

Docket No:

UNITED STATES SUPREME COURT

United States,
Plaintiff-Respondent,

v.

Mario Garcia-Zavala,
Defendant-Petitioner.

On Petition for Writ of Certiorari
TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

APPENDIX TO PETITION FOR WRIT OF CERTIORARI

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United States Court of Appeals For the First Circuit

No. 18-1350

UNITED STATES,

Appellee,

v.

MARIO ERNESTO GARCIA-ZAVALA,

Defendant, Appellant.

Before

Howard, Chief Judge,
Souter,* Associate Justice,
Torruella, Lynch, Thompson,
Kayatta and Barron,

Circuit Judges.

ORDER OF COURT

Entered: June 12, 2019

The petition for rehearing having been denied by the panel of judges who decided the case, and the petition for rehearing en banc having been submitted to the active judges of this court and a majority of the judges not having voted that the case be heard en banc, it is ordered that the petition for rehearing and the petition for rehearing en banc be denied.

By the Court:

Maria R. Hamilton, Clerk

cc:

Renee M. Bunker

* Hon. David H. Souter, Associate Justice (Ret.) of the Supreme Court of the United States, sitting by designation.

Jonathan R. Chapman
Julia M. Lipez
Robert Clayton Andrews

United States Court of Appeals For the First Circuit

No. 18-1350

UNITED STATES,

Appellee,

v.

MARIO ERNESTO GARCIA-ZAVALA,

Defendant, Appellant.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MAINE

[Hon. George Z. Singal, U.S. District Judge]

Before

Lynch, Circuit Judge,
Souter,* Associate Justice,
and Kayatta, Circuit Judge.

Robert C. Andrews, with whom Robert C. Andrews Esquire P.C.
was on brief, for appellant.

Julia M. Lipez, Assistant U.S. Attorney, with whom Halsey B. Frank,
U.S. Attorney, was on brief, for appellee.

March 25, 2019

* Hon. David H. Souter, Associate Justice (Ret.) of the
Supreme Court of the United States, sitting by designation.

LYNCH, Circuit Judge. This case concerns the denial of pretrial motions brought by a defendant attacking his conviction for illegal reentry after removal from the United States.

Mario Ernesto Garcia-Zavala was a passenger in a van stopped in Maine for seatbelt violations. The Maine State Trooper conducting the stop spoke with the driver and passengers, several of whom did not appear to be wearing their seatbelts or to speak English. The Trooper contacted an Immigration and Customs Enforcement (ICE) Officer for help identifying the passengers.

When asked for his identification, Garcia-Zavala produced a consular ID card. An ICE Officer ran that ID through ICE databases and determined that Garcia-Zavala was suspected of illegal reentry. When ICE officers arrived at the scene, they placed Garcia-Zavala in administrative custody. Thirteen days later, he was charged with one count of illegally entering the United States after removal, in violation of 8 U.S.C. § 1326(a), and made his initial court appearance. Garcia-Zavala was convicted after a bench trial.

His appeal essentially raises two issues: (1) whether the district court erred in not dismissing his indictment for delay in presentment, in violation of Federal Rule of Criminal Procedure 5(a), and (2) whether the district court erred in not suppressing information that law enforcement had gathered about him, including his identity.

We affirm the district court's denial of Garcia-Zavala's motion to dismiss and motion to suppress.

I.

The district court helpfully detailed a minute-by-minute account of the traffic stop. United States v. Garcia-Zavala, 2018 WL 1091973, at *1-4 (D. Me. Feb. 28, 2018). We summarize that account here.

On September 9, 2017, Maine State Trooper Robert Burke III observed a van whose front-seat passenger appeared not to be wearing a seatbelt, a violation of Maine law. Id. at *1 (citing Me. Stat. tit. 29-A, § 2081(3-A)). Burke pulled the van over at 12:20 p.m. and asked the driver for identification. Id. He then moved to the other side of the van to ask the passengers questions. Id. After receiving minimal responses, Burke asked if anyone in the van spoke English. Id. Burke remarked that several passengers did not appear to be wearing seatbelts and did not seem to speak English. Id.

Burke returned to his car and called Elliot Arsenault, an ICE Deportation Officer. Id. at *2. Burke told Arsenault that he had stopped a van for a seatbelt violation and that he thought Arsenault should "come out" because he believed that the stop would "lead to people from out of this country." Id. Burke said that he intended to issue tickets for seatbelt violations, so he needed ICE assistance in identifying the van's occupants. Id. Arsenault

asked Burke to get any consulate ID cards or other means of identification, so Burke did. Id.

The driver produced a Mexico consular ID card. Id. Some of the other passengers produced consular ID cards, including Garcia-Zavala, who had a Honduran consular ID card. Id. Burke told the van occupants that they were not free to leave, returned to his vehicle, and sent photographs of the ID cards to Arsenault. Id. And because the van's driver was unlicensed, Burke also tried to determine whether any of the van passengers had a valid driver's license to allow one of them to drive the van from the scene. Id.

Trooper Jason Cooley soon arrived. Id. He and Burke spent the next several minutes inspecting the IDs. Id. Since none of the van's occupants produced a driver's license, Burke asked dispatch to call a tow truck to the scene. Id.

By 12:41 p.m., just over twenty minutes after the stop had begun, Arsenault had determined that Garvia-Zavala was suspected of reentry after removal. Id. He communicated that information to ICE Officer John Lenotte, who was in Maine and available to go to the scene. Id. Arsenault also sent the reentry information to Burke. Id. Burke replied that there was time for ICE Officers to make it to the scene because he intended to arrest the driver of the van for driving without a license and to have the van towed. Id.

Burke explained to the van's occupants that he intended to write each of them a ticket for failing to wear a seatbelt, that this would take about half an hour, and that they would have to wait for the tickets. Id. at *3. He returned to the van with the first ticket about five minutes later. Id.

When the tow truck arrived at 1:19 p.m., Burke told its driver that they would wait for ICE Officers to arrive before towing the vehicle. Id. The first ICE Officer, Patrick Mullen, arrived on the scene about twenty minutes later. Id. Lenotte soon followed. Id. Both ICE Officers knew from Arsenault that Garcia-Zavala was subject to detention for illegal reentry. Id.

Without administering a Miranda warning, Lenotte asked Garcia-Zavala for his name and date of birth. Id. In response, Garcia-Zavala provided answers matching the information on the Honduran consular ID card previously given to Burke.¹ Id.

ICE officers took Garcia-Zavala into administrative custody and transported him to an ICE office for booking. Id. The district court found this was ICE's "standard process." Id. Fingerprints and additional record checks conducted at the office confirmed that Garcia-Zavala had been removed from the United States in 2014. Id. After the booking was complete, Garcia-

¹ Garcia-Zavala also admitted to Lenotte that he was in the country illegally. The government committed not to introduce this statement at trial. Id. at *3 n.9.

Zavala was transported to Cumberland County Jail, where ICE paid to house him. Id.

On Monday, September 11, 2017, Lenotte transported Garcia-Zavala from the jail back to the ICE office. Id. at *4. He administered a Miranda warning with the aid of an interpreter. Id. Garcia-Zavala invoked his right to remain silent. Id. Lenotte then returned him to the jail. Id.

Lenotte received Garcia-Zavala's alien file (A-file) on Friday, September 15, 2017. Id. By the following Monday, September 18, 2017, Lenotte had sent the necessary paperwork to the U.S. Attorney's Office with a recommendation for criminal prosecution, which the U.S. Attorney's Office accepted. Id. The office prepared a criminal complaint against Garcia-Zavala and presented it to a Magistrate Judge on September 19, 2017. Id. That same day, a criminal arrest warrant was issued for Garcia-Zavala, who remained in custody at the Cumberland County Jail. Id.

Garcia-Zavala made his initial appearance on September 22, 2017 and, on that same day, was transferred to the custody of the U.S. Marshal. Id. Garcia-Zavala was in custody for thirteen days before making his initial appearance. Id.

Garcia-Zavala moved to dismiss his indictment, claiming that the government violated Federal Rule of Criminal Procedure 5(a) by unnecessarily delaying his initial appearance on a pending

charge. He also moved to suppress his identity, his consular card, his fingerprint card, his A-file, and statements he had made to Lenotte.

The district court denied the motion to dismiss, finding no Rule 5(a) violation, and concluding that, in the alternative, dismissal was not the appropriate remedy for a presentment delay. Id. at *5. The district court denied the motion to suppress because the traffic stop did not violate Garcia-Zavala's rights, the stop was not unduly lengthy, and identity information is not subject to suppression. Id. at *5-8.

The district court also, despite Garcia-Zavala's arguments otherwise, found no "factual support" for the assertion "that the stop was racially motivated." Id. at *5.

This appeal followed.²

II.

A. Motion to Dismiss

We review the district court's legal conclusions de novo, its factual findings for clear error, and its "ultimate

² Though the government states that "Garcia-Zavala has completed serving his term of imprisonment and likely has been deported," the appeal is not moot. Collateral legal consequences flow from the challenged conviction. See, e.g., United States v. Marsh, 747 F.2d 7, 9 n.2 (1st Cir. 1984) (concluding that although all defendants had completed their jail time and been deported, their record of conviction constituted a continuing harm, so their appeals were not moot).

ruling" for abuse of discretion. United States v. Doe, 741 F.3d 217, 226 (1st Cir. 2013) (internal quotation marks omitted).

Garcia-Zavala's argument is that the government violated Federal Rule of Criminal Procedure 5(a) by unnecessarily delaying his initial appearance on a pending charge.³ Rule 5(a) requires a "person making an arrest within the United States [to] take the defendant without unnecessary delay before a magistrate judge, or before a state or local judicial officer as Rule 5(c) provides, unless a statute provides otherwise." Fed. R. Crim. P. 5(a)(1)(A). But Rule 5(a) does not generally apply to civil detainees. See United States v. Encarnacion, 239 F.3d 395, 398-99 (1st Cir. 2001). We agree with the district court that there was no Rule 5(a) violation here. Garcia-Zavala, 2018 WL 1091973, at *5.

Garcia-Zavala was held in civil ICE detention until the day of his initial appearance. Garcia-Zavala was detained on suspicion of having illegally reentered the United States, in violation of 8 U.S.C. § 1326. Illegal reentry is a civil "status offense that does not trigger the protections of Rule 5(a) until the criminal process has been initiated against the detained alien." United States v. Tejada, 255 F.3d 1, 3 (1st Cir. 2001);

³ In his motion to dismiss, Garcia-Zavala raised a claim under the Speedy Trial Act (STA), 18 U.S.C. § 3161(b). He has waived any such claim on appeal for lack of developed argumentation. See United States v. Zannino, 895 F.2d 1, 17 (1st Cir. 1990).

see Encarnacion, 239 F.3d at 399. So ICE's administrative custody of Garcia-Zavala beginning on September 9, 2017, was civil, not criminal.

We have conjectured that Rule 5(a) may apply when "the government uses civil detention as a pretext for holding an individual while it investigates other possible criminal charges." Tejada, 255 F.3d at 4 (not involving such evidence of pretext). Garcia-Zavala argues that this is such a case. He argues that, thirty minutes into the stop, it was already clear that he would be criminally charged, so the Rule 5(a) "unnecessary delay" analysis should begin there. But the district court found no evidence that Garcia-Zavala was "detained for any reason other than routine inquiry into his suspicious immigration status -- a civil matter." Garcia-Zavala, 2018 WL 1091973, at *4 (quoting Tejada, 255 F.3d at 4). And the district court found no evidence that the government employed "delaying tactics for an impermissible purpose." Id. (quoting Tejada, 255 F.3d at 5). Rather, Officer Lenotte followed the course laid out in Tejada and Encarnacion: He promptly obtained a hard copy of Garcia-Zavala's immigration A-file, confirmed the previous deportation order, and then presented the case to the U.S. Attorney's Office for criminal charges. See Tejada, 255 F.3d at 2; Encarnacion, 239 F.3d at 396-97. Based on our review of the record, we find no clear error with the district court's factual findings.

Garcia-Zavala only entered criminal custody on September 22, 2017, when ICE officials brought him to the courthouse for his initial appearance. Because Garcia-Zavala made his initial appearance just as "the criminal process [was] initiated," Tejada, 255 F.3d at 3, there was no "unnecessary delay" before his initial appearance and so no Rule 5(a) violation.⁴

B. Motion to Suppress

Garcia-Zavala moved to suppress his identity, his consular ID card, his fingerprint card, and his A-file. We affirm the denial of Garcia-Zavala's motion to suppress this evidence for the reasons stated by the district court, id. at *5-7 (part II.B.1 through II.B.2), and do not reach its identity information ruling, id. at *7-8 (part II.B.3).

Garcia-Zavala also moved to suppress his unwarned statements to Lenotte. When questioned by Lenotte during the roadside stop, Garcia-Zavala identified himself and provided his date of birth and country of origin. Garcia-Zavala argues that this information was obtained in violation of Miranda v. Arizona, 384 U.S. 436 (1966), and that this violation warrants suppression.⁵

⁴ Because there was no Rule 5(a) violation, "we need not decide whether Rule 5(a) can ever be a basis for dismissal of an indictment absent evidence of unwarranted interrogation during the period of detention." Encarnacion, 239 F.3d at 400 n.5.

⁵ The district court appears to have resolved this issue by holding that identity information is not subject to suppression. See Garcia-Zavala, 2018 WL 1091973, at *7-8. We take a different tack, noting that we may affirm a district court's "suppression

There was no Miranda violation. The government agreed not to use Garcia-Zavala's incriminating responses against him. And Garcia-Zavala's statements identifying himself, his date of birth, and his country of origin are not subject to Miranda. See United States v. Sanchez, 817 F.3d 38, 45 (1st Cir. 2016) (noting the Miranda exception for routine booking questions not seeking to elicit incriminating responses).

We note a final matter: At oral argument, Garcia-Zavala suggested that the van's passengers may have been racially profiled. But he never developed this argument in his briefs and he offers no basis for finding clear error in the district court's factual finding to the contrary.

III.

We affirm the district court's denial of Garcia-Zavala's motion to dismiss and motion to suppress.

rulings on any basis apparent in the record." United States v. Arnott, 758 F.3d 40, 43 (1st Cir. 2014).

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

UNITED STATES OF AMERICA)	
)	
)	
v.)	
)	Docket no. 2:17-cr-140-GZS
MARIO GARCIA-ZAVALA,)	
)	
)	
Defendant.)	
)	

ORDER ON PENDING MOTIONS

Before the Court are two motions filed by Defendant Mario Garcia-Zavala: (1) Motion to Suppress (ECF No. 29) and (2) Motion to Dismiss (ECF No. 31). The Court held an evidentiary hearing on both Motions on December 20, 2017. Thereafter, the Court received post-hearing briefing from counsel (ECF Nos. 43, 44 & 45). As explained herein, the Court now DENIES both Motions.

I. FACTUAL FINDINGS

The following facts are drawn from the preponderance of the evidence based upon the Court’s review of the exhibits and testimony presented at the hearing on Defendant's Motions.

The Traffic Stop

On the afternoon of Saturday, September 9, 2017, Maine State Trooper Robert Burke III was on patrol in Portland, Maine. While parked perpendicular to Washington Avenue, he observed a white passenger van traveling down the roadway and proceeding to merge onto I-295. From his vantage point, he could see the front seat passenger, who appeared to not be wearing a seat belt,

which would be a violation of 29-A M.R.S.A. § 2018(3-A).¹ Burke made a decision to conduct a traffic stop. After activating his blue lights, he pulled the van over on the highway in the area of Tukey's Bridge. At approximately 12:20 PM, Trooper Burke approached the van and asked to see a license, registration, and proof of insurance. Trooper Burke then moved to the passenger side of the van and asked, "You have your seat belt on?" As captured on the videotape (Gov't Ex. 1)² and transcript (Gov't Ex. 1T), someone in the vehicle answered, "yeah." Burke asked a couple of other questions and, based on the minimal responses, asked if anyone in the van spoke English. He then returned to the driver's side of the van repeating his request to see the driver's identification. Before returning to his vehicle, Trooper Burke remarked at least two additional times that multiple people in the van did not appear to be wearing seat belts and did not appear to speak English.

Upon returning to his vehicle with only a vehicle registration for the van, Trooper Burke placed a call to Elliot Arsenault, a Deportation Officer for Enforcement Removal Operations with Immigration and Custom Enforcement ("ICE").³ Arsenault answered this call at approximately 12:22 PM. Burke told Arsenault he had stopped a van for a seat belt violation and now had "a van load of fucking I don't even know what . . . of about 13 that nobody speaks English. Nobody has

¹ Based on the Court's own review of the dashboard camera video (Gov't Ex. 1 & Def. Ex. 6) and the totality of the evidence received, the Court concludes that the primary motivation for the traffic stop was an observed seat belt violation. To the extent that some evidence also suggests that Trooper Burke may have been motivated to conduct this traffic stop based on observing a cracked windshield, the preponderance of the credible evidence submitted to the Court does not establish that Trooper Burke saw a windshield crack prior to initiating the traffic stop. Thus, the Court concludes that any observation of a cracked windshield occurred after Trooper Burke had initiated the stop.

² The Court notes that in addition to the dashboard video introduced as Government Exhibit 1, Defendant introduced a similar video of the stop as Defendant's Exhibit 6, which contains the recordings from two separate cameras. On Defendant Exhibit 6, Camera 1/Video-1 is the same view captured in Government Exhibit 1 and Camera 3/Video-1 is the recording captured by a camera inside Trooper Burke's vehicle. The Court notes that the time stamp on this video is one hour earlier than the times established by the other evidence in the record. The Court attributes this difference to daylight savings time.

³ As Burke's testimony and statements captured on the video make clear, Trooper Burke had participated in a few prior stops that included participation of immigration officers, including Arsenault. See, e.g., 12/20/17 Tr. (ECF No. 42), PageID # 204; Gov't Ex. 1T at 11, 13. Burke also had previously called ICE during another traffic stop and received confirmation that a permanent ID was valid. See Gov't Ex. 1T at 21.

IDs.” (Gov’t Ex. 1T at 2.) Burke indicated he thought Arsenault should “come out.” (Id.) At that point, based on his training and twenty-seven years of law enforcement experience, Burke believed that the traffic stop would “lead to people from out of this country” and, as a result, he would need ICE assistance in identifying the van occupants, who Burke then intended to summons for seat belt violations. (12/20/17 Tr. (ECF No. 42), PageID # 184.) Arsenault asked Burke if he could get any IDs or consulate cards. Burke then left Arsenault on hold while he returned to the van. At that point, the driver of the van produced identification. Burke returned to his vehicle and reported to Arsenault that he now had a “Mexico Consular ID card.” (Gov’t Ex. 1T at 3.) In response, Arsenault indicated he would call Burke back once he had booted his computer up.⁴

While waiting for the return call, Trooper Burke called the van registration into the Gray Regional Communication Center and requested back-up. He then went back to the van and obtained identifications from some passengers, including the Defendant, who produced a Honduran Consulate card with the name, “Mario Ernesto Garcia Zavala.” (Gov’t Ex. 2.) At that time, Burke told the van occupants, “You gotta stay here. Don’t leave.” (Gov’t Ex. 1T at 4.) He then returned to his vehicle and photographed the identification cards provided and sent those photographs to Arsenault at approximately 12:25 PM. Burke also attempted to determine whether any of the van passengers had a valid driver’s license that would allow them to drive the van from the scene since it appeared the current driver was unlicensed.

Trooper Jason Cooley arrived on the scene to provide Trooper Burke’s requested back-up at approximately 12:32 PM, twelve minutes after the traffic stop was initiated. Upon Cooley’s arrival, Trooper Burke described the van’s occupants as an “ICE motherload” and “sketchy as

⁴ As Officer Arsenault testified, he was off duty and out of state visiting family on this particular Saturday. (12/20/17 Tr., PageID # 99.)

hell.” (Gov’t Ex. 1T at 5.) Both Cooley and Burke inspected the IDs that had been presented.⁵ At this point, both troopers were unsure of whether ICE officers would respond to the scene and Trooper Burke indicated that the ICE was “just getting started.” (Gov’t Ex. 1T at 7.) At approximately 12:40 PM, the Troopers returned to the van in an attempt to gather further information and identify the two passengers that had not produced any identification. Five minutes later, Trooper Burke called dispatch to run driver’s license checks based on the identifying information gathered. He also asked dispatch to begin the process of calling a tow truck to the scene if dispatch confirmed that the driver did not have a valid driver’s license.

By 12:41 PM, Deportation Officer Arsenault had determined that Garcia-Zavala was suspected of reentry after removal. He communicated that information to his colleague, ICE Officer John Lenotte, who was in Maine and potentially able to go to the scene. Upon receiving confirmation that Lenotte, along with ICE Officer Patrick Mullen, were responding to the scene of the stop, he communicated the reentry information to Burke via text. He then called Burke and told him that it would take another 20-30 minutes to get ICE officers to the scene. Trooper Burke indicated he could hold the van occupants “as long as you want.” (Gov’t Ex. 1T at 11.) Burke also explained that it was his intention to arrest the driver of the van for driving without a license and have the van towed, since it did not appear that any occupant of the van was a licensed driver.

By 12:57 PM, Trooper Burke explained to the occupants of the van that he planned to write each occupant a ticket for failing to wear a seat belt and that this process of issuing tickets would take half an hour. After telling the van occupants that they would have to wait for these tickets, Burke returned to his cruiser and told Cooley, “They bought that. Hook, line and sinker.” (Gov’t Ex. 1T at 15.) Trooper Burke returned to the van with the first ticket approximately five minutes

⁵ At approximately 12:36 PM, Trooper Burke took a one-minute phone call from his wife. However, in the cruiser video (Def. Ex. 6, Camera 3), he can be seen simultaneously working on photographing IDs.

later.⁶ At approximately the same time, two local attorneys, Elizabeth Stout and Elisabeth Stickney, began observing the traffic stop from the Tukey's Bridge walkway and attempting to communicate with the occupants of the van for the purpose of informing the van occupants about their legal rights.⁷ At approximately 1:19 PM, the tow truck arrived and Trooper Burke indicated to the tow truck driver that they would await the arrival of ICE before towing the vehicle. Approximately ten minutes later, Trooper Burke texted Officer Arsenault for an estimated arrival time and, in response, was told five to ten minutes. Ten minutes later, in response to inquiries from Attorney Stickney, Trooper Burke represented that the scene was "an ongoing investigation." (Gov't Ex. 1T at 33.) In the colloquy that followed between Burke and Stickney, Burke gave conflicting representations about the status of the van occupants.⁸

At 1:39 PM, Officer Patrick Mullen, the local ICE supervisor, arrived on the scene. Lenotte arrived a few minutes later, having traveled to the scene with his blue lights and siren activated. By the time both ICE officers arrived at the scene, they had received information from Arsenault that Garcia-Zavala was subject to detention for illegal reentry. Lenotte approached Garcia-Zavala

⁶ While awaiting the arrival of ICE officers and a tow truck, Burke and Cooley discussed a number of extraneous matters. Among them, Burke joked to Cooley that there was "no way that Flannagan's gonna beat me this month." (Gov't Ex. 1T at 13.) Burke credibly testified at the hearing that this comment was a reference to an informal competition he had with a new trooper regarding who could have the most arrests or summons issued in a given month. Burke suggested to Cooley that the ICE arrests he was anticipating could be added to his count for purposes of his competition with Flannagan. (Gov't Ex. 1T at 32.) While Defense counsel suggested in both his questioning of Burke and his briefing that there was a "racial component" to this contest, on the record presented, Defendant has not established that the informal contest between Burke and Flannagan had a racial component. (Def. Brief (ECF No. 43), PageID # 252.)

⁷ Attorney Stickney, an immigration lawyer, testified at the hearing that she was called to the scene by Attorney Stout, who was concerned that there was an immigration problem associated with the two state trooper cars and the van, which she noted as having a number of Latino men inside. (12/20/17 Tr., Page ID # 236-37.) Ultimately, Attorney Stickney provided assistance to Trooper Burke in communicating with the driver and also ended up directing the van occupants who were not taken into custody as to how they could access public transportation.

⁸ Compare Gov't Ex. 1T at 33 ("It's not our investigation, we're just detaining them, so the more we are directed toward dealing with you, the more it takes away from our investigation here and watching them.") with Gov't Ex 1T at 34 ("[T]hey are not under arrest, they're not being detained.")

in the van. Although no *Miranda* warning was administered, Lenotte asked Garcia-Zavala for his name and date of birth; in response, Garcia-Zavala provided answers matching the information on the Honduran consulate card that had already been provided to Trooper Burke in connection with the traffic stop.⁹

Trooper Burke ultimately arrested the driver of the van for operating without a license. However, he ultimately did not issue citations to the van passengers for seat belt violations. (12/20/17 Tr., PageID # 154.)

Garcia-Zavala's Arrest & Subsequent Custody

At approximately 1:56 PM, the dashboard video shows the ICE officers taking Garcia-Zavala into custody. Lenotte followed their standard process of placing Garcia-Zavala in administrative custody and transporting him to the ICE office in South Portland for booking.¹⁰ Fingerprints and additional record checks conducted at the office confirmed Garcia-Zavala's prior 2014 removal. After the booking was complete, Garcia-Zavala was transported to Cumberland County Jail, where ICE paid to house him.

On the following Monday, September 11, 2017, Lenotte transported Garcia-Zavala from the jail back to the ICE office. At that time, Lenotte administered a *Miranda* warning with the assistance of a telephonic interpreter. Garcia-Zavala invoked his right to remain silent and was returned to the Cumberland County Jail. Lenotte continued his investigation of Garcia-Zavala by obtaining his alien file, which Lenotte did not receive until Friday, September 15, 2017. By the following Monday, September 18, 2017, Lenotte had transmitted the necessary paperwork to the

⁹ Garcia-Zavala also admitted that he was in the country illegally in response to Lenotte's questioning. (12/20/17 Tr., PageID # 219.) However, the Government has indicated that it would not attempt to use this admission in connection with this case.

¹⁰ Lenotte testified that custody is "always administrative" unless there is "a criminal arrest warrant on scene." (12/20/17 Tr., PageID # 220.)

U.S. Attorney's Office with a recommendation for criminal prosecution and the U.S. Attorney's Office accepted that recommendation. As a result, a criminal complaint was prepared and presented to the Magistrate Judge on September 19, 2017. On that same day, a criminal arrest warrant was issued for Garcia-Zavala, who remained in custody at the Cumberland County Jail. Garcia-Zavala made his initial appearance before the Court on September 22, 2017 (ECF No. 8) and, on that same day, was transferred to the custody of the U.S. Marshal. Although the entity holding Garcia-Zavala changed, he remained housed in a local jail.

All told, Garcia-Zavala was in custody for thirteen days before making his initial appearance on the pending charge.

II. DISCUSSION

The Court first addresses the Motion to Dismiss, recognizing that if a dismissal were granted, the Motion to Suppress would be moot.

A. Motion to Dismiss

Defendant's Motion to Dismiss argues that there was "unnecessary delay" in Garcia-Zavala's initial appearance in violation of Federal Rule of Criminal Procedure 5(a). This argument assumes that Garcia-Zavala was in criminal custody from the moment he was seized by ICE on September 9, 2017. However, the Government argues and the record establishes that Garcia-Zavala did not come into criminal custody until September 22, 2017, the day that ICE officials brought him to this courthouse for his initial appearance.

The record in this case is materially indistinguishable from the governing First Circuit precedents laid out in United States v. Encarnacion, 239 F.3d 395 (1st Cir. 2001) and United States v. Tejada, 255 F.3d 1 (1st Cir. 2001). In Encarnacion, the defendant was initially processed and detained civilly under 8 U.S.C. § 1357(a)(2), which applies to status offenses. Encarnacion was

then detained for eight days prior to making his initial appearance on a charge of violating 8 U.S.C. § 1326, the same criminal charge Garcia-Zavala now faces. In affirming the denial of Encarnacion's motion to dismiss, the First Circuit explained that "Rule 5(a) generally does not protect § 1357(a)(2) civil detainees." Encarnacion, 239 F.3d at 398-99; see also Tejada, 255 F.3d at 3 (explaining that "status offense[s] . . . do not trigger the protections of Rule 5(a) until the criminal process has been initiated against the detained alien").

Here, "there is no evidence that [Garcia-Zavala] initially was detained for any reason other than routine inquiry into his suspicious immigration status—a civil matter." Tejada, 255 F.3d at 4. Also, the investigation undertaken between the time Garcia-Zavala was taken into custody and the time he was charged criminally did not use "delaying tactics for an impermissible purpose." Id. The First Circuit made similar findings in Tejada. See id. Based on these findings, the First Circuit concluded that Tejada's civil custody allowably continued for sixteen days until shortly before his initial appearance. Id. at 2, 5. In this case, Garcia-Zavala was held for thirteen days before his initial appearance. Following Tejada and Encarnacion, the detention of Garcia-Zavala prior to September 22, 2017, cannot be deemed a violation of Federal Rule of Civil Procedure 5.

Alternatively, the Court notes that courts have held that the suppression of statements made during the delay—rather than dismissal—is the appropriate remedy for a delayed presentment in violation of Rule 5. See, e.g., United States v. Jacques, 744 F.3d 804, 813 (1st Cir. 2014) (noting that "the *McNabb–Mallory* rule established by the Supreme Court stipulates that confessions made during a period of detention that violates the prompt presentment requirement of Rule 5(a) are generally inadmissible in federal courts"). In the case of Garcia-Zavala, there are no statements to suppress and he has not shown prejudice resulting from the arguable delay that preceded his initial appearance on September 22, 2017. Under similar circumstances, the First Circuit has refused to

say that delay in complying with Rule 5(a) can serve as a basis for dismissal. See United States v. Mangual-Santiago, 562 F.3d 411, 432 (1st Cir. 2009); Encarnacion, 239 F.3d at 400 n.5 (declining to decide “whether Rule 5(a) can ever be a basis for dismissal of an indictment absent evidence of unwarranted interrogation during the period of detention”).

In short, on the record presented, the Court concludes that there was no Rule 5 violation. Additionally, even if the record were viewed as exhibiting unnecessary delay in Garcia-Zavala’s initial appearance, the First Circuit has not recognized dismissal as an appropriate remedy for a presentment delay in these circumstances.

B. Motion to Suppress

Turning to Defendant’s Motion to Suppress, Defendant makes three arguments: (1) the stop was pretextual; (2) the stop was unlawfully extended to assist ICE; and (3) the proper remedy for this unlawful stop is suppression of all information gained about Garcia-Zavala as a result of the stop, including his identity. The Court concludes that all three arguments fail under existing precedents.

1. The initial traffic stop did not violate Garcia-Zavala’s Fourth Amendment rights.

It is well established that “when a police officer makes a traffic stop, both the driver of the vehicle and the passengers within it are seized within the meaning of the Fourth Amendment.” United States v. Hillaire, 857 F.3d 128, 129 (1st Cir. 2017). In this case, Trooper Burke’s traffic stop was justified at its inception by objectively reasonable suspicion of a seat belt violation by the front seat passenger. See United States v. Orth, 873 F.3d 349, 354 (1st Cir. 2017) (“An officer’s actions must be justified at their inception”) To the extent that Defendant has argued that the

stop was racially motivated from the moment it was initiated, the record presented does not provide factual support for that assertion.¹¹ See, e.g., United States v. Ramdihall, 859 F.3d 80, 94 (1st Cir. 2017) (citing Whren v. United States, 517 U.S. 806, 813 (1996)).

“Once the police stop a vehicle, ‘the tolerable duration of police inquiries . . . is determined by the seizure’s ‘mission’—to address the traffic violation that warranted the stop and attend to related safety concerns.’” United States v. Clark, 879 F.3d 1, 4 (1st Cir. 2018) (quoting Rodriguez v. United States, 135 S. Ct. 1609, 1614 (2015)). In this case, Trooper Burke determined within minutes of initiating the stop that multiple passengers were not wearing seat belts and also developed a reasonable suspicion that the driver of the van did not have a valid driver’s license. Thus, the mission of addressing one passenger seat belt violation quickly morphed into addressing multiple seat belt violations by multiple van occupants, which in turn justified Trooper Burke’s attempts to identify these passengers. See Orth, 873 F.3d at 354 (“[C]ircumstances and unfolding events during a traffic stop allow for an officer to ‘shift his focus and increase the scope of his investigation’”) (quoting United States v. Chhien, 266 F.3d 1, 6 (1st Cir. 2001); United States v. Fernandez, 600 F.3d 56, 62 (1st Cir. 2010) (holding that no Fourth Amendment violation occurred when an officer sought identification of a passenger in order to issue a seat belt citation)).

Even absent reasonable suspicion of criminal activity, “an officer can undertake checks unrelated to the purpose of the stop so long as those checks do not prolong the stop.” United States v. Dion, 859 F.3d 114, 123-24 (1st Cir.), cert. denied, 138 S. Ct. 346 (2017). While the Court concludes that Burke’s call to ICE is most appropriately viewed as part and parcel of his attempts

¹¹ In his post-hearing briefing, Defendant has cited both 29-A M.R.S.A §§ 1408 & 2018(4) as a basis for this Court to find that Burke could not stop the van for reasonable articulable suspicion of a seat belt violation. See Def. Post-Hearing Memo, PageID # 265-66. The Court disagrees with Defendant’s reading of the cited Maine statutes and notes that Judge Woodcock has similarly upheld a stop based on an observed seat belt violation. See United States v. Williams, D. Me No. 1:15-cr-156-JAW, 2017 WL 435725, *3 (D. Me. Feb. 1, 2017).

to verify the identification of each of the van occupants, the Court alternatively notes that even if the ICE check is categorized as “unrelated to the purpose of the stop,” the check does not run afoul of the Fourth Amendment unless and until it is deemed to have prolonged the stop. See Rodriguez, 135 S. Ct. at 1616 (explaining that the “critical question” is “whether conducting the sniff ‘prolongs’—i.e., adds time to—‘the stop’”). Thus, the Court turns to the issue of the length of the stop.

2. The length of the stop did not violate Garcia-Zavala’s Fourth Amendment rights.

Having concluded that Trooper Burke’s actions were “justified at their inception,” his “subsequent actions are measured by the ‘emerging tableau’ of circumstances as the stop unfolds.” Orth, 873 F.3d at 354 (quoting Chhien, 266 F.3d at 6). As the Government asserts, the circumstances in this case include the fact that approximately twenty-one minutes into the traffic stop “the undisputedly reliable information in the possession of law enforcement . . . was that [Garcia-Zavala] had previously been removed from the United States and was unlawfully present in the country.”¹² (Gov’t Post-Hearing Brief (ECF No. 44), Page ID # 286.) In light of the fact that it took one hour for Trooper Burke to determine that there was no licensed driver for the van and to have a tow truck respond to the scene, the Court readily concludes that probable cause to arrest Garcia-Zavala was developed within the time a reasonably diligent officer would have

¹² Implicit in this assertion is the Government’s application of the collective knowledge doctrine to combine the observations of Trooper Burke and the research completed by Officer Arsenault. See United States v. Brown, 621 F.3d 48, 57 (1st Cir. 2010) (“In this circuit, we have recognized the collective knowledge doctrine as a legitimate means through which reasonable suspicion may be established.”); United States v. Winchenbach, 197 F.3d 548, 555 (1st Cir. 1999) (explaining that in assessing probable cause “the focus is upon the collective knowledge possessed by, and the aggregate information available to, all the officers involved in the investigation”). To the extent that Defendant has argued that the databases used by the ICE officers are unreliable and could not be used as part of the “collective knowledge” to develop probable cause as to Garcia-Zavala’s immigration status, the Court notes that the record is devoid of any evidence that the databases used contained inaccurate information generally, or as related to Garcia-Zavala specifically. Thus, Defendant’s argument is without merit.

needed to complete this traffic stop. See, e.g., United States v. Owens, 167 F.3d 739, 749 (1st Cir. 1999) (finding a traffic stop that involved a “fifty-minute detention” to be “lengthy” but reasonable under the circumstances).

To be clear, the Court readily determines that the initial hour of this Saturday afternoon traffic stop was spent on inquiries incident to the traffic stop, including “checking the driver’s license, determining whether there are outstanding warrants against the driver, and inspecting the automobile’s registration and proof of insurance.” Rodriguez, 135 S. Ct. at 1615 (citing Delaware v. Prouse, 440 U.S. 648, 658–660 (1979)). The time needed to complete these inquiries was extended as a result of the language barrier as well as the number of occupants in the van and the time it took each occupant to produce identification. However, the Court concludes that the time needed to obtain and verify the identity of each passenger falls into the category of “negligibly burdensome precautions” that may be undertaken by a police officer during a traffic stop. Clark, 879 F.3d at 5.

However, the Court also acknowledges that the timeline here is subject to differing interpretations. Defendant looks at the time that passed from the initiation of the traffic stop until the moment that Garcia-Zavala was taken into custody by ICE officers; this amounts to approximately one hour and thirty-five minutes. The Government urges the Court to focus on the amount of time that passed from the initiation of the traffic stop until the moment that law enforcement developed probable cause of Garcia-Zavala’s immigration violation; this amounts to approximately twenty-five minutes. The Government presents the better argument with respect to Garcia-Zavala given the totality of the circumstances involved in this traffic stop. Therefore, the Court concludes that the length of the stop did not violate Garcia-Zavala’s Fourth Amendment rights given the relatively short time frame in which the officers involved collectively developed

probable cause to believe that Garcia-Zavala was unlawfully present after having been previously removed.

Notwithstanding this conclusion, the Court notes Defendant also appears to argue that the probable cause that justified ICE officers taking Garcia-Zavala into administrative custody pursuant to 8 U.S.C. § 1357(a) did not simultaneously provide legal authority for a state official, such as Trooper Burke, to arrest or detain Garcia-Zavala. See generally 8 U.S.C. § 1357(g); Arizona v. United States, 567 U.S. 387 (2012).¹³ In the context of this case, the Court need not and does not resolve this question. Rather, for reasons explained in the following section, the Court concludes a suppression remedy is not available to Garcia-Zavala regardless of the merits of this particular argument.

3. The identity information obtained during the stop is not subject to suppression under existing precedent.

Even if the traffic stop was deemed pretextual or unjustifiably long, the Government has indicated that the only evidence it seeks to use in this prosecution is “limited to statements about biographical and identification matters that are part of the required booking process.” (Gov’t Response (ECF No. 32), PageID # 72 & Gov’t Post-Hearing Brief (ECF No. 44), PageID # 293.) Such identity information is not subject to suppression under the “identity statement” exception of INS v. Lopez-Mendoza, 468 U.S. 1032 (1984). In Lopez-Mendoza, the Supreme Court explained that “[t]he ‘body’ or identity of a defendant or respondent in a criminal or civil proceeding is never

¹³ The Court notes that the cited statute and case were first brought to the Court’s attention in the closing paragraphs of Defendant’s Post-Hearing Reply Brief (ECF No. 45). Given the Government’s lack of opportunity to respond and the Court’s determination that its ruling on the Motion to Suppress would be the same regardless of its determination of this question, the issue is noted but not resolved in this case. But see United States v. Ovando-Garzo, 752 F.3d 1161 (8th Cir. 2014) (affirming denial of a motion to suppress upon finding that the state officer did not act unilaterally in detaining defendant until Border Control could take defendant into custody).

itself suppressible as a fruit of an unlawful arrest, even if it is conceded that an unlawful arrest, search, or interrogation occurred.” Lopez-Mendoza, 468 U.S. at 1039. Citing this precedent, the First Circuit refused to suppress the identity of an alien in connection with its review of a removal proceeding. See Navarro-Chalan v. Ashcroft, 359 F.3d 19, 22 (1st Cir. 2004) (“Navarro’s name is not information even subject to being suppressed. The identity of an alien, or even a defendant, is never itself suppressible” (internal quotations omitted)); see also Garcia-Aguilar v. Lynch, 806 F.3d 671, 676-77 (1st Cir. 2015) (affirming denial of a request to suppress a birth certificate in the context of a removal proceeding).

Defendant has acknowledged both Lopez-Mendoza and Navarro-Chalan as well as three district court decisions within the First Circuit that apply these cases to conclude that identity is an exception to the exclusion remedy. (See Def. Post-Hearing Mem. (ECF No. 43), PageID # 254.) Nonetheless, Defendant urges this Court to consider the existence of a circuit split on this issue. Compare, e.g., United States v. Garcia-Garcia, 633 F.3d 608, 616 (7th Cir. 2011) (holding that “identity may not be suppressed even if it was obtained in violation of the Fourth Amendment”); United States v. Farias-Gonzalez, 556 F.3d 1181, 1189 (11th Cir. 2009) (“hold[ing] that the exclusionary rule does not apply to evidence to establish the defendant’s identity in a criminal prosecution”), with United States v. Oscar-Torres, 507 F.3d 224, 232 (4th Cir. 2007) (holding that illegally obtained fingerprint evidence could be suppressed); United States v. Olivares-Rangel, 458 F.3d 1104, 1112 (10th Cir. 2006) (“[T]he ‘identity’ language in Lopez-Mendoza . . . does not apply to evidentiary issues pertaining to the admissibility of evidence obtained as a result of an illegal arrest and challenged in a criminal proceeding.”) Additionally, Defendant argues that the First Circuit’s more recent opinion in Corado-Arriaza v. Lynch, 844 F.3d 74 (1st Cir. 2016) “suggests that it would be willing to allow suppression of identity evidence in the criminal

context.” (Def. Post-Hearing Mem., PageID # 255.) Quite simply, the Court disagrees with Defendant’s reading of Corado-Arriaza as opening the door for this Court to disregard the plain language of Lopez-Mendoza and Navarro-Chalan.

However, assuming for the moment there is no categorical bar on the suppression of the identity information that was obtained from Garcia-Zavala, the Court would still conclude that exclusion is not an appropriate remedy in this case. In United States v. Sandoval-Vasquez, 519 F. Supp. 2d 198 (D. Mass. 2007), Judge Stearns similarly faced a request to suppress identity information where a defendant was charged with a violation of 8 U.S.C. § 1326. Noting the continuing nature of the violation, Judge Stearns recognized that application of the exclusionary rule would serve no purpose. See Sandoval-Vasquez, 519 F. Supp. 2d at 201 (“Empty gestures do not further the primary purpose of the exclusionary rule, which is not to confer personal rights on criminal defendants, but to deter unlawful government conduct.”)

More recently, other circuits have likewise recognized that application of the exclusionary rule to identity evidence in similar types of immigration cases is not appropriate because the minimal deterrence benefits do not outweigh the costs. See, e.g., United States v. Chagoya-Morales, 859 F.3d 411, 417-420 (7th Cir. 2017); Farias-Gonzalez, 556 F.3d at 1187-88. The Court is satisfied that even if the First Circuit were to change course and recognize that there was no longer an identity statement exception, it would nonetheless follow the reasoning found in Chagoya-Morales and Farias-Gonzalez to conclude that the exclusionary rule may not be applied to the identity information obtained during this traffic stop.

III. CONCLUSION

For the reasons just explained, the Court DENIES Defendant's Motion to Suppress (ECF No. 29) and his Motion to Dismiss (ECF No. 31).

SO ORDERED.

/s/ George Z. Singal
United States District Judge

Dated this 28th day of February, 2018.

United States District Court
District of Maine

DEPUTY CLERK
RECEIVED & FILED
APR 18 2018
PORTLAND

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

v.

MARIO ERNESTO GARCIA-ZAVALA

Case Number: 2:17-cr-00140-001
USM Number: 18155-036

Robert C. Andrews, Esq.

Defendant's Attorney

THE DEFENDANT:

- pleaded guilty to count(s) _____
 pleaded nolo contendere to count(s) _____ which was accepted by the court.
 was found guilty on count(s) One of the Indictment after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
8 U.S.C. § 1326(a)	Illegal Entry After Removal	9/9/2017	One

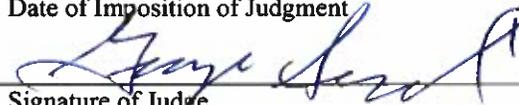
The defendant is sentenced as provided in pages 2 through 4 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s) _____.
 Count(s) _____ is are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States attorney of material changes in economic circumstances.

April 18, 2018

Date of Imposition of Judgment



Signature of Judge

George Z. Singal, U.S. District Judge

Name and Title of Judge

4/18/18

Date Signed

DEFENDANT: MARIO ERNESTO GARCIA-ZAVALA
CASE NUMBER: 2:17-cr-00140-001

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of Time Served.

- The court makes the following recommendations to the Bureau of Prisons:
- The defendant is remanded to the custody of the United States Marshal for delivery to ICE officials in execution of this sentence.
- The defendant shall surrender to the United States Marshal for this district:
 - at _____ a.m. p.m. on _____.
 - as notified by the United States Marshal.
- The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons.
 - before 2 p.m. on _____.
 - as notified by the United States Marshal.
 - as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
a _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: MARIO ERNESTO GARCIA-ZAVALA
 CASE NUMBER: 2:17-cr-00140-001

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

<u>Count</u>	<u>Assessment</u>	<u>JVTA Assessment*</u>	<u>Fine</u>	<u>Restitution</u>
One	\$ 100	\$	\$ 0	\$ 0

The determination of restitution is deferred until . An Amended Judgment in a Criminal Case (AO 245C) will be entered after such determination.

The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss**</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
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TOTALS	\$ _____	\$ _____
---------------	----------	----------

Restitution amount ordered pursuant to plea agreement \$

The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

The court determined that the defendant does not have the ability to pay interest and it is ordered that:

the interest requirement is waived for the fine restitution.

the interest requirement for the fine restitution is modified as follows:

* Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: MARIO ERNESTO GARCIA-ZAVALA
CASE NUMBER: 2:17-cr-00140-001

SCHEDULE OF PAYMENTS

Having assessed the defendant’s ability to pay, payment of the total criminal monetary penalties are due as follows:

- A Lump sum payment of \$100 due immediately, balance due
 - Any amount that the defendant is unable to pay now is due and payable during the term of incarceration. Upon release from incarceration, any remaining balance shall be paid in monthly installments, to be initially determined in amount by the supervising officer. Said payments are to be made during the period of supervised release, subject always to review by the sentencing judge on request, by either the defendant or the government.
 - not later than _____, or
 - in accordance with C, D, E, or F below; or
- B Payment to begin immediately (may be combined with C, D, or F below); or
- C Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant’s ability to pay at that time; or
- F Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons’ Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

The defendant shall pay the cost of prosecution.

The defendant shall pay the following court cost(s):

The defendant shall forfeit the defendant’s interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) JVRTA assessment, (8) penalties, and (9) costs, including cost of prosecution and court costs.

No. 18-1350

**UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT**

UNITED STATES OF AMERICA,
Plaintiff/Appellee,

v.

MARIO GARCIA-ZAVALA,
Defendant/Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

APPENDIX

ROBERT C. ANDREWS
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APPEAL,CLOSED,COURTEXHIBITS,INTERPRETER - SPANISH,SEALEDDOC

**U.S. District Court
District of Maine (Portland)
CRIMINAL DOCKET FOR CASE #: 2:17-cr-00140-GZS-1**

Case title: USA v. GARCIA-ZAVALA
Magistrate judge case number: 2:17-mj-00201-JHR

Date Filed: 10/03/2017
Date Terminated: 04/18/2018

Assigned to: JUDGE GEORGE Z.
SINGAL

Appeals court case number: 18-1350
First Circuit Court of Appeals

Defendant (1)

MARIO ERNESTO GARCIA-ZAVALA
TERMINATED: 04/18/2018

represented by **ROBERT C. ANDREWS**
LAW OFFICE OF ROBERT C.
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Email: rob.andrews.esq@gmail.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: CJA Appointment

Pending Counts

ENTRY AFTER REMOVAL, 8:1326
(a)
(1)

Disposition

Time Served, \$100 Special Assessment.

Highest Offense Level (Opening)

Felony

Terminated Counts

None

Disposition

Highest Offense Level (Terminated)

None

Complaints

Disposition

COUNT ONE - ENTRY AFTER
REMOVAL, 8:1326(a).

Plaintiff

USA

represented by **JONATHAN R. CHAPMAN**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Assistant US Attorney

Date Filed	#	Docket Text
09/19/2017	<u>1</u>	COMPLAINT as to MARIO ERNESTO GARCIA-ZAVALA (1). (nrg) [2:17-mj-00201-JHR] (Entered: 09/19/2017)
09/19/2017	<u>2</u>	SYNOPSIS as to MARIO ERNESTO GARCIA-ZAVALA (nrg) [2:17-mj-00201-JHR] (Entered: 09/19/2017)
09/19/2017	<u>4</u>	Arrest Warrant Issued by MAGISTRATE JUDGE JOHN H. RICH III as to MARIO ERNESTO GARCIA-ZAVALA. Original delivered to U.S. Marshals Service. (nrg) [2:17-mj-00201-JHR] (Entered: 09/19/2017)
09/21/2017	<u>5</u>	MOTION for Detention by USA as to MARIO ERNESTO GARCIA-ZAVALA Responses due by 10/12/2017. (CHAPMAN, JONATHAN) [2:17-mj-00201-JHR] (Entered: 09/21/2017)
09/22/2017	<u>6</u>	Pretrial Services Report as to MARIO ERNESTO GARCIA-ZAVALA filed by U.S. Probation. (Access to document is restricted to USA and applicable defendant only) (METCALFE, JENNIFER) [2:17-mj-00201-JHR] (Entered: 09/22/2017)
09/22/2017	7	NOTICE OF HEARING as to MARIO ERNESTO GARCIA-ZAVALA - Initial Appearance on Complaint and Attorney Appointment Hearing set for 9/22/2017 01:30 PM in Portland Hearing Room before MAGISTRATE JUDGE JOHN H. RICH III. The Spanish Interpreter at the hearing will be Carrie Lilley (lrc) [2:17-mj-00201-JHR] (Entered: 09/22/2017)
09/22/2017	8	Minute Entry for proceedings held before MAGISTRATE JUDGE JOHN H. RICH III: Initial Appearance held as to MARIO ERNESTO GARCIA-ZAVALA. Attorney Appointment Hearing held; ROBERT C. ANDREWS appointed. The defendant is ordered temporarily detained and remanded to the custody of the US Marshals Service. (Court Reporter: Lori Dunbar) (Interpreter: Carrie Lilley) (nrg) [2:17-mj-00201-JHR] (Entered: 09/22/2017)
09/22/2017	<u>9</u>	

		Financial Declaration by MARIO ERNESTO GARCIA-ZAVALA (Access to document is restricted to USA and applicable defendant only) (nrg) [2:17-mj-00201-JHR] (Entered: 09/22/2017)
09/22/2017	<u>10</u>	ORDER approving <u>9</u> Financial Declaration as to MARIO ERNESTO GARCIA-ZAVALA (1) By MAGISTRATE JUDGE JOHN H. RICH III. (nrg) [2:17-mj-00201-JHR] (Entered: 09/22/2017)
09/22/2017		SET Deadlines as to MARIO ERNESTO GARCIA-ZAVALA: Without objection the court orders the defendant to file by close of business 9/25/2017, a memorandum of law in support of the defendant's contention that the speedy trial clock is running from September 9, 2017, and (2) a memorandum of law in support of the defendant's contention that the court's probable cause determination cannot consider illegally obtained evidence. Without objection the government shall file memoranda in opposition by close of business 9/27/2017. (nrg) Modified on 9/22/2017 to correct typo (nrg). [2:17-mj-00201-JHR] (Entered: 09/22/2017)
09/22/2017	<u>11</u>	ORDER OF TEMPORARY DETENTION as to MARIO ERNESTO GARCIA-ZAVALA Preliminary Exam and Detention Hearing set for 9/28/2017 01:00 PM in Portland Hearing Room before MAGISTRATE JUDGE JOHN H. RICH III. By MAGISTRATE JUDGE JOHN H. RICH III. (nrg) [2:17-mj-00201-JHR] (Entered: 09/22/2017)
09/22/2017		CJA 20 as to MARIO ERNESTO GARCIA-ZAVALA: Appointment of Attorney ROBERT C. ANDREWS ; NOTICE TO COUNSEL: CJA documents are now processed via eVoucher. The link to eVoucher and procedural and policy information regarding CJA appointments can be found on our website at http://www.med.uscourts.gov/evoucher . Signed by MAGISTRATE JUDGE JOHN H. RICH III on 9/22/17. (nrg) [2:17-mj-00201-JHR] (Entered: 09/28/2017)
09/22/2017		Arrest of MARIO ERNESTO GARCIA-ZAVALA. (nrg) [2:17-mj-00201-JHR] (Entered: 09/29/2017)
09/25/2017	<u>12</u>	BRIEF by MARIO ERNESTO GARCIA-ZAVALA (ANDREWS, ROBERT) [2:17-mj-00201-JHR] (Entered: 09/25/2017)
09/26/2017	<u>14</u>	MEMORANDUM by USA as to MARIO ERNESTO GARCIA-ZAVALA (CHAPMAN, JONATHAN) [2:17-mj-00201-JHR] (Entered: 09/26/2017)
09/28/2017	<u>16</u>	Minute Entry for proceedings held before MAGISTRATE JUDGE JOHN H. RICH III: Preliminary Hearing held; probable cause found as to MARIO ERNESTO GARCIA-ZAVALA, Detention Hearing held as to MARIO ERNESTO GARCIA-ZAVALA. Motion for detention granted. The defendant is ordered detained and remanded to the custody of the US Marshals Service. (Court Reporter: FTR) (Interpreter: Carrie Lilley) (nrg) [2:17-mj-00201-JHR] (Entered: 09/28/2017)
09/28/2017	<u>17</u>	

		COURT WITNESS LIST from Preliminary Exam held on 9/28/2017, as to defendant(s) MARIO ERNESTO GARCIA-ZAVALA. (nrg) [2:17-mj-00201-JHR] (Entered: 09/28/2017)
09/28/2017	<u>18</u>	COURT EXHIBIT LIST from Preliminary Exam held on 9/28/2017, as to defendant(s) MARIO ERNESTO GARCIA-ZAVALA (Exhibits listed on the Court Exhibit List are not remotely electronically available) (nrg) [2:17-mj-00201-JHR] (Entered: 09/28/2017)
09/28/2017	<u>19</u>	Arrest Warrant Returned Executed on 9/22/2017, as to MARIO ERNESTO GARCIA-ZAVALA. (nrg) [2:17-mj-00201-JHR] (Entered: 09/29/2017)
09/29/2017	<u>20</u>	ORDER OF DETENTION as to MARIO ERNESTO GARCIA-ZAVALA By MAGISTRATE JUDGE JOHN H. RICH III. (nrg) [2:17-mj-00201-JHR] (Entered: 09/29/2017)
10/03/2017	<u>21</u>	INDICTMENT as to MARIO ERNESTO GARCIA-ZAVALA (1) count(s) 1. (akr) (Additional attachment(s) added on 10/4/2017: # <u>1</u> Unredacted Document Available at the Clerk's Office) (akr). (Entered: 10/04/2017)
10/03/2017	<u>26</u>	SYNOPSIS as to MARIO ERNESTO GARCIA-ZAVALA (nrg) (Entered: 10/13/2017)
10/06/2017	<u>22</u>	NOTICE OF HEARING as to MARIO ERNESTO GARCIA-ZAVALA Arraignment set for 10/13/2017 10:00 AM in Portland Hearing Room before MAGISTRATE JUDGE JOHN H. RICH III. Telephonic interpreting services to be provided.(nrg) (Entered: 10/06/2017)
10/12/2017	<u>23</u>	NOTICE OF UPDATED HEARING as to MARIO ERNESTO GARCIA-ZAVALA. Arraignment set for 10/13/2017 10:00 AM in Portland Hearing Room before MAGISTRATE JUDGE JOHN H. RICH III. Gladys Garcia, Spanish Interpreter to be present for this hearing. (nrg) (Entered: 10/12/2017)
10/13/2017	<u>24</u>	Minute Entry for proceedings held before MAGISTRATE JUDGE JOHN H. RICH III: Arraignment held as to MARIO ERNESTO GARCIA-ZAVALA (1) Count 1, Plea entered: Not Guilty on count 1; Plea Accepted. (Court Reporter: FTR) (Interpreter: Gladys Garcia) (nrg) (Entered: 10/13/2017)
10/13/2017	<u>25</u>	PROCEDURAL ORDER IN A CRIMINAL CASE as to MARIO ERNESTO GARCIA-ZAVALA Motions due by 10/27/2017. Ready for Trial on 11/6/2017. By MAGISTRATE JUDGE JOHN H. RICH III. (nrg) (Entered: 10/13/2017)
10/13/2017	<u>28</u>	TRIAL LIST as to MARIO ERNESTO GARCIA-ZAVALA Jury Selection set for 11/6/2017 09:00 AM in Portland Courtroom 1 before JUDGE GEORGE Z. SINGAL. On Trial List for 11/6/2017. Trial Brief due by 10/30/2017. (nrg) (Entered: 10/13/2017)
10/23/2017	<u>29</u>	MOTION to Suppress <i>statements and evidence obtained as a result of an illegal arrest or detention</i> by MARIO ERNESTO GARCIA-ZAVALA Responses due by 11/13/2017. (ANDREWS, ROBERT) (Entered: 10/23/2017)
10/23/2017	<u>30</u>	NOTICE as to MARIO ERNESTO GARCIA-ZAVALA- Please be advised that this case has been removed from the November Trial List due to the pending

		Motion to Suppress. This case will be placed on a Trial List once the pending motion is resolved. (lrc) (Entered: 10/23/2017)
10/27/2017	<u>31</u>	MOTION to Dismiss <i>for unnecessary delay in Rule 5 proceedings</i> by MARIO ERNESTO GARCIA-ZAVALA Responses due by 11/17/2017. (ANDREWS, ROBERT) (Entered: 10/27/2017)
11/09/2017	<u>32</u>	RESPONSE in Opposition by USA as to MARIO ERNESTO GARCIA-ZAVALA re <u>29</u> MOTION to Suppress <i>statements and evidence obtained as a result of an illegal arrest or detention</i> Reply due by 11/24/2017. (CHAPMAN, JONATHAN) (Entered: 11/09/2017)
11/17/2017	<u>33</u>	RESPONSE in Opposition by USA as to MARIO ERNESTO GARCIA-ZAVALA re <u>31</u> MOTION to Dismiss <i>for unnecessary delay in Rule 5 proceedings</i> Reply due by 12/1/2017. (CHAPMAN, JONATHAN) (Entered: 11/17/2017)
12/01/2017	34	NOTICE OF HEARING ON MOTION Re: <u>29</u> MOTION to Suppress, <u>31</u> MOTION to Dismiss as to MARIO ERNESTO GARCIA-ZAVALA Motion Hearing set for 12/20/2017 09:00 AM in Portland Courtroom 3 before JUDGE GEORGE Z. SINGAL. The Court has set aside 4 hours for this hearing. Carrie Lilley has been secured as the Certified Spanish interpreter for this hearing. (lrc) (Entered: 12/01/2017)
12/20/2017	35	Minute Entry for proceedings held before JUDGE GEORGE Z. SINGAL: Motion Hearing held as to MARIO ERNESTO GARCIA-ZAVALA re <u>29</u> MOTION to Suppress statements and evidence obtained as a result of an illegal arrest or detention, <u>31</u> MOTION to Dismiss for unnecessary delay in Rule 5 proceedings filed by MARIO ERNESTO GARCIA-ZAVALA. Order to issue once briefing is complete. (Court Reporter: Tammy Martell) (Interpreter: Carrie Lilley) (lrc) (Entered: 12/20/2017)
12/20/2017		Set Deadlines as to MARIO ERNESTO GARCIA-ZAVALA in accordance with the deadlines set at the suppression hearing held on 12/20/2017: Defendant's brief due by 1/10/2018, government's responsive brief due 1/17/2018, reply brief due 1/24/2018 (lrc) (Entered: 12/20/2017)
12/20/2017	<u>36</u>	COURT WITNESS LIST from Suppression Hearing held on 12/20/2017 as to defendant(s) MARIO ERNESTO GARCIA-ZAVALA (lrc) (Entered: 12/20/2017)
12/20/2017	<u>37</u>	COURT EXHIBIT LIST from Suppression Hearing held on 12/20/2017 as to defendant(s) MARIO ERNESTO GARCIA-ZAVALA (Exhibits listed on the Court Exhibit List are not remotely electronically available) (lrc) (Entered: 12/20/2017)
01/04/2018	<u>38</u>	***FILED IN ERROR*** First MOTION for Transcript <i>as cja 24</i> by MARIO ERNESTO GARCIA-ZAVALA Responses due by 1/25/2018. (ANDREWS, ROBERT) Modified on 1/4/2018 (akr). (Entered: 01/04/2018)
01/04/2018	<u>39</u>	***FILED IN ERROR*** First MOTION funds for interpreter by MARIO ERNESTO GARCIA-ZAVALA Responses due by 1/25/2018. (ANDREWS, ROBERT) Modified on 1/4/2018 (akr). (Entered: 01/04/2018)

01/04/2018		NOTICE of Docket Entry Modification as to MARIO ERNESTO GARCIA-ZAVALA regarding <u>38</u> First MOTION for Transcript <i>as cja 24</i> , <u>39</u> First MOTION funds for interpreter : These entries have been modified to indicate the documents were filed in error. Counsel to re-file documents via eVoucher. (akr) (Entered: 01/04/2018)
01/10/2018	<u>40</u>	Unopposed MOTION to Extend Time <i>to file written argument</i> by MARIO ERNESTO GARCIA-ZAVALA Responses due by 1/31/2018. (ANDREWS, ROBERT) (Entered: 01/10/2018)
01/10/2018	41	ORDER granting without objection <u>40</u> Motion to Extend Time to File Written Argument as to MARIO ERNESTO GARCIA-ZAVALA (1). SO ORDERED. By JUDGE GEORGE Z. SINGAL. (ccs) (Entered: 01/11/2018)
01/11/2018		Reset Deadlines as to MARIO ERNESTO GARCIA-ZAVALA Per Order at ECF No. 41: Defendant's brief re: Motion to Suppress due by 1/15/2018, Government's responsive brief due 1/22/2018, reply brief due 1/29/2018. (ccs) (Entered: 01/11/2018)
01/12/2018	<u>42</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings as to MARIO ERNESTO GARCIA-ZAVALA Suppression Hearing held on December 20, 2017 before Judge George Z. Singal. Court Reporter/Transcriber: Tammy Martell, Telephone Number: 207-272-5566. NOTICE RE REDACTION OF TRANSCRIPTS: The parties have seven (7) calendar days to file with the Court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript will be made remotely electronically available to the public without redaction after 90 calendar days. The policy is located on our website at www.med.uscourts.gov. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Release of Transcript Restriction set for 4/12/2018. (MARTELL, TAMMY) (Entered: 01/12/2018)
01/15/2018	<u>43</u>	MEMORANDUM by MARIO ERNESTO GARCIA-ZAVALA in support of <u>29</u> MOTION to Suppress <i>statements and evidence obtained as a result of an illegal arrest or detention</i> , <u>34</u> Notice of Hearing on Motion, <u>31</u> MOTION to Dismiss <i>for unnecessary delay in Rule 5 proceedings</i> (ANDREWS, ROBERT) (Entered: 01/15/2018)
01/22/2018	<u>44</u>	GOVERNMENT'S POST-HEARING BRIEF by USA as to MARIO ERNESTO GARCIA-ZAVALA (CHAPMAN, JONATHAN) Modified on 1/22/2018 to clarify up docket text (lrc). (Entered: 01/22/2018)
01/29/2018	<u>45</u>	Reply Memorandum of Law to Government's Post Hearing Brief by MARIO ERNESTO GARCIA-ZAVALA in support of <u>43</u> Memorandum, <u>44</u> Brief (ANDREWS, ROBERT) Modified on 1/30/2018 to clarify docket text(lrc). (Entered: 01/29/2018)
02/06/2018	46	

		NOTICE OF HEARING as to MARIO ERNESTO GARCIA-ZAVALA Conference of Counsel re: Pending Motions set for 2/14/2018 09:00 AM in Judge Singal's Chambers before JUDGE GEORGE Z. SINGAL. (lrc) (Entered: 02/06/2018)
02/26/2018	<u>52</u>	TRIAL LIST as to MARIO ERNESTO GARCIA-ZAVALA Jury Selection set for 4/2/2018 09:00 AM in Portland Courtroom 1 before JUDGE GEORGE Z. SINGAL. On Trial List for 4/2/2018. Trial Brief due by 3/26/2018. (ccs) (Entered: 02/26/2018)
02/28/2018	<u>53</u>	ORDER denying <u>29</u> Motion to Suppress; denying <u>31</u> Motion to Dismiss. By JUDGE GEORGE Z. SINGAL. (JPL) (Entered: 02/28/2018)
03/19/2018	<u>54</u>	NOTICE OF HEARING as to MARIO ERNESTO GARCIA-ZAVALA- Waiver of Jury Trial and Bench Trial set for 3/21/2018 09:00 AM in Portland Courtroom 3 before JUDGE GEORGE Z. SINGAL. The Court has reserved two hours for this hearing. The Spanish speaking interpreter at the hearing will be Paul Garcia. (lrc) (Entered: 03/19/2018)
03/19/2018		Set Deadlines as to MARIO ERNESTO GARCIA-ZAVALA : IF either side wishes to submit a trial brief, they must do so by NOON on 3/20/2018. (lrc) (Entered: 03/19/2018)
03/19/2018	<u>55</u>	EXHIBIT LIST by USA as to MARIO ERNESTO GARCIA-ZAVALA . (CHAPMAN, JONATHAN) (Entered: 03/19/2018)
03/20/2018	<u>56</u>	TRIAL BRIEF by USA as to MARIO ERNESTO GARCIA-ZAVALA (CHAPMAN, JONATHAN) (Entered: 03/20/2018)
03/20/2018	<u>57</u>	WITNESS LIST by USA as to MARIO ERNESTO GARCIA-ZAVALA . (CHAPMAN, JONATHAN) (Entered: 03/20/2018)
03/21/2018	<u>58</u>	Minute Entry for proceedings held before JUDGE GEORGE Z. SINGAL:Waiver of Jury Trial Hearing held as to MARIO ERNESTO GARCIA-ZAVALA (Court Reporter: Tammy Martell) (Interpreter: Paul Garcia) (lrc) (Entered: 03/21/2018)
03/21/2018	<u>59</u>	WAIVER of Right to Trial by Jury by MARIO ERNESTO GARCIA-ZAVALA (lrc) (Entered: 03/21/2018)
03/21/2018	<u>60</u>	Minute Entry for proceedings held before JUDGE GEORGE Z. SINGAL: Bench Trial Held as to MARIO ERNESTO GARCIA-ZAVALA. The defendant is remanded to the custody of the U.S. Marshal. (Court Reporter: Tammy Martell) (Interpreter: Paul Garcia) (lrc) (Entered: 03/21/2018)
03/21/2018	<u>61</u>	COURT EXHIBIT LIST from Bench Trial held on 3/21/2018 as to defendant(s) MARIO ERNESTO GARCIA-ZAVALA (Exhibits listed on the Court Exhibit List are not remotely electronically available) (lrc) (Entered: 03/21/2018)
03/21/2018	<u>62</u>	COURT WITNESS LIST from Bench Trial held on 3/21/2018 as to defendant (s) MARIO ERNESTO GARCIA-ZAVALA (lrc) (Entered: 03/21/2018)
03/21/2018	<u>63</u>	ORAL COURT VERDICT as to MARIO ERNESTO GARCIA-ZAVALA - Guilty on Count 1. The Court orders an expedited preparation of the Presentence Report. By JUDGE GEORGE Z. SINGAL. (lrc) (Entered: 03/21/2018)

03/21/2018	64	NOTICE OF HEARINGS as to MARIO ERNESTO GARCIA-ZAVALA - Presentence Conference set for 4/18/2018 11:00 AM in Judge Singal's Chambers before JUDGE GEORGE Z. SINGAL. Sentencing set for 4/18/2018 11:00 AM in Portland Courtroom 3 before JUDGE GEORGE Z. SINGAL. The Spanish Interpreter for the Sentencing Hearing will be Paul Garcia (lrc) (Entered: 03/21/2018)
04/18/2018	65	Minute Entry for proceedings held before JUDGE GEORGE Z. SINGAL:Presentence Conference held as to MARIO ERNESTO GARCIA-ZAVALA, Sentencing held as to MARIO ERNESTO GARCIA-ZAVALA. The defendant is sentenced to Time Served with no term of supervised release to follow; \$100 total special assessment. (Court Reporter: Tammy Martell) (Interpreter: Paul Garcia) (lrc) (Entered: 04/18/2018)
04/18/2018	<u>66</u>	JUDGMENT as to MARIO ERNESTO GARCIA-ZAVALA By JUDGE GEORGE Z. SINGAL. (lrc) (Entered: 04/18/2018)
04/18/2018	<u>67</u>	Statement of Reasons as to MARIO ERNESTO GARCIA-ZAVALA.(Access to document is restricted to USA and applicable defendant only) (Attachments: # <u>1</u> Exhibit A-Findings Affecting Sentencing) (lrc) (Entered: 04/18/2018)
04/20/2018	<u>68</u>	NOTICE OF APPEAL by MARIO ERNESTO GARCIA-ZAVALA re <u>66</u> Judgment <i>from April 18, 2018</i> . NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from our web site at http://www.med.uscourts.gov/operations/forms/transcript%20order.pdf MUST be completed and submitted to the Court of Appeals. NOTICE TO COUNSEL: Counsel should register for a First Circuit CMECF Appellate Filer Account at http://pacer.psc.uscourts.gov/cmecf . Counsel should also review the First Circuit requirements for electronic filing by visiting the CMECF Information section at http://www.ca1.uscourts.gov/efiling.htm . (ANDREWS, ROBERT) (Entered: 04/20/2018)
04/23/2018		COPIES of Notice of Appeal Sent to Counsel as to MARIO ERNESTO GARCIA-ZAVALA re <u>68</u> Notice of Appeal - Final Judgment (bfa) (Entered: 04/23/2018)
04/23/2018	<u>69</u>	APPEAL COVER SHEET as to MARIO ERNESTO GARCIA-ZAVALA re <u>68</u> Notice of Appeal - Final Judgment (bfa) (Entered: 04/23/2018)
04/23/2018	<u>70</u>	CLERK'S CERTIFICATE as to MARIO ERNESTO GARCIA-ZAVALA re <u>68</u> Notice of Appeal - Final Judgment. Documents Sent to U.S. Court of Appeals. (bfa) (Entered: 04/23/2018)
04/23/2018		Abbreviated Appeal Record Transmitted Electronically to USCA as to MARIO ERNESTO GARCIA-ZAVALA to US Court of Appeals re <u>68</u> Notice of Appeal - Final Judgment (bfa) (Entered: 04/23/2018)
04/23/2018	71	USCA Case Number as to MARIO ERNESTO GARCIA-ZAVALA 18-1350 for <u>68</u> Notice of Appeal - Final Judgment filed by MARIO ERNESTO GARCIA-ZAVALA. (mtm) (Entered: 04/23/2018)

07/05/2018	<u>72</u>	<p>NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings as to MARIO ERNESTO GARCIA-ZAVALA Bench Trial held on March 21, 2018 before Judge George Z. Singal. Court of Appeals Docket Number 18-1350. Court Reporter/Transcriber: Tammy Martell, Telephone Number: 207.272.5566.</p> <p>NOTICE RE REDACTION OF TRANSCRIPTS: The parties have seven (7) calendar days to file with the Court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript will be made remotely electronically available to the public without redaction after 90 calendar days. The policy is located on our website at www.med.uscourts.gov.</p> <p>Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Release of Transcript Restriction set for 10/3/2018. (MARTELL, TAMMY) (Entered: 07/05/2018)</p>
07/05/2018	<u>73</u>	<p>NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings as to MARIO ERNESTO GARCIA-ZAVALA Sentencing held on April 18, 2018 before Judge George Z. Singal. Court of Appeals Docket Number 18-1350. Court Reporter/Transcriber: Tammy Martell, Telephone Number: 207.272.5566.</p> <p>NOTICE RE REDACTION OF TRANSCRIPTS: The parties have seven (7) calendar days to file with the Court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript will be made remotely electronically available to the public without redaction after 90 calendar days. The policy is located on our website at www.med.uscourts.gov.</p> <p>Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Release of Transcript Restriction set for 10/3/2018. (MARTELL, TAMMY) (Entered: 07/05/2018)</p>

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1 A. Yeah, so I told -- so at that point Trooper Burke did
2 not have any identifications from the individuals, and in
3 order for me to run them in my system I at least need some
4 basic information which generally I ask for exact name and
5 date of birth. I often will try to get them, the trooper,
6 whoever is roadside, to send me pictures of the consulate
7 ID cards or whatever identification that they might
8 present.

9 Q. When you say sending pictures, in what -- what method
10 is that done?

11 A. So it has been -- with Trooper Burke he texts me
12 through my cell phone the photos, but sometimes it is also
13 e-mailed.

14 Q. Are they -- the photos of?

15 A. Photos of the identification that he retrieves from
16 whoever he has roadside.

17 Q. Okay. So what happened next after you said I will
18 boot up my computer and you go get whatever you can from
19 the people in the car?

20 A. So during this time Trooper Burke got identifications
21 from the vehicle of whoever did have vehicle -- whoever did
22 have identifications.

23 Q. Okay.

24 A. So at that point I was booting up my computer, I
25 obviously notified John Lenotte what was going on, and I

1 also contacted my supervisor to let him know what was
2 happening. Trooper Burke sent me, via text message, photos
3 of the identifications that he retrieved from the
4 individuals over roadside.

5 Q. All right. So over the course of the entire road
6 stop I understand that there were as many as eight or so
7 identification documents transmitted to you; is that
8 correct? Somewhere in that vicinity?

9 A. Yes. Yes. Yes.

10 Q. I am only going to ask you about two.

11 A. Okay.

12 Q. Okay. I am going to ask you about the driver of the
13 car and the defendant in this action.

14 A. Yes.

15 Q. So what was the first identification document that
16 you received from Trooper Burke?

17 A. So the first individual that I ran through our system
18 was the driver who ended up coming back --

19 Q. Do you recall his name?

20 A. I do not.

21 Q. Okay. I will come back to that later.

22 A. Okay. He ended up coming up with an immigration
23 record that he was already previously apprehended and he
24 was in immigration proceedings.

25 Q. Okay. So the driver had an immigration record --

- 1 A. Correct.
- 2 Q. -- that you pulled up?
- 3 A. Yes.
- 4 Q. And what -- what did that record consist of or what
5 did it show?
- 6 A. So it showed that he was previously arrested, and
7 that he is -- that he was awaiting his court hearing in
8 immigration court, and he was released on bond.
- 9 Q. All right. So he was in immigration proceedings?
- 10 A. Correct.
- 11 Q. And was out on bail?
- 12 A. Yes.
- 13 Q. Okay. And that was the driver?
- 14 A. Yes, that was the driver.
- 15 Q. What was the next one you ran?
- 16 A. So the next individual I ran was a consulate
17 identification out of the country of Honduras that belonged
18 to Mario Zavala.
- 19 Q. Is that his full name?
- 20 A. Mario Ernesto Garcia-Zavala --
- 21 Q. Okay.
- 22 A. -- I believe is his full name so --
- 23 Q. And you received a transmission of that consulate
24 card?
- 25 A. Yes.

1 Q. And --

2 A. Which has his photo ID, his name, date of birth, and
3 country of origin.

4 Q. And what did you do with that consulate card?

5 A. So I ran him through our system that's called CIS
6 that I previously spoke of that gives me an immigration
7 record. So I ran him by name and date of birth, and I
8 came -- and it returned with a positive match, based upon
9 that, that he was previously encountered and removed from
10 the United States in 2014.

11 Q. Okay. So Mario Ernesto Garcia-Zavala had been
12 previously removed from the United States?

13 A. That's correct. He was ex -- he was -- he was
14 removed under an expedited removal order.

15 Q. In you said 2014?

16 A. In 2014.

17 Q. From where?

18 A. I believe it was Brownsville, Texas, was the removal
19 station.

20 Q. Okay. What time did you receive that information
21 back from your computer on Mario Ernesto Garcia-Zavala?

22 A. The only reference that I have is the text message
23 that I sent to Deportation Officer John Lenotte which would
24 have been at 12:41.

25 Q. Saying what?

1 A. Saying that we -- that we have a reentry roadside.

2 Q. So if somebody -- if somebody had been previously
3 removed did it -- would that record have shown if he had
4 lawfully entered the United States after being removed?

5 A. Yes. So -- so I went through -- so I went -- I went
6 through numerous -- so at this point I went through
7 numerous checks. So I checked out -- which gave me his
8 alien registration number. So then at that point I also
9 checked Planet which is a system that gives us our court
10 updates, and there was nothing in that.

11 I checked a system called Claims which would have told
12 me if he had applied for anything through USCIS or if he
13 had came in possibly legally.

14 I also called what's called the Law Enforcement
15 Support Center which is based out of Vermont. They are --
16 so I guess in layman's terms they are our dispatch center
17 for immigration. So I called them and had them run him by
18 name and date of birth as well. They have the ability to
19 run numerous databases simultaneously and they can come
20 back with a quicker response.

21 Q. Okay. So as of the time that you received that
22 information from your computer system and transmitted it to
23 John Lenotte, what did you know about Mario Ernesto
24 Garcia-Zavala?

25 A. At that point I knew that we had an individual

1 roadside with Maine State Police that had reentered the
2 United States illegally without admission or parole.

3 Q. And what -- what is that -- a person in his position
4 subject to at that point?

5 A. He is subject to criminal arrest.

6 Q. And also administrative?

7 A. Yeah, and also administrative, that's correct.

8 Q. All right. So he is an unlawful -- he is unlawfully
9 present in the United States?

10 A. Correct, his reentry.

11 Q. Okay. Was it your understanding then at that time he
12 was still at the roadside?

13 A. Yes.

14 Q. And you say that you know that this was the case as
15 of 12:41?

16 A. Yes, 12:41 is when I transmitted a text message to
17 John Lenotte letting him know that we had a reentry.

18 Q. Okay. Did you believe that you had probable cause to
19 believe that that person was -- was illegally in the United
20 States?

21 A. Yes.

22 MR. ANDREWS: Objection, Your Honor. That's a
23 legal conclusion that he is asking.

24 THE COURT: He is asking for his state of mind.
25 Go ahead. Overruled.

1 BY MR. CHAPMAN:

2 Q. Did you -- did you believe you had probable cause?

3 A. Yes, I did.

4 Q. For what?

5 A. That Maine State Police had a alien who was illegally
6 present in the United States roadside.

7 Q. All right. Did you continue to communicate with the
8 trooper?

9 A. Yes. So I called Trooper Burke and informed him of
10 the driver's status, and told him that he wasn't of
11 interest because he was released and he was in court
12 proceedings.

13 Q. The driver was not of interest to you because he was
14 already subject to immigration's jurisdiction?

15 A. Correct.

16 Q. Okay.

17 A. But I did inform him that Mr. Zavala was of interest
18 because he was a reentry.

19 Q. Okay. Those are the only two people that I want to
20 talk about now, but just generally speaking did you
21 continue to run checks on the remainder of the people in
22 the van?

23 A. Yes, I ran every single person that was inside that
24 vehicle through my database.

25 MR. CHAPMAN: May I approach the witness, Your

1 Honor?

2 THE COURT: You may.

3 BY MR. CHAPMAN:

4 Q. I am showing you what's been marked for
5 identification as Government's Exhibit 2. Do you recognize
6 that?

7 A. What's that?

8 Q. Do you recognize that?

9 A. Yes, I do. This is a consular --

10 Q. And what does that appear to be?

11 A. So this was the consulate card that Trooper Burke
12 took a photo of when he was roadside, and he sent it to my
13 cell phone for me to identify him, and then I also sent
14 this photo to John Lenotte's cell phone as well.

15 Q. Okay. So the person in -- depicted in that
16 identification card is the person whose identity you ran
17 through the computer system?

18 A. Yes.

19 MR. CHAPMAN: Your Honor, I move that Exhibit 1
20 be admitted. I'm sorry, Exhibit 2.

21 MR. ANDREWS: No objection.

22 THE COURT: Admitted without objection.

23 BY MR. CHAPMAN:

24 Q. Putting this on the document camera, officer. And
25 that is in the Spanish language; is that correct?

1 A. Yes, it is.

2 Q. But are you able to determine the name, date of
3 birth -- I know you can't -- probably can't see it from
4 there, maybe you can; but does that match -- well, strike
5 that.

6 The photo that's depicted in that, does that appear
7 similar to the defendant in this case?

8 A. Yes, it is.

9 THE COURT: I have seen it already.

10 THE CLERK: Yep.

11 THE COURT: Okay.

12 (Counsel conferred.)

13 MR. CHAPMAN: Approach, Your Honor.

14 THE COURT: You may.

15 MR. ANDREWS: Your Honor, on any of these text
16 messages I would agree to their admittance without
17 objection.

18 THE COURT: Very good.

19 MR. ANDREWS: And he need not lay foundation for
20 it.

21 THE COURT: Very good.

22 MR. CHAPMAN: Then I will, Your Honor, if I could
23 have a moment. Your Honor, I move that Exhibits 3, 4, 5,
24 6, and 7 be admitted.

25 THE COURT: Without objection they are admitted.

1 Text messages.

2 MR. CHAPMAN: Thank you, Your Honor.

3 BY MR. CHAPMAN:

4 Q. Officer, I am putting on the document camera what has
5 been admitted as Government's Exhibit 3. What is that?

6 A. So that is my initial text message to let John
7 Lenotte know to be ready in case he needs to be dispatched
8 out roadside.

9 Q. And what date was that?

10 A. That was Saturday, September 9th.

11 Q. At what time?

12 A. At 12:26 p.m.

13 Q. And how did Officer Renault -- Lenotte respond?

14 A. I let him know that heads up MSP has 13 roadside in
15 Portland, and he said 13, question mark, shut up.

16 Q. What did you take that to mean?

17 A. That's a -- that's a large number for our small
18 office to handle.

19 Q. Okay. And so that's at 12:26 and 12:27?

20 A. Yep.

21 Q. And directing you to 12:36. What's the entry at
22 12:36?

23 A. Driver on, which I meant in, proceedings. I am
24 trying to get info on the others now.

25 Q. What does that mean? What did you mean by that?

1 A. So the first individual that I ran was the driver.
2 He was the one that I believe initially gave a form of
3 identification. So I ran him through the system and it
4 came up that he was already previously encountered by
5 immigration and that he was in court proceedings, and I was
6 at that point waiting on or a -- waiting on responses on
7 the other individuals to run them through our system.

8 Q. Okay. And Officer Lenotte says 10-4 boss says we
9 can't handle 13. What did you understand that to mean?

10 A. So we have -- so we have limited -- we're only an
11 office of five people and only my supervisor John Lenotte
12 were heading roadside.

13 Q. I'm sorry, only your supervisor and John Lenotte?

14 A. Correct.

15 Q. He is not your supervisor?

16 A. No, he is not.

17 Q. All right.

18 A. My supervisor and John Lenotte.

19 Q. Okay.

20 A. So there would be no way to safely apprehend and
21 transport 13 individuals. But at that point I had no idea
22 how many we were taking into custody or not, that was just
23 the number that were roadside.

24 Q. Okay. Lower down in Exhibit 3 -- well, so you asked
25 skip them all, question mark. What did you mean by that?

1 A. So when he said -- so when our supervisor said that
2 they can't handle 13 my immediate response was so we're
3 going to skip them all? I wasn't sure what my chain of
4 command wanted to do at that point and then --

5 Q. Okay.

6 A. -- I reiterated in the next text message at 12:41
7 that we have a reentry. So at that point I receive a hit
8 back that Mr. Zavala had previously been removed from the
9 United States.

10 Q. Okay. And you documented that in a text to Officer
11 Lenotte; is that correct?

12 A. That is correct.

13 Q. And what else did you say about that hit?

14 A. At 12:42 I said that he was removed in 2014, and that
15 he had nothing in Planet since removal so it wasn't showing
16 that he had possibly changed any sort of status, and I also
17 at that point -- at that point there I was running him
18 through our LESC as well.

19 Q. Okay. How long is that after you were originally
20 contacted by the trooper?

21 A. So I originally was contacted by the trooper roughly
22 four minutes prior to my message at 12:26. So at 12:22 I
23 received the phone call from Trooper Burke, and then at
24 12:41 is when I had my initial hit that Mr. Zavala had
25 illegally reentered the country.

1 Q. And that's the point that you previously said you
2 believe you had probable cause that he was unlawfully in
3 the country?

4 A. Yes.

5 Q. So, just briefly, Exhibit 4 there is -- there is
6 overlap in these texts messages, is that correct, so that
7 you are sure not to miss any?

8 A. That's correct.

9 Q. And so Exhibit 4 is just some more conversation
10 between you and John Lenotte?

11 A. Yes.

12 Q. And in that it says trying to call you, Pat said
13 blue. Who is Pat?

14 A. Pat is my supervisor.

15 Q. And what did he mean by that?

16 A. So everything we do I have to run it through the
17 chain of command. So especially since it was on a
18 Saturday, my day off, I need to inform the duty agent
19 what's happening, and I also need to contact my supervisor
20 just so he is aware of the situation.

21 Q. Okay. And this next one has more of that. Trying to
22 call you, Pat said blue light at their Exit 7 295 south,
23 turn around on Washington Avenue. What did you mean by
24 that?

25 A. So that one when I spoke with Pat and informed him

1 that we had a reentry roadside, he wanted me to let John
2 know -- who was at that point I believe already en route,
3 but to let him know to put on his emergency lights and to
4 get to the scene as fast as safely possible.

5 Q. Okay. Now, in the further course of that text
6 message there are several names with other information;
7 Mondragon Carmen, Ramirez Reyes, Garcia-Zavala, Orsorio
8 Hernandez, and Gonzalez Rodriguez. What are those?

9 A. So those were the names of the other individuals that
10 were either transmitted to me through a picture of a
11 consular ID card or just the information that Trooper Burke
12 gathered just name and date of birth.

13 Q. Okay. So you were typing that into your text?

14 A. Yeah. So I wanted -- so I was doing all the
15 logistical work prior -- while my supervisor and John
16 Lenotte were driving to the scene. So I was trying to
17 navigate each individual and what their immigration status
18 was so when they got there they already had somewhat of a
19 situation that was determined.

20 Q. Okay. But that was over the course of the next hour
21 or so; right?

22 A. Yeah, correct.

23 Q. Roughly. Or 45 minutes?

24 A. Yes.

25 Q. And Exhibit 6 is some additional names from other

- 1 people in the car?
- 2 A. That's correct.
- 3 Q. And then at the bottom of Exhibit 6 what do you --
- 4 there is a photograph there?
- 5 A. Yep. So that's the photograph that Trooper Burke
- 6 originally sent me and I just forwarded in that text
- 7 message to John Lenotte so when he arrived he at least had
- 8 photos in his phone.
- 9 Q. And there appears to be two images of consulate cards
- 10 on Exhibit 6.
- 11 A. That's correct.
- 12 Q. Is one of those Mr. Garcia-Zavala?
- 13 A. Yes, that's correct. So that's the first photograph
- 14 that I received of the consulate cards from Mr. -- from
- 15 Trooper Burke, and Mr. Zavala was to the top left. He was
- 16 the first individual of all the consulate cards that I
- 17 received that I ran through our databases.
- 18 Q. Okay. And what is Exhibit 7?
- 19 A. Exhibit 7 is four of the consulate cards that were
- 20 transmitted to me via text from Trooper Burke that I sent
- 21 to Deportation Officer Lenotte.
- 22 Q. And just for the record the consulate card that
- 23 appears closest to the exhibit sticker --
- 24 A. That's correct.
- 25 Q. -- who is that?

1 A. That is Mario Ernesto Garcia-Zavala.

2 MR. CHAPMAN: Leave these here?

3 MR. ANDREWS: Please.

4 MR. CHAPMAN: Thank you. That's all I have.

5 THE COURT: Mr. Andrews, cross-examination.

6 MR. ANDREWS: Yes, Your Honor. Lindsey, could I
7 have the consular card? Thank you.

8 CROSS-EXAMINATION

9 BY MR. ANDREWS:

10 Q. Is it Agent Arsenault?

11 A. Deportation Officer Arsenault.

12 Q. Okay. Deportation Officer Arsenault, my name is
13 Robert Andrews. We haven't met before, but I am here to
14 ask you some questions regarding your participation in a
15 motor vehicle stop that occurred on September 9, 2017. Do
16 you understand my purpose?

17 A. You are a defense attorney, I assume.

18 Q. Yes. Do you understand my purpose?

19 A. To defend your client?

20 Q. Well, to ask you some questions about your
21 participation in the motor vehicle stop on September 9th?

22 A. Yes.

23 Q. Okay. I am showing you what's been previously marked
24 as Government's Exhibit 2; right?

25 Now, you identified that as the consular card

1 belonging to Mr. Garcia-Zavala; correct?

2 A. That's correct.

3 Q. You never actually saw that card, did you?

4 A. Through photograph I did, yes.

5 Q. Only, though, through your communications with
6 Trooper Burke. You never actually saw that card?

7 A. Through my photograph I did.

8 Q. Right. But you never saw the physical card?

9 A. No, I believe that I saw that card after the
10 apprehension I saw it physically.

11 Q. So the only photographs that you saw on September 9th
12 are the ones that appear at the bottom of Government's
13 Exhibit 6?

14 A. I saw other identifications that were transmitted.

15 Q. Well, but you saw six on the 9th; right?

16 A. I saw -- repeat that again.

17 Q. You saw the pictures that are at the bottom of
18 Government's Exhibit 6 on the 9th; correct?

19 A. Yeah, that's correct, yes.

20 Q. Okay. And you also saw the pictures that appear in
21 Government Exhibit 7 on the 9th; correct?

22 A. That's correct.

23 Q. Okay. Now, you received those communications from
24 Trooper Burke; correct?

25 A. That's correct.

1 Q. All right. How were you communicating with Trooper
2 Burke?

3 A. Both by phone and by text message.

4 Q. Okay. Is your telephone a government-issued
5 telephone?

6 A. Yes.

7 Q. Okay. So that's property of the United States
8 Government?

9 A. That's correct.

10 Q. Okay. What is your office's procedure with respect
11 to collecting and securing evidence in a criminal case?

12 A. We -- we have to follow, I believe, what Homeland
13 Security Investigations has as a policy. We do not have a
14 policy.

15 Q. Okay. So you have no policy with respect to securing
16 and saving evidence?

17 A. Correct.

18 Q. Okay.

19 A. We -- we follow along with human -- with Homeland
20 Security Investigation policy.

21 THE COURT: He said his policy is the Homeland
22 Security policy.

23 MR. ANDREWS: Thank you, Your Honor.

24 BY MR. ANDREWS:

25 Q. Would that require --

1 THE COURT: Move a little closer to the
2 microphone.

3 Q. Would that require you to save the text
4 communications from Trooper Burke?

5 A. I would have to read the policy.

6 Q. Did you save the text communications from Trooper
7 Burke?

8 A. I did not. My cell phone was telling me that I was
9 exceeding the storage limit and I was not being able to
10 receive information on my phone. So I had to delete
11 photographs, I had to delete e-mails, and I had to delete
12 text messages.

13 Q. And you took no steps to secure what you knew to be
14 evidence in a criminal case?

15 A. At that point I am not sure that this -- that I knew
16 that this case was accepted by the government.

17 Q. Okay. When did that occur?

18 A. That I de -- that this was accepted by the
19 government?

20 Q. No, when you had to delete the messages, the e-mails,
21 and the texts from your phone?

22 A. I am not sure of the exact date, but I on a regular
23 basis have to delete text messages and data from my phone
24 because it exceeds the storage limit.

25 Q. Okay. And when was the first time you did that after

1 September 9th?

2 A. I am not sure, probably shortly after.

3 Q. Okay.

4 A. I do it on a regular basis.

5 Q. Was it something that occurs every two weeks?

6 A. Yeah, I would say week -- I would say weekly I -- I
7 have to delete storage.

8 Q. Okay. So you delete messages and e-mails from your
9 phone weekly?

10 A. Yes.

11 Q. Okay.

12 A. Yep.

13 Q. You said that you had probable cause on September
14 9th, right, that was your state of mind with respect to
15 probable cause against Mario Garcia-Zavala; correct?

16 A. Correct.

17 Q. Okay. And that meant to you that he was arrestable
18 for a criminal offense; correct?

19 A. Administrative or criminal --

20 Q. Well --

21 A. -- yeah.

22 Q. -- you say administrative or criminal; right?

23 A. Yep.

24 Q. But you knew, right, in your own mind, right, you had
25 formulated a level of suspicion that we term probable

1 cause, right, on September 9th; right?

2 A. Yes, he could have been taken into custody
3 administratively or criminally at that point based upon
4 probable cause.

5 Q. Okay. Now, you had been a ERO for about nine months
6 at that point; right?

7 A. Correct.

8 Q. Okay. Now, as part of your training, right, do you
9 understand what the statutory limits of your authority are?

10 A. Yes.

11 Q. Okay. Do you have the authority to ask state actors
12 to act on behalf of the immigration or the enforcement arm
13 of immigration?

14 A. Yes.

15 Q. Okay. And what is -- what is that statutory
16 authority?

17 A. So in order -- so I was -- I was not asking Trooper
18 Burke to hold him specifically for our cause, so he was --
19 he was -- he was -- he was at a traffic stop at that point,
20 and I reiterated to him if he was able to hold them during
21 the traffic stop, and if he wasn't then the subjects would
22 be released.

23 Q. Did you tell him to release the subjects if he
24 couldn't hold them?

25 A. No.

1 Q. Okay.

2 A. No, that's -- that's not my decision.

3 Q. In fact, you were -- you had a conversation with him
4 about it; right?

5 A. He was roadside, he was dealing with the traffic
6 stop.

7 Q. Right, but you had a conversation with him?

8 A. Yes, I talked to him on the phone, correct.

9 Q. Right. I mean there were words between the two of
10 you; right?

11 A. Conversation, yes.

12 Q. And you asked him to hold him roadside; right?

13 A. I don't recall asking him specifically to hold him.
14 I do not.

15 Q. You -- you don't ask -- you don't recall that?

16 A. No, I do not.

17 Q. Okay.

18 (Counsel conferred.)

19 THE COURT: That was tempting, wasn't it,
20 Mr. Andrews?

21 MR. ANDREWS: It was, Your Honor, very tempting.
22 But what I am going to do is play a video.

23 MR. CHAPMAN: Do you need a counter, Rob, do you
24 need a point?

25 MR. ANDREWS: No, I have got it. Why won't it

1 work? Your Honor, I -- I apologize.

2 MR. CHAPMAN: I'm sorry, do I need to help you?

3 MR. ANDREWS: Yes, please. This is my first
4 opportunity to work with this form of video.

5 THE COURT: Not a problem.

6 (Counsel conferred.)

7 (Video played.)

8 BY MR. ANDREWS:

9 Q. Do you recognize that voice?

10 A. That's me.

11 Q. Okay. Is this a telephone call that you had on
12 September 9th?

13 A. Yes.

14 MR. ANDREWS: Thank you.

15 (Video played.)

16 BY MR. ANDREWS:

17 Q. Does that refresh your memory about the conversation
18 you had with Trooper Burke?

19 A. Yes. I was mistaken before. I thought you were
20 specifically asking if I asked to hold Mr. Zavala. When I
21 said hold them, I was talking about the entirety of the
22 group.

23 Q. So you -- you asked that he hold everyone whether
24 they had immigration interest or not?

25 A. As long as it didn't exceed the extent of his

1 investigation.

2 Q. But you didn't tell him that, did you?

3 A. Yeah, I insinuated it where I was -- I -- the state
4 of mind that I was in, I was informing him that as long as
5 you could hold them then we have interest to go there, and
6 at that point I already had established that Mr. Zavala was
7 a reentry and we had -- we had interest in --

8 Q. But you didn't tell him that Mr. Zavala was a
9 reentry; right?

10 A. Through the transcript you see -- you do see that
11 Mr. Burke -- that Trooper Burke is aware that he is a
12 reentry. There is a discussion between him and the other
13 trooper that he is aware that Mr. Zavala is a reentry.
14 Because I believe in the transcript they question what a
15 reentry is and then --

16 Q. Do you know what -- do you know what -- at what time
17 that happened?

18 A. I am not sure.

19 Q. Okay. Was that after your phone call?

20 A. I am not sure.

21 Q. You are not sure. Okay. So what you are doing is
22 you are trying to tell this Court based on your
23 recollection that Trooper Burke knew, before you told him,
24 that he was a reentry?

25 A. I texted him that he was a reentry.

1 Q. Okay. Now, you were texting him for a long time;
2 right?

3 You were -- you and he were engaged in texts for about
4 a half an hour; right?

5 A. Yes.

6 Q. And you didn't save a single one of those texts?

7 A. That's correct.

8 Q. All you did was forward some photos that you had
9 received -- that you say you received from him to your
10 other agents?

11 A. Yeah. That's the only way I would have gotten the
12 information to John Lenotte is from Trooper Burke.

13 Q. Now, what was the character of the text
14 communications you were having with Trooper Burke?

15 A. Professional based upon I was trying to get as much
16 done as quick as possible, so I was getting information
17 that he was getting while roadside. I was running the
18 information through my databases as well through our LESC.
19 I was also trying to communicate it to our duty officer,
20 John Lenotte, and I was also corresponding with our
21 supervisor, Patrick Mullen.

22 Q. Now, you had him doing a lot of things for you on the
23 roadside; right?

24 A. Getting IDs.

25 Q. Right, and texting you --

1 A. All of us --

2 Q. -- and responding to your texts?

3 A. Yeah, within a reasonable amount of time, you know,
4 it is --

5 Q. Well, you keep saying a reasonable amount of time.
6 It was a half an hour that you were on the phone with him;
7 right?

8 A. There was a lot of people on roadside in a dangerous
9 area.

10 Q. Well --

11 THE COURT: The question is was it a half hour or
12 so; correct?

13 THE WITNESS: Yes. Yes.

14 THE COURT: Okay. Next question.

15 BY MR. ANDREWS:

16 Q. Now, it is at this point that you asked him to hold
17 him at about 30 minutes; right?

18 A. Yes, I would say that.

19 Q. Okay.

20 A. I am not -- you know, unfortunately I can't recall my
21 text messages.

22 Q. Do you know, other than the communications you were
23 having back and forth with Trooper Burke, what Trooper
24 Burke was doing?

25 A. I assume he was --

1 side window facing forward.

2 Q. Okay. But you were alone; correct?

3 A. That's correct.

4 Q. Okay. So did you observe a vehicle that caught your
5 eye?

6 A. I did.

7 Q. And what was the vehicle?

8 A. It was a -- a white at that time I believed to be a
9 15-passenger panel van. I didn't know what the -- the
10 brand at that point; but it was traveling on Washington
11 Ave. towards the interstate, the window was down.

12 Q. And what did -- what did you notice about it?

13 A. I noticed that the passenger wasn't wearing a seat
14 belt, and I also noticed that the windshield had a crack in
15 it.

16 Q. Okay. Are either of those violations of Maine law?

17 A. They both are.

18 Q. Okay. So what did you do?

19 A. I pulled out of the driveway and pulled into traffic
20 to pursue the violation on to 295.

21 Q. And did you put on your blue lights?

22 A. I did as soon as I planned to make the traffic stop.
23 I -- I turned them on once I was ready -- prepared for the
24 traffic stop.

25 Q. Okay. And what happened?

1 A. The vehicle's operator pulled to the right shoulder
2 on 295 just south of Exit 7.

3 Q. And is that the point at which the audio portion
4 picks up on the dashboard camera?

5 A. Yes, it would be about 20 seconds after I activated
6 the lights, I believe. Or, actually, it rewinds to -- to
7 20 seconds prior to -- to me activating the emergency
8 equipment, so it would have been 20 seconds before.

9 Q. So how long was it between when you first pulled out
10 behind the white van and when the white van was pulled
11 over?

12 A. Less than 30 seconds.

13 Q. Okay. And then how about once it was finally came to
14 a stop?

15 A. Oh, I -- less than a minute.

16 Q. Okay. So what happened next?

17 A. I positioned myself for a traffic stop and traffic
18 contact and --

19 Q. What does that mean?

20 A. When I position myself I have to -- I am very
21 conscious -- safety conscious out on the highway. It is a
22 major dangerous highway in the City of Portland that's
23 heavily traveled even at that time of day. So I have to
24 position my cruiser in such a way and position myself so
25 that I am prepared for oncoming traffic coming up behind me

1 so that I can protect myself from being hit by a -- any
2 motor vehicles out there and also the -- the -- the -- the
3 occupants of the vehicle that I have stopped.

4 Q. And so --

5 A. So --

6 Q. And any bystanders?

7 A. Yes, or anybody that may approach my traffic stop. I
8 have to be extremely safety conscious in that -- that area
9 -- that busy metropolitan area.

10 Q. Okay. So you, in effect, create an envelope using
11 your cruiser?

12 A. Yeah, we -- we refer to it as a blocking position.

13 Q. Okay. All right. So what happened next?

14 A. Once I was prepared to -- to contact the operator
15 I -- I approached the operator on the driver's side and --
16 and made contact with the operator.

17 Q. And what did you say to the operator?

18 A. Typically I asked him for his license, registration,
19 and proof of insurance for the vehicle, and -- and --
20 and -- and I advise him in some sort of manner that -- the
21 reason why I stopped him.

22 Q. And what did you notice about the -- the inside of
23 the van?

24 A. I noticed that the -- the operator was also not
25 wearing a seat belt, and I noticed that there were multiple

1 people in the back. I -- I estimated at that time I think
2 around nine male subjects in the back. And because of the
3 van I knew that they all had to have shoulder seat belts
4 on, and I didn't see any shoulder seat belts on. So at
5 that point I knew that nobody in the van was wearing a seat
6 belt which was a huge concern for me at that time as far as
7 their safety on the highway.

8 Q. Okay. So did you speak with the driver?

9 A. I -- I tried to. I did the best I could.

10 Q. And what was the problem?

11 A. The -- well, I don't speak Spanish.

12 Q. Okay.

13 A. He -- he spoke very limited English. So I had to
14 kind of do the best I could to explain to him what I needed
15 as far as my license -- his license, registration, proof of
16 insurance, and then I think at that point I also was
17 looking for anybody in the van that would speak English and
18 I don't -- nobody really could.

19 Q. Okay. All right. So did he give you anything?

20 A. He gave me a -- a Virginia ID card that showed him --
21 identified him as Rodolfo Ramirez born in 1954 out of
22 Manassas, Virginia.

23 Q. Okay. That was the driver?

24 A. Yes, sir.

25 Q. Okay. And what about the registration of the van?

1 A. The -- the registration was produced, it was a 2008
2 white Chevy van out of Maryland, and it was a rental van.

3 Q. And you -- did he give you a registration certificate
4 though?

5 A. He did.

6 Q. Okay. All right. What happened next?

7 A. What happened next was the registration was given to
8 me and I -- if I could back up I --

9 Q. Yep.

10 A. He gave me the registration. I used that while they
11 were having a hard time getting any IDs. I think I
12 requested the IDs of everybody in the van at that point
13 because nobody had their seat belts on, and at that point
14 it is my standard operating procedure to identify everybody
15 in the van for violations purposes. I went back to the van
16 and I -- I -- I'm -- I'm sorry, I went back to my cruiser
17 with the registration and started documenting the van
18 information, and I also what we call is I started a
19 incident number through the Gray Regional Communications
20 Center because I knew this traffic stop was probably going
21 to lead to further motor vehicle violations at that point.

22 Q. Okay. I should have asked, what time did you
23 initiate this stop?

24 A. Approximately 12:20 on the 9th.

25 Q. Okay. Now, did you place any phone calls?

1 A. Several.

2 Q. What was the first call?

3 A. I believe the first phone call I thought it was to --
4 it was either to the Gray Regional Communications Center or
5 was to a contact that I have in the immigration -- the ICE
6 Agent Elliot Arsenault.

7 Q. Who was that?

8 A. Elliot Arsenault. Agent Arsenault.

9 Q. Okay. And what did you say to Elliot Arsenault?

10 A. I knew right from the first contact that -- the fact
11 that there was nobody in there that was speaking any
12 English whatsoever, there was a lot of attempts to -- they
13 didn't make any eye contact with me, they didn't -- I
14 just -- very suspicious to me to have all those people in
15 that van, and I was going to have a hard time identifying
16 all of them. So I contacted him to let him know that I had
17 a van load of approximately 11 gentlemen that didn't appear
18 to be from this country.

19 Q. Okay. And so what was your concern?

20 A. My concern is any number of things. Any type of
21 wanted criminals. Oftentimes people use the fact that they
22 don't speak English to hide their identities, to hide the
23 fact that they may be wanted or violent criminals. I -- I
24 have heard of the term illegal reentries, immigration
25 violations. It could be any number of problems that I need

1 to address at that point.

2 Q. Okay. So you are on the phone with Elliot

3 Arsenault --

4 A. Mm-hmm.

5 Q. -- and the individual -- the occupants of the van are
6 sitting in the van?

7 A. Yes, sir.

8 Q. And did Elliot ask you to obtain any information?

9 A. He did.

10 Q. And what was that?

11 A. He asked me to do the best I could to get any IDs
12 from them, and when I -- and I did, I complied with that
13 request, and -- and --

14 Q. All right. I will get to that. And I understand you
15 are also having radio and/or phone conversations with Gray
16 barracks; correct?

17 A. That's correct.

18 Q. Okay. Attempting to do what?

19 A. Identify the driver, attempting to identify if he has
20 a valid driver's license and is supposed to be driving.

21 Q. Okay.

22 A. And so I have a ton of stuff going on at that traffic
23 stop at this point.

24 Q. Okay. And at some point during the traffic stop what
25 did you learn about the license status of the driver?

1 A. I learned that he was operating without a license and
2 the last time he held a valid driver's license was a Texas
3 license three years prior. So I basically learned he was
4 -- he shouldn't have been driving in the State of Maine.

5 Q. Okay.

6 A. Or anywhere for that matter.

7 Q. And under Maine law what type of offense is that?

8 A. That's a Class E misdemeanor.

9 Q. And is that an arrestable offense under Maine law?

10 A. It is, absolutely.

11 Q. And did you develop an intention with respect to
12 that, Mr. Rodolfo --

13 A. Yes, I -- I usually arrest people for operating
14 without a license.

15 Q. And that was your plan for him?

16 A. Absolutely.

17 Q. Were you going to do it immediately?

18 A. No.

19 Q. At what -- what was your anticipated timeline on
20 that?

21 A. I didn't have a timeline, but I knew that this
22 traffic stop was going to be extended because of the -- the
23 problems I was going to have positively IDing everybody in
24 the van for their individual -- individual violations.

25 Q. And were there other reasons you were seeking

1 identification of other people in the van besides the
2 things you have already talked about?

3 In other words, what were you going to do with the
4 van?

5 A. Well, I am -- I am also, you know, my intent is -- is
6 to let them drive off if there is a licensed driver because
7 I don't want to tow the vehicle if I don't have to, so I am
8 looking for a licensed driver as well.

9 Q. Okay. So was that part of the reason you were asking
10 for ID?

11 A. Yes, sir.

12 Q. Now, I might have misunderstood, but under Maine law
13 the -- what were you authorized to do -- whether or not you
14 did it, what were you authorized to do relative to the
15 crack in the -- in the windshield?

16 A. Well, under Maine law that -- that would be a
17 violation of inspection standards that cracked windshield,
18 and I would have discretion to determine if that vehicle is
19 safe or unsafe to operate.

20 Q. But did you determine that wasn't needed?

21 A. Yeah, I -- I wouldn't have -- if I could have found a
22 licensed driver, I would have let them drive that van and
23 given them a warning and had them -- you know, obviously it
24 needed to be fixed.

25 Q. Okay. Was a licensed driver ever identified from

1 Q. And when did you put the cuffs on him relative to the
2 end of the encounter?

3 A. Very close to the end.

4 Q. And he stayed with the -- in the van with all the
5 others up until then?

6 A. He did.

7 Q. And was ICE already there when you took him off?

8 A. I don't remember, but it was very close to -- very
9 close to the end.

10 Q. Okay.

11 A. And I -- I -- ICE was there when I -- I left.

12 Q. Okay. So what happened with Mr. Garcia-Zavala?

13 A. Well, all the other occupants of the van were field
14 identify -- field interviewed by the ICE agents, and they
15 were in the process of doing that when I left. So me --
16 myself personally I didn't see who they arrested or who
17 they -- who they detained or took away because I had
18 already left for the jail and left Trooper Cooley on scene.

19 It was -- we had two troopers tied up on the scene for
20 two hours and nobody else was covering the highway, so we
21 had to get one of us started and that would have -- the
22 determination was made, so I could get going, to start the
23 arrest proceedings and Trooper Cooley stayed on scene.

24 Q. Okay.

25 A. So.

1 Q. Did the wrecker come?

2 A. The wrecker had arrived before I left, yes, and they
3 were -- he was staged further down the road so that he
4 wouldn't get hit. So we moved him until the ICE agents
5 determined they were all set for us to take the van.

6 MR. CHAPMAN: Thank you. I have no more
7 questions.

8 THE COURT: Cross-examination.

9 MR. ANDREWS: Yes, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. ANDREWS:

12 Q. Trooper Burke, I think we have met before; but my
13 name is Robert Andrews, and I am an attorney, and I
14 represent Mr. Garcia-Zavala, and I am here to ask you some
15 questions about your traffic stop on September 9th, 2017.
16 Do you understand --

17 A. Sure.

18 Q. -- my purpose?

19 A. Do I understand your purpose?

20 Q. Yes.

21 A. I do.

22 Q. Okay.

23 A. Good morning.

24 Q. Good morning. Trooper Burke, are you in a contest
25 with other state troopers to pull over people who aren't

1 white?

2 A. No.

3 Q. Who is Trooper Flanagan?

4 A. Trooper Flanagan is a new trooper assigned to Troop

5 B.

6 Q. Now, you said that during your stop, right, that you
7 have your dashcam?

8 A. Yes.

9 Q. Do you remember what you said about Trooper Flanagan
10 when you stopped this van and had received the telephone
11 call from Elliot, or Agent Arsenault, or law -- Immigration
12 Enforcement Officer Arsenault? Do you remember what you
13 said about Flanagan?

14 A. I do.

15 Q. What did you say?

16 A. He is a new trooper. We have been engaged in a --
17 just a kind of a friendly little whoever can get the most
18 arrests in a month. It was just for that one month, and
19 that's -- that was that's all about. Proactive
20 enforcement.

21 Q. So it was the number of people that you were going to
22 arrest and not the number of non white people?

23 A. The number of uniformed summons and complaints
24 issued.

25 Q. But you issued a uniform summons and complaint during

1 this stop; right?

2 A. I don't understand -- I don't understand what you
3 mean by that. What do you -- what was the question?

4 Q. Well, you are asking -- you are asking me -- I
5 thought you just told me that your contest with Trooper
6 Flanagan, right, is about the number of arrests that you
7 make, or the uniform summons and complaints that you issue;
8 right?

9 A. It is just an informal little -- little competition
10 that we have had over that course of that month.

11 Q. All right, but you -- you talked about that in the
12 context of what the ICE agents were going to show up there
13 and do; right?

14 A. No.

15 Q. You didn't?

16 A. It was in refer -- reference to the USAC that was
17 written to the operator of the vehicle.

18 MR. ANDREWS: I am -- I am going to -- Your
19 Honor, if I could play -- I'm sorry, is this Government's
20 1, the video?

21 MR. CHAPMAN: Yeah.

22 MR. ANDREWS: Okay. I am going to play some part
23 of Government 1.

24 THE COURT: Okay.

25 (Video played.)

1 THE COURT: Mr. Andrews, could you pause that.
2 Am I supposed to be waiting for something to come up?

3 MR. ANDREWS: Yep, he is -- he is about to say
4 something else. And I apologize, Your Honor, I worked from
5 my copy so the timing is a little bit off because I didn't
6 have a copy --

7 THE COURT: Go ahead. Go ahead. I just thought
8 I might have missed something.

9 MR. ANDREWS: No, it's coming.

10 (Video played.)

11 BY MR. ANDREWS:

12 Q. Okay. So you had a telephone call with Agent
13 Arsenault; right?

14 A. Yes.

15 Q. You had a brief conversation with Trooper Cooley;
16 correct?

17 A. Yes.

18 Q. And then you spoke about there is no way Flanagan is
19 going to beat me this year. Or this month; right? That's
20 what you said. Those were your words.

21 A. That's correct.

22 Q. Okay. And then you said have you ever seen those
23 guys come out here? There is no paperwork. It is like
24 they are kidnapping people.

25 Who were you talking about?

1 A. I was talking about the traffic stop. I have been
2 involved in previous immigration detainers, and we don't
3 have to do paperwork for it. It is just less work for us
4 which is convenient.

5 Q. Who is doing the kidnapping?

6 A. Nobody is doing kidnapping.

7 Q. Nobody is doing the kidnapping. Who is doing it like
8 it is a kidnapping?

9 A. Well, when the ICE -- the ICE agents come out and
10 they -- they do their job and they -- they take people into
11 custody.

12 Q. Now, you -- you have a -- a sort of history of
13 pulling over people for pretext, right, when they are not
14 white?

15 A. That's not correct.

16 Q. You don't have any history of that?

17 A. What do you mean history?

18 Q. Well, you haven't done it before. You haven't used a
19 pretext to pull over someone who wasn't white?

20 A. The probable cause I use to make my traffic stops are
21 violations of motor vehicle statutes -- Maine motor vehicle
22 statutes and that's it.

23 Q. Who is Ernesto Arguiza (phonetically)?

24 A. I have no idea.

25 Q. I'm sorry. Francisco Arguiza (phonetically).

1 Q. And that, right, is the regulation that's promulgated
2 on the state police website about what is acceptable for
3 cracked windshields; right?

4 A. I am not sure if it is in the -- on the website, but
5 it is an inspection manual. I don't know if they have it
6 on the state police website.

7 Q. Well, so let me ask you something, right, you have to
8 have statutory authority for pulling over someone for a
9 traffic violation; right?

10 A. Yes.

11 Q. Is there --

12 THE COURT: Do you want me to accept his legal
13 proposition?

14 MR. ANDREWS: I do not, Your Honor.

15 THE COURT: All right. Then let's focus on
16 the --

17 MR. ANDREWS: Right, but this is important. This
18 is important.

19 THE COURT: Okay. I am sure everything is
20 important, but just --

21 MR. ANDREWS: Right.

22 THE COURT: -- don't ask for legal conclusions.

23 MR. ANDREWS: I won't.

24 THE COURT: Okay, go ahead.

25 BY MR. ANDREWS:

1 BY MR. ANDREWS:

2 Q. Now, that shows what you were doing in the time that
3 you left the van and came back into the car; correct?

4 A. Sure, yep.

5 Q. And what you did was look at a telephone number?

6 A. Yep.

7 Q. And then call that telephone number?

8 A. Appears so.

9 Q. And that telephone number was to Agent Arsenault;
10 right?

11 A. Yes, if that -- if the next person that picks it up
12 was Elliot Arsenault, yes, it was.

13 (Video played.)

14 BY MR. ANDREWS:

15 Q. Now, when you meant that you went back to the van and
16 did administrative tasks, what you meant was that you went
17 and called immigration immediately?

18 A. Well, now that my memory has been refreshed by this
19 and watching that, yeah, there is -- that's one of the
20 things I did.

21 Q. Okay. And, in fact, the next 15 minutes or so has
22 nothing to do with the traffic -- with the reason for the
23 traffic stop; correct?

24 A. The reason for the traffic stop is now I have
25 multiple people in the van that need to be identified

1 because they are not wearing their seat belts.

2 Q. Well, you have asked for ID; right?

3 A. It doesn't mean I got it yet.

4 Q. Yep, that's right, you don't have it yet. What you
5 testified a minute ago was that you were giving them time
6 to get it; right?

7 A. That's correct.

8 Q. And then you went back and you called immigration;
9 right?

10 A. That's correct, as a resource.

11 Q. As a resource? For what purpose?

12 A. Identifying people that provide me with
13 out-of-country identifications.

14 Q. Well, you didn't question the legitimacy of those
15 out-of-country identifications and you hadn't even seen
16 them yet?

17 THE COURT: Which question do you want?

18 MR. ANDREWS: I will go with the first one, Your
19 Honor:

20 THE WITNESS: Can you just give me the first
21 question please.

22 THE COURT: The first one wasn't a question. Ask
23 again.

24 BY MR. ANDREWS:

25 Q. You hadn't -- you hadn't gotten any out-of-state

1 identifications at that point?

2 A. I am not sure that I may have seen some at the time
3 while in the van, I may have seen them. My training and
4 education and experience leads me to believe that this
5 traffic stop is going to lead to people from out of this
6 country.

7 Q. On what basis?

8 A. My 27 years of law enforcement experience.

9 Q. Because they didn't speak English?

10 A. No.

11 Q. What did you base that on then?

12 A. Because people were having a hard time finding their
13 IDs, people weren't communicating with me, and I had to
14 positively -- I have to positively ID them if I am going to
15 take enforcement action.

16 Q. Well, the reason that you said that you pulled them
17 over there was the seat belts; right?

18 A. Seat belt and cracked windshield.

19 Q. Right. But you didn't say cracked windshield yet,
20 did you?

21 A. That was the reason -- initial reason for the -- one
22 of the initial reasons for the stop.

23 Q. Well, but you didn't say that to the ICE agent, did
24 you?

25 A. No, I -- I did not.

1 Q. You didn't. Okay.

2 A. It is --

3 Q. So because there was a van load of people who didn't
4 have their seat belts on, and were having a hard time
5 getting their identification to you, and didn't seem to
6 understand you, that was reason to believe that they were
7 people who were subject to the jurisdiction of immigration?

8 A. Could be.

9 Q. Could be, right? You didn't have any other basis at
10 that point, when you made that call, that there was
11 anything amiss other than you saw a -- a van that had
12 relatively minor traffic infractions; right?

13 A. I don't understand -- so I don't -- what's the
14 question?

15 Q. You hadn't -- you didn't have any information at all
16 that suggested that these people, right, had -- were
17 violating the law in any way except for very minor traffic
18 infractions?

19 A. Correct, that needed to be positively ID'd for that
20 very -- those very minor traffic infractions because I saw
21 that none of them had their seat belts on upon my initial
22 approach.

23 Q. But that's not why you called ICE?

24 A. I called ICE for assistance in helping identify all
25 the people that I would have to -- that didn't have seat

1 because you have a -- you have a laptop; correct?

2 A. Yes.

3 Q. And you can communicate through that laptop; right?

4 A. Yes.

5 Q. Were you using that laptop to communicate with any of
6 the immigration officials?

7 A. No.

8 Q. Okay.

9 (Video played.)

10 BY MR. ANDREWS:

11 Q. Okay. You asked the other state trooper how many
12 pairs of handcuffs that he has.

13 A. Yes.

14 Q. Was that you expressing an intent to arrest people?

15 A. No.

16 Q. Now, you -- a few minutes later you spoke with Agent
17 Arsenault; right?

18 A. A few minutes later or before?

19 Q. A few minutes later.

20 A. I -- I -- possibly.

21 (Video played.)

22 BY MR. ANDREWS:

23 Q. Right, that's Agent Arsenault calling you?

24 A. Yes.

25 Q. And that's when he tells you about what he is

1 interested in?

2 MR. CHAPMAN: Your Honor, I am going to object
3 again. We went through this exact line of questioning when
4 the other video camera with the same audio was being played
5 and now we're going back over it again, so I object on the
6 basis of cumulative.

7 THE COURT: Sustained.

8 BY MR. ANDREWS:

9 Q. Now, at some point some people tried to intervene;
10 right?

11 A. Yes.

12 Q. Okay. And what were these people trying to tell the
13 people in the van?

14 A. Not to communicate with us.

15 Q. Okay. And there were two people that came; right?

16 A. Over the course of the traffic stop, not at the same
17 time.

18 Q. Okay. Now, did you have a conversation with them
19 where you stated that they weren't being detained and they
20 weren't under arrest?

21 A. I don't recall.

22 (Video played.)

23 BY MR. ANDREWS:

24 Q. Okay. Now, you were clear -- did you allow her to
25 speak with them and let them know that they weren't under

1 A. In my mind he wasn't free to go anywhere when I was
2 advised he was an illegal reentry.

3 Q. Okay. And just so I am sure, there were no other
4 times that you were advised of that other than what's on
5 this video that's been marked as Defendant's Exhibit 6?

6 A. He also couldn't go anywhere because I had to deal
7 with the seat belt violation as well.

8 Q. Well, but I am asking you all of that information
9 there is no other communication that occurred that is not
10 depicted here on this video?

11 A. Not that I am aware of.

12 THE COURT: Mr. -- okay. That's what I wanted to
13 clear up. Go ahead.

14 BY MR. ANDREWS:

15 Q. Now, during the first 30 minutes of this
16 investigation you didn't do anything, right, with respect
17 to the seat belt violation or with respect to the no
18 license; right?

19 A. In regards to?

20 Q. You didn't call it in, you didn't write anything
21 down, you didn't do any of that?

22 A. Well, I verbally identified the operator. I think I
23 determined whether it -- started to determine whether or
24 not he had had a license. I started to identify everybody
25 that -- or tried to identify everybody that was in the van

1 without a seat belt. So I was doing things.

2 Q. Okay. But you didn't do anything with respect to the
3 seat belt or the no license until 30 minutes in?

4 A. I don't under -- I -- I don't know.

5 Q. You don't know?

6 A. I tried to answer the question the best I could. I
7 was working towards a resolution with the license and seat
8 belt during the whole traffic stop.

9 Q. Okay.

10 A. Whether or not I was actually -- you see me doing it,
11 there is certainly stuff going on in my head that I have to
12 work out.

13 Q. Did you -- I mean when -- when you were having the
14 conversation with Trooper Cooley, right, were you thinking
15 about what was going on with the no license?

16 A. I am not sure what I was thinking about. I -- it is
17 always -- you know, during these -- the course of the
18 traffic stop and the scope of the stop, the stop, you are
19 always thinking about the violation and what you have to do
20 to resolve the situation.

21 Q. Well, I mean you took a call from your wife at about
22 18:26; right?

23 A. I -- I am -- I hung up on her immediately.

24 Q. Well, I mean but you took the call, right --

25 A. I wanted to make sure that she knew --

1 Q. -- and you had that conversation?

2 A. -- I was still alive that day, yeah.

3 Q. You took -- you had the conversation; right?

4 A. No, it wasn't a conversation.

5 Q. You -- at about 15 minutes in you explained to
6 Trooper Cooley what was going on; right?

7 A. Most likely.

8 Q. And what you talked to Trooper Cooley about was that
9 this was a -- an ICE thing; right?

10 A. I don't remember specifically what I said, but.

11 Q. And when the tow truck did show up, right, and you
12 spoke to -- was it -- was it actually Dickie Stewart?

13 A. Yes.

14 Q. Okay. And when you spoke with Mr. Stewart you told
15 him that it was an ICE thing?

16 A. I could have.

17 MR. ANDREWS: I have nothing further, Your Honor.

18 THE COURT: Thank you. Redirect.

19 MR. CHAPMAN: No, Your Honor.

20 THE COURT: Thank you. You may step down. Leave
21 everything right there.

22 THE WITNESS: Thank you, Your Honor.

23 THE COURT: Call your next witness.

24 MR. CHAPMAN: John Lenotte.

25 THE CLERK: Please raise your right hand. Do you

1 solemnly swear that the testimony you shall give in the
2 cause now in hearing shall be the truth, the whole truth,
3 and nothing but the truth so help you God.

4 MR. LENOTTE: I do.

5 THE CLERK: Thank you, please be seated. State
6 your name and spell your last name for the record.

7 MR. LENOTTE: John Lenotte, L-e-n-o-t-t-e.

8 THE COURT: You may proceed.

9 DIRECT EXAMINATION

10 BY MR. CHAPMAN:

11 Q. What do you do for work, sir?

12 A. Deportation officer.

13 Q. And for -- for Immigration and Customs Enforcement?

14 A. Correct.

15 Q. And where is your office?

16 A. South Portland, Maine.

17 Q. And what are your responsibilities?

18 A. Enforce immigration law.

19 Q. Same as you heard Officer Arsenault -- Arsenault
20 testify to basically?

21 A. Correct.

22 Q. Okay. I want to direct your attention to September
23 9th, 2017. Do you recall that being a Saturday?

24 A. I do.

25 Q. And where were you in the early afternoon?

- 1 A. I was home.
- 2 Q. And I won't ask you where that is, but I will ask you
3 how far from Portland that is?
- 4 A. From home to my office to South Portland it is 43
5 miles, so give it -- I am not sure from the office to the.
- 6 Q. Okay. Western Cumberland County, fair to say, or --
7 or Oxford County?
- 8 A. Correct.
- 9 Q. Okay. So did you receive a phone call?
- 10 A. I received a text.
- 11 Q. Or a text. From whom?
- 12 A. Elliot -- Elliot Arsenault.
- 13 Q. And that text message is in evidence, is it not?
- 14 A. That's correct.
- 15 Q. And you have seen it?
- 16 A. Yes, I have.
- 17 Q. And what did you understand he was telling you?
- 18 A. He was notifying me that state police had a motor
19 vehicle stopped in Portland.
- 20 Q. Okay. And did he tell you how many -- how many
21 people were involved?
- 22 A. Initially -- initially it was 13, approximately.
- 23 Q. All right. And your response was shut up. What did
24 you mean by that?
- 25 A. In -- you know, in comedy like I don't believe you,

1 you're just pulling my chain.

2 Q. Okay. So what did you do?

3 A. At that point I started to get ready. I wasn't sure
4 if I was going to get called back out to that particular
5 stop.

6 Q. And did you receive instructions from a supervisor?

7 A. I did via phone.

8 Q. And who was -- who was your supervisor?

9 A. Patrick Mullen.

10 Q. And what were your instructions?

11 A. To head towards that motor vehicle stop.

12 Q. Okay. What were you -- what did you understand
13 Officer Arsenault was doing during the period of that drive
14 from where you were to the traffic stop?

15 A. While I was en route my understanding was he was
16 running checks on the names and birth dates of those
17 individuals.

18 Q. And was he providing you that information by text?

19 A. Correct. I was getting that via text as I was
20 driving.

21 Q. And one of those was the defendant in this case, is
22 that correct, Mr. Garcia-Zavala?

23 A. That is correct.

24 Q. At -- during the period of that drive did you come to
25 understand what Mr. Garcia-Zavala's immigration status was?

- 1 A. Yes.
- 2 Q. And what was that?
- 3 A. That a reentry.
- 4 Q. And what does that mean?
- 5 A. Someone who has been previously removed or deported
6 and who has returned illegally.
- 7 Q. And what does that say about the -- or has returned
8 illegally, but what does that say about the legality of his
9 presence now -- as of that point?
- 10 A. Illegal.
- 11 Q. Okay. So what was it your intention to do?
- 12 A. To take him into custody.
- 13 Q. Okay. How long did it take you roughly to -- to
14 drive once -- once you started your trip?
- 15 A. I approximated 45 minutes.
- 16 Q. Okay. And how fast were you going? Let me ask you
17 this: Were you using vehicle --
- 18 A. I was using, yeah, emergency vehicle equipment,
19 lights, sirens, so I was pushing the speed limit.
- 20 Q. Why were you using emergency equipment?
- 21 A. Just to expedite my arrival and sheer number of
22 people at the -- at the stop itself.
- 23 Q. Okay. So did you, in fact, arrive at the scene?
- 24 A. Yes.
- 25 Q. And as best you can tell -- you have reviewed the

1 video; is that correct?

2 A. Correct.

3 Q. As best you can tell how deep as it were, deep
4 into -- or how long into the overall traffic stop was it
5 that you showed up?

6 A. On the timeline from the video reviewing it looks
7 like somewhere between an hour and a half from the initial
8 stop by the trooper or the -- or from where that video
9 started.

10 Q. Okay. And just set the scene for us visually. What
11 did you see when you arrived at that -- the area of the
12 traffic stop?

13 A. When I pulled up to the -- or approached the stop,
14 the scene, two trooper vehicles, the van, I observed my
15 supervisor's vehicle in front of the van, and that's where
16 I pulled in in front of him.

17 Q. Okay. Did you locate Mr. Garcia-Zavala?

18 A. I did.

19 Q. And where was he when you got there?

20 A. He was sitting in the van.

21 Q. Okay. Was he -- okay, what did you do with respect
22 to him?

23 A. I then -- I then questioned his name and birth date.

24 Q. You talked to him?

25 A. Correct, I spoke with him.

1 Q. Okay. And what did you ask him?

2 A. Name and birth date in comparison to the consulate ID
3 he had provided.

4 Q. And did they match?

5 A. It was. He verbally provided the same that was on
6 the card.

7 Q. Okay. I should ask you, did you read him *Miranda*
8 before this roadside questioning?

9 A. No.

10 Q. So what else did you ask him?

11 A. Country of citizenship and if he had any papers or --
12 for being here legally or if he was in fact here illegal.

13 Q. And what did he say?

14 A. He said he was in fact here illegally.

15 Q. Okay. What did you do with respect to custody of
16 him?

17 A. I took him into custody at that time.

18 Q. Now, are there different types of custody in --
19 within ICE's jurisdiction?

20 A. There is.

21 Q. And what are those?

22 A. We have administrative and criminal.

23 Q. And what is administrative custody?

24 A. Administrative is going through if someone is going
25 to be put before the immigration court, so that's an

1 administrative process.

2 Q. Okay. And we all know what criminal is. So which
3 was he placed in?

4 A. It is always administrative.

5 Q. When you say always, what do you mean?

6 A. Because we don't -- we don't have a criminal arrest
7 warrant on scene, and in order to present a case through
8 immigration for criminal charges there is more information
9 that's needed. I have to put together a packet. I have to
10 refer to the U.S. Attorney's Office for acceptance or not
11 acceptance --

12 Q. Okay.

13 A. -- so it is always administrative.

14 Q. So when you took him into custody, did you take him
15 into your vehicle?

16 A. Correct.

17 Q. And he was in administrative custody?

18 A. Yes.

19 Q. And is there -- are there administrative procedures
20 that flow from that and that did flow from that in this
21 case?

22 A. Yes.

23 Q. Okay. Where did you take him?

24 A. So we took him to our office in South Portland.

25 Q. And when you say we, who is we?

1 A. Myself and my supervisor, Patrick Mullen.

2 Q. And did you take him directly from the roadside?

3 A. Yes.

4 Q. And what happened when you got there?

5 A. We put -- we booked him in just like any standard law
6 enforcement agency would do, fingerprints, photograph.

7 Q. Okay. And then what happened to him?

8 A. And then -- well, fingerprints. After fingerprinting
9 we fingerprint live scan with the FBI, so that was an
10 immediate match to who we suspected he was that we arrested
11 him for was being Mr. Garcia-Zavala.

12 Q. Okay. So you -- you took his fingerprints and ran
13 those through a system?

14 A. Correct.

15 Q. And it came back showing what was his status?

16 A. It was a positive match as being here illegally.

17 Q. And what was his immigration history?

18 A. The prior removal.

19 Q. When was that?

20 A. In 2014.

21 Q. From where?

22 A. From Brownsville, Texas.

23 Q. Okay. And was that all consistent with the
24 information that agent -- Officer Arsenault had gotten by
25 computer?

- 1 A. It was a match.
- 2 Q. So it was confirmed by?
- 3 A. Fingerprints.
- 4 Q. Fingerprints.
- 5 A. Yes.
- 6 Q. Okay. So is it fair to say you did whatever
7 paperwork was necessary?
- 8 A. At that time, yes.
- 9 Q. And when you were done doing paperwork, what did you
10 do?
- 11 A. He was taken over to Cumberland County Jail.
- 12 Q. In whose custody?
- 13 A. ICE, immigration.
- 14 Q. And was he in the marshal's custody?
- 15 A. No.
- 16 Q. He was in your custody, ICE's?
- 17 A. For administrative purposes.
- 18 Q. And who is paying for -- who was paying to house him?
- 19 A. Immigration and customs.
- 20 Q. Okay. So that was on the 9th. What happened on the
21 11th of September?
- 22 A. We brought him back to the office from Cumberland
23 County Jail to question him under oath under *Miranda* --
- 24 Q. Okay.
- 25 A. -- as to his reentry into the United States.

- 1 Q. All right. And --
- 2 A. And that would be in preparation for a criminal
3 charge.
- 4 Q. He speaks Spanish?
- 5 A. Correct.
- 6 Q. Did you have an interpreter?
- 7 A. Via the telephone, yes.
- 8 Q. Via the telephone?
- 9 A. We have a translation service.
- 10 Q. Okay. And did you advise him of his rights?
- 11 A. We did.
- 12 Q. And did he invoke his rights?
- 13 A. He did.
- 14 Q. So he did not make any incriminating statements?
- 15 A. No, he did not.
- 16 Q. And what did you do with him after that?
- 17 A. He was returned to the Cumberland County Jail.
18 Before we could proceed with anything else we had to order
19 a -- because, you know, his alien file.
- 20 Q. Okay. Let me -- let me get into that. So did you
21 conduct a further investigation into the issue of his
22 reentry after removal? From starting on the 11th did you
23 continue to investigate that?
- 24 A. Correct, yes.
- 25 Q. And what were the steps you took to do that?

- 1 A. That would be to obtain and actually view his -- his
2 physical file.
- 3 Q. All right. And what's that called?
- 4 A. Alien -- alien file.
- 5 Q. And how do you go about requesting that?
- 6 A. Electronically. The -- these files are owned by a
7 sister agency, CIS, the citizenship office.
- 8 Q. So where -- where was it, if you know?
- 9 A. I don't recall the --
- 10 Q. Not --
- 11 A. It is out of state.
- 12 Q. Okay, in another state. And so you requested the
13 physical file?
- 14 A. Correct.
- 15 Q. What's your understanding that would have been
16 required for paperwork in order for my office, the U.S.
17 Attorney's Office, to consider criminal prosecution?
- 18 A. The actual -- well, I have to have the A file --
19 instructed to have the A file in hand, but we need the
20 previous removal documents, the removal order, the -- the
21 witness of removal.
- 22 Q. Mm-hmm. And those are all in --
- 23 A. Those are all in --
- 24 Q. -- the physical file?
- 25 A. Right.

- 1 Q. So you requested the physical file when?
- 2 A. I believe I requested it on the 9th of the arrest.
- 3 That being a Saturday there is nobody responding, so they
- 4 would have gotten that request that Monday the 11th.
- 5 Q. Okay. And somebody in that other state pulls the
- 6 file?
- 7 A. Correct.
- 8 Q. And what happened to it?
- 9 A. Then it was mailed to the South Portland office.
- 10 And, again, it is not our agency, it is the -- a sister
- 11 agency, so it is the CIS.
- 12 Q. Customs and?
- 13 A. Immigration Services.
- 14 Q. Okay.
- 15 A. And South Portland received the file I believe it was
- 16 on the 13th, they go through their auditing process.
- 17 Q. So another ICE division receives the A file?
- 18 A. Correct.
- 19 Q. Goes through what process?
- 20 A. They do auditing. It is a tracking system.
- 21 Q. Okay. And then what became of the A file?
- 22 A. It was -- it was provided to me so --
- 23 Q. Right. And when did you -- when did you get it into
- 24 your personal custody?
- 25 A. Friday which would have been the 15th, that morning,

1 as soon as I arrived to work it was -- it was waiting for
2 me on my desk.

3 Q. And what did you do with respect to it, the file?

4 A. So then I review the file, I verify the contents, and
5 then provide -- you know, and put together the prosecution
6 file.

7 Q. Okay. From documents -- among other things --

8 A. Correct.

9 Q. -- documents in the A file?

10 A. Correct.

11 Q. And what did you do once you got all the necessary
12 paperwork together?

13 A. Then I submit it to my supervisor just for review
14 prior to submission to the U.S. Attorney's Office for
15 recommendation whether to prosecute not prosecute.

16 Q. Okay. And at this point he is still in
17 administrative custody?

18 A. Correct.

19 Q. Okay. When did you send the paperwork to the U.S.
20 Attorney's Office in this case?

21 A. I don't recall if it was that Friday afternoon or
22 Monday morning.

23 Q. Okay. And what happened Monday morning? You sent it
24 either Friday or Monday, but what -- what -- what else
25 happened on Monday?

1 the driver directly?

2 A. That's correct.

3 Q. And you were allowed to speak to -- or you did speak
4 with the members who were not taken away by the immigration
5 officials?

6 A. That's correct. After -- after immigration left with
7 a couple of them, and the van was towed away, the other
8 ones had been told to get out of the van and they -- they
9 climbed over the Jersey Barrier on to the sidewalk. And so
10 I was explaining to them -- I was asked, actually, to
11 explain to them that they could catch a bus, et cetera, so
12 I was explaining that to them.

13 Q. Okay. And at any point were you allowed access to
14 the people who were taken into immigration custody?

15 A. No.

16 MR. ANDREWS: Okay. I have nothing further, Your
17 Honor.

18 THE COURT: Thank you. Anything else, Mr.
19 Chapman, cross-examination?

20 CROSS-EXAMINATION

21 BY MR. CHAPMAN:

22 Q. Good afternoon, Ms. Stickney. I am Jon Chapman. We
23 have met before, but it has been a while.

24 A. Yes, it has been a while. Good to see you.

25 Q. You got there fairly late in the -- in the traffic

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

UNITED STATES OF AMERICA, CRIMINAL ACTION

Plaintiff, Docket No:
2:17-cr-140-GZS

-versus-

MARIO ERNESTO GARCIA-ZAVALA,
Defendant.

Transcript of Proceedings

Pursuant to notice, the above-entitled matter came on for **Bench Trial** held before **THE HONORABLE GEORGE Z. SINGAL**, United States District Court Judge, in the United States District Court, Edward T. Gignoux Courthouse, 156 Federal Street, Portland, Maine, on the 21st day of March, 2018, at 8:56 a.m. as follows:

Appearances:

For the Government: Jonathan R. Chapman, Esquire
Assistant United States Attorney

For the Defendant: Robert C. Andrews, Esquire

Also Present: Paul Garcia, Spanish Interpreter

Tammy L. Martell, RPR, CRR
Official Court Reporter

(Prepared from manual stenography and
computer-aided transcription.)

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INDEX OF PROCEEDINGS

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Testimony: (See below)

INDEX OF WITNESSES

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JOHN LENOTTE (called by Mr. Chapman)
Direct Examination By Mr. Chapman

9

E X H I B I T S

<u>Number</u>	<u>Description</u>	<u>Page/Admit</u>
Government		
1	Honduras Identification Card	9
2	DHS Notice and Order of Removal	9
3	DHS Notice and Verification of Removal	9
4	Copy of Fingerprint Card 3/25/2014	9
5	Copy of Fingerprint Card 9/9/2017	9
6	Report of Fingerprint Comparison	9
7	Certificate of Non-Existence of Record	9

SIDEBAR CONFERENCES

(None)

CHAMBERS CONFERENCES

(None)

1 (Open court. Defendant present.)

2 THE CLERK: Do you solemnly swear that you will
3 make true interpretations of the testimony and
4 communications between the Court, counsel, and witnesses in
5 this action, according to the best of your skill and
6 understanding, so help you God.

7 THE INTERPRETER: I will.

8 THE CLERK: Thank you. And just state your name
9 for the record.

10 THE INTERPRETER: Paul Garcia.

11 THE CLERK: Thank you.

12 (TIME NOTED: 8:56 A.M.)

13 (All Defendant responses are through the interpreter
14 unless otherwise indicated.)

15 THE COURT: Good morning, counsel.

16 MR. CHAPMAN: Good morning, Your Honor.

17 THE COURT: We're here in Criminal Docket 17-140,
18 United States of America versus Mario Ernesto
19 Garcia-Zavala. The interpreter has been sworn.

20 Counsel, if you would enter your appearance, please.

21 MR. CHAPMAN: Jonathan Chapman for the United
22 States.

23 MR. ANDREWS: Robert Andrews for Mario Ernesto
24 Garcia-Zavala.

25 THE COURT: Now, Mr. Andrews, am I correct your

1 client is waiving a jury?

2 MR. ANDREWS: He is, Your Honor.

3 THE COURT: All right. I am going to need to
4 chat with him. He can remain seated. You can be seated
5 also, Mr. Andrews.

6 MR. ANDREWS: Thank you, Your Honor.

7 THE COURT: All right. And, Mr. Garcia, you are
8 the defendant in this matter, correct?

9 (Counsel conferred with defendant.)

10 THE DEFENDANT (in English): Yes.

11 THE DEFENDANT: Yes.

12 THE COURT: All right. Could the interpreter
13 move the microphone -- no, no, sit down. Just move the
14 head of the microphone a little lower so -- there you go.
15 Have a seat. You don't have to stand. Thank you.

16 And you are represented by Mr. Andrews; is that
17 correct?

18 THE DEFENDANT: Yes.

19 THE COURT: And do you authorize Mr. Andrews to
20 speak and act for you?

21 THE DEFENDANT: Yes.

22 THE COURT: I understand you wish to waive your
23 right to a jury trial in connection with this indictment;
24 is that correct?

25 THE DEFENDANT: Yes.

1 THE COURT: And have you had an opportunity to
2 discuss this issue with your attorney?

3 THE DEFENDANT: Yes.

4 THE COURT: Mr. Andrews, are you satisfied he
5 understands the nature and significance of a waiver of jury
6 trial?

7 MR. ANDREWS: I am, Your Honor.

8 THE COURT: And is he -- and are you prepared to
9 recommend the acceptance of the tendered waiver of jury
10 trial?

11 MR. ANDREWS: I am, Your Honor.

12 THE COURT: All right. Mr. Garcia, I am going to
13 inquire of you at this time if it is your desire to waive
14 your constitutional and legal right to a jury trial in
15 connection with this proceeding and submit this matter to
16 trial before me without a jury. Is that correct?

17 THE DEFENDANT: Yes.

18 THE COURT: He will sign the waiver at this time,
19 Lindsey.

20 THE CLERK: He has it.

21 THE COURT: And if the interpreter would please
22 translate that for him. Thanks. Thank you.

23 All right, Mr. Garcia, because you are waiving an
24 important constitutional right I want to make sure you
25 understand your rights. You have a right under the

1 Constitution and laws of the United States to a trial by
2 jury on this charge. Do you understand?

3 THE DEFENDANT: Yes.

4 THE COURT: Let me read the rest of your rights
5 to you. You have the right to assistance of counsel at
6 trial. If you cannot afford counsel, counsel will be
7 provided for you at Government expense.

8 At this trial you are presumed to be innocent and the
9 Government would be required at this trial, before a jury,
10 to prove you guilty by competent evidence and beyond a
11 reasonable doubt. You would not have to prove that you are
12 innocent.

13 The witnesses for the Government would have to come
14 into open court and testify in front of you and in front of
15 your attorney. Your attorney would have the opportunity to
16 cross-examine every witness and object to any evidence the
17 Government offers against you.

18 You would have a right to offer evidence on your own
19 behalf to the jury.

20 You would have a right to testify. You would also
21 have the right not to testify. If you decide not to
22 testify, I will instruct the jury that they can find no
23 inference of guilt from the fact that you didn't testify.

24 The jury would be drawn from people in surrounding
25 community with no prior knowledge of any of the facts

1 involved in this case. In other words, they would be
2 impartial. And all 12 jurors must agree on your guilt
3 before you would be found guilty.

4 During the selection of the jury, your counsel would
5 be permitted to participate in the mechanics of selection.

6 You would only be able to be convicted if all 12
7 members of the jury agreed that the Government had proven
8 your guilt beyond a reasonable doubt.

9 Do you understand everything I have told you?

10 THE DEFENDANT: Yes.

11 THE COURT: If you waive or give up that right to
12 a jury trial, I alone will ultimately determine your guilt
13 or innocence regarding the charge set forth in the
14 indictment.

15 I also want you to understand that if you submit the
16 determination of guilt or innocence to me, sitting without
17 a jury, and you are unhappy with the result, you will not
18 then be permitted to request a jury trial and have the
19 whole process done over.

20 Now, in view of everything that I have explained to
21 you, do you still wish to waive a jury trial and submit
22 your guilt or innocence to me in a trial without a jury?

23 (Counsel conferred with defendant.)

24 THE DEFENDANT: Yes.

25 THE COURT: All right. Mr. Andrews, do you

1 continue to recommend acceptance of his waiver of jury
2 trial?

3 MR. ANDREWS: I do, Your Honor.

4 THE COURT: All right. And the Government
5 agrees?

6 MR. CHAPMAN: Yes, Your Honor.

7 THE COURT: All right. There being no objection
8 from the Government, the Court is satisfied that the
9 defendant does understand the nature and substance of his
10 right to a jury trial and the rights allied to it, and that
11 he is knowingly and understandably, with a full
12 comprehension of the significance of his act, asking the
13 Court to be permitted to give up his right to a jury trial
14 and the rights associated with it. This Court will permit
15 the waiver of jury trial and accept the tendered waiver.
16 The trial will proceed. Here is the waiver.

17 THE CLERK: Thank you.

18 THE COURT: All right. The Government prepared
19 to proceed?

20 MR. CHAPMAN: Yes, Your Honor.

21 THE COURT: Do you wish to open?

22 MR. CHAPMAN: No, Your Honor.

23 THE COURT: All right. Go right ahead.

24 MR. CHAPMAN: John Lenotte.

25 THE CLERK: Please raise your right hand. Do you

1 solemnly swear that the testimony you shall give in the
2 cause now in hearing shall be the truth, the whole truth,
3 and nothing but the truth so help you God.

4 MR. LENOTTE: I do.

5 THE CLERK: Thank you. Please be seated. Please
6 state your name and spell your first and last name for the
7 record.

8 MR. LENOTTE: John Lenotte. J-o-h-n
9 L-e-n-o-t-t-e.

10 THE COURT: You may proceed.

11 MR. CHAPMAN: Your Honor, the original seven
12 exhibits that I identified in my exhibit list and trial
13 brief are on the witness table. I have a set for the Court
14 of copies if it wishes.

15 THE COURT: That would be good. And these are
16 all being entered without objection?

17 MR. CHAPMAN: That's my understanding.

18 MR. ANDREWS: That is correct, Your Honor.

19 THE COURT: All right. They are exhibit --
20 Government Exhibits 1 through 7 are all admitted without
21 objection. Go ahead.

22 DIRECT EXAMINATION

23 BY MR. CHAPMAN:

24 Q. What do you do for work, Mr. Lenotte?

25 A. Deportation officer.

1 Q. For?

2 A. Immigration and Customs Enforcement.

3 Q. And that's an agency of the United States?

4 A. It is.

5 Q. And how long have you been a deportation officer?

6 A. I have been nine years.

7 Q. And how long have you been in Maine as a -- as a
8 deportation officer?

9 A. About seven years.

10 Q. And before that?

11 A. Fairfax, Virginia.

12 Q. So for the total -- total of?

13 A. Total of nine years.

14 Q. Nine years. What are your responsibilities?

15 A. Enforcement of the immigration laws.

16 Q. And what does that entail?

17 A. Apprehension, detention, and removal of immigration
18 violators.

19 Q. Okay. I want to direct your attention to September
20 9th, 2017. Do you remember what day of the week that was?

21 A. It was a Saturday afternoon.

22 Q. And did you receive a -- a call?

23 A. I did.

24 Q. And from whom?

25 A. Deportation Officer Elliot Arsenault.

1 Q. And who is he?

2 A. He is a coworker in my office.

3 Q. And what was the nature of the call?

4 A. He informed me that he received notification from
5 Maine State Police of a motor vehicle stop.

6 Q. And where was the motor vehicle stop?

7 A. 295 southbound Tukey Bridge area.

8 Q. And what was your understanding about the general
9 nature of the stop that required your attention?

10 A. It was a van containing approximately 11 non-U.S.
11 citizens.

12 Q. Okay. So what did you do?

13 A. I waited. Actually it was Mr. Arsenault -- Officer
14 Arsenault that ran checks through our databases from the
15 names and birth dates of those that he received from the
16 Maine State Police at roadside.

17 Q. Okay. But what did you do? Did you get in your car?

18 A. I did. I had to respond. I was the duty officer for
19 that date.

20 Q. And where did you go?

21 A. I responded roadside, 295 southbound.

22 Q. And about how long did that take you to get there?

23 A. I approximated it took me 45 minutes travel time.

24 Q. So that would mean you got there at about what time?
25 Roughly? What part of the day?

1 A. Roughly I -- after reviewing the dashboard cam from
2 the trooper's vehicle, I believe it was somewhere around
3 1:30 that afternoon.

4 Q. Okay. And would you just tell the Court what you saw
5 when you got there? Just set the scene. What did you
6 observe?

7 A. Upon pulling up, two state -- Maine State Police
8 cruisers had a white van pulled over roadside in addition
9 to my supervisor, Patrick Mullen, being on the scene.

10 Q. Okay. And you mentioned a white van?

11 A. Correct.

12 Q. Did you see it?

13 A. I did.

14 Q. And what did you notice about the white van?

15 A. Umm --

16 Q. Was there anybody in it?

17 A. There was. It was -- the white van was occupied.

18 Q. By? How many people?

19 A. 11.

20 Q. 11 people?

21 A. 11 people.

22 Q. And who was the trooper you dealt with?

23 A. Robert Burke.

24 Q. Okay. And did Trooper Burke give you anything
25 relative -- that relates to this case?

1 A. He did. He had several consulate identification
2 cards he had retrieved from some of the passengers in the
3 van.

4 Q. And was one of those related to this case?

5 A. Yes.

6 Q. And you have in front of you what's been marked as
7 Government's Exhibit 1. Actually, I think that's in
8 evidence as Government's Exhibit 1. What is that?

9 A. It is a consulate card from Honduras.

10 Q. Okay. Related to what name? What person?

11 A. Mario Ernesto Garcia-Zavala.

12 Q. All right. So Trooper Burke gave you that?

13 A. Yes.

14 Q. And what did you do with it?

15 A. I reviewed it. Prior to arrival --

16 Q. No, I am asking you at the scene what did -- what did
17 you do? Did you go speak with somebody?

18 A. I did. I asked Mr. Zavala to step out of the van.
19 He was a passenger in the van.

20 Q. All right. So he was one of the 11 people?

21 A. He was.

22 Q. And you went to the van?

23 A. I did.

24 Q. And you asked him to get out?

25 A. I asked him to step out.

1 Q. And what happened?

2 A. I asked him for his full complete name, his birth --

3 Q. And -- okay.

4 A. -- his birth date and country of citizenship.

5 Q. And what did he tell you?

6 MR. ANDREWS: Objection, Your Honor.

7 THE COURT: Basis?

8 MR. ANDREWS: Your Honor, this is the dispute
9 that we have over the extent of your order and motion to
10 suppress. The order says operates under the theory of
11 Mendoza Lopez, and there is prior First Circuit law that
12 says that these kinds of questions that are likely to be
13 incriminating fall under a theory of Miranda violation.
14 Because that wasn't directly addressed in the order, I want
15 to be sure that I preserve that because that is part of the
16 reason that we're having this jury-waived trial is because
17 there is no conditional plea in this matter.

18 THE COURT: Government's response? Thank you,
19 Mr. Andrews.

20 MR. CHAPMAN: Your Honor, our position is that
21 the -- the Court did rule that, quote, the biographical
22 statements are admissible because for all the reasons --
23 I'm sorry, the -- I'm sorry, I have got to read the Court's
24 order. It read that -- stated that the Government seeks to
25 use in this prosecution -- I am reading page 13 of the

1 Court's decision on the motion to suppress -- is limited to
2 statements about biographical and identification matters
3 that are part of required -- the required booking process.
4 Such identification information, the Court said, is not
5 subject to suppression under the identity statement
6 exception of Lopez-Mendoza.

7 I take Mr. Andrews' point to be that the Court didn't
8 specifically address the Miranda issue; however, we believe
9 it is well settled that there is a routine booking question
10 exception to the Miranda requirement under Pennsylvania
11 versus Muniz and the First Circuit case United States
12 versus Sanchez.

13 THE COURT: Mr. Andrews, do you have anything
14 else?

15 MR. ANDREWS: No, Your Honor.

16 THE COURT: All right. The objection is
17 overruled. I believe the Government is correct. Go ahead.

18 BY MR. CHAPMAN:

19 Q. So what did he tell you was his name, date of birth,
20 and country?

21 A. Exactly as it indicated on the card.

22 Q. Which is what?

23 A. Which is Mario Ernesto Garcia-Zavala, birth date of
24 September 27th, 1995.

25 Q. Okay. And did you show him the card?

1 A. I did. I had it in my hand.

2 Q. And did he say anything about it?

3 A. I also indicated if the photo was in fact him and he
4 said yes.

5 Q. Okay. Did he acknowledge that that was his card?

6 A. Yes, he did.

7 Q. And if I didn't ask you, that's from the country of?

8 A. Honduras.

9 Q. Okay. All right. What happened next?

10 A. At that time I took him into custody.

11 Q. Okay. And what did you do after you took him into
12 custody?

13 A. I transported him to our field office in South
14 Portland.

15 Q. Now, the reason you took him into custody was what?

16 A. System matches an individual name, birth date,
17 country of citizenship, of a previously removed alien.

18 Q. And therefore you were arresting him for what?

19 A. For illegal -- being here illegally.

20 Q. All right. So was he an unlawful alien?

21 A. He was.

22 Q. All right. Where did you go? Where did you go with
23 him?

24 A. After -- after our initial booking process at the
25 field office --

1 Q. No, I am asking you, you went to the field office?

2 A. Correct.

3 Q. Which is where?

4 A. South Portland.

5 Q. And what happened there?

6 A. Our standard booking procedures; fingerprint,
7 photograph.

8 Q. And did you ask him again his identity?

9 A. Again.

10 Q. And what did he say?

11 A. The same question, same responses.

12 Q. Okay.

13 THE COURT: Just a second.

14 BY MR. CHAPMAN:

15 Q. What's an A number?

16 A. Alien registration number. It is something the
17 Government issues to an individual, whether they are lawful
18 or unlawful, if they have got any type of immigration
19 record with the -- with the Government.

20 Q. And did Mr. Garcia-Zavala have an A number?

21 A. He did. During the booking process photographs and
22 fingerprints are submitted electronically through the
23 database. And there was a positive match with individual
24 same name, same birth date, previously removed, so he had
25 an assigned alien registration number.

1 Q. And what was that number?

2 A. Refreshing from the exhibit here, it is A206683917.

3 Q. Okay. Now, did you subsequently obtain the actual
4 documents by which Mr. Garcia-Zavala was removed from the
5 United States?

6 A. I did.

7 Q. And you have in front of you Government's Exhibit 2.
8 Would you just tell the Court what that document is?

9 A. It is an I form. I860 notice and order of expedited
10 removal.

11 Q. Okay. And relating to what?

12 A. His initial arrest by border patrol. It states -- it
13 outlines the charges of being inadmissible at the time of
14 arrest.

15 Q. What does inadmissible mean?

16 A. He was not lawfully -- he didn't lawfully enter the
17 country initially.

18 Q. Okay. And what was the date of that?

19 A. March 28, 2014.

20 Q. Okay. And there is an A number on that document, is
21 there -- is there not?

22 A. Correct.

23 Q. Okay. So from reading two -- Exhibit 2 can you say
24 what happened on March 28th, 2014, and March 29th, 2014?

25 A. An ex -- an executed order of removal.

1 Q. What do you mean?

2 A. He was found removable by the supervisory patrol
3 agent with the border patrol.

4 Q. And was he -- is this the actual order of removal?

5 A. It is.

6 Q. All right. So this is a directive from an authorized
7 employee of the federal government ordering him to be
8 removed from the United States?

9 A. Yes.

10 Q. And that person who ordered him is who, according to
11 the document?

12 A. It states acting patrol agent-in-charge William
13 Ramsey.

14 Q. And was that -- according to the document, was that
15 served on Mr. Garcia-Zavala?

16 A. Yes, there is a certificate of service signed and
17 dated.

18 Q. Dated what?

19 A. March 29th, 2014.

20 Q. Okay. So he was ordered removed on the 28th and --
21 and it was served on him on the 29th of March 2014?

22 A. Correct.

23 Q. Now, directing your attention to Exhibit 3, what is
24 that document?

25 A. An I296. It is a verification of removal or

1 deportation.

2 Q. Okay. And how do you know that relates to this --
3 this defendant?

4 A. It bears his alien registration number, his name that
5 he signed, his photograph, and his fingerprints.

6 Q. Okay. And -- and can you tell from the -- you have
7 reviewed the entire A file?

8 A. I have.

9 Q. And that's where this comes from?

10 A. Correct.

11 Q. And is there a date of birth associated with that A
12 number?

13 A. There is.

14 Q. What is that?

15 A. What is?

16 Q. What is that?

17 A. September 27th, 1995.

18 Q. And is that the same date of birth as was on his
19 alien card that you -- that is Exhibit 1?

20 A. Correct.

21 Q. Okay. And from looking at Exhibit 3, can you tell
22 what happened on May -- I'm sorry, on April 2nd, 2014?

23 A. A verified removal to Honduras from Brownsville,
24 Texas, via charter flight.

25 Q. So what happened at Brownsville, just in --

1 A. The Government placed him on a charter -- on a
2 charter airline and removed him to Honduras.

3 Q. And who did that?

4 A. The Government.

5 Q. Right, but could you see the name of the officer?

6 A. Yes, there is an immigration agent Cesar Gomez that
7 verified his removal.

8 Q. All right. And on Exhibit 3, the verification of
9 removal, where it says port of departure it says
10 Brownsville, Texas, via Air Ops?

11 A. Yes.

12 Q. Would you explain to the Judge, please, what that
13 means?

14 A. Air Ops is the Government's use of charter airlines
15 for mass removals.

16 Q. All right. And so do you know the practice of the
17 agency with respect to how it does that?

18 A. I do.

19 Q. And can you tell, from looking at this exhibit, what
20 actually happened?

21 A. That the defendant was, in fact, removed from the
22 United States.

23 Q. All right. Placed on an airplane?

24 A. Placed on an airplane.

25 Q. And?

1 A. Flown to Honduras.

2 Q. Okay. And what kind of verification do you see on
3 Exhibit 3?

4 A. This -- the signature of the immigration agent that
5 verified.

6 Q. Okay. There is a photograph?

7 A. Oh, there is a photograph, yes.

8 Q. And that's the photograph of the person removed?

9 A. Correct.

10 Q. And does that, to your assessment, appear to be the
11 defendant in this case?

12 A. Yes.

13 Q. You also have in front of you Exhibit 4. What is
14 that?

15 A. It is the defendant's fingerprint card from the
16 initial arrest by border patrol in 2014.

17 Q. And how do you know that's what that is?

18 A. It bears his -- his name, his birth date, his alien
19 registration number.

20 Q. Okay. And so there is a set of fingerprints on the
21 back of Exhibit 4?

22 A. Yes.

23 MR. CHAPMAN: The Court may not have got a
24 two-sided copy.

25 THE COURT: That's okay. I don't have it, but I

1 am listening.

2 MR. CHAPMAN: It is on the original.

3 THE COURT: I am listening.

4 BY MR. CHAPMAN:

5 Q. And so that was the finger -- those were the
6 fingerprints of the person who was arrested and
7 subsequently removed?

8 A. Correct.

9 Q. And, according to this document, that is who?

10 A. Mario Ernesto Garcia-Savala, the defendant today.

11 Q. And looking at Exhibit 5, what is that?

12 A. It is a copy of the fingerprint card from my arrest
13 of the defendant.

14 Q. All right. And the back side of that contains
15 fingerprints?

16 A. Correct.

17 Q. And who took those fingerprints?

18 A. I took those fingerprints.

19 Q. All right. And what did you do with Exhibit 5 and
20 Exhibit 4 relative to analysis?

21 A. I submitted them to home -- Department of Homeland
22 Security's fingerprint forensic laboratory to verify that
23 the actual two fingerprint cards belonged to the same
24 individual.

25 Q. All right. And you have Exhibit 6 in front of you?

1 A. I do.

2 Q. And what is that?

3 A. That is the laboratory report.

4 Q. Of what?

5 A. The -- the -- both fingerprints cards.

6 Q. And according to the lab report in Exhibit 6, what is
7 the relationship between the fingerprints in Exhibit 4 and
8 fingerprints in Exhibit 5?

9 A. As stated, the lab determined that they were made by
10 the same individual.

11 Q. All right. So 4 is the person who was removed?

12 A. Correct.

13 Q. Five is the person you arrested?

14 A. Yes.

15 Q. And those, according to the analysis, were one and
16 the same person?

17 A. Correct.

18 Q. Okay. Would you take a look at Exhibit 7, please.
19 What is Exhibit 7?

20 A. It is a certificate of nonexistence of record by
21 the -- our sister agency the Citizenship and Immigration
22 Service.

23 Q. And what's the meaning of that? What's -- what's
24 the -- what's the meaning of that?

25 A. They run a complete records check of in this case the

1 defendant to see if there were any pending applications,
2 benefits, or authorization to return legally to the United
3 States.

4 Q. And according to this certificate what were the
5 results?

6 A. There are no such records.

7 Q. So there is no record that this defendant has done
8 what?

9 A. Applied to return to the United States legally.

10 Q. Or been granted --

11 A. Or been granted a relief from application of -- of
12 benefit.

13 Q. All right. As of the date of -- of this exhibit?

14 A. Yes.

15 Q. And just in case I wasn't clear earlier, as of
16 September 7th, 2017, what was Mr. Garcia-Zavala's
17 immigration status?

18 A. I'm sorry, say -- I --

19 Q. As of the date you arrested him --

20 A. Mm-hmm.

21 Q. -- what was his status?

22 A. He would be a -- his status now or?

23 Q. No, what was his status when he was arrested? Yeah,
24 now.

25 THE COURT: What do you mean by status?

1 THE WITNESS: Yeah.

2 BY MR. CHAPMAN:

3 Q. What was his immigration status? What was his --

4 A. Illegal reentry.

5 Q. All right. He was an illegal -- he was an illegal
6 alien?

7 A. Correct.

8 Q. And a citizen of?

9 A. Honduras.

10 MR. CHAPMAN: May I have a moment, Your Honor?

11 THE COURT: Sure.

12 MR. CHAPMAN: Thank you. No more questions.

13 THE COURT: Mr. Andrews, cross-examination?

14 MR. ANDREWS: No, Your Honor.

15 THE COURT: All right. You may step down. Do
16 you rest?

17 MR. CHAPMAN: Yes, Your Honor.

18 THE COURT: All right. Mr. Andrews?

19 MR. ANDREWS: We rest.

20 THE COURT: Mr. Chapman, argument.

21 MR. CHAPMAN: Your Honor, the allegation in this
22 case is that Mr. Garcia-Zavala was previously removed from
23 the United States. The exhibits establish that he is the
24 person who was removed from the United States in 2014, that
25 he was in fact removed by airplane. The evidence also

1 is -- actually, Your Honor, may I ask the witness one more
2 question? May I reopen briefly?

3 THE COURT: Mr. Andrews?

4 MR. ANDREWS: No, Your Honor.

5 THE COURT: Everybody has rested.

6 MR. CHAPMAN: Fine. The Court can find from the
7 -- from the photographs that are admitted in evidence and
8 -- and that this defendant was arrested on September 9th,
9 he referred to the defendant, and I think that's a
10 sufficient showing in that regard.

11 THE COURT: There is testimony that he said that
12 the -- the person he was talking about was the defendant
13 today.

14 MR. CHAPMAN: Right. And I think the Court can
15 conclude --

16 THE COURT: Mr. Andrews I know was listening, as
17 was I, but. Go ahead.

18 MR. CHAPMAN: And that he was arrested -- that he
19 was found in the United States on September 9th, 2017, and
20 that's the evidence.

21 THE COURT: Mr. Andrews, your position?

22 MR. ANDREWS: Your Honor, we're here to preserve
23 our appeal on the motion. That's our only issue for today.
24 We are willing to concede to the arguments that the
25 Government makes.

1 THE COURT: Okay. All right. I am -- I find the
2 defendant guilty of this offense. I am going to order,
3 unless anyone objects, an expedited presentence report very
4 quickly. There is -- there doesn't seem to be anything in
5 dispute in terms of background here, and if we can have
6 that ASAP, as soon as we can.

7 MR. CHAPMAN: Your Honor, I have -- I have made
8 arrangements for Mr. Duff to come right down to the Court
9 upon the Court's ruling --

10 THE COURT: Okay.

11 MR. CHAPMAN: -- and since we have a -- a
12 interpreter here --

13 THE COURT: Good.

14 MR. CHAPMAN: -- it can get started today. As
15 far as we're concerned, if this can be accomplished in one
16 week, two weeks, three weeks, we would be -- we would be
17 happy.

18 THE COURT: When Mr. Duff comes in, both of you
19 indicate that's also my wish to Mr. Duff and --

20 MR. ANDREWS: I just want to make it known, and I
21 am -- maybe I am talking out of school here, but probation
22 did ask for 30 days.

23 THE COURT: Yeah, I think that's too long.

24 MR. ANDREWS: Okay.

25 THE COURT: So you might tell him that my

1 inclination is like a week, two weeks at the most. All
2 right?

3 MR. CHAPMAN: Fine.

4 THE COURT: Thank you. If he has any problem,
5 come see me. Is there anything else from the Government?

6 MR. CHAPMAN: No, Your Honor.

7 THE COURT: Mr. Andrews?

8 MR. ANDREWS: Your Honor, I just ask that the
9 sentencing be scheduled here today if we could for --

10 THE COURT: I can't -- I -- I will schedule that
11 as soon as I hear from Mr. Duff after he talks, and then
12 you will get a scheduling date, and --

13 MR. ANDREWS: Thank you.

14 THE COURT: -- they will accommodate counsel, but
15 we're going to do it quickly.

16 MR. ANDREWS: Thank you, Your Honor.

17 THE COURT: All right. Anything else, Mr.
18 Andrews?

19 MR. ANDREWS: No, Your Honor.

20 THE COURT: All right. The defendant will remain
21 in custody pending sentencing in this case. We're in
22 recess.

23 (TIME NOTED: 9:31 a.m.)

24

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C E R T I F I C A T I O N

I, Tammy L. Martell, Registered Professional Reporter,
Certified Realtime Reporter, and Official Court Reporter
for the United States District Court, District of Maine,
certify that the foregoing is a correct transcript from the
record of proceedings in the above-entitled matter.

Dated: July 5, 2018

/s/ Tammy L. Martell

Official Court Reporter

Transcript of Traffic Arrest

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- People in Transcript: Trooper Burke (**TB**)
Trooper 2 (**T2**)
Elliot Arsenault (**EA**)
ICE Agent (**IA**)
Occupants (**O**)
Police Radio (**PR**)
Female Voice (**F**)
Female Voice 2 (**F2**)

TB: What's up fellas? Can I see a license, registration, proof of insurance?

TB: You have your seatbelt on?

O: Yeah.

TB: Where you guys headed?

TB: Where you guys headed?

Inaudible

TB: Huh? Lunch from where?

Inaudible

TB: Huh? Okay, who's van?

TB: Does anybody speak English in here?

TB: No? Alright. Let me see your ID.

TB: Let me see your ID.

Police Radio Inaudible

TB: You guys don't have your seatbelts on. Huh? Who doesn't have ID? You guys don't have your seatbelts on. Nobody has their seatbelts on.

Inaudible

PR: 12 - O - 7 - 3

TB: Where you guys...Nobody speaks English?

1
2 PR: Alright twelve – O – seven.
3
4 TB: Alright, get your ID's out.
5
6 PR: *Inaudible*
7
8 *Phone Ringing*
9
10 TB: (*On phone*) Elliot, you're not going to fucking believe this bud.
11
12 EA: What?
13
14 TB: Alright. I've got a van load of fucking I don't even know what... of about 13 that nobody
15 speaks English. Nobody has Id's. It's...and they're all not wearing seatbelts so that's why
16 I stopped them. Umm
17
18 EA: Okay
19
20 TB: You might want to come out, but this is just going to be... they're all...you know what I
21 mean? I don't know what to tell ya.
22
23 EA: Do you have umm an ID of at least one of them?
24
25 TB: Ahh the only thing I've got right now is the...the registration of the Maryland van that
26 they're in.
27
28 EA: *Inaudible*
29
30 TB: Ahhh it...it looks like it belongs to Douglas Gabriel Castillo Canis.
31
32 EA: Okay. Umm and not a single one of them has any ID that's or consulate card?
33
34 TB: I...I'm gonna...can you hang on the phomne for one minute?
35
36 EA: Yeah, Absolutely.
37
38 TB: Alright, this is...there's a lot of them so I'm in the same spot we were at last time just so
39 you know, okay?
40
41 EA: Okay.
42
43 TB: Alright.
44
45 PR: Two – O – Seven – One – One – Zero
46

1 TB: You got your ID?
2
3 *Inaudible*
4
5 TB: Okay, good. You got your ID?
6
7 *Inaudible*
8
9 TB: No? Where's your driver's license?
10
11 *Inaudible*
12
13 TB: You don't know? Oh you have one? Oh okay good. Alright, just stay here.
14
15 TB: (*On phone*) Elliot?
16
17 EA: Yeah
18
19 TB: Alright, so the driver doesn't have a license, but he showed me a Mexico Consular ID
20 card.
21
22 EA: Okay um
23
24 TB: Whatever the hell that is.
25
26 EA: Yeah, so let me boot up my com...I'm going to call you back, let me boot up my
27 computer. I'll call you back in two minutes.
28
29 TB: Okay.
30
31 EA: Alright bud.
32
33 TB: (*On PR*) Two – thirty-eight – bray ten – eighty-three.
34
35 PR: *Inaudible*
36
37 TB: Maryland. It's a white van. Maryland 5 – 6 – 6 – 7 – 4 – 5 – Charles – David – 6 – 6 – 7 -
38 4. Should come back on an '08 white pale van.
39
40 PR: *Inaudible*
41
42 TB: 8 Southbound...*inaudible*...near Homeland Security number and I'll need 239 down
43 here.
44
45 PR: 239...alright 239...*inaudible*
46

1 TB: ID's...ID's. Any weapons in here? Guns? Knives? No? Let me see your ID.
2
3 *Inaudible*
4
5 TB: No ID?
6
7 O: No, no ID.
8
9 TB: Yeah, alright. You're good. You guys...what the hell is this? So you have no ID?
10
11 O: *Inaudible*
12
13 TB: Alright, you hang on to that. Where's your ID?
14
15 O: *Inaudible*
16
17 TB: Alright. Just hang on to that, alright? You gotta stay here. Don't leave.
18
19 PR: *Inaudible*
20
21 TB: Where are you guys going?
22
23 O: *Inaudible*
24
25 TB: Huh? Where are you staying?
26
27 O: *Inaudible*
28
29 TB: Does anybody speak English? Huh? You don't even know where you're staying?
30
31 O: *Inaudible*
32
33 TB: Huh? Your address? Okay, yeah.
34
35 O: *Inaudible*
36
37 TB: Is that where you guys are all staying?
38
39 O: Apartment.
40
41 TB: At an apartment? Are you guys all from Maine? Where do you, where do you live? How
42 long you lived in the United States?
43
44 O: *Inaudible*
45
46 TB: 14 years? And you don't have any ID or a visa or anything? Where's your...

1
2 O: I've got my passport right there.
3
4 TB: Let me see it.
5
6 O: I...I don't have it here.
7
8 TB: Are you supposed to have it with you?
9
10 O: *Inaudible*
11
12 TB: Alright. That's okay, just hang on, alright? Relax. Relax.
13
14 PR: *Inaudible*
15
16 TB: This is a fucking ICE motherload right here. 14 of them. Not one of them speaks English.
17 Driver's...no driver's licenses. I've got...ICE is going to be coming out with their
18 fucking squad team on this one. So
19
20 T2: Okay. Alright.
21
22 TB: So I just need you to watch them because there is...dude they're all fucking sketchy as
23 hell.
24
25 PR: *Inaudible*
26
27 TB: 1 - 2 - 3 - 6 - 9 - 2 - 11
28
29 PR: *Inaudible*
30
31 TB: Go ahead for 'em.
32
33 PR: *Inaudible*
34
35 TB: You're going to have to pass it up, we're really ten - six here.
36
37 PR: 10 - 4
38
39 TB: El Salvador. I don't even know where this is from. Guan...where's that from? El
40 Salvador...what are these...there's another one. Honduras. Mexico. And two of them
41 don't even have anything. Virginia.
42
43 T2: Honduras, Mexico, El Salvador, Mexico. Nothing dicey about this at all.
44
45 TB: You don't think? Cracked windshield, no seatbelts.
46

1 TB: Alright, I've got to figure this out.
2 T2: Is ICE coming out?
3
4 T2: I don't know. They're running people right now. I'm sending them photos of shit.
5
6 *Phone Ringing*
7
8 TB: *Answers phone.* What's up?
9
10 Phone: Hi, uhh...
11
12 TB: I'm really busy miss...so is it important?
13
14 Phone: When are you going to be home...*inaudible*...tonight.
15
16 TB: 3. Maybe, if I can get out of here.
17
18 Phone: Okay
19
20 TB: Alright. I'll...
21
22 Phone: *Inaudible*
23
24 TB: What?
25
26 Phone: Nothing. I'm just trying to figure out what's going on. That's all.
27
28 TB: Alright. Bye.
29
30 Phone: Bye.
31
32 *Hangs up.*
33
34 TB: Alright...
35
36 TB: They probably won't come out because it's a weekend dude. If this was like on a Monday
37 morning...you know?
38
39 TB: So the driver's got...
40
41 T2: The driver's what?
42
43 TB: Court proceedings. On proceedings for court. I don't know what that means.
44
45 T2: So are they not coming out?
46

1 T1: Oh I don't know. They...they...they're just uh, they're just getting started here.
2
3 TB: I've got to figure out who the other two are who don't have any information though.
4 TB: You just let me know if...*inaudible*
5
6 T2: You need what?
7
8 TB: I'm good.
9
10 TB: What's that?
11
12 O: *Inaudible*
13
14 TB: I don't read Spanish. Oh that's where you're staying?
15
16 O: Mmhm
17
18 TB: Alright.
19
20 O: *Inaudible*
21
22 TB: Spell your last name.
23
24 O: *Inaudible*
25
26 TB: Dragon?
27
28 O: Yes.
29
30 TB: Take it right out of there. Take it out of there. And you...you step out. You. You. Yup.
31 *Inaudible*...One coming to you. Just pull him to the back. Take that out.
32
33 TB: What's your date of birth? Birthday.
34
35 O: 11...20...*inaudible*
36
37 TB: 11/24/85? Are you Mexican?
38
39 O: Yes. *Inaudible*
40
41 TB: Okay. Hang on to that. Stay put.
42
43 TB: You got anything that says your name on it?
44
45 O: *Inaudible*
46

1 TB: What's your num...nombre? Last name.
2
3 O: Umm...*inaudible*
4
5 TB: Yeah right it down.
6
7 O: Okay.
8
9 TB: October...October what day? What number?
10
11 O: Umm...
12
13 TB: 10 - 5 - what?
14
15 O: 34
16
17 TB: What?
18
19 O: 34.
20
21 TB: 34?
22
23 O: Si. Viente-cuatro. Twentyyy...twenty-four
24
25 TB: What's that? 24?
26
27 T2: That's 24.
28
29 TB: You Mexican?
30
31 O: Ah yes. Mexican.
32
33 TB: How long you lived in the United States?
34
35 O: Ahh...maybe...14 years.
36
37 TB: 14 years? Holy Shit. Alright. Holy... You got a passport? You got a green card?
38
39 O: *Inaudible*
40
41 TB: No?
42
43 O: *Inaudible*
44
45 TB: Because you're not supposed to be here.
46

1 TB: *On radio.* You see any red flags bray?
2
3 PR: *Inaudible*
4
5 TB: Jay, do you speak any Spanish at all? Or no?
6
7 T2: Un poco.
8
9 TB: No. Like...like could you figure out what his ahh
10
11 T2: We could if we saw some guy that you know...
12
13 TB: Could you figure out like...like where they're staying?
14
15 T2: No.
16
17 TB: No.
18
19 *Phone Ringing*
20
21 Receptionist: Hello...*inaudible*...how can I help you?
22
23 TB: Hey can I have the B desk please?
24
25 Receptionist: Yup.
26
27 *Inaudible*
28
29 TB: Hey Jeffrey. Hey uh I need...just letting you know that I've got 14 South
30 Americans...illegal aliens here in a van that I'm dealing with.
31
32 Jeffrey: Okay.
33
34 TB: Umm I need you to try and find a license on this guy. I doubt you will, but at least we
35 need to try. When you're ready
36
37 Jeffrey: Okay.
38
39 TB: Sir name of Rodolfo. R - O - D - O - L - F - O,
40
41 Jeffrey: Okay.
42
43 TB: Ahhhh...given...Fuck...No that's his given name - Rodolfo. His sir name would be
44 Ramirez. R - A - M - I - R - E - Z.
45
46 Jeffrey: Okay.

1
2 TB: Middle R, as in Reyes. R – E – Y – E – S.
3
4 Jeffrey: Mmhmm
5
6 TB: Ahhh...3/18/54. And, and I'm sure there's a way you can run them all throughout the
7 country, but I'm specifically looking at for Maine and Virginia I guess. And when you
8 don't find a license on him, you might as well start Stuarts.
9
10 Jeffrey: Okay.
11
12 TB: I...I don't know what I got yet this...this could be a big one, so...as far as they're all,
13 who knows. Alright?
14
15 Jeffrey: Okay.
16
17 TB: So let me know as soon as you find out buddy, okay?
18
19 Jeffrey: Sure will.
20
21 TB: Thanks man.
22
23 Jeffrey: No problem.
24
25 *Hangs up phone.*
26
27 TB: Alright. So they've already got one reentry, whatever that means. I've got to find out
28 what that means.
29
30 TB: Look it up. See what it means.
31
32 *Inaudible*
33
34 TB: Zavala. Which one's Zavala? Find him. Can you find Zavala's ID there?
35
36 T2: What's that?
37
38 TB: Can you find Zavala? Zavala's ID.
39
40 T2: Zavalu?
41
42 TB: Zavala. Zavala.
43
44 T2: There. I thought you said Za...
45

1 TB: Yeah he does look sketchy. Whatever that means. How many pairs of handcuffs do you
2 have Jay?
3
4 TB: We probably have to get the wagon up here.
5
6 *Phone Ringing*
7
8 TB: Here we go. Listen up. This is what it's going to be right here.
9
10 *Answers Phone*
11
12 TB: Hello.
13
14 EA: Hey Bob, um so we have a couple agents heading your way...um I guess probably 20-30
15 minutes. Is that something that you can hold them for or no?
16
17 TB: Well we can hold them as long as you want. I don't think...nobody in here's got a
18 license...ahhh looking at these guys you are definitely going to want to come out and
19 take a look at these guys...they are as, they're as a, they're the sketchiest crew that I've
20 ever got out all of them so ahh
21
22 EA: Okay, yeah. Cause umm because so far we have the driver...he, he's been arrested
23 before. He's going through proceedings, so there's nothing we're going to do with him,
24 but there are so far three out of them. One's a reentry, and then the two other have no
25 immigration history at all, so that tells me they're just in the country illegally and they've
26 never got caught. Umm
27
28 TB: So why...I would think we'd be able to hold them for as long as it takes for you to get
29 here then.
30
31 EA: Okay. Is there any way that I could umm speak to them on the phone, or do you not want
32 them touching your phone. I mean that's fine too.
33
34 TB: Yeah, I really don't want them touching my phone.
35
36 EA: Yeah, I don't blame you. Um so we're gonna...we're having some agents swing up here.
37 Exit 7, 295 south?
38
39 TB: Yeah, you know where we...the same place we were last time when you came out last
40 time.
41
42 EA: So just head up to what's that? Washington Avenue? Kind of around that way?
43
44 TB: Yup. And I'm gonna load the driver and tow the vehicle because I don't think he's got,
45 nobody's got a fucking license in here, so we can't...
46

1 EA: Yeah, no. You know what that at least will make them all sit still for a while.
2
3 TB: Yeah, they're not going anywhere. Trust me. I...I got another trooper up here with me,
4 we're good. So if they could get up here as fast as they can it would obviously be easier,
5 but I understand that you know
6 EA: Nope, I'm gonna, I'm gonna let them know right now.
7
8 TB: Alright, perfect. This is...this is a good one.
9
10 EA: Alright. Thanks
11
12 TB: Yup
13
14 EA: Alright, bye.
15
16 *Phone call ends.*
17
18 TB: 238 go ahead.
19
20 TB: Think it would be easier if we put him in the van?
21
22 T2: Huh?
23
24 TB: If we put him back in the van?
25
26 T2: *Laughing*
27
28 TB: What?
29
30 T2: I just said "wanna go ahead and get back in the van? Thank you!" *Laughing*
31
32 TB: You should have asked him if that was a twenty dollar bill on the ground and see if he
33 looked. 238.
34
35 PR: Go ahead.
36
37 TB: Out of the 12 that we had detained, ICE is going to be detaining at least 6 and unless you
38 have nobody coming for our license, we're going to need a 1056... as requested.
39
40 PR: *Inaudible*
41
42 TB: Okay, thanks. Yup.
43
44 TB: I like that little...*inaudible*...he's not licensed. So he's not...immigration doesn't want
45 the driver, but he's going to jail because he's not...doesn't have a license. Nobody in that
46 fucking car is good...the one guy that's good...a Virginia license.

1
2 PR: *Inaudible*
3 TB: He's suspended, so he can't go, can't drive. So I'm just gonna require Stewart's...
4
5 PR: *Inaudible*
6
7 TB: They gotta take the rubber sole express. ICE is coming. They're twenty minutes out.
8
9 PR: *Inaudible*
10
11 TB: 10 - 4. Thanks.
12
13 T2: There's no way Flannagan's gonna beat me this month.
14
15 TB: Huh?
16
17 T2: There's no way Flannagan's gonna beat me this month. No way.
18
19 PR: 234.
20
21 T2: I'd say that's a pretty good day. Seven...*inaudible*...at least.
22
23 PR: *Inaudible*.
24
25 TB: When they...when they...when they show up there's absolutely no paperwork. They
26 just...it's like they're fucking kidnapping people. Have you ever seen it? Yeah you've
27 seen it before. Have you seen...seen it come to scene before?
28
29 T2: I had two van loads just like that. It was like 28 of them.
30
31 TB: That was a couple years ago though, right?
32
33 T2: Yeah.
34
35 TB: And they did...
36
37 T2: Didn't come out.
38
39 TB: No. Now it's like...this is like...this is like a SWAT team bumpin them now, you know?
40
41 T2: They picked a nice place to stop there.
42
43 TB: Give you something to do man.
44
45 T2: I was up helping Jodel.
46

1 TB: What she doing?
2
3 T2: With her dog.
4
5 TB: What she doing?
6
7 T2: Huh?
8
9 TB: What, she working right now?
10
11 T2: No, she came up...*inaudible*.
12
13 PR: *Inaudible*
14
15 TB: Yup. You're welcome. You're welcome.
16
17 PR: *Inaudible*
18
19 TB: You think they're nervous?
20
21 T2: Probably not.
22
23 TB: How do you...how do you live in this country for 14 years and not speak English? I mean
24 you have to speak English. I mean you would have to learn just by...just by default. They
25 must...unless they're screwing with me like...like they must be screwing with me now
26 thinking that I'm not gonna care.
27
28 T2. Ah fuck me I'm tired. I'm going to grab my coffee.
29
30 TB: Don't let your guard down on these guys man.
31
32 T2: I'll...*inaudible*...my coffee at them.
33
34 TB: Alright.
35
36 T2: I might as well start writing these guys' tickets.
37
38 TB: I just gotta go tell them we're writing seatbelt tickets.
39
40 T2: What?
41
42 TB: I'm gonna go tell them I'm writing seatbelt tickets.
43
44 TB: Alright. I'm writing you guys seatbelt tickets. Tickets for your seatbelts. Alright? It's
45 going to take me a half hour because I have to write everybody a ticket who doesn't have
46 their seatbelt on, right? So you guys got to wait, okay? Writing...put your seatbelts on.

1
2 TB: They bought that. Hook, line, and sinker.
3
4 T2: I think they're all putting their seatbelts on.
5
6 TB: I told them to.
7
8 T2: Oh, did you?
9
10 TB: Yeah.
11
12 T2: And they understood that?
13
14 TB: Nah...well one of them said something to them I think.
15
16 TB: If they have them on in the first place...
17
18 PR: *Inaudible*
19
20 TB: Born in fifty-four, how old is he?
21
22 T2: I'm looking to see what reentry means.
23
24 TB: It's illegal. That means you get kicked out and you come back in illegally.
25
26 T2: Oh. I wouldn't know.
27
28 T2: That's fucking great. I had my plan to move yesterday...or buddies that I asked to help
29 me move said "Yeah sure, absolutely." Today rolls around, and "Sorry can't make it.
30 Sorry can't make it. Sorry can't make it."
31
32 TB: Who was it...who was everyone that said "Sorry, can't make it"?
33
34 T2: Yarmouth guys and...
35
36 TB: Oh, were you going to take today off?
37
38 T2: Tomorrow I took off so I can move and everybody's backing out on me.
39
40 TB: Oh, really? I wish I was in that good a shape.
41
42 T2: *Inaudible*...go up there and move shit. But I just won't be able to get everything now.
43 Larry and Kurt Feenan.
44
45 TB: You've got tomorrow off?
46

1 T2: Yeah.
2
3 TB: I tried taking tomorrow off too. They said “eh”
4
5 T2: *Laughing*
6
7 TB: Because Owen’s got a game down in Boston. They play BC High once in soccer every
8 year. Dude, that’s like David playing Goliath right there.
9
10 T2: Mhm
11
12 T2: I figured I better put my cover on before the video cameras start playing out.
13
14 TB: Yeah, no shit.
15
16 T2: Because that’s a matter of time.
17
18 TB: Why?
19
20 T2: “How dare you”
21
22 TB: Oh, like the last time? Oh that’s right, you were here for the first time they came out over
23 on Forest Ave. Yeah. If Ben Roper shows up, he gets loaded too.
24
25 T2: You’re getting tossed off the bridge.
26
27 TB: That’d be impressive if he can do that.
28
29 T2: Huh?
30
31 TB: I said that’d be impressive if he can do that.
32
33 T2: Who? Ben?
34
35 TB: Yeah. He’s a big bastard.
36
37 T2: *Inaudible*
38
39 TB: Ehhh
40
41 T2: It’s the size of the fight in the dog as they say.
42
43 TB: Yeah. They gonna think they’re getting one ticket at a time here. They gonna think
44 they’re getting one ticket at a time.
45
46 TB: Here. Sign right here please. Now I need...now I need to do him and him and him.

1
2
3 F: *Inaudible*
4
5 TB: What's she saying? What'd she say to him?
6
7 T2: That's good they're going to need it.
8
9 TB: So what was she telling them? Not to talk to us?
10 T2: Huh?
11
12 TB: She was telling them not to talk?
13
14 T2: Yes.
15
16 TB: Oh that's great.
17
18 PR: *Inaudible*
19
20 T2: Un-fucking-believable
21
22 TB: What did she say to you then?
23
24 T2: I said not...I said this man hasn't been secured for weapons. You're putting my safety...
25 your safety and your own. I said my back's sitting here turned while I'm messing with
26 you.
27
28 T2: Mhmm
29
30 T2: Leave.
31
32 TB: Was she talking to him...or trying to talk to them or?
33
34 T2: Yeah.
35
36 TB: You don't know what she was saying though.
37
38 T2: Look, I just want you to know that you don't have to talk to this gentleman. You don't
39 have to say a word to him. You have rights.
40
41 TB: Did she say it in English or Spanish?
42
43 T2: She just said "comprende?"
44
45 TB: Oh, yeah. So she must know what's going on then, huh?
46

1 T2: Huh?
2
3 TB: She must have an idea of what's going on just by...uh...ESP.
4
5 T2: Mmm
6
7 PR: *Inaudible*
8
9 T2: Count to ten.
10 TB: Uno, dos, tres, cinco, seis...
11
12 T2: Come on
13
14 TB: I'm trying to. Uno, dos, tres, dcinco, seis...
15
16 T2: Uno, dos, tres, cuatro, cinco, seis, siete, ocho, nueva, diez, diez y ocho, diez y nueva.
17
18 TB: See, here's the thing...here's the thing. What they don't understand is that these people
19 are doing the same thing that any American would be doing. They're getting...they, they
20 shouldn't be driving with no license. And then none of them have their seatbelt on, so
21 they all have to be ID'd, and when they get ID'd... So what's the difference between
22 anybody else, they get special privileges...they don't have special privileges
23
24 T2: Apparently they do in Portland, Maine.
25
26 PR: *Inaudible*
27
28 TB: I know.
29
30 T2: Huh?
31
32 TB: I said I know. I'm glad I didn't even hear what she was saying.
33
34 *Phone Ringing*
35
36 Receptionist: Public safety.
37
38 TB: Hey, it's me.
39
40 Receptionist: Hey you.
41
42 TB: Can I speak to Jeffrey please?
43
44 Receptionist: Hold on. Yep.
45
46 TB: *Inaudible*.

1
2 T2: She says to him, "Did you get stopped because of your ethnicity?" *Laughing*
3
4 Jeffrey: Hey.
5 TB: Jeffrey?
6
7 Jeffrey: Hey.
8
9 TB: So he's got no license, confirming that, right?
10
11 Jeffrey: Right.
12
13 TB: Okay, can you run another one for me.
14
15 Jeffrey: Yup. Go ahead with it.
16
17 TB: Sir name Of Hernandez. H-E-R-N-A-N-D-E-Z Hyphen Nava N-A-V-A. Given of Israel,
18 I-S-R-A-E-L. 1977 – Zero, Seven, Two, Seven. Probably Maine and Virginia.
19
20 PR: *Inaudible*
21
22 T2: There she is again. Your turn. I'm not dealing with her.
23
24 TB: Alright. Just talk to Jeffrey on the phone. I'm looking to see if this guy is...
25
26 TB: She knew better.
27
28 T2: Huh?
29
30 TB: She knew better.
31
32 T2: What the fuck.
33
34 PR: 234 ready to close out. 7-7-0-3.
35
36 T2: 234 – 1034. What is it doing ma'am? Okay we'll let him know.
37
38 TB: Probably...It might have been easier if I waited another mile. I mean a half mile. Take
39 them down by Franklin and this wouldn't have happened.
40
41 T2: How would you know?
42
43 TB: Yeah, I didn't have any clue.
44
45 T2: I just got done fucking saying that too.
46

1 TB: What?
2
3 T2: We have the video cameras.
4
5 T2: She was about a...^{cent}inaudible...hair away from getting arrested.
6
7 Jeffrey: Don't see him coming back on file at all. Anywhere.
8
9 TB: Alright. Ahhh, I guess that's good for now. Um
10
11 Jeffrey: Okay.
12
13 TB: Still waiting out here, so...
14
15 Jeffrey: Okay.
16
17 T2: So Mark, that house still down on the contract, huh?
18
19 Jeffrey: Nope. Do not.
20
21 T2: Nope, nope. Alright.
22
23 TB: Alright brother. I'll talk to you soon.
24
25 Jeffrey: Okay. Sounds good.
26
27 TB: You'll probably start getting complaints sooner or later. There's a couple of people that
28 have been pulling up and trying to talk to these people, telling them they don't have to
29 talk to the police.
30
31 Jeffrey: Oh boy.
32
33 TB: Yup. So let me know if you get any calls in.
34
35 Jeffrey: Okay
36
37 TB: Alright thanks. Bye.
38
39 *Phone call ends.*
40
41 TB: I wonder what's taking Dickie so long.
42
43 TB: So when your van fulls, what'd you just stop them for? Just a regular traffic stop and
44 nobody had any ID's and it was...
45
46 T2: Nope. They were coming back from picking blueberries.

1
2
3 TB: See, I just stopped the guy a car up the street. Truck, two guys out of Lawrence, Mass.
4 And one guy didn't even have his permanent ID on him, but he had a picture of it and I
5 ran it through these guys and they were like yeah cut him loose, he's good to go. And I'm
6 like, you sure you want me calling...and they're lie every time if you want, it's up to you.
7 Now this one they're all hot and heavy on, you know? Because they got these guys. Who
8 knows what the hell this shit's going on, you know? Like, how many times have you seen
9 a...an international driver's license?
10
11 T2: Only one time.
12
13 TB: Those are...there's no such thing.
14
15 T2: Yeah there is.
16
17 TB: No there isn't. I mean...you talk to these guys...no there isn't.
18
19 T2: Then what are they showing when it says "Driver's license Internationale?"
20
21 TB: Yeah. It's something that was probably made down in Lawrence.
22
23 T2: I don't think so.
24
25 TB: Yup. Because if they have a driver's license, it's valid. It's either from the country that
26 they're from or the United States. There's no international driver's license. You know
27 what I mean? That's just a crazy freaken folklore type thing that's kinda...
28
29 T2: I think what it is...is the driver...the international driver's license is issued by the country
30 of origin with the understanding and the acceptance that it's going to be accepted
31 anywhere else internationally. It's issued as an international driver's license. It's not fake.
32
33 TB: Sorry bud.
34
35 T2: No because some fucking ICE guy told you that?
36
37 TB: Yeah...
38
39 T2: I can almost guarantee you that's what it is.
40
41 TB: Listen pal. Listen pal I don't come down and tell you how to do dogs.
42
43 T2: Is this your thing now?
44
45 TB: I guess.
46

1 T2: I should have fucking loaded that bitch.
2
3 TB: No. No. That's not going to...that's not a good idea at all.
4
5 T2: Why? She comes up again, she's getting loaded for obstructing.
6
7 TB: For what? Obstructing? They can stand there and talk to them all day long. Who cares?
8
9 T2: What are you...*twittle head*...*inaudible*...on that?
10
11 TB: No. What I'm saying is...nothing good's gonna come outta that.
12
13 T2: And what's...what's good gonna come out if we don't search that van.
14
15 TB: Then we'll get involved in a...*inaudible*...battle.
16
17 T2: I just don't see anything good coming out of that crazy bitch.
18
19 TB: She's not coming back anyways.
20
21 T2: Or she's coming back with *press* ~~brass~~.
22
23 TB: If that's the case then we'll just drive this van right off the exit on to Anderson Street.
24 Jump you right in there with Sven.
25
26 T2: *N* Nobawa said the pressure was up.
27
28 TB: Well I'll just say follow me and then you follow them and we'll get them at least
29 down...what we could do is put them right down underneath the ahh underneath the
30 overpass too.
31
32 T2: Hm?
33
34 TB: We could get them underneath the overpass. If it gets...or when the ICE guys show up
35 we'll have one of them jump in because they're going to come two or three in the truck.
36
37 T2: So calling her a quote, unquote "attorney" was bad idea?
38
39 TB: Huh?
40
41 T2: I said, telling her she was a quote, unquote "attorney" was a bad idea?
42
43 TB: She probably was.
44
45 T2: *Inaudible*...or not. This is my fucking road.
46

1 TB: No no no. It's all of ours.
2
3 T2: It's my fucking road. See this? Nineteen years. Mine. *Laughing*. I hope they don't pull in
4 behind us like they did last time though. Did you see what they had for lights?
5
6 TB: Yeah just have them pull in front, right?
7
8 T2: We say hurry the fuck up.
9
10 TB: See what that lady doesn't seem to understand in her...in her smarter than everybody
11 else...
12
13 T2: Now I'm getting you fired up.
14
15 TB: Nah, I'm just gonna...I'm going to tell you something...
16
17 T2: What?
18
19 TB: What she doesn't seem to understand in her fucking smarter than everybody else...in the
20 room mentality is that, she has no idea who these people are. No clue. We don't even
21 know who they are. These guys could be great people, or they could be fricken axe
22 murderers from the Menian Cartel in Mexico that are on the run from...you know what I
23 mean?
24
25 T2: Mhm
26
27 TB: And as soon as they find out that ICE is going to be here, everything changes because
28 they know they're going to go away.
29
30 T2: Mhm
31
32 T2: That got my blood pressure boiling.
33
34 TB: Don't you even deal with her. I'll take care of her. Here comes Dickie. We'll have Dickie
35 take care of her. This is when they gotta fricken...this is when they gotta realize that
36 something's up. *take care of her*
37
38 TB: This is another one of those fucking ICE things where there's...there's eleven of them in
39 there and ICE is coming out. Yeah why don't you head up on the hill and I'll call you
40 when ICE gets here and as soon as they get here and decide what they're going to do.
41 We'll hook it up. It's gotta be yours. There's no drivers in there, so I'm gonna tow it
42 because I don't know who anybody is.
43
44 *Inaudible*
45
46 TB: Alright? Ah unless you want to back up 100 yards right on the edge. Probably...*inaudible*

Zibarski

1
2 T2: The last time you pulled this shit and people started videotaping us. Zibartee took over
3 the...what would you call it... the political correct game.
4
5 TB: Yeah.
6
7 T2: I'm not the one for that.
8
9 TB: I know you're not. That's why I'll do that.
10 T2: Huh?
11
12 TB: I said I know you're not. That's why I'll do it.
13
14 T2: Especially when I'm tired and irritable.
15
16 TB: I know. I didn't sleep at all last night either. I got we're...we're going to put our house on
17 the market tomorrow.
18
19 T2: Oh are you really?
20
21 TB: Yeah. They're getting...The other...the other realtor wouldn't accept our offer because
22 he's a jerk. And so we're going to see if we can sell the house on our own before they sell
23 their house and if we can do it then it's the same thing, you know? But...we'll see.
24
25 T2: What's the asking price for that one?
26
27 TB: For what? Mine?
28
29 T2: No for the other one.
30
31 TB: 250,099. We offered 250...we offered him 250 contingent that we get 220 for our...I
32 mean 4-5-5-9...no 4-4...459900 for theirs, contingent on us getting 420 for ours within
33 45 days. And we had...we had 3 fucking separate realtors tell us that we could get 430, I
34 mean 420 for ours all day long. And we jumped through some hoops...and that guy
35 thinks...the other realtor goes nah, you guys can't get 420 for this. So they won't...you
36 won't even give us a chance on it, so. And now, remember when Missy wasn't real hot
37 about it? She wants that house more than me now. You know? Because she's been over
38 there and she saw it and she loves it and...
39
40 T2: I thought you guys were going to start looking at other stuff.
41
42 TB: Like what? We might now...I mean because now we know that we can get a much better
43 house for what we have with the equity than we have in our house. Might as well just
44 move into a bigger house that's got more better like...you know, like...
45
46 T2: Amenities?

1
2 TB: Yeah. Maybe a pool for Mary. I don't know.
3
4 T2: I got a sump pump. *Laughing*
5
6 TB: Have you got a bed yet?
7
8 T2: What?
9 TB: Did you get a bed yet?
10
11 T2: Yeah it's got lights.
12
13 TB: Oh Jesus.
14
15 T2: It does.
16
17 TB: Why? So you can read?
18
19 T2: No, you...it's the...
20
21 TB: Dude.
22
23 T2: The bed frame...oh...well the bed frame goes up and down and then you can shut the
24 lights out in the room and hit the light on the remote for the bed and the whole
25 undercarriage of the bed glows.
26
27 TB: So you don't trip over stuff?
28
29 T2: What?
30
31 TB: So you don't trip over stuff?
32
33 T2: That's right.
34
35 TB: Yeah. So what, you just got a bed in that place and that's it? You got anything else in
36 there? No?
37
38 T2: I got some lawn chairs.
39
40 TB: Has Larry moved anything in?
41
42 T2: Yeah he's got his bed. His dresser
43
44 TB: Okay. Is he there yet, is he living there?
45
46 T2: Oh yeah, he's been...since that crap happened he moved right in that night.

1
2 TB: Oh wow. Good well that's good. Did he get you a TV yet?
3
4 T2: Yeah we got one, but its got a nice red line right down the middle of it.
5
6 TB: Is it even a flat screen, or is it two...
7
8 T2: It's a flat screen
9
10 TB: Yeah.
11
12 T2: But the people never shut off the cable so we're living high in the hog.
13
14 TB: Nice dude. Nice. Do you got cable or digital?
15
16 T2: I don't know. It's TV.
17
18 TB: Does it have a dish on the side of the house?
19
20 T2: There's 3 of them.
21
22 TB: Yeah, digital. You have digital. You have movie channels?
23
24 T2: Hm?
25
26 TB: You got the movie channels and stuff?
27
28 TB: This sure is a long 30 minutes.
29
30 T2: They probably had to go pick up their... 32 passenger truck.
31
32 TB: You know it.
33 ICE
34 T2: Like a school bus. Rice bus.
35
36 TB: The spus.
37
38 T2: The Spus.
39
40 TB: Hi, how are you?
41
42 TB: That was just a friendly hi.
43
44 TB: So without getting into details, has anything happened with what we were talking about
45 before? With you know who? Nothing?
46

1 T2: As far as this thing you mean?
2 TB: Yeah.
3
4 T2: No.
5
6 *Inaudible*
7
8 T2: A motor. A motor.
9
10 TB: Is she coming back?
11
12 T2: I'm looking, I'm waiting. I'm like a spring, ready to pounce.
13
14 TB: I don't think we should arrest her. I think we should give her a patch. And say if she
15 wants to be part of our team, she can...she can apply to the state police. She could be
16 a...could be a deputized member. What ah...so does he have any, any inclination on who
17 his next boss is going to be?
18
19 T2: What's the rumor mill going?
20
21 TB: 700 or whatever it's...whoever, what is ahh 1200 or whatever he is.
22
23 T2: Next lieutenant...not the major crimes...*inaudible*...I didn't get, I wouldn't be a bit
24 surprised to see...*inaudible*...He doesn't have that much further to go, so why would he
25 put himself in a situation where he's gotta start all over and have to rebuild everything.
26
27 TB: What are you talking about? Where would he rebuild everything?
28
29 T2: In Trupe?
30
31 TB: Yeah, but...It's...it's...if what's his name puts in for it, he doesn't have a choice to go,
32 but to go to Trupe.
33
34 T2: Who's putting in for it?
35
36 TB: If Ross does?
37
38 T2: No. You really think he's gonna?
39
40 TB: Yup. Why wouldn't he? Dude you seriously think...
41
42 T2: I don't think he'll get it.
43
44 TB: Huh?
45
46 T2: He won't...you think he'll get it?

1
2 TB: Why not?
3
4 T2: It'd be lateral.
5
6 TB: Right. That's what I mean. They are gonna have to have a pretty good reason not to give
7 it to him I think.
8
9 T2: Here she comes.
10
11 TB: Oh come on.
12
13 T2: Here she comes.
14
15 TB: I'm telling you Jay, leave it alone. Let me deal with it. Seriously, we don't need the
16 complaints. You don't have the kind of smoothness that I do.
17
18 T2: That is one of the things that I am not known for.
19
20 TB: I'll go tell her, I go just hang on a second ma'am, you're going to want to see ICE when
21 they come here. Those are the people you want, not us.
22
23 T2: She got the hint. She's staying back and videotaping is all she's doing.
24
25 TB: Yeah.
26
27 T2: Nope. No she didn't.
28
29 TB: That's what I just said.
30
31 T2: Huh?
32
33 TB: That's what I just said. I'm going to get an ETA for that...
34
35 T2: Things getting heated here in the town.
36
37 TB: Geeze I ran yesterday. I didn't have a good run.
38
39 T2: Huh? I'm sorry.
40
41 T2: Are you not... You're not texting at work are you?
42
43 TB: No...um... Elliot.
44
45 T2: Five to ten!
46

1 TB: D's really gonna get to see some good stuff when they get here. It's gonna be great. And
2 you will be quiet. This is my crap this time. If anyone's gonna get a complaint, it's gonna
3 be me. I'll send you away to get me a Diet Pepsi because I'm thirsty.
4
5 T2: Yeah, but the thing is myou got a specialty, I don't now. So they can't hold anything over
6 my head.
7
8 TB: Dude what did we do wrong?
9
10 T2: Hm?
11
12 TB: What do you mean you don't have a specialty?
13
14 T2: What do you mean?
15
16 TB: You got a canine.
17
18 T2: Huh?
19
20 TB: You got a canine.
21
22 T2: Not anymore.
23
24 TB: What do you mean not anymore?
25
26 T2: I resigned. I did...
27
28 TB: What?
29
30 T2: Yeah, I did that last week.
31
32 TB: When do you think you were gonna tell me?
33
34 T2: I did tell ya.
35
36 TB: No you didn't.
37
38 T2: Oh. Well I resigned.
39
40 TB: Jesus Christ dude. Seriously why?
41
42 T2: Yup.
43
44 TB: Well I kinda know why now I guess.
45
46 T2: There was a lot of shit going on and I wondered if it was time for me to move on.

1 TB: Did you take the PT test?
2
3 T2: Huh?
4
5 TB: Did you take the PT test?
6
7 T2: Nope. I went down, and I did a ahh 3.5 mile trek up in Brunswick, got done with it and a
8 half hour later my...*inaudible*...I could barely walk. My knees were killing me. I talked
9 to Dalton. I talked to Kyle.
10
11 TB; Well do you still have the dog?
12
13 T2: Yeah, they let me have him.
14
15 TB: Is he riding around with you now?
16
17 T2: No, he's at the house.
18
19 TB: Oh, he can't even ride around with you, huh?
20
21 T2: And he's as happy as I've ever seen him.
22
23 TB: So he can...so he can just...he just hangs out with dogs now?
24
25 T2: Mhm.
26
27 TB: Him and Larry?
28
29 T2; Yeah.
30
31 TB: So...so are they gonna get you a new car now?
32
33 T2: Yup.
34
35 TB: You're finally going to get a 2017?
36
37 T2: Well that's pushing it.
38
39 TB: Do you know what you're gonna get?
40
41 T2: No. I'd be lucky if I got a fucking Caprese.
42
43 TB: You'll probably get a ...you'll probably get a Crown Bay. Darcie said...Darcie said
44 Connecticut is rolling a shit ton of Crown Vic's... so they're issuing out Crown Vic's
45 with 145,000 miles on it.
46

1 T2: Come on. This is getting ridiculous.
2
3 TB: Hey! Don't be complaining. Huh? Don't be complaining. Don't come down on one of my
4 traffic stops and complain. Especially when you don't even told me that you don't have a
5 dog...I almost called for the thing last night. I did.
6
7 T2: I thought I...well heaven forbid... I can't
8
9 TB: That would have sucked if had gone on the air and said can you have Cooley's dog
10 come...come down, and then said it isn't working anymore. I would've felt so bad. Well
11 I wouldn't have felt that bad.
12
13 T2: Well I talked to 3 or 4 people about it, and everybody had the same response.
14
15 TB: I didn't. I said you should keep the dog and work it until he dies.
16
17 T2: I have nothing to justify anybody after doing it for 17 years.
18
19 TB: That's a long fucking time. You don't see Dickie bitching, do you? Dickie's not back
20 there bitching.
21
22 T2: You saying I'm bitching?
23
24 TB: Yeah, you were. You just were.
25
26 T2: How was I bitching?
27
28 TB: I don't know...you said...you said this is fucking ridiculous or something and I go stop
29 your bitching.
30
31 T2: *Inaudible*...he's getting paid.
32
33 TB: So? Aren't you?
34
35 T2: Yeah, fuck. Is that woman still there?
36
37 TB: Let her stay there Jay. Maybe she'll get hit.
38
39 T2: Huh?
40
41 TB: Maybe she'll get hit.
42
43 T2: I'll go talk to her before this is over. Oh, I'll go talk to her.
44
45 TB: I was just being nice.
46

1 T2: How's that thirty minutes fucking working for us?
2
3 TB: I was just being nice as hell. How about this? I have to go to LPO this month. That's why
4 I probably got to save my complaints for that class. I'll be the first one to get kicked out
5 of OPO. I heard you have to do a lot of reading. I hope they got pictures and shit...
6
7 T2: You know you got homework you gotta do when you go home too.
8
9 TB: Uhhh.
10
11 T2: Ask me when they sent me how much homework I'm gonna be doing on my off time for
12 LPO.
13
14 TB: Exactly. Well...
15
16 T2: They'll be able to get my books back and be covered in my fucking gizz. Here's your
17 book back.
18
19 TB: Not me. I'll be looking forward to learning and bettering myself.
20
21 T2: Come on boys, let's go. Is this them?
22
23 TB: No.
24
25 T2: I'm starting to get a headache.
26
27 TB: Yeah, I'm starting to get one too. This is what it's like to win. They should be...where's
28 Flannagan? On his military leave? Gotta make sure I send him a nice picture of this.
29
30 T2; Is he calling me?
31
32 TB: So Elliot said 5 to 10. Oh wait, and my supervisor...Oo we got a supervisor coming
33 out...*inaudible*. Looks like we have one illegal reentry and 3-4 with no legal standing.
34 Whatever that means. That means four, five, this is going to be six u-sack day. Seven u-
35 sack day. Because the way the rules are...One counts as a u-sack.
36
37 T2: Did you buy him his beer yet?
38
39 TB: Yup.
40
41 T2: What'd you buy him?
42
43 TB: Yeah, next time you see Jodell. You tell her to stop running her mouth. She said that I
44 don't pay my debts back. Apparently...
45
46 T2: What?

1 TB: She was just joking, but I bought him a 12 pack of Blue Moon. Like he wanted.
2
3 T2: You don't tell me he drinks Blue Moon.
4
5 TB: I hate that stuff.
6
7 T2: That's gay beer.
8
9 TB: It's disgusting.
10
11 T2: It is.
12
13 TB: I've had 7 or 8 of them in my ah...in my ah fridge for like 7 months because I won't
14 touch them. But you know, you know what I've been...
15
16 T2: Really?
17
18 TB: What's this guy doing?
19
20 TB: Hi.
21
22 F: Hi, excuse me. I'm an immigration attorney. Um can you tell me a little bit about what's
23 going on?
24
25 TB: It's an ongoing investigation ma'am.
26
27 F: I'm sorry?
28
29 TB: It's an ongoing investigation, and the scene isn't secured, so we're going to ask you to
30 move along please.
31
32 F: Okay. Sorry what's that...
33
34 TB: Yeah, I know it's dangerous out here. So it's...
35
36 F: It's not dangerous right here.
37
38 T2: Can you talk? I'm not...I'm good.
39
40 F: *Inaudible*
41
42 TB: It's an ongoing investigation. We're going to ask you to keep moving along. Okay? We
43 don't know who these people are. Okay? We still feel that it is dangerous here. It's not
44 our investigation, we're just detaining them, so the more that we are directed toward
45 dealing with you, the more it takes away from our investigation here and watching them.
46 Do you understand that?

1 F: Um yes...
2
3 TB: Because if you can tell us who these people were, that'd be great. But I don't think you
4 can, okay? So until we figure out who they are, we have to kinda deem them as
5 dangerous. Do you understand that?
6
7 F: And...and were they pulled over for any specific reason?
8
9 TB: That's none of your business at this point because you don't represent them. Okay? Not
10 at this point. When you do represent them, in a court or wherever if you do decide to do
11 that, then you can ask those questions. Like I said before right now, this is an ongoing
12 investigation, okay? And I would think that people like would be happy that we're out
13 here doing stuff like this.
14
15 F: I'm...I'm...
16
17 TB: To keep our community safe. Because we have no idea who these people are, okay?
18
19 F: Yup. Would it be okay for me as a lawyer to ask them...um if they would like
20 representation right now?
21
22 TB: Not now. No. Because they are not under arrest, they're not being detained, this is...
23
24 F: Okay. Do they understand that they're not being detained if they're not under arrest?
25
26 TB: They don't speak English. None of them.
27
28 F: Well I speak Spanish, so...
29
30 TB: Right. Well when the immigration...when the immigration agents show up you can deal
31 with them, but I'm going to ask you to move along right now until they come by.
32
33 F: Well actually I'll just wait here on this side so that we're out of the way.
34
35 TB: Great. Because I hope nothing dangerous happens because...
36
37 F: Yup. I run along here...
38
39 TB: What's that?
40
41 F: I run along here every morning. I feel pretty safe.
42
43 TB: Really?
44
45 F: Yes.
46

1 TB: Yeah. I wish I had your job to feel safe all the time. We'll be the ones who save you first
2 when it does get dangerous, okay?
3
4 F: *Inaudible*
5
6 TB: So is she working with you now too?
7
8 F: ~~*Inaudible*~~ *She's a lawyer*
9
10 TB: She's a lawyer now too?
11
12 F: She is a lawyer.
13
14 TB: Okay, great.
15
16 F: *Inaudible*
17
18 TB: Would I come down to your office when you're working and barge in to your office and
19 tell you that I'm a police officer and that I'd like to deal with you and, and interrupt you
20 during your job?
21
22 F: *Inaudible*
23
24 TB: I don't think that I would. I don't think I would.
25
26 TB: Tell you what, you ladies will move beyond this cruiser right here because right now, we
27 don't want to have to watch you as well as them.
28
29 F: I'm going to walk this way just to let them know that we're lawyers. I'll say it outside the
30 vehicle.
31
32 TB: At what point...what point do I tell you that you don't need to be communicating with
33 them do you understand right now? You don't represent them.
34
35 F: It's a free country. We can talk to them if we want to. Why not?
36
37 TB: Right, it's a free country with laws and stuff that you should be aware of and I'm
38 trying...I'm in the courts doing my job right now.
39
40 F: I'm in the courts all the time. I'm well aware of the laws.
41
42 TB: What does being in the courts have to do with being out here right now at a traffic stop?
43
44 F: I only understand the law.
45
46 TB: Yup, that's great.

1 F: I was a prosecutor for 4 years.
2
3 TB: Congratulations.
4
5 F: I've been an attorney for 27.
6
7 TB: Great.
8
9 F: Okay.
10
11 TB: I don't even know what's going on right now.
12
13 F: ...even graduated high school.
14
15 TB: What you're doing right now is you're distracting me from my job.
16
17 F: Okay, I'll move down here and I won't distract you.
18
19 TB: Where you were was fine. Where you were was fine. I've seen you the whole time.
20
21 F: You don't have to pay any attention to me.
22
23 TB: I don't want to, trust me. I want nothing to do with you. Keep moving.
24
25 F: *Spanish*
26
27 TB: Okay, keep moving. You said what you have to say.
28
29 F: Seriously?
30
31 TB: Okay this is a scene.
32
33 F: I just want to make sure that they understand that they have the right to not say anything.
34
35 TB: Yup, okay. Alright, let's get away from the van. The scene is not cleared. I...I...
36
37 TB: Bob Burke, I'm sorry I...I just...*inaudible*...we don't have it patted anyone down in here.
38 I have no idea who these people are, so
39
40 IA: You have his ID's, right?
41
42 TB: I've got everything. You do whatever you want to do, we're just trying shoo them off.
43
44 IA: Yeah, alright. Umm they're...they're the head of the legal...*Immigrant Advocacy Project*...*inaudible*...here in Maine.
45 That's why they're...*inaudible*. What are you doing [^]criminally? I would prefer that you
46 take whatever you got to do yourself.

1 TB: Yup. We'll take the driver for without a license, and then everybody else is up to you.
2
3 IA: Okay, Umm there's one guy that's a reinstated...*inaudible*...previous removal. I'll take
4 these two and put them in my car real quick. You're taking the one who's...*inaudible*...
5
6 TB: Yeah.
7
8 IA: That's the driver?
9
10 TB: Yeah.
11
12 IA: Okay. Okay, hold on to him separate for a second.
13
14 TB: Yeah. Hey, do whatever you gotta do man. We're here to help you. Alright?
15
16 IA: No, I appreciate it.
17
18 T2: Here's the other ID's.
19
20 IA: I have one expedite.
21
22 TB: Yeah, is she going to be a problem? As far as...
23
24 IA: Ah I don't think so. I mean you have her battle tough, so why shouldn't you be allowed
25 to...
26
27 TB: I just don't understand why she can't just go away for now, and deal with them later.
28 So...
29
30 IA: Yeah. I'll, I'll talk to her. See if I can move her along.
31
32 TB: I...Ah and then I have two other names that have no ID's in here. Elliot's run everybody
33 I guess.
34
35 IA: Yeah, Elliot did. I have a guy coming up with a van that can take like 2 or 3, but it's just
36 me and my other officer here...
37
38 TB: Well you tell me how many you need and we'll get transport from Portland PD if you
39 need it.
40
41 IA: Yeah, no...*inaudible*.
42
43 TB: You think you'll have more than 4?
44
45 IA: Nah, I'll take three or four at most. But I only have a certain amount of bed space I can
46 use anyway.

1 TB: You're at least taking a couple though?
2
3 IA: Yeah, yeah I hope so. Definitely.
4
5 TB: Alright, okay. Alright.
6
7 TB: 238 grey.
8
9 PR: *Inaudible*
10
11 TB: Homeland Security is on scene.
12
13 PR: *Inaudible*
14
15 TB: It'd be something else if that guy with no license ran her over on her bike by accident.
16
17 T2: Then what would happen.
18
19 PR: *Inaudible*
20
21 TB: You okay? Okay, just step back here.
22
23 TB: Here. Lean up right here.
24
25 O: Uh-huh
26
27 TB: Okay? We're going to hook him up in a second here alright? Just lean right up here,
28 okay?
29
30 TB: Ma'am? As soon as we clear this out you can talk to whoever you want, we just want to
31 make it safe. Do you understand that?
32
33 F: Yeah, no, I understand that. Thank you.
34
35 TB: Okay.
36
37 F: Yup.
38
39 TB: Just so you know, we're going to tow the truck too, so we're going to have to get
40 everybody out at some point. No I mean...I'm just letting you know it's gonna...not now,
41 not now.
42
43 TB: Can you turn around? Turn around.
44
45 PR: *Inaudible*
46

1 TB: No license. No license y o. Okay? Whose van is that?
2
3 O: My...myyy...my friend.
4
5 TB: Ask him whose van it is. Ask him whose van it is. That...we don't even know whose van
6 it is. He doesn't have a license. He's under arrest because he doesn't have a license if you
7 want to tell him that.
8
9 F: Was he driving? Was he the driver?
10
11 TB: Yeah.
12
13 F: *Spanish*
14
15 TB: And tell him...
16
17 F: *Spanish*
18
19 TB: What's your first name?
20
21 F: My name is Beth.
22
23 TB: Okay Beth, can you also tell him that we have to tow the van because they don't...there's
24 no drivers. So
25
26 F: Okay he says that one of them does have a license.
27
28 TB: I brought them all. Which one, can you tell me which one. Can you ask which one.
29 What's his name?
30
31 F: *Spanish*
32
33 TB: No, it's suspended. Yeah I've already run it.
34
35 O: No no.
36
37 TB: I just ran it. I just ran it.
38
39 F: *Spanish*
40
41 TB: Yeah. Out of Virginia.
42
43 F: *Spanish*
44
45 TB: Yeah. Now this is helpful. Thank you. Alright. Now just tell him that he can sit in the
46 front seat of my car and relax. He's gonna be...

1 F: Okay. He's asking if he can just pay...he's gonna have to pay...
2
3 TB: Yeah. He's not gonna...he doesn't have the immigration problems that some of these
4 other guys...he's just getting arrested and he'll be able to bail out. Okay?
5
6 F: Okay. *Spanish*
7
8 TB: She's fine. She's actually helping me now. *We should put her to* ~~Only a quarter of the work.~~
9
10 F: *Spanish*
11
12 TB: Can...can you ask him where does he live? Where does he...I mean I know he's got a
13 temporary place in South Portland, so where's like...where's he call home? I mean not, I
14 know obviously...where? You know? I'm just curious. He doesn't have to tell me, but
15 he's going to have to tell them down at the jail.
16
17 F: *Spanish*
18
19 TB: I've got to put him in my car. Have a seat. Right here pal. Right here. Right here. I'm
20 putting her to work.
21
22 IA: Yeah.
23
24 TB: But hey, that way was probably smoother. She feels like she's helping.
25
26 IA: She is helping? Yeah?
27
28 TB: Yeah I mean because I don't speak Spanish.
29
30 IA: She's already told them not to...to talk to us. I want to call this one out now.
31
32 TB: Yeah, he's a...he's a kind of a shadier...
33
34 IA: He's...he's a reentry. He's the one we have to keep an eye on. He's been removed before
35 so...
36
37 TB: What does that mean? That...
38
39 IA: He's been deported before and he's come back.
40
41 TB: Alright, I'll get him right now. Let me see that picture though.
42
43 IA: *Inaudible*
44
45 TB: Mario? You? Yeah. You going to book him? Step over here.
46

1 TB: Is this him?
2
3 IA: Yeah.
4
5 F: *Spanish*
6
7 TB: Is it Beth? I'm going to put him in, so he doesn't...because if we get hit, I don't want
8 him...*inaudible*...in the car. Turn around and put your legs in. That's the biggest problem
9 that I'm worried about is getting hit. Push yourself...push with your...tell him to push
10 himself up with his legs.
11
12 F: With his head?
13
14 TB: No with his legs.
15
16 F: Oh. *Spanish*
17
18 TB: There we go. You good? I know, it's not comfortable. It could be worse, you could be in
19 the back. I put you in front.
20
21 F: Uh. Okay. *Spanish*
22
23 O: *Spanish*
24
25 F: *Spanish*
26
27 TB: Can you...can you...can you ask him where he had a license before...if he's ever had an
28 American license?
29
30 F: *Spanish*
31
32 O: *Spanish*
33
34 F: Okay. It expired three years ago.
35
36 TB: Yeah, we...I ran them all over the country...*inaudible*. So just so you know, the reason
37 that I stopped them, none of these guys were wearing seatbelts, and they got a cracked
38 windshield. So he's driving...
39
40 F: Yup
41
42 TB: And he's got no license.
43
44 F: Yup
45

1 TB: Nobody in there's got any ID's. No seatbelts on, so I have to go through and ID all of
2 them, and then obviously this where we stand.
3
4 F: Yup, yup, yup. Yeah, no I
5
6 O: *Spanish*
7
8 TB: I don't want to be rude to you ma'am, but I do have a level of anxiety when it comes to
9 dealing with 11 people. I have no idea who they are, and I...and I am concerned about
10 your safety to, you know what I mean?
11
12 F: Yes, no I understand. I...I appreciate that.
13
14 TB: I'm glad you're helping me here, this is good because I don't know any Spanish, so this
15 is good, but you still have to even remember this is still a very active and dangerous
16 situation to be in.
17
18 F: Yeah.
19
20 TB: And this is really their...all I care about is just the driving offense. They're doing
21 everything else, so...
22
23 F: Right, right
24
25 TB: ...They're doing everything else.
26
27 F: Right, right, um
28
29 TB: And I, I think, I don't know, I don't even know who she is, but the way she approached
30 it...
31 *lawyer*
32 F: She, she is a...*inaudible*.
33
34 TB: But yeah, she, she didn't even approach it with the same professionalism as you did, ok?
35 So. You can't just walk up to officers at a traffic stop, I'm not saying you- her- and start
36 demanding information from us, you know what I mean, we're, I mean, we were even at
37 the beginning of our traffic stop. So, that's where we're standing right now.
38
39 F: Yeah
40
41 TB: So maybe you can talk to her a little later and say,
42
43 F: *Inaudible*
44
45 O: *Spanish*
46

1 TB: *Inaudible*...get along with ya, we really are.
2
3 O: *Spanish*
4
5 F: *Spanish*
6
7 O: Mmmm
8
9 F: *Spanish*
10
11 O: *Spanish*
12
13 F: *Spanish*
14
15 O: *Spanish*
16
17 F: Uh huh uh. *Spanish*
18
19 O: *Spanish*
20
21 F: *Spanish*
22
23 O: *Spanish*
24
25 F: *Spanish*. Do you have any idea how much bonds are to get out on a traffic thing?
26
27 TB: Couple hundred bucks. For him? A couple hundred bucks,
28
29 F: *Spanish*
30
31 TB: I think.
32
33 F: *Spanish*
34
35 O: *Spanish*
36
37 TB: Is that this guy?
38
39 T2: *Inaudible*
40
41 F: *Spanish*
42
43 O: *Spanish*
44
45 F: *Spanish*
46

1 O: *Spanish*
2
3 F: *Spanish*
4
5 TB: Let me ask you this, and I don't mean to interrupt you, but, you think, how, they... a
6 couple of them said they've been here for 14 years, you think they are messing with me?
7 They don't know any English. How do they not know any English after being here for 14
8 years? Am I getting messed with?
9
10 F: No, no. I mean, they may, you know, there's there's
11
12 TB: Like, not a stitch. They don't even, nothing. I mean, they must be messing with me
13 right?
14
15 F: Um, no not necessarily, because uh if you think back actually, I, I, if you think back in
16 the history of immigration like you look at say, you know, even in Portland, we had,
17 where Macucci's is now
18
19 TB: Yup
20
21 F: Ummm, that used to be little Italy, it was all these different stores, and you had the, the
22 Greeks had their neighborhood
23
24 TB: But yeah
25
26 F: And and people, and it continues...
27
28 TB: But you don't think that
29
30 F: ...that people work with who they..
31
32 TB: Like where did you learn Spanish so fluently?
33
34 F: I learned, I learned it in school
35
36 TB: Just, just in school?
37
38 F: I, I went to a good school in high school, and then I took some in college
39
40 TB: Yeah
41
42 F: Umm, and then I just started *using it*
43
44 TB: We just run into so many people that lie to us all the time, and you know, we don't even
45 know if they're telling us the truth on as far as they can speak...
46

1 F: Yeah, it is, it is entirely possible. I mean, you know the things that you learn to be able to
2 say, I want, like when I go, I go to Germany
3
4 TB: Yeah.
5
6 F: I can say, drive,
7
8 TB: Yeah.
9
10 F: You know, I can do my numbers, I can say...*inaudible*...I can, I can say (German), I can
11 say (German)
12
13 TB: Did he tell you where he was, like, is he living in Mass, or is he like, does he have
14 immediate family around here?
15
16 F: Umm, I didn't ask.
17
18 TB: OK
19
20 F: I didn't ask. I just um, I didn't ask. But...
21
22 TB: Um, also so you know, what they're doing is not, they're not going to grab everybody in
23 there so but we have to tow the van. So, the...*inaudible*... are just gonna get out and
24 maybe want to talk to, but they're gonna have no...*inaudible*...or we get em, we get em a
25 cab or maybe even drive them to a bus stop, which is down, down, you know
26
27 F: Yeah, yeah, down the street
28
29 TB: You know, so
30
31 F: Oh ok
32
33 TB: I don't know if these guys speak in Spanish but I
34
35 F: And you said that they, he said he's living in South Portland
36
37 TB: Yeah Wainright Street
38
39 F: OK
40
41 TB: They all are, they all are
42
43 F: *Spanish*. South Portland
44
45 O: *Spanish*
46

1 F: OK. *Spanish*
2
3 O: *Spanish*
4
5 F: Oh ok
6
7 O: *Spanish*
8
9 F: *Spanish*
10
11 TB: See that, right, right now what concerns me the most is that now some of these guys are
12 starting to realize that, they're trying to figure out about who's next. You know what I
13 mean
14
15 F: Yup yup, no I know
16
17 TB: In this van and that, that's what makes me nervous about
18
19 F: Yup yeah yeah no I, I know. I've, I've been around
20
21 TB: You know what I mean, so their, their anxiety is, is gonna probably to go through the
22 roof. And I don't blame them. You know, but who knows what they'll do when if they
23 get desperate and that's what makes me nervous.
24
25 F: Yup, yup. Yeah I've, I've, I've been around these before up in Washington county and
26
27 TB: What traffic stops?
28
29 F: Yup
30
31 TB: Yeah
32
33 F: Yup. Well I'm, yup, it's been happening a long time that, you know, folks been stopped
34 at traffic stops
35
36 TB: Yeah I know but not, not to this, not to this extent, I mean its changed in the last less than
37 a year.
38
39 F: I turned, changed, yeah
40
41 TB: Very aggressive, well we, I never had ICE agents
42
43 F: Oh really
44
45 TB: Yeah
46

1 F: So are you, are you being told that you should call ICE?
2
3 TB: No, well I mean it's the right thing to do. We gotta figure out who they are.
4
5 F: But there isn't a policy at the State Police they
6
7 TB: No, what, what I do is, in an attempt to ID everybody, I, I mean, nobody goes not
8 positively ID'd at a traffic stop in Maine. So we have to positively ID them, so you call
9 this hotline numbers that you call to figure out who they are, if they are wanted
10
11 F: If they're wanted
12
13 TB: And then what happens is they say alright, well this number, this name keys something
14 up and you know how it goes. You know more about it than I do. And they, they send
15 the agents out to meet us and, whereas before, like 2 or 3 years ago they wouldn't. You
16 know.
17
18 F: *Inaudible*
19
20 TB: Right, yeah.
21
22 F: Yup, well, change in administrations.
23
24 TB: Yup
25
26 F: Ummm, and uhhhh
27
28 TB: Yup
29
30 TB: It's like, yeah, we just enforce the laws we don't write, we don't write them, we take the
31 calls.
32
33 F: Yup
34
35 TB: We're just, just doing our job. I guess our job kinda changes, as you know
36
37 F: Yup. As you know, same same thing, we're doing ours. It's our job as lawyers
38
39 TB: And I, listen, let me tell you something Beth, I totally appreciate what you guys do as
40 lawyers because I know what it's like to need lawyers, I do. And I really appreciate it, I
41 just, I just want you guys to understand that I don't want you to think that I don't
42 appreciate it, but a traffic stop when I'm trying to this, you know what I mean?
43
44 F: Yeah yeah
45

1 TB: I, I, I totally, totally appreciate what you guys do. I just...*inaudible*...at a traffic stop is
2 all about safety, you know what I mean. And I know you guys have jobs too. That's just
3 as important as my job, you know what I mean? So do you get that?
4
5 F: Yup, yup, yup, yup...*inaudible*.
6
7 TB: And if you could explain that to her...
8
9 F: *Inaudible*...we are all officers of the court...
10
11 TB: Yeah and if you could explain that to her, she's not as easy to talk to as you are. I don't,
12 you guys...*inaudible*.
13
14 F: Yeah, yeah very good. I know I honor my, I share an office space with, with her.
15
16 TB: Yeah, yeah. Give us....
17
18 F: You see, that's why I'm here. I, I..
19
20 TB: Much easier
21
22 F: I was about to go...*inaudible*...I gotta get out, it's a nice day and I, I got a call from her
23
24 TB: Yup
25
26 F: So I guess its an important ...*inaudible*...
27
28 TB: Yeah
29
30 F: *Inaudible*
31
32 TB: We definitely handled this...*inaudible*....
33
34 F: Uhhh, well I think some of it is because I, you know I am an immigration lawyer, uhhh,
35 and she's not.
36
37 TB: True
38
39 F: *Inaudible She does other kinds of law, she was a prosecutor*
40
41 TB: Yeah, she just, she doesn't understand the complexity of it, I don't, I think I don't...
42
43 O: *Spanish*
44
45 TB: Yeah go ahead
46

1 O: *Spanish*
2
3 F: *Spanish*
4
5 TB: Jay who are these guys?
6
7 F: *Spanish*
8
9 TB: ...that they're not taking? OK.
10
11 F: *Spanish*
12
13 TB: ...this too? OK
14
15 F: So, so two of them are...
16
17 TB: Yeah see there's that Virginia drivers license I was talking about that I already ran and
18 he's suspended, that's the guy he's talking to
19
20 F: Yup, Yup
21
22 TB: He cant drive
23
24 F: Yup
25
26 TB: Apparently these guys believe it, so they're, they're gonna leave
27
28 F: *Inaudible*
29
30 TB: I think, I don't know.
31
32 F: Ok, ummm...I might, what I might do is...*inaudible*...because she knows criminal
33 defense more than I do, um, I don't do criminal defense. He had some questions about,
34 you know, just a couple of bond process, how does he get out of
35
36 TB: I can handle, I can answer that, you wanna talk? So what happens, take him down there,
37 he's getting arrested for operating without a drivers license, right?
38
39 F: Yup. *Spanish*
40
41 O: Mmm hmmm
42
43 F: *Spanish*
44

1 TB: No immigration charges, its just a traffic charge, OK. And the reason why he's going to
2 jail is because he doesn't have an address around here that's permanent. We have to be
3 sure that he's gonna, and then bail conditions will be assigned to him.
4
5 F: Yup
6
7 TB: Bail conditions are going to be no...
8
9 F: Bail condition hearing is in jail
10
11 TB: Yeah, yup, they'll call and he'll go ahead in, his bail is going to be basically probably less
12 than a hundred bucks, but no, it will probably be a hundred and sixty, ok. And he'll be
13 able to post that, cuz he's already got an ID that we can use. But a drivers license that
14 he's got a Mexican ID
15
16 F: *Inaudible*
17
18 TB: So, we uh...
19
20 F: *Spanish*
21
22 TB: He could bail himself out
23
24 O: Monday?
25
26 F: *Spanish*
27
28 O: *Spanish*
29
30 TB: And uh, that's it. He, he'll just be assigned bail conditions cant have, cant commit a
31 criminal conduct, that's it
32
33 F: Yup
34
35 TB: And uh, and then he'll get out of the jail and he can take a cab back to South Portland or
36 wherever he wants to go
37
38 F: And and that, do they have bail ^{Commissioner's home} conditions on them like 27-7?
39
40 TB: Yup, yeah. He'll be up in the jail before I get, get home today.
41
42 F: OK, ok, ok. *Spanish*
43
44 O: Mmmm hmmm
45
46 TB: Like I said the only reason why, usually, I just like, if it was you...

1 F: Yup
2
3 TB: I'd write you a ticket...
4
5 F: Ticket, right
6
7 TB: And I would let you drive, but because he doesn't have a Maine address.
8
9 F: Ok
10
11 TB: I gotta take him to jail
12
13 F: *Spanish*
14
15 O: OK
16
17 F: Uummm, *Spanish*
18
19 O: *Spanish*
20
21 F: *Spanish*
22
23 O: *Spanish*
24
25 F: *Spanish*
26
27 O: OK
28
29 F: *Spanish*
30
31 O: OK
32
33 F: *Spanish*
34
35 O: OK. *Spanish*
36
37 F: ...uhhh, taxi, South Portland
38
39 O: OK
40
41 F: OK?
42
43 O: OK. *Spanish*
44
45 F: *Spanish*
46

1 O: *Spanish*
2
3 F: *Spanish*
4
5 O: OK
6
7 TB: Does he get that?
8
9 F: Yup
10
11 TB: And there are people who speak Spanish at the jail so...
12
13 F: Yup, yup. *Spanish*
14
15 O: *Spanish*
16
17 F: *Spanish*
18
19 O: *Spanish*
20
21 F: *Spanish*
22
23 O: Uh huh. *Spanish*
24
25 F: *Spanish*
26
27 O: *Spanish*
28
29 F: *Spanish*
30
31 O: *Spanish*
32
33 F: *Spanish*
34
35 O: *Spanish*
36
37 F: *Spanish*
38
39 O: *Spanish*
40
41 ...background radio....straight in a black mustang racing each other, and he's going over
42 95 miles an hour....inaudible
43
44 F: Yup yup yeah that's right
45

1 TB: Hey Ma'am, another thing I want you to keep in mind too is that we didn't know who
2 you were
3
4 F: Yeah, no no no
5
6 TB: But he showed up and said you're, I mean so that makes it a lot easier for us to
7 understand, and that's another reason why...
8 F: Yeah, yeah, yeah
9
10 TB: You understand that too?
11
12 F: Yeah, yeah no I'm, I, I...
13
14 TB: That's something we didn't have when she just showed up
15
16 F: Yeah, sure, sure of course. No I, I found it um...*founded the Immigrant Legal Advocacy Project*
inaudible....
17
18 TB: Yeah, I pulled him aside and they said who is this lady? And he goes, oh she's legit, she's
19 an immigration lawyer, and I'm like, OK so she's legit. She's an actual lawyer.
20
21 F: Yes
22
23 TB: I mean, you know how many people that would probably would walk
24 by...*inaudible*...yeah I'm a lawyer, you know what I mean, and identify yourself
25
26 F: Yeah, yeah, yeah
27
28 TB: That, that was a...
29
30 F2: My business card's in my pocket, I forgot to grab my bar card
31
32 TB: No, no, no, but that, that's a big, that's a big help though what he did, when he said that,
33 I'm sorry.
34
35 F: Yup, yup, yup
36
37 TB: What's his first name again?
38
39 T2: I've never met him before
40
41 F: Ummm,
42
43 TB: Is it Michael?
44
45 F: Patrick...*Mullen*
inaudible. We actually sat on a umm
46

1 TB: How many ICE agents are there in Maine?
2
3 F: Ohhh, I don't know know, actually I was, I practiced here until 2011 and my husband got
4 a job in Italy, and so we were in Italy for years
5
6 TB: Oh okay.
7
8 F: And I only got back, you know, recently
9
10 TB: Yeah
11
12 F: And so I, and things had changed, while we were gone
13
14 TB: You live here in Portland now?
15
16 F: I live...*inaudible*.
17
18 TB: Yeah where do you live now?
19
20 F: On, behind the...*inaudible*.
21
22 TB: Oh ok yeah, I...*inaudible*.
23
24 F: I live...*inaudible*.
25
26 TB: Yeah were do you live now?
27
28 F: On, behind the...*inaudible*.
29
30 TB: Oh ok yeah, I...*inaudible*.
31
32 F: Yeah, yeah. It's so funny cuz when we first moved here I, I'm from Maine, but I've been
33 down to Massachusetts for the first 15 years that I was practicing,
34
35 TB: Yup
36
37 F: And when we moved up to Maine and we needed to, you know, like buy washing
38 machine for the house and all that stuff, and it was so nice, where we live because when
39 people were saying where do we deliver it to? It's like, you know where the
40 Great...*inaudible*...is? So that's all we had to say
41
42 TB: How do you live there, how do you live there and smell that food all the time, must drive
43 you crazy?
44
45 F: It's uh, it, it, the wind isn't run, the wind is westerly usually...*inaudible*.
46

1 TB: Yeah, cuz I get gas at that Mobile station there, and every time I go in now, I'm like
2 whoa man
3
4 F: Yeah, yeah, yeah. *Inaudible*....only in summer when the windows are open too it's the
5 uh,
6
7 TB: Yeah
8
9 F: *Inaudible*
10
11 TB: We can hear the music from the Maine State Pier nowadays.
12
13 F: *Inaudible*
14
15 TB: Yeah, I live on...*inaudible*... line, out up route, route nine
16
17 F: You are kidding me
18
19 TB: Off Allen Ave, yeah
20
21 F: Cuz we get many state pier, and we have Thompson's Point as well
22
23 TB: Yeah I know, the Maine State Pier, like it's,
24
25 F: Wow
26
27 TB: It's crazy
28
29 F: *Inaudible*
30
31 O: *Spanish*
32
33 F: Oh, um, *Spanish*
34
35 O: *Spanish*
36
37 F: *Spanish*
38
39 TB: Yeah we'll get him out of here in a minute. Soon as they leave, I'm leaving, so
40
41 F: *Spanish*
42
43 TB: Hey, tell him, tell him he can turn his, turn his feet around and hang them out over the...
44
45 F: *Spanish*
46

1 TB: Go ahead
2
3 *Radio transmission*
4
5 TB: *Inaudible*
6
7 O: *Spanish*
8
9 F: *Spanish*. He's saying, um, he's having his arm is hurting so much...*inaudible*.
10
11 O: *Spanish*
12
13 *Radio transmission*
14
15 TB: *Inaudible*...Portland, how's that, better? Just sit like that.
16
17 F2: *Inaudible* *I just want to say I'm sorry we had words earlier...*
18
19 TB: I think Beth will, after this all said and done, you two, you two can talk and, I've talked
20 to Beth, and, and uh, she understands very well
21
22 F2: I respect your job
23
24 TB: Sometimes I'm not sure. That's all. I know, thank you. Better? Yeah? Do you speak...
25
26 O: *Inaudible*
27
28 TB: Do you speak any English?
29
30 O: Little
31
32 TB: Little. A little more than you're letting on
33
34 O: *Laughs*
35
36 TB: Why'd you lie to me like that?
37
38 O: In, in, in my,
39
40 TB: What?
41
42 O: *Speaking broken English*
43
44 TB: So you knew your Texas license was expired?
45
46 O: Ehhhh...

1 TB: Texas licincio?
2
3 O: *Spanish*
4
5 TB: So, these guys are gonna go back, what do you think about me heading outta here, getting
6 him down to the jail? Tow truck's here, how many more are you taking?
7
8 IA: Uh, well, we will be leaving shortly cuz these guys say they have court...*inaudible*.
9
10 TB: Yeah
11
12 IA: I'm going to leave shortly
13
14 TB: Me and Beth are best friends now too,
15
16 IA: That's not a bad break
17
18 TB: Nah...*inaudible*.
19
20 IA: *Inaudible*
21
22 TB: *Inaudible*...she called Beth down and Beth was in the area came down, I didn't know
23 ...*inaudible*...just the way she approached the whole thing before Beth even showed up
24 is...
25
26 IA: Yeah, I know
27
28 TB Yeah, if I get him down to the jail, he's starting to complain about being sore...
29
30 IA: Yeah the other guys complaining about taking a piss so...*inaudible*
31
32 TB: Yup, yup, so that, Dickie's here's for the van, they can probably solo express whoever
33 you all want
34
35 IA: Alright,yeah we're gonna roll out
36
37 (*Inaudible – cant distinguish TB & IA*)
38
39 IA: ...so, we'll take the two in the van, and uh, probably be outta here
40
41 TB: Alright. Pretty good, pretty good... *inaudible*.
42
43 IA: Yeah, decent guy. *Inaudible*
44
45 TB: OK, alright.
46

1 IA: *Inaudible*
2
3 TB: Ooh. Yeah I don't want to drag you guys out on your day off.
4
5 IA: *Inaudible*
6
7 TB: *Inaudible*...alright, so it's a, it's illegal reentry
8
9 IA: *Inaudible*...he's subject to prosecution in U.S. District Court.
10
11 *Inaudible*
12
13 TB: Then they'll kick him out though, right?
14
15 IA: Yeah, and then he'll have a 20 year ban if he comes back after that. Get prosecuted
16 again, more years, so.
17
18 TB: Thanks for coming out
19
20 IA: Yeah
21
22 TB: See ya soon
23
24 IA: Yup...*inaudible*
25
26 T2: *Inaudible*...thank you.
27
28 TB: Alright, see ya tomorrow. Oh you're not working tomorrow?
29
30 *Radio transmission*
31
32 TB: You want, you want me to pull Dickie up there?
33
34 O: *Spanish*
35
36 TB: Stay away from that lady, she's bad.
37
38 PR: 238 Gray....238....1046 adult male to Cumberland County 7688 and Homeland
39 Security's got the rest of them...239 will be standing by...*inaudible*
40
41 TB: Hang on...*inaudible*...so it's, it's right around....
42
43 END RECORDING
44
45
46