Writs Act. JENSEN propounds the following:

1. Present in the Defense of Mr. DeCastro's Amended Complaint, the State of Nevada and its political subdivisions have orchestrated a policy with the express intent to create "recording" and "talking" to a road-side traffic stop detainee Criminal under the legal theory of Obstruction of an Officer's duties. In the State Case, Mr. DeCastro is charged with the following crimes:

a. False stmt to/obstruct pub off [52312] under NRS 197.190 which is a Misdemeanor

b. Resist public officer [52990] under NRS 199.280.3 which is a Misdemeanor

2. Mr. DeCastro, by apparent intent of design of the State's policy, cannot mount a defense based on the rights of "traffic stop" detainees, Miranda Rights, and the principles of Berkemer v. McCarty, 468 U.S. 420, 438 (1984).

WHICH WAS TO BE SUPPLEMENTAL TO THE MOTION TO INTERVENE and INTERVENOR COMPLAINT which is being delayed or has been denied or otherwise not docketed yet (an excerpt from the Intervenor Complaint):

21. "[T]he [traffic] stop and inquiry must be 'reasonably related in scope to the justification for their initiation.' Ibid. (quoting Terry v. Ohio, supra, at 29.)" Berkemer v. McCarty, 468 U.S. 420, 439 (1984)

22. "Typically, this means that the officer may ask the detainee a moderate number of questions to determine his identity and to try to obtain information confirming or dispelling the officer's suspicions. **But the detainee is not obliged to respond.**" Berkemer v. McCarty, 468 U.S. 420, 439 (1984) (emphasis added)

23. *“And, unless the detainee's answers provide the officer with probable cause to arrest him, he must then be released.” Berkemer v. McCarty, 468 U.S. 420, 439-40 (1984)*

24. *The comparatively nonthreatening character of detentions of this sort explains the absence of any suggestion in our opinions that Terry stops are subject to the dictates of Miranda. The similarly noncoercive aspect of ordinary traffic stops prompts us to hold that persons temporarily detained pursuant to such stops are not "in custody" for the purposes of Miranda. Berkemer v. McCarty, 468 U.S. 420, 440 (1984)*

25. *It is settled that the safeguards prescribed by Miranda become applicable as soon as a suspect's freedom of action is curtailed to a "degree associated with formal arrest." California v. Beheler, 463 U.S. 1121, 1125 (1983) (per curiam). If a motorist who has been detained pursuant to a traffic stop thereafter is subjected to treatment that renders him "in custody" for practical purposes, he will be entitled to the full panoply of protections prescribed by Miranda. See Oregon v. Mathiason, 429 U.S. 492, 495 (1977) (per curiam). Berkemer v. McCarty, 468 U.S. 420, 440 (1984)*

26. *“Nor do other aspects of the interaction of Williams and respondent support the contention that respondent was exposed to "custodial interrogation" at the scene of the stop.” Berkemer v. McCarty, 468 U.S. 420, 442 (1984)*

27. *“It was the compulsive aspect of custodial interrogation, and not the strength or content of the government's suspicions at the time the questioning was conducted” Berkemer v. McCarty, 468 U.S. 420, 442 n.35 (1984)*

28. *“Moreover, the typical traffic stop is conducted in public, and the atmosphere surrounding it is substantially less "police dominated" than that surrounding the kinds of*

interrogation at issue in *Miranda* and subsequent cases in which *Miranda* has been applied.” *Berkemer v. McCarty*, 468 U.S. 420, 421 (1984)

29. “However, if a motorist who has been detained pursuant to a traffic stop thereafter is subjected to treatment that renders him “in custody” for practical purposes, he is entitled to the full panoply of protections prescribed by *Miranda*.” *Berkemer v. McCarty*, 468 U.S. 420, 421 (1984)

30. To be sure, the aura of authority surrounding an armed, uniformed officer and the knowledge that the officer has some discretion in deciding whether to issue a citation, in combination, exert some pressure on the detainee to respond to questions. But other aspects of the situation substantially offset these forces. **Perhaps most importantly, the typical traffic stop is public, at least to some degree. Passersby, on foot or in other cars, witness the interaction of officer and motorist. This exposure to public view both reduces the ability of an unscrupulous policeman to use illegitimate means to elicit self-incriminating statements and diminishes the motorist's fear that, if he does not cooperate, he will be subjected to abuse.** *Berkemer v. McCarty*, 468 U.S. 420, 438 (1984) (emphasis added)

31. However, Mr. Decastro’s behavior, conversing with, and of being nearby and recording the interactions this is the exact kind of negating force *Berkemer* held “most importantly” negated the *Miranda* requirements of a Traffic Stop Detainee.

32. If, the Policy of LVMPD has a policy of creating a “buffer” or crime scene, and monopolizing the attention and ability for a traffic detainee, and charging anyone close enough to hear the conversations and provide the counterbalance to the State’s interrogation, then the Driver is entitled to *Miranda* Warnings.

33. *All defendants have been made aware of these “clearly established” rights since Berkemer in 1984, some 39 years.*

34. *In arguendo, officer safety, creating a crime scene around a traffic stop does not protect the officers. Any person seeking to harm the police need only drive around looking for a Traffic Stop, and then pull up and engage the officer in surprise.*

3. Mr. JENSEN cannot Motion to Intervene in a Criminal Matter at State Court. “In its order, the district court summarily denied the press’s application based on the proposition that Nevada law does not permit intervention in criminal cases.” *Stephens Media, LLC v. Eighth Judicial District Court*, 125 Nev. 849, 221 P.3d 1240 (2009)

4. This is the exact mechanism that the State is using the denial of two class person’s rights, namely, Mr. DeCastro’s Right to Record, Converse, and Attempt to contract for YouTube Videos by alleging “Obstruction” and “Interference” whereas the Defendant cannot claim the Rights of the Motorist subject to the Traffic Stop; in concurrence, the driver does not have standing to assert the Rights of the videographer. In this way, both person’s Rights are negated while neither person has Standing to challenge the policy.

WHEREFORE:

JENSEN requests Joinder to the Plaintiff’s Motion to Reconsider the Preliminary Injunction;

Sincerely and Respectfully Submitted,

//s/JasonAJensen

Jason A Jensen

CERTIFICATE OF SERVICE

I, Jason A Jensen, did cause all defendants currently present and in appearance of this Court to be served electronically by the ECF/CM of the Federal Court, on this day the 13th of June 2023, as soon as the Clerk of Court files this paperwork as submitted to lv_public_docketing@nvd.uscourts.gov.

//s/JasonAJensen