

1 STATE OF ILLINOIS)
) SS:
2 COUNTY OF MCHENRY)

3 IN THE TWENTY-SECOND JUDICIAL CIRCUIT
4 MCHENRY COUNTY, ILLINOIS

5 VILLAGE OF PRAIRIE GROVE)
)
6 vs.)
) No. 12 OV 2957
7 ERIC D. PURYEAR,)
)
8 Defendant.)

9
10 ELECTRONICALLY RECORDED Report of
11 Proceedings had in the above-entitled cause before
12 The Honorable Charles P. Weech, Judge of the Circuit
13 Court of McHenry County, Illinois, on the 16th day of
14 January, 2013, in the McHenry County Government Center,
15 Woodstock, Illinois.

16 APPEARANCES:

17 COWLIN NAUGHTON CURRAN & COPPEDGE, by:
18 MR. JUSTIN L. HANSEN,

19 on behalf of the Plaintiff;

20 PURYEAR LAW PC, by:
21 MR. ERIC MAIL,

22 on behalf of the Defendant.
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E X H I B I T S

DEFENSE EXHIBIT NO.

REC'D

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1 THE COURT: Village of Prairie Grove versus
2 Puryear. The matter comes before the Court on motions.
3 Have the attorneys state their names for the record.
4 For the Village.

5 MR. HANSEN: Justin Hansen for the Village of
6 Prairie Grove.

7 THE COURT: Counsel?

8 MR. MAIL: Eric Mail for Eric Puryear, your Honor.

9 THE COURT: How do you spell your last name, sir?

10 MR. MAIL: M-a-i-l, like the U.S. Mail.

11 THE COURT: Thank you.

12 Before we begin the -- we have a couple
13 motions. We have a defendant's motion to reconsider a
14 denial of deposition and then attached defendant
15 amended motion for leave to conduct depositions.

16 Let's start with that first and then we'll
17 proceed with any additional motions.

18 MR. MAIL: Your Honor, as laid out -- Your Honor,
19 before we begin, just a brief housekeeping matter. I
20 believe that for the purpose of the motion, it would
21 make sense to exclude witnesses who would later
22 potentially testify at the motion to suppress.

23 THE COURT: Very good.

24 MR. MAIL: I would ask to do so now.

1 THE COURT: Any witnesses that are present, I'd ask
2 to please step outside. You will be excluded at this
3 time, anyone who may be testifying, please. Thank you.

4 Those that remain in the courtroom, again I'm
5 going to admonish, do not discuss anything that's
6 discussed here in the courtroom with those witnesses.
7 If you do, you are subject to being held in contempt of
8 this court.

9 Thank you.

10 MR. MAIL: And just to clarify for the record, your
11 Honor, I'll ask Mr. Puryear to remain, even though he
12 would be testifying.

13 THE COURT: Obviously he is a party to the action.
14 He shall remain.

15 MR. MAIL: Thank you, your Honor.

16 And at the time the motion for depositions was
17 brought, I don't believe that the Village had yet
18 responded to all of my freedom of information requests.
19 One of the problems here is that the responses have
20 been incredibly inconsistent. Given the importance in
21 this case of what was said, what actually transpired
22 and the fact that ordinarily there is video and audio
23 of these things, and adding to that the fact that we
24 haven't received any sort of audio, which we would

1 ordinarily receive if things had been done according to
2 the ordinance, the local ordinance, and the statute
3 here, I believe the depositions are appropriate. But
4 since the motion for depositions was heard, additional
5 evidence has come to light which shows the officer here
6 in this case making five consecutive stops of Ford
7 pickup trucks or Ford vehicles of some manner, all of
8 which were resolved very quickly with the exception of
9 Mr. Puryear's traffic stop here.

10 Apparently no citations were issued in any of
11 those cases. It's highly suspicious. Again, I direct
12 the Court's attention to the fact that there's been no
13 audio submitted, no sort of dispatch audio, no audio
14 from the officer, where my understanding the ordinance,
15 local ordinance, is that they are to have audio
16 recording equipment and video recording equipment on
17 during the time of the stop. All of that and the heavy
18 dependence in this case upon what happened at the stop
19 I think makes it important and necessary that
20 depositions occur.

21 Now, depositions certainly would be -- the
22 cost of those depositions would certainly be covered by
23 the defendant in this matter. There's no objection to
24 that. But, your Honor, given the unusual nature of the

1 responses to the FOIA requests, the importance of
2 knowing exactly what was happening at that time, I
3 believe that depositions are really the only way to
4 arrive at what happened here.

5 THE COURT: Mr. Hansen, response.

6 MR. HANSEN: Most of what Mr. Mail just said was
7 argued in the initial motion for the motion for this
8 Court to allow him to give depositions. The fact of
9 the matter is they think that the video that was first
10 not available due to a software or hardware malfunction
11 and the fact that it was eventually produced, the
12 malfunction was resolved, creates some sort of issue
13 that requires depositions.

14 There is nothing in the amended motion, there
15 is nothing in the motion to reconsider, just like there
16 was nothing in the original motion, which would warrant
17 this Court allowing a very unusual discovery technique
18 in this kind of case. The fact remains that this is a
19 petty offense. Depositions aren't allowed in
20 misdemeanor cases. They're rarely allowed in felony
21 cases. There is nothing here to suggest that it's
22 necessary in this particular case.

23 Regardless of other traffic stops, regardless
24 of ordinances that aren't cited, regardless of evidence

1 that's not before this Court, the fact of the matter
2 is, the only issue in this particular case is one
3 particular seatbelt ticket issued to this defendant.

4 They filed a motion to suppress. This Court
5 will hear that. I suspect there will be a trial. A
6 Court will hear that as well. There's no reason in
7 this particular case to have a deposition or
8 depositions as pretrial discovery for this kind of
9 petty offense.

10 MR. MAIL: Your Honor, just to briefly respond to
11 that.

12 THE COURT: Certainly.

13 MR. MAIL: The notion that depositions aren't
14 allowed, certainly the rules provide that they're not
15 typically allowed, but in this -- upon a showing of
16 good cause, this Court may allow them in a case like
17 this and others. I think that, your Honor, I stand by
18 my arguments earlier based on the very unique and
19 mysterious situations here regarding the audio, the
20 lack thereof, and the importance of what was said at
21 the stop, I believe that depositions are important and
22 necessary.

23 THE COURT: Well, there's no question that Supreme
24 Court Rule 201(h) does apply in matters involving

1 village ordinance violations. However, the Court has
2 to look closely at whether there has been good cause
3 shown. Obviously the Court must ensure that justice is
4 served and the accused's rights are protected.
5 However, I must also do a balancing test of those
6 rights against the cost of deposition.

7 While you state that certainly you're covering
8 the cost of depositions, you're not covering all the
9 costs that are incurred. The man-hours that are lost,
10 the wages that are lost, the Village expense as well,
11 and the tax on the taxpayer as well. I'd have to know
12 -- I'd have to look to see whether the motion does give
13 good cause for depositions to be done. And, again, it
14 appears that part of this -- from your motion, it
15 appears that you believe that part of this may be
16 racially motivated. That comes across on paragraph ten
17 of the motion for deposition alleging that Officer Page
18 was somewhat racially motivated to give the ticket to
19 the defendant in this case.

20 Again, there are other actions and tribunals
21 to bring that cause, a 1983 action example. Again, I
22 -- under a local ordinance charge, a seatbelt
23 violation, I just do not believe that a deposition is
24 warranted. Your arguments are inconsistent. You first

1 talk about racially motivated and then you talk about
2 motivated, I guess, auto-manufacturer based? That
3 somehow Ford is involved, there's four Ford trucks
4 involved being pulled over? I don't believe that Ford
5 has any special or protected status that I'm aware of.
6 I'm somewhat confused by your arguments in your
7 motions.

8 As to your reference to the Kladis decision,
9 which you do reference as well, the 2011 Illinois
10 Supreme Court case which does involve destruction of
11 video, I acknowledge that the Supreme Court clearly did
12 find that video evidence is important, but the remedy
13 created by Kladis is barring testimony of what appeared
14 in the video and the audio. A deposition is not an
15 appropriate remedy that's authorized by Kladis, and I
16 do not believe there's been good cause shown.
17 Therefore, the deposition, right to deposition, is
18 hereby denied.

19 MR. HANSEN: Thank you, Judge.

20 THE COURT: Thank you.

21 Let's proceed on the next motions. The motion
22 to suppress and a Section 619 motion to dismiss.
23 Parties ready to proceed?

24 MR. MAIL: Yes, your Honor.

1 THE COURT: All right. Very good.

2 MR. HANSEN: Just for the record, Judge, we are
3 ready. I'll object to anything in this particular
4 proceeding being heard under a Civil Practice action,
5 Section 2-619. This is an ordinance violation. As the
6 Courts are clear, ordinance violations are in a sense
7 quasi-criminal. In this particular case, the ordinance
8 that's at issue simply codifies the vehicle code, it
9 codifies a petty offense in the vehicle code. I think
10 that makes it clear that this is a criminal matter.

11 Section 2-619 is a civil code. It applies to
12 dismissing civil complaints. There isn't a civil
13 complaint that's at issue here. I don't think it's
14 appropriate for this Court to hear a Section 2-619
15 motion to dismiss.

16 MR. MAIL: Your Honor, in response, --

17 THE COURT: Yes.

18 MR. MAIL: -- whether or not it comes under 2-619,
19 I think the substance of the motion would be treated
20 similarly in a case like this. Were the Court to
21 suppress the citation itself based on a violation of
22 Mr. Puryear's constitutional rights, there would be
23 essentially no case, no grounds to have a case, at that
24 point per the Village, and so whether it comes under 6

1 -- or 2-619 or not, I'm still asking this Court or
2 requesting this Court to dismiss the action should it
3 find that there's a good reason for a motion to
4 suppress here and ultimately suppress the citation.

5 THE COURT: Your response, Mr. Hansen.

6 MR. HANSEN: I think that the words we use in the
7 citations we make do matter. In this particular case,
8 Mr. Puryear's counsel, although Mr. Puryear has chosen
9 to cite Section 2-619, there's a standard of proof
10 that's required in that. Frankly, the criminal code
11 has its own section referencing motions to dismiss and
12 the basis for a motion to dismiss. None of those are
13 alleged here.

14 They're not the same. If you're dismissing a
15 civil action, you're dismissing a criminal action,
16 there's various reasons for both. The only reason that
17 this particular pleading asks the Court to dismiss the
18 citation is because of Section 2-619, which again
19 doesn't apply.

20 THE COURT: I agree, 2-619 does not apply in this
21 case. I agree the remedies are similar and obviously
22 if I grant the motion to suppress, there are certain
23 remedies and certain parts of evidence that obviously
24 are not going to come in. It's going to make it very

1 difficult for the -- I would assume for the Village to
2 proceed on their case. Again, we will proceed
3 underneath the criminal statute. 2-619 does not apply.

4 You may proceed. Are you ready to call your
5 first witness?

6 MR. MAIL: I am, your Honor.

7 THE COURT: Very good. You may call that first
8 witness.

9 MR. MAIL: At this time I'm going to call Laura
10 Jonasen.

11 THE COURT: All right.

12 MR. HANSEN: May I object and approach.

13 THE COURT: You may. Could we have a spelling of
14 Miss Jonasen's name.

15 MR. HANSEN: It's J-o-n-a-s-e-n.

16 THE COURT: Yes.

17 MR. HANSEN: Judge, there's nothing that I've seen
18 in the particular motion at this point which would show
19 testimony of a village clerk or a village records
20 officer is in any way relevant to the motion to
21 suppress. I'm not saying that it's impossible. I'm
22 saying it doesn't appear to be relevant on the motions
23 before you, and before we ask a Village employee to
24 testify under the circumstances, I would simply ask for

1 an offer of proof as to what it is she's going to say
2 or might say that would be relevant to this.

3 MR. MAIL: Your Honor, she will be able to testify
4 and actually authenticate the video that I plan to
5 introduce in this matter, which is critical to the
6 motion to suppress itself, whether it shows the action
7 of the officer. She's the person that I received the
8 video from. She has the ability to be sure that it's
9 authenticated.

10 THE COURT: I will limit her testimony to that and
11 that exclusively as to the video. She shall be allowed
12 to testify.

13 MR. MAIL: Thank you, your Honor.

14 COURT SECURITY OFFICER: What's her name?

15 MR. MAIL: Laura Jonasen.

16 THE COURT: Jonasen.

17 MR. HANSEN: Counsel, are you just showing the
18 video for Mr. Puryear's stop?

19 MR. MAIL: No, I'm showing the entire video. It's
20 important.

21 MR. HANSEN: Okay.

22 THE COURT: Ma'am, you may approach, if you would,
23 please. I'm going to have you approach my clerk and
24 raise your right hand to be sworn. Thank you.

1 THE CLERK: You do solemnly swear that the
2 testimony you're about to give is the truth, the whole
3 truth and nothing but the truth, so help you God?

4 THE WITNESS: I do.

5 THE COURT: You can put your hand down.

6 Ma'am, have a seat in the witness chair, if
7 you would, please, the chair with the microphone in
8 front of it. Looks like you have many things. Just,
9 yeah, place those there, if you would, please. Thank
10 you, ma'am.

11 You may be seated in the chair. Again, keep
12 your voice up so we can all hear you. If a question
13 does call for a yes or no answer, you must respond yes
14 or no. I have to have a verbal response. All right?

15 THE WITNESS: Yes.

16 THE COURT: Thank you.

17 You may proceed, Counsel.

18 MR. MAIL: Your Honor, may I approach on just one
19 other matter.

20 THE COURT: You may. Yes, Attorney Mail.

21 MR. MAIL: Your Honor, I'll also be asking her to
22 authenticate the police reports that their office
23 supplied my office in this matter. I neglected to
24 mention that as well.

1 MR. HANSEN: I have a problem with calling the
2 witness to authenticate a video or report irrelevant to
3 this particular issue. There's one traffic stop that
4 is at issue in this particular case. The issue is
5 whether or not the officer had probable cause or
6 reasonable, articulable suspicion to stop the vehicle
7 that Mr. Puryear was riding in. Videos of other
8 traffic stops or reports that have to do with other
9 traffic stops aren't relevant and, frankly, are only
10 raised in a cursory way in the motion.

11 The issue is simply whether or not there's a
12 Fourth Amendment violation with regard to this
13 particular traffic stop. I'll be objecting, and I'll
14 make the objection now, to any evidence, whether it's
15 through Miss Jonasen or anyone else, that has to do
16 with any other traffic stop.

17 If Counsel intends to ask questions about any
18 other traffic stop or evidence that (indiscernible) in
19 any other traffic stop, I'll object to every single
20 question. It's not relevant to this particular issue.

21 MR. MAIL: Your Honor, I disagree that it's
22 irrelevant. Essentially the standard of relevance is
23 having any tendency to make an issue that's in
24 contention more or less likely and the issue is you

1 have a just -- or good cause for effecting the traffic
2 stop to begin with. The video's going to show I
3 believe that he pulled over four Ford trucks for a
4 duration of less than two minutes each and that
5 undercuts, -- you know, certainly if he's doing the
6 same thing here, but for a request for his badge
7 number, I think that undercuts whether or not he even
8 witnessed any sort of violation, where in all four of
9 those other cases, no citation was issued.

10 I think I should be able to explore that with
11 the officer. It's highly relevant as to what happened
12 here, whether there was a violation of Mr. Puryear's
13 constitutional rights.

14 THE COURT: Response.

15 MR. HANSEN: The issue isn't any constitutional
16 right. The issue is whether the Fourth Amendment was
17 violated when Officer Page stopped the vehicle that
18 Mr. Puryear was riding in and eventually gave him the
19 citation. The issue -- he could have stopped four
20 other cars that could have been all exactly the same
21 color, make and model. That doesn't mean that he
22 didn't have reasonable, articulable suspicion for this
23 particular traffic stop.

24 Without more, there's no reason to bring in

1 any sort of evidence that has anything to do with any
2 other traffic stop. Otherwise, Judge, by extension by
3 Counsel's argument, you could have an officer on the
4 scene in a DUI case and bring in evidence of every
5 other DUI arrest or investigation that he's done
6 because that might somehow be probative to what he did
7 in this particular case. It's not.

8 The issue is whether this particular
9 defendant's Fourth Amendment rights were in some way
10 implicated when Officer Page stopped this particular
11 defendant. That's the only thing that's at issue
12 before the Court right now. It's the only thing that
13 Miss Jonasen or anyone else should be able to testify
14 about.

15 MR. MAIL: I would agree --

16 THE COURT: This stop -- Sorry, Counsel. I
17 disagree. This will be narrowly construed, this stop,
18 this event. I'm not opening up the door.

19 MR. MAIL: Your Honor, for the record -- May I make
20 a record.

21 THE COURT: You may make a record.

22 MR. MAIL: Essentially I expect that the video
23 would demonstrate that Officer Page pulled over four
24 other Ford pickup trucks, one before, three following,

1 all of which, again, did not result in a citation. I
2 think it's relevant to the issue of whether or not he
3 saw something here which is relevant to the issue of
4 whether or not his Fourth Amendment rights were
5 violated.

6 But, moreover, that is not the only issue.
7 The other issue as is very clear in my complaint -- or
8 in my motion to suppress here, it's that Mr. Puryear's
9 First Amendment rights were violated, that this was an
10 action in retaliation for -- again, this is an officer
11 saying here's your license back, you're free to leave.
12 And then a request is made for the badge number at
13 which point the officer takes the license again, unlike
14 the other incidents where he's pulling over Ford pickup
15 trucks. And in response to his valid request for the
16 officer's badge number, he instead gives the citation.
17 I believe the other traffic stops illustrate that
18 that's what's going on here.

19 THE COURT: This is a seatbelt violation. That's
20 as far as we're going here. If you want to file other
21 causes of action, then it may be relevant in those
22 cause of action. It's not relevant in a seatbelt
23 violation. I'm sorry, no.

24 Proceed accordingly.

1 MR. HANSEN: For the record, we will stipulate to
2 the video of this particular traffic stop, that the
3 video contained there is -- was needed for
4 authentication, particularly if (indiscernible) have
5 Miss Jonasen to testify (indiscernible).

6 THE COURT: So stipulated to.

7 MR. MAIL: Stipulate to the authenticity of the
8 traffic stop. I still need her to authenticate the
9 police reports and --

10 THE COURT: Very good. You may proceed.

11 MR. MAIL: Good afternoon, Miss Jonasen. Please
12 state and spell your full name for the record.

13 THE WITNESS: Laura Jonasen, J-o-n-a-s-e-n.

14 LAURA JONASEN,
15 called as a witness herein, having been first duly
16 sworn, was examined and testified as follows:

17 DIRECT EXAMINATION

18 BY MR. MAIL:

19 Q Excuse me, Miss Jonasen. And where do you
20 work?

21 A The Village of Prairie Grove.

22 Q What's your position there?

23 A Records clerk.

24 Q And in your position as the records clerk,

1 have you had occasion to receive freedom of information
2 requests from my office?

3 A Yes.

4 Q Have you responded to those requests?

5 A Yes.

6 Q On October 26th, do you recall sending a
7 request or an answer to one of my requests including in
8 that response reports and copies of citations relating
9 to citation number P031-3014?

10 A I don't have it in front of me. There has
11 been several FOIAs.

12 Q I'll phrase it differently. Do you recall
13 supplying my office with information relating to a
14 traffic stop on Mr. Puryear by Officer James Page?

15 A Yes.

16 MR. MAIL: Your Honor, may I approach the witness.

17 THE COURT: You may.

18 BY MR. MAIL:

19 Q I'm handing you what I've marked as
20 Defendant's Exhibit 1. Do you recognize that document?

21 A Yes.

22 Q I'll have you flip through. Do you recognize
23 all the pages that are attached?

24 A Yes.

1 Q You would agree that there's a patrol log, a
2 copy of a citation, and notes on the back of that
3 citation, along with a picture taken by Officer Page --

4 A Yes.

5 Q -- of the back of a Ford F-150 and bumper
6 sticker.

7 A Yes.

8 Q And all of those are -- were included in the
9 records that you maintain as part of your duties for
10 the Village.

11 A Yes.

12 Q You'd agree that each of the pages attached to
13 that letter are complete and accurate copies of those
14 exhibits, --

15 A Yes.

16 Q -- of those documents.

17 MR. MAIL: Your Honor, at this time I'd seek to
18 admit Defense Exhibit 1 into evidence.

19 MR. HANSEN: Objection.

20 THE COURT: No objection or objection?

21 MR. HANSEN: I have an objection, Judge.

22 THE COURT: Basis of the objection.

23 MR. HANSEN: I have an objection to what will be
24 pages one, two, three, and four of the exhibit. Pages

1 one, two, three and four of the exhibit are the Freedom
2 of Information Act requests and the Village's response.
3 There's no indication that the request itself or the
4 written letter from the Village after the stop occurred
5 are in any way relevant. I don't have any objection to
6 the patrol log, the citation, the officer's notes or
7 the picture coming in. I think those are relevant.

8 THE COURT: Response.

9 MR. MAIL: We can limit the exhibit to the patrol
10 log, the citation, the notes and the picture, your
11 Honor.

12 THE COURT: Based on the limitation, the Court will
13 allow the exhibit to come in.

14 MR. HANSEN: Thank you, Judge.

15 THE COURT: Thank you.

16 MR. MAIL: Thank you, Miss Jonasen. I have no
17 further questions at this time.

18 MR. HANSEN: No questions.

19 THE COURT: Mr. Hansen, any questions? Very good.

20 Ma'am, you may step down. Do not discuss your
21 testimony with anyone else, please. Thank you, ma'am.

22 You may call your next witness.

23 MR. MAIL: At this time, your Honor, I'll call
24 Officer James Page.

1 THE COURT: Officer, you may approach, if you
2 would, please. Have you stand in front of my clerk and
3 raise your right hand to be sworn.

4 THE CLERK: You do solemnly swear that the
5 testimony you're about to give is the truth, the whole
6 truth and nothing but the truth, so help you God?

7 THE WITNESS: I do.

8 THE COURT: You may put your hand down, sir. Have
9 a seat in the witness chair, the chair with the
10 microphone in front of it. Keep your voice up. Once
11 you do take that seat, make sure that you answer all
12 questions put to you. If it does call for a yes or no
13 answer, make sure that you answer yes or no. I cannot
14 accept a nod of the head.

15 Is that understood, Officer?

16 THE WITNESS: I do, sir.

17 THE COURT: Very good.

18 You may proceed.

19 MR. MAIL: Your Honor, it will be one moment. I
20 need to cue the video.

21 THE COURT: Not a problem.

22 MR. MAIL: Officer Page, good afternoon. Please
23 introduce yourself by stating and spelling your full
24 name.

1 THE WITNESS: My name is James Page, P-a-g-e.

2 JAMES PAGE,

3 called as a witness herein, having been first duly

4 sworn, was examined and testified as follows:

5 DIRECT EXAMINATION

6 BY MR. MAIL:

7 Q And, Officer, on October 21st of 2012, you
8 were working patrol?

9 A Yes.

10 Q For the Village of Prairie Grove, correct?

11 A Correct.

12 Q And at about 4:45, you made a traffic stop on
13 a truck, a Ford F-150, where Mr. Puryear was the
14 passenger; is that right?

15 A Yes.

16 Q Where had you been -- where had you been
17 stationed while you were working patrol?

18 A I was -- when I saw him, I was traveling
19 eastbound on Route 176.

20 Q You were driving eastbound.

21 A I was driving eastbound.

22 Q Now, in your squad car, it's equipped with
23 audio and video recording devices?

24 A Yes.

1 Q Ordinarily when you make a traffic stop, when
2 do you activate those?

3 A I have nothing -- it activates automatically
4 when the lights turn on.

5 Q In this case you were traveling eastbound.
6 The vehicle Mr. Puryear was in was traveling westbound.
7 So you would have had to make a turn to then pursue the
8 F-150.

9 MR. HANSEN: Object to the leading nature of the
10 question.

11 THE COURT: Sustained.

12 MR. HANSEN: Thank you.

13 BY MR. MAIL:

14 Q How did you pursue the F-150?

15 MR. HANSEN: Objection, assumes facts not in
16 evidence.

17 THE COURT: Sustained.

18 BY MR. MAIL:

19 Q What did you do once you noticed Mr. Puryear
20 and the vehicle he was travelling in?

21 A I activated my lights to make a U-turn in the
22 roadway and then I caught up to the vehicle.

23 Q So when you activated your lights, that's when
24 the video would have started.

1 A I believe so -- Well, I don't know that for
2 sure. I don't know when I activated my lights on this.

3 Q So you don't remember now where -- when you
4 activated your lights.

5 A Correct. It is my -- it's my recollection --

6 THE COURT: Sir, no question pending.

7 THE WITNESS: Okay. Sorry.

8 BY MR. MAIL:

9 Q Did you increase your speed?

10 A Yes.

11 Q At some point did you lose visual contact of
12 the truck?

13 A Maybe momentarily.

14 Q Momentarily. How long would you say
15 momentarily was?

16 A Maybe ten seconds during my initial turn I
17 would have -- I regained visual on the vehicle. I'm
18 looking at other vehicles as I'm making my U-turn, and
19 just for a few seconds as it went over the crest of a
20 hill, I was catching up to it.

21 Q And where -- where did you make your U-turn,
22 where do you lose this visual contact?

23 A Probably around -- on Route 176 in the area of
24 Smith Road.

1 Q Where are you claiming to have seen
2 Mr. Puryear initially?

3 A Around Route 176 in the area of Smith Road.

4 Q And you note that you were driving at the
5 time?

6 A Yes.

7 Q Do you know what the speed limit is on 176?

8 A At that area, it's 45.

9 Q Were you traveling at the speed limit?

10 A I was going about 30 miles an hour at that
11 point.

12 Q Did you have traffic in front of you?

13 A Not that I remember.

14 Q And yet you were going 15 under the speed
15 limit?

16 A Correct.

17 Q Did you notice any other cars on the other
18 side heading westbound besides the truck?

19 A There were other cars, yes.

20 Q How would you describe the stop? Where did
21 you ultimately pull the F-150 over?

22 A I tried to stop the vehicle about 500 feet
23 east of Route 31. I was on Route 176. The vehicle was
24 in the left-turn lane to go south onto Route 31. I

1 pulled behind. My red lights -- my emergency lights
2 were on. The vehicle then pulled over to the right
3 shoulder, drove up several hundred feet on the right
4 shoulder, and then went north on Route 31 before
5 stopping.

6 Q You got out of your car.

7 A Yes.

8 Q You went up to the passenger window.

9 A Correct.

10 Q What do you do then?

11 A I explained to the passenger that the reason I
12 stopped him is I did not see him wearing his seatbelt,
13 and asked for identification.

14 Q Did you also ask for the driver's
15 identification?

16 A Yes, after I asked for the passenger's.

17 Q What did you do then?

18 A I went back to my vehicle; I checked them;
19 they were clear, no outstanding warrants; and then went
20 back to the vehicle.

21 Q Did you return the license?

22 A Yes.

23 Q And registration. You returned each person's
24 license.

1 A Yes.

2 Q So at that point -- Well, let me step back.

3 When you returned the license, you explained
4 that -- when you returned the license, what did you
5 say?

6 A I said I did not see you wearing your
7 seatbelt, but you have it on now. And I said, I'm
8 giving you a verbal warning. Thank you both for your
9 courtesy, and I turned to walk away.

10 Q So at that point was the stop over?

11 MR. HANSEN: Objection, calls for a legal
12 conclusion, whether or not --

13 THE COURT: Sustained.

14 MR. HANSEN: Thank you.

15 BY MR. MAIL:

16 Q At that point in your mind was Mr. Puryear and
17 the driver of the vehicle, were they free to leave?

18 MR. HANSEN: Objection. What was in the officer's
19 mind is not relevant.

20 BY MR. MAIL:

21 Q Did you intend to prevent --

22 THE COURT: Sustained.

23 BY MR. MAIL:

24 Q Did you intend to prevent them from leaving?

1 MR. HANSEN: Objection, calls for speculation.

2 MR. MAIL: What he intended is not speculation,
3 your Honor.

4 THE COURT: Sustained.

5 BY MR. MAIL:

6 Q If the vehicle had driven off, would you have
7 attempted to stop it?

8 MR. HANSEN: Objection, calls for speculation.

9 THE COURT: Sustained.

10 BY MR. MAIL:

11 Q Did you leave at that point?

12 A I turned to walk away.

13 Q And what happened then?

14 A Mr. Puryear, the man sitting next to you, said
15 "I want your name and badge number. I'm making a
16 complaint."

17 Q You recall the words "I'm making a complaint"?

18 A Yes.

19 Q So what did you do in response?

20 A I turned around to identify myself to
21 Mr. Puryear and I asked for his identification back and
22 went back to my --

23 Q What was the reason for asking for his
24 identification back?

1 A I was going to write him a citation for not
2 wearing a seatbelt.

3 Q Let's step back for a moment. When you got to
4 the car and walked to the passenger window, did you
5 observe what Mr. Puryear was wearing?

6 A Yes.

7 Q What was that?

8 A He either had a tan shirt or a black shirt. I
9 can't remember which one. I believe it was a
10 sweatshirt, but I don't know that for sure.

11 Q Did you notice anything else about any of the
12 other windows of the F-150? Were they tinted in any
13 way?

14 MR. HANSEN: Objection, leading.

15 THE COURT: Sustained.

16 BY MR. MAIL:

17 Q Were the windows tinted?

18 A The back window of the vehicle was completely
19 blacked out with a sticker for some tattoo company, but
20 the side windows were not.

21 Q Was the side window on the passenger -- the
22 rear window on the passenger side, was that tinted?

23 A I don't recall.

24 Q You don't remember.

1 A I don't remember if it was or not.

2 Q What about the driver's side?

3 A It was not. I don't recall. I remember being
4 able to see in very clearly.

5 Q You noted the rear window was tinted and had a
6 decal on it?

7 A Yes, the back window of the vehicle had -- was
8 completely tinted. You couldn't see through it, and it
9 had a tattoo -- or a sticker on it for a tattoo
10 company.

11 Q After you took -- now, you only took
12 Mr. Puryear's driver's license the second time, right?

13 A Yes.

14 Q And when you took it, you drew up the
15 complaint -- or the citation?

16 A Correct.

17 Q During this time -- Well, what amount of time
18 passed?

19 A I believe start to finish -- and literally
20 start to finish on this traffic stop was about seven
21 minutes.

22 Q Did Mr. Puryear commit a crime by asking for
23 your badge number?

24 A No.

1 Q Is it your standard policy to change a written
2 warning to a citation upon being asked for your badge
3 number?

4 MR. HANSEN: Objection. It's argument, irrelevant.

5 THE COURT: Overruled.

6 You may answer of any policy you're aware of.

7 THE WITNESS: Can you repeat that, sir.

8 BY MR. MAIL:

9 Q Is it your standard policy to issue a citation
10 upon being asked for your badge number?

11 A It's not my policy, no.

12 Q Why did you do it here?

13 A Attitude means everything and Mr. Puryear --
14 Mr. Puryear was not giving me the -- was not respectful
15 throughout this arrest, and if I'm going to take a
16 complaint after giving him a favor by letting him go,
17 then I'm going to write a citation for that.

18 Q In writing the citation, you understood that
19 would delay Mr. Puryear leaving that area.

20 A Momentarily, yes.

21 THE COURT: Counsel, any further questions?

22 MR. MAIL: Yes, your Honor. I'm cuing up the
23 video.

24 THE COURT: Oh, all right. Thank you.

1 MR. MAIL: May I approach.

2 THE COURT: You may.

3 Mr. Hansen, you may approach also --

4 MR. HANSEN: Thanks, Judge.

5 THE COURT: -- to view.

6 MR. MAIL: I'm not sure of the best place to --

7 THE COURT: There is no real good spot.

8 MR. MAIL: -- place the video so everyone can see
9 it. Are you able to see --

10 A VOICE: Yes.

11 MR. MAIL: -- (indiscernible) set back there?

12 A VOICE: I can see.

13 THE COURT: I'll step around. It'll just be
14 easier.

15 A VOICE: Judge, can I stand out front.

16 THE COURT: You may.

17 MR. MAIL: All right. I'm going to play now the
18 video. For the record, I'm now playing the video that
19 Miss Jonasen previously -- or we stipulated to the
20 authenticity of from Officer Page's squad car. I'll
21 note that on the bottom right-hand corner, the numbers
22 appearing are 16:40 and that's counting up from 16:20.
23 It's now at 16:31. Excuse me, 40 dot 31.

24

1 BY MR. MAIL:

2 Q Officer, is this where you were traveling at
3 about that time?

4 A Yes.

5 Q This is on 176; --

6 A Yes.

7 Q -- is that correct?

8 At this point, I'm going to pause the video.
9 We're at 16 dot 40 dot 48.

10 Earlier you mentioned that you lost contact of
11 the F-150 for about ten seconds as it went over the top
12 of a hill. Are you able to see the F-150 in this
13 frame?

14 A I believe it's one vehicle in front of the
15 vehicle in front of me, yeah.

16 Q We're 28 seconds in, would you agree?

17 A I'm sorry?

18 Q We're 28 seconds into the video?

19 A The camera of the car has a different
20 perspective than I have as we're moving in and out.
21 Losing the vehicle doesn't necessarily mean that I'm
22 staring at the back end of the vehicle. I know where
23 the vehicle is at.

24 Q And how fast -- well, I'll start the video

1 again. If you will explain how fast you're traveling
2 at this point.

3 A Right around there? Probably around 60 miles
4 an hour.

5 Q 60 in a 45?

6 A Yes.

7 Q With your lights on obviously.

8 A Yes.

9 Q At 60 (sic.) dot 41 dot 03, the F-150 pulls
10 into a left-hand turn lane; is that correct?

11 A Yes.

12 Q What are you doing at this point?

13 MR. HANSEN: I'm going to object. If Counsel is
14 going to ask questions about what's being shown in the
15 video that's in evidence, then it's duplicative to have
16 the officer testify to confirm what the Court can see
17 on the screen. If he wants to have --

18 THE COURT: Sustained.

19 MR. MAIL: I'll move on.

20 MR. HANSEN: -- ask the officer questions about
21 context, I don't have a problem with that.

22 BY MR. MAIL:

23 Q Officer, have you had an opportunity to review
24 this video before today?

1 A One other time I have, yes.

2 Q Was that at the office of the Village of
3 Prairie Grove?

4 A Yes.

5 Q And that's yourself?

6 A Yes.

7 Q Describe what you're doing at this point.

8 MR. HANSEN: Objection. He's asking the officer to
9 testify what was clearly happening on the screen right
10 now.

11 MR. MAIL: It's not clear. There's no audio, your
12 Honor.

13 THE COURT: Overruled.

14 You may testify.

15 BY THE WITNESS:

16 A Approaching the vehicle to ask Mr. Puryear for
17 his identification.

18 THE COURT: For the record it's at 16:41:41.

19 BY MR. MAIL:

20 Q I'll pause the video for a moment.

21 Officer, as you can see by now that no audio
22 to this video. Is it -- and do you ordinarily wear
23 audio recording devices on your uniform?

24 A Yes -- well, not ordinarily. I do wear it,

1 yes.

2 Q Always.

3 A Not always. It is on me.

4 Q And you would have had it on this day?

5 A No, it was broken that day.

6 Q It was broken.

7 A Uh-hum (indicating an affirmative response).

8 Q Was it being repaired at the time?

9 A It was.

10 Q There would be records to verify that?

11 A And you have them, yes.

12 Q How do you -- you say that I have them. What
13 leads you to that belief?

14 MR. HANSEN: Objection. We are outside the realm
15 of relevance here --

16 MR. MAIL: He's opened the door.

17 MR. HANSEN: -- on this particular issue.

18 THE COURT: At this point the question's been
19 asked. The way the answer was given, the door's been
20 opened.

21 You may answer.

22 BY THE WITNESS:

23 A Our village clerk told me she provided them
24 through one of the freedom of information requests.

1 BY MR. MAIL:

2 Q You've had -- how many discussions would you
3 say you've had with the village clerk relating to this
4 case?

5 MR. HANSEN: I'll repeat my relevance objection.
6 Whether the officer had a conversation with the village
7 clerk and what records were produced after the fact in
8 relation to a FOIA request is not relevant to the
9 Fourth Amendment question of whether or not the traffic
10 stop was reasonable and articulable.

11 THE COURT: At this point, it's too far afield.
12 Sustained.

13 MR. MAIL: I'm going to begin playing the video
14 again at 16:42:20.

15 THE COURT: Thank you.

16 BY MR. MAIL:

17 Q Officer, at that point did you have both of
18 the licenses?

19 A I did.

20 MR. MAIL: Handle it this way. Is there any
21 objection if I skip ahead to the next time we see the
22 officer?

23 MR. HANSEN: No.

24 THE COURT: You may proceed to move forward.

1 BY MR. MAIL:

2 Q Noting it's 16:44:47, Officer Page, is that
3 you walking back to the car?

4 A It is.

5 Q Are you returning the driver's licenses at
6 that point?

7 A I am.

8 Q What's the discussions happening at 16:45:02?

9 A I told him you're wearing your driver's
10 license now -- or you're wearing your seatbelt now. I
11 gave him back his driver's licenses. I thanked them
12 both for their courtesy. You'll even see me wave at
13 the driver and thank him and I turned to walk away.

14 Q At that point it was your intention to get
15 back into your car?

16 A Yes.

17 Q And your intention at that point was to allow
18 them to leave.

19 A Yes.

20 Q At 16:45:07, what happens?

21 A Mr. Puryear says I want your name and badge
22 number; I'm making a complaint.

23 Q What do you say and what do you do?

24 A And I walked back and I said may I have your

1 driver's license back, please.

2 MR. MAIL: And if there's no objection, I will skip
3 forward until we see the officer again.

4 MR. HANSEN: None from me.

5 THE COURT: You may skip.

6 BY MR. MAIL:

7 Q At 16:50:10, you return?

8 A Yes.

9 Q What are you handing Mr. Puryear?

10 A A municipal ordinance citation for failing to
11 wear his seatbelt for his passenger.

12 MR. MAIL: I'm pausing the video.

13 BY MR. MAIL:

14 Q Officer, in this case, there's also a picture
15 of a bumper sticker on the back left of the F-150. At
16 what point did you take that picture?

17 A As I was walking back -- you skipped right
18 past it. As I was walking back.

19 Q So --

20 A Right there.

21 Q At 16:50:14. And what is to your knowledge
22 the -- what was the bumper sticker?

23 A It says tattooed mother fucker.

24 Q Is it your understanding that that was a

1 violation of any sort?

2 A No.

3 Q Did you cite the driver of the vehicle for any
4 violation on that?

5 A No.

6 Q Glitch here. What's the conversation that's
7 happening there?

8 A Just explaining the ordinance citation, how to
9 get into court, what the fine is and the court date.

10 Q And that was at 16:50:51?

11 A Correct.

12 Q Now, you turned at that point to head back to
13 your vehicle?

14 A Yes.

15 Q And the F-150 pulls away at 16:51:04; is that
16 right?

17 A Yes.

18 Q I'm rewinding the video, reversing it, to
19 16:41:02. This is where you're effecting the traffic
20 stop?

21 A Yes.

22 Q Now, earlier you had mentioned that you
23 believed the stop was in total about seven minutes.

24 A Correct.

1 Q You would agree now in fact that it was more
2 like ten minutes; is that correct?

3 A What did we end at?

4 Q 16:51:02.

5 A It's (indiscernible) ten minutes.

6 Q And, again, I'm turning the video to 16:45:01,
7 move that (indiscernible). 16:45:25 is when you had
8 taken the licenses back to the car; is that right?

9 A Yes.

10 Q So it was about five-and-a-half minutes after
11 you made the second -- or you took Mr. Puryear's
12 license the second time.

13 A Correct.

14 MR. MAIL: Thank you, Officer. I'll have you take
15 a seat?

16 THE COURT: You may return to the stand.

17 A VOICE: Thank you, Judge.

18 MR. MAIL: Your Honor, at this time I would ask to
19 enter a copy of that video into evidence as Defense
20 Exhibit 2.

21 THE COURT: For purpose of the motion, any
22 objection?

23 MR. HANSEN: No.

24 THE COURT: Heard and allowed.

1 BY MR. MAIL:

2 Q Officer, prior to the stop on Mr. Puryear, you
3 had previously pulled over a Ford pickup truck?

4 MR. HANSEN: Objection, relevance.

5 MR. MAIL: Your Honor, I would ask to make an offer
6 of proof at this point.

7 THE COURT: You may make an offer of proof.

8 MR. MAIL: I believe that --

9 MR. HANSEN: Can we excuse the witness, please.

10 THE COURT: Please, Officer, would you please step
11 outside, if you would, please.

12 THE WITNESS: Yes, sir.

13 THE COURT: Thank you. Again, do not discuss your
14 testimony, please, sir. Thank you.

15 THE WITNESS: Yes, sir.

16 THE COURT: Yes.

17 MR. MAIL: Your Honor, Officer Page would testify
18 that he did in fact pull over a Ford F-150 prior to
19 this. I will further ask if he had pulled over
20 additional Ford pickup trucks that day following --
21 immediately following Mr. Puryear's stop where I
22 believe he will testify or would testify that he pulled
23 over three: A white Ford Ranger with a cap, another
24 red Ford F-150, another Ford F-150 together a trailer,

1 all of which, those stops, the duration of those stops,
2 was under two minutes each and where no citation was
3 issued, all in the span of less than two hours, and all
4 in Prairie Grove. And with that I would have no
5 further questions for the officer.

6 MR. HANSEN: I'd maintain my objection, Judge.
7 Whether or not Officer Page conducted other traffic
8 stops on other Ford vehicles isn't relevant to whether
9 Mr. Puryear's Fourth Amendment rights were implicated
10 by this particular stop. The only question is whether
11 the officer had reasonable, articulable suspicion to
12 stop the vehicle in which Mr. Puryear was riding and
13 then whether he had cause to write Mr. Puryear a
14 citation.

15 If he pulled over a truck before this, if he
16 pulled over three trucks after this one, there is no
17 showing that that's in any way relevant to this
18 particular issue. Of course they all happened in
19 Prairie Grove. He's a Prairie Grove police officer.
20 He pulled over four Ford pickup trucks. Even if that's
21 true, it doesn't matter. It doesn't change whether or
22 not he had a reasonable, articulable suspicion for this
23 particular stop and this particular seatbelt ticket.

24 THE COURT: The Court's ruling stands.

1 MR. MAIL: Your Honor, --

2 THE COURT: Offer of proof has been made.

3 MR. MAIL: -- if I may just for the sake of the
4 record.

5 THE COURT: You may.

6 MR. MAIL: I believe it is relevant to the second
7 issue, the issue of retaliation. Whether he acted
8 similarly in these other cases is relevant to whether
9 or not this was an instance of retaliation. It may not
10 be greatly relevant, but I believe it's relevant enough
11 to overcome a relevance objection. For that reason,
12 your Honor, I believe the Court should allow this
13 testimony.

14 THE COURT: The Court's ruling stands. You may
15 bring the officer back in. Thank you.

16 Officer, you remain under oath. I'll have you
17 please take the witness stand again, please. Thank
18 you.

19 Attorney Mail, any additional questions?

20 MR. MAIL: No further questions at this time, your
21 Honor.

22 THE COURT: Very good.

23 MR. HANSEN: Officer Page, good afternoon.

24

CROSS EXAMINATION

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BY MR. HANSEN:

Q Officer Page, on this particular afternoon that you've just been discussing with Mr. Mail, you were driving a Village of Prairie Grove Police Department vehicle, correct?

A Correct.

Q That was in fact a Ford Expedition?

A Yes.

Q A Ford Expedition, right?

A Correct.

Q Now, that is -- that's an SUV, a large type SUV, correct?

A Yes.

Q And when you passed the vehicle that we've been talking about, you were traveling eastbound on Route 176, correct?

A Correct.

Q And that's a state highway.

A It is.

Q And at the 4300 block, that is within the Village of Prairie Grove, County of McHenry, State of Illinois?

A It is.

1 Q So within your jurisdiction.

2 A Yes.

3 Q And that's when you saw the vehicle that we've
4 been discussing pass you going westbound in the
5 opposite lane of traffic.

6 A Yes.

7 Q As that vehicle passed you -- excuse me, as
8 that vehicle approached you and passed you, did you
9 find yourself to be higher or lower than the occupants
10 in that vehicle?

11 A I was slightly higher I believe. Definitely
12 level, if not just a little higher.

13 Q And from your vantage point, did you have the
14 opportunity to see inside that Ford pickup truck as it
15 passed you going the opposite direction?

16 A I did.

17 Q And from your vantage point, was there
18 anything obstructing your view of the interior of that
19 vehicle?

20 A None.

21 Q Were there any other cars in between your
22 vehicle and that vehicle?

23 A No.

24 Q And did you find yourself able to see through

1 the windows of that vehicle?

2 A Yes.

3 Q Could you see the gentleman seated in the
4 passenger seat of that Ford pickup truck?

5 A Yes.

6 Q That's Mr. Puryear, correct?

7 A Correct.

8 Q The gentleman sitting to defense counsel's
9 right or your left?

10 A Yes.

11 Q And could you see how Mr. Puryear was situated
12 inside that Ford pickup truck?

13 A I could. He was seated kind of on an angle
14 facing the driver, so his -- he wasn't sitting straight
15 ahead, he was kind of to the side, and I had a clear
16 view of his chest and of the seatbelt behind him.

17 MR. HANSEN: If the record would just reflect that
18 the officer's turned to approximately a 45-degree angle
19 to his left as he was seated in the witness chair.

20 THE COURT: Record shall so reflect.

21 MR. HANSEN: Thank you.

22 BY MR. HANSEN:

23 Q From your vantage point, you testified to
24 Mr. Mail that you recall that he was wearing a black or

1 gray shirt of some sort, correct?

2 A Black or tan.

3 MR. MAIL: Objection, misstates the record.

4 THE COURT: Sustained.

5 BY MR. HANSEN:

6 Q What color shirt was he wearing, if you can
7 remember?

8 A A black or a tan shirt. I couldn't remember
9 which one.

10 Q From your vantage point, could you see beyond
11 Mr. Puryear into the cab of the vehicle?

12 A Yes.

13 Q And could you see the seatbelt beyond
14 Mr. Puryear?

15 A I could, yes.

16 Q Where was the seatbelt located from your point
17 of view?

18 A Behind his right shoulder.

19 Q And it appeared to you from your point of view
20 that the seatbelt was on or off of Mr. Puryear?

21 A It appeared that it was off.

22 Q And after you made that observation, you
23 conducted a U-turn to follow the vehicle that
24 Mr. Puryear was in, correct?

1 A Correct.

2 Q And you turned your vehicle around so that it
3 was also traveling westbound on 176?

4 A Yes.

5 Q And you activated your emergency lights?

6 A Yes.

7 Q And eventually you caught up with the vehicle.

8 A I did.

9 Q Now, you testified on direct that there was a
10 moment when you lost sight of the Ford F-150 in which
11 you saw Mr. Puryear, correct?

12 A Yes.

13 Q And when you first made your U-turn, you then
14 -- you were traveling the same direction as the Ford
15 F-150, correct?

16 A No, I was traveling opposite. Then I turned
17 to drive the same direction.

18 Q And eventually you caught up with a Ford
19 F-150, correct?

20 A Correct.

21 Q And did you believe that was the same vehicle
22 that you had just seen passing you the opposite
23 direction?

24 A Yes.

1 Q Why?

2 A Because it was the same vehicle that passed me
3 in the opposite direction. To start with, I could
4 identify both the driver and passenger of the vehicle.

5 Q You effectuated a traffic stop on that
6 vehicle, correct?

7 A Yes.

8 Q That's when you approached the Ford F-150
9 initially?

10 A Yes.

11 Q And you immediately approached the passenger
12 side of that vehicle, correct?

13 A Correct.

14 Q And you approached the passenger side because
15 the passenger side of the vehicle is where you had
16 observed a violation?

17 A Yes.

18 MR. MAIL: Objection, leading.

19 MR. HANSEN: It's cross exam.

20 THE COURT: Sus- -- Overruled. Excuse me,
21 overruled.

22 MR. HANSEN: Thank you.

23 THE COURT: It is cross examination.

24

1 BY MR. HANSEN:

2 Q You approached the passenger side because the
3 passenger side is where you had observed a violation.

4 A Yes.

5 Q The fact that the passenger wasn't wearing a
6 seatbelt in accordance with 603.1, correct?

7 A Correct.

8 Q And that's when you first made contact with
9 Mr. Puryear, correct?

10 A Correct.

11 Q You had never met Mr. Puryear prior to this.

12 A No.

13 Q This was the first conversation you had ever
14 had with him.

15 A Yes.

16 Q And by the time you approached the vehicle,
17 you noticed that he was wearing his seatbelt at this
18 point in time, correct?

19 A Correct.

20 Q You asked him for his identification?

21 A Yes.

22 Q What did he provide to you when he asked --
23 when he provided any identification?

24 A Well, I asked for his identification. He

1 asked me if he was legally required to do so.

2 Q How did you respond?

3 A Yeah, and I told him he was. And then he
4 handed me his bar card, his bar association card and
5 his driver's license, kind of fanned out like playing
6 cards.

7 Q Did you take both items?

8 A I took them both and then handed him back his
9 bar card because I didn't need that.

10 Q And you also got identification from the
11 driver of the vehicle, correct?

12 A Correct.

13 Q Now, you checked both of those licenses for
14 their status, correct?

15 A Correct.

16 Q You noticed when you checked Mr. Puryear's
17 license that he was in fact an Iowa resident, correct?

18 A Correct.

19 Q Now, Officer Page at this particular time, you
20 were a Prairie Grove, Illinois, police officer,
21 correct?

22 A Correct.

23 Q You've never been in Iowa police officer?

24 A No.

1 Q You're not familiar with Iowa seatbelt laws.

2 A Correct.

3 Q Did that factor into your decision as to
4 whether or not to give Mr. Puryear a seatbelt ticket?

5 A Yes.

6 Q How so?

7 A I don't know if there is a seatbelt law in
8 Iowa. He's way out of his district and he had it on
9 and I was just glad it's on now.

10 Q After you initially ran Mr. Puryear's record
11 and the driver's record, you returned to the Ford F-150
12 with both of those licenses, correct?

13 A Correct.

14 Q And you returned them to both of those
15 gentlemen, correct?

16 A Correct.

17 Q Both of those people?

18 A Yes.

19 Q The -- at that point in time, you began to
20 walk away.

21 A Yes.

22 Q And that's when Mr. Puryear asked you for your
23 badge number, correct?

24 A Yes.

1 Q And subsequent to that is when you re-obtained
2 Mr. Puryear's license and issued a citation, correct?

3 A Correct.

4 Q Now, Officer Page, from the time when you
5 first ran Mr. Puryear's license to the time when you
6 gave him the citation, did you make any further
7 observations which changed your opinion about whether
8 or not Mr. Puryear was wearing his seatbelt when you
9 first saw him?

10 A No.

11 Q Did you obtain any additional physical
12 evidence which would change your opinion as to whether
13 or not Mr. Puryear was wearing his seatbelt when you
14 first saw him?

15 A No.

16 MR. HANSEN: I don't have any further questions for
17 Officer Page.

18 THE COURT: Redirect?

19 REDIRECT EXAMINATION

20 BY MR. MAIL:

21 Q Officer, you had mentioned that it was around
22 -- you would agree it was around 4:00 p.m. when you
23 effected the traffic stop -- well, 4:45?

24 A Yes.

1 Q In the afternoon?

2 A Yes.

3 Q And you were traveling eastbound?

4 A Yes.

5 Q And the F-150 would have been traveling
6 westbound.

7 A Yes.

8 Q Into the sun.

9 A Yes.

10 Q And you didn't detect any sort of glare off
11 the windshield?

12 A None that I noted.

13 Q How long were you able to -- you claim that
14 you were able to see the seatbelt behind the right
15 shoulder. How long were you able to observe it?

16 A Probably two or three seconds.

17 Q You had mentioned that the speed limit on that
18 road is 45 miles an hour?

19 A Yes.

20 Q And you were traveling at 30.

21 A Yes.

22 Q How far were you away when you claim that you
23 were able to seat the seatbelt behind his right
24 shoulder?

1 A Probably about -- starting about under a
2 hundred feet, maybe 150 feet, and then continuing as we
3 pass. It may be less, but that's a good area where I
4 started looking for the seatbelt.

5 Q So you were able to see within a hundred feet
6 of the F-150.

7 A Distance is probably less than that, but
8 that's where I started looking for the seatbelt
9 violation as it was approaching.

10 Q So are you -- do you recall it taking two,
11 three seconds for the vehicles to pass each other
12 within that 100 feet?

13 MR. HANSEN: Objection as to the form of the
14 question.

15 THE COURT: Sustained.

16 BY MR. MAIL:

17 Q Is it your position that it took two or three
18 seconds for Mr. Puryear's -- the vehicle that
19 Mr. Puryear was traveling in to pass you?

20 A Yes.

21 Q After you saw -- or you're claiming to have
22 seen the seatbelt behind his right shoulder.

23 A I had about a two- to three-second view of the
24 seatbelt.

1 Q Officer Page, had you had any discussions with
2 anyone that day mentioning that you should be on the
3 look-out for someone in a Ford F-150?

4 A No.

5 Q Were you looking for Ford F-150s at that time?

6 A No.

7 Q Were you looking for anyone in a Ford pickup
8 truck or Ford?

9 A No.

10 Q Had you had any discussions with either
11 dispatch or did you hear anything over dispatch
12 relating to someone in a Ford vehicle?

13 A Not that I recall, no.

14 Q You don't remember?

15 A I have no memory of that, correct.

16 Q If Mr. Puryear had said nothing to you about
17 your badge number, you would not have given him the
18 citation.

19 MR. HANSEN: Objection, spoke -- excuse me, scope
20 and calls for speculation.

21 THE COURT: Sustained. It's certainly beyond the
22 scope of the cross.

23 MR. MAIL: Your Honor, just in responding to that,
24 I believe that the cross certainly did inquire as to

1 the reason for the citation being issued here and this
2 goes directly to that point. It's highly relevant as
3 to why a citation was given in the first place.

4 THE COURT: It may be relevant, but it's beyond the
5 scope, Counsel. Still sustained.

6 MR. MAIL: Nothing further.

7 MR. HANSEN: No recross.

8 THE COURT: You may step down.

9 THE WITNESS: Thank you, sir.

10 THE COURT: You may call your next witness.

11 MR. MAIL: At this time I'll call John Cackler.

12 THE COURT: Very good.

13 A VOICE: Who?

14 MR. MAIL: John Cackler.

15 THE COURT: Sir, would you please approach. I'm
16 going to have you stand in front of my clerk and raise
17 your right hand to be sworn.

18 THE CLERK: You do solemnly swear that the
19 testimony you're about to give is the truth, the whole
20 truth and nothing but the truth, so help you God?

21 THE WITNESS: I do.

22 THE COURT: Sir, you may take a seat in the witness
23 chair. It's the chair with the microphone in front of
24 it. Once seated, I ask you to keep your voice up so we

1 can all hear you. The questions may call for a yes or
2 no answer. You have to answer yes or no. I cannot
3 accept a nod of the head.

4 Is that understood?

5 THE WITNESS: Yes.

6 THE COURT: Very good.

7 You may proceed.

8 MR. MAIL: Good afternoon, John. I'll have you
9 introduce yourself by stating and spelling your full
10 name for the record.

11 THE WITNESS: John Cackler, J-o-h-n, C-a-c-k-l-e-r.

12 JOHN CACKLER,

13 called as a witness herein, having been first duly
14 sworn, was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. MAIL:

17 Q And, John, on October 21st of 2012, at about
18 4:00 p.m., were you driving?

19 A Yes.

20 Q And where were you driving?

21 A Crystal Lake.

22 Q Crystal Lake?

23 A Towards Lake in the Hills.

24 Q What sort of vehicle do you drive?

1 A A 2003 Ford F-150.

2 Q That's what you were driving then?

3 A Yes, sir.

4 Q Who were you traveling with?

5 A Eric Puryear, Nicole Puryear and their child.

6 Q Did you have any occasion to observe whether

7 Eric was wearing his seatbelt?

8 A Yes.

9 Q Is your F-150, does that give you any sort of
10 indication if someone's not wearing their seatbelt?

11 A Yes.

12 Q If he -- if Eric hadn't been wearing his
13 seatbelt, would you have heard or observed any sort of
14 notification?

15 A Yes, it dings and then there's a light on the
16 dash.

17 Q Did you personally observe Eric wearing his
18 seatbelt?

19 A Yes.

20 Q At about 4:40, you were pulled over?

21 A Yes.

22 Q Describe -- Well, let me ask you this: Had
23 you noticed a police officer at any point before that?

24 A No.

1 Q Or a squad car or police vehicle?

2 A No, sir.

3 Q At what point did you first notice a police
4 vehicle?

5 A When he was right behind me.

6 Q What did the officer do?

7 A He put on his sirens. I pulled over to the
8 left because I thought he was trying to get by me. He
9 pulled behind me, so I pulled to the right so I would
10 be out of the way. And then he got out, came to the
11 passenger side and asked for Eric's information.

12 Q Did he also take your information?

13 A Later.

14 Q A few seconds later?

15 A I think it was probably like a minute or two
16 later.

17 Q Okay. But at that point did he -- after
18 asking for Eric's information, did he return to the car
19 or did he take your information before returning to his
20 car?

21 A He took Eric's information to his car I
22 believe before he -- it was on his second return that
23 he asked for mine.

24 Q Did he return Eric's information?

1 A Yes.

2 Q And then at that point what did the officer
3 say?

4 A Well, he said he was going to give him a
5 warning and then that's when Eric asked for his name
6 and badge number.

7 Q We'll take that step by step.

8 A Okay.

9 Q You mentioned that he said he was going to
10 give him a warning.

11 A Uh-hum.

12 Q Did you -- did he return anything at that
13 point as far as a license, your license?

14 A Yeah, I had my license.

15 Q And did you notice that he returned Eric's
16 license --

17 A Yes.

18 Q -- as well?

19 A Yes.

20 Q What did the officer do upon Eric requesting
21 his badge number?

22 A He grabbed the information out of his hand and
23 said that he was just going to -- he'd get the
24 information.

1 Q He would get the information?

2 A Yeah, by writing it --

3 Q In what form?

4 A Writing the ticket.

5 MR. MAIL: Thank you, John. I have no further
6 questions.

7 THE COURT: Cross?

8 MR. HANSEN: Yes, sir.

9 CROSS EXAMINATION

10 BY MR. HANSEN:

11 Q Mr. Cackler, on this particular day, you said
12 you were traveling from Crystal Lake towards
13 Lake in the Hills.

14 A Uh-hum, yes.

15 Q You were with Mr. Puryear, his wife and child?

16 A Yes.

17 Q Had you met Mr. Puryear prior to this
18 particular day?

19 A Yes.

20 Q Friends with Mr. Puryear?

21 A Yes.

22 Q And you're here today because Mr. Puryear, his
23 attorney, asked you to be here, correct?

24 A Yes.

1 Q You're not under subpoena?

2 A No.

3 Q There's no court order requiring you to be
4 here?

5 A No.

6 Q You're here because you're Mr. Puryear's
7 friend.

8 A Yeah.

9 Q Now, on this particular day, when Officer Page
10 first came to your vehicle, he didn't come to your side
11 of the vehicle first, correct?

12 A Correct.

13 Q He came to Mr. Puryear's side of the vehicle.

14 A Yes.

15 Q And according to your testimony, he didn't
16 even take your information at first. He just took
17 Mr. Puryear's.

18 A Yes.

19 Q And, in fact, you said he didn't take your
20 information until at least a couple minutes after he
21 had taken Mr. Puryear's.

22 A Yeah.

23 Q Now, your recollection is that the officer
24 didn't even take your information until after he had

1 already made one trip to his squad car and come back
2 again?

3 A Yeah.

4 Q Mr. Cackler, you testified when Mr. Mail asked
5 you that you first noticed the officer when he was
6 actually right behind you. You don't know then when
7 the officer first saw you.

8 A Right.

9 Q You don't know if he passed you going the
10 opposite direction?

11 A No, I know he didn't pass me the opposite
12 direction.

13 Q You know he didn't pass you in the opposite
14 direction.

15 A Yeah.

16 Q Okay. You don't know from what vantage point
17 he first saw your vehicle?

18 A Given the location where we were at, there was
19 only two possible parking lots.

20 Q Okay, sorry. But you said you don't even --
21 you didn't even see him until he was right behind your
22 vehicle, right?

23 A Right.

24 Q So if you didn't see him until he was right

1 behind your vehicle, you don't know where he was prior
2 to him being behind your vehicle.

3 A Right. Well, I know --

4 Q So you don't know from what vantage point he
5 first saw your vehicle, correct?

6 A Right.

7 Q You don't know what vantage point he's had
8 inside your vehicle, correct?

9 A Yep.

10 Q Your testimony is that -- Strike that.

11 MR. HANSEN: I don't have anything further for
12 Mr. Cackler.

13 THE COURT: Redirect?

14 REDIRECT EXAMINATION

15 BY MR. MAIL:

16 Q Just to be clear, John, did you at any point
17 see a police officer, police vehicle, passing you from
18 the other direction?

19 A No, sir.

20 Q And even though you're friends with
21 Mr. Puryear, are you here lying to help him out?

22 A No, sir.

23 Q Would you lie?

24 A No, sir.

1 MR. MAIL: Thank you. Nothing further.

2 THE COURT: You may step down, sir. Once again, do
3 not discuss your testimony with anyone else, please.

4 Thank you.

5 MR. MAIL: At this time, I'll call Nicole Puryear.

6 THE COURT: Very good.

7 MR. MAIL: And, your Honor, as a housekeeping
8 matter, would Mr. Cackler be free to leave at this
9 point? We have no further questions for him.

10 MR. HANSEN: I don't have him under subpoena.

11 THE COURT: Certainly. He may -- he may leave. If
12 you wish to tell him that, you may.

13 Ma'am, I'm going to have you approach my
14 clerk, if you would, please, just to be sworn. You'll
15 face her and raise your right hand to be sworn, ma'am.

16 THE CLERK: You do solemnly swear that the
17 testimony you're about to give is the truth, the whole
18 truth and nothing but the truth, so help you God?

19 THE WITNESS: Yes.

20 THE COURT: You may put your hand down, ma'am.
21 Have a seat in the witness chair, this chair with the
22 microphone in front of it, ma'am. Couple steps as you
23 go up, ma'am. Be careful.

24 As you are seated, ma'am, I'll have you face

1 then the microphone. Keep your voice up so we can all
2 hear you. You're going to have to answer questions
3 given to you. If it does call for a yes or no
4 response, you must answer yes or no. I cannot accept a
5 nod of the head.

6 Is that understood?

7 THE WITNESS: Yes.

8 THE COURT: All right. Very good.

9 MR. MAIL: Good afternoon, Nicole. I'll have you
10 introduce yourself for the record by stating and
11 spelling your full name.

12 THE WITNESS: Nicole Puryear, N-i-c-o-l-e,
13 P-u-r-y-e-a-r.

14 MR. MAIL: Thank you, Nicole.

15 NICOLE PURYEAR,
16 called as a witness herein, having been first duly
17 sworn, was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MR. MAIL:

20 Q And on October 21, 2012, at about 4:40 p.m.,
21 were you in your brother's F-150?

22 A Yes.

23 Q Where were you going?

24 A To the airport.

1 Q Where were you coming from?

2 A My father's house.

3 Q And in your way to the airport from your
4 father's house, were you on Route 176?

5 A Yes.

6 Q At any point did you notice a police officer
7 in a squad car or vehicle?

8 A No.

9 Q Well, let me phrase it this way: At any point
10 was the truck pulled over?

11 A Yes.

12 Q Okay. Prior to that had you seen the officer
13 anywhere?

14 A No.

15 Q Were you paying attention as the F-150
16 traveled down the road as to what was happening in
17 front of it?

18 A Yes.

19 Q Did you at any point see a police vehicle pass
20 you heading the opposite direction?

21 A No.

22 Q What was the first point that you saw the
23 officer?

24 A When he put his sirens on behind us.

1 Q I'll have you explain just very briefly, what
2 did the officer say when he came up to the car?

3 Oh, yeah, let me take a step back. Excuse me.
4 Where were you located in the vehicle?

5 A I was in the back seat, passenger.

6 Q Was that directly behind Eric?

7 A Yes, behind the passenger.

8 Q Were you able to from that position determine
9 whether Eric was wearing his seatbelt?

10 A Yes.

11 Q How so?

12 A It was right in front of me.

13 Q And how was he wearing it?

14 A Like anybody would wear a seatbelt.

15 Q And you specifically noticed that?

16 A Yes, it's right in my field of vision.

17 Q I want to talk about when the officer came up
18 to the F-150. Where did he go?

19 A He went to the passenger side.

20 Q And what did he say?

21 A He --

22 MR. HANSEN: Just for the record, I'm going to
23 object to the hearsay.

24 MR. MAIL: It's not being offered for the truth --

1 THE COURT: At a motion like this, it's appropriate
2 and allowed. Hearsay is so allowed.

3 MR. HANSEN: If I may, it's allowed because it --
4 when it has to do with whether or not the officer has a
5 reasonable, articulable suspicion for the stop or
6 probable cause.

7 THE COURT: Correct.

8 MR. HANSEN: What he says when he approaches the
9 vehicle or what this witness, who is not the defendant,
10 says he says doesn't relate to whether or not he had
11 probable cause.

12 THE COURT: Response?

13 MR. MAIL: Not offered for the truth and it's
14 relevant based on the -- you know, the demeanor of the
15 respective parties as has been mentioned and brought
16 into issue several times already today, so it goes to
17 that. It goes to the credibility of the witness.
18 There's several reasons why it would be relevant in
19 this matter.

20 THE COURT: Over objection, allowed.

21 You may proceed.

22 BY MR. MAIL:

23 Q What did the officer say?

24 A He asked for Eric's license.

1 Q What did he do next?

2 A He said the reason I pulled you over is you
3 weren't wearing a seatbelt, was there any reason why
4 you weren't doing that. Eric then said he was. The
5 officer then asked for the driver -- driver's license
6 of my brother who was driving the truck and then he
7 went back to the squad car.

8 Q And when he returned from the squad car, what
9 happened?

10 A He gave both the licenses back. He said you
11 said -- he said --

12 Q You're doing fine.

13 A He said I didn't see your seatbelt. You said
14 you were wearing it. I'll take your word for it. Have
15 a good day. He started to walk away.

16 My husband stuck his head out the window and
17 said, excuse me, Officer. The officer then came back
18 to the car. My husband asked for his badge and name.
19 He asked my brother for a pen. The officer said, you
20 know what, never mind. Give me your license back. I
21 will give you a ticket and it will have my name and
22 badge number.

23 Q Is that what he did? Did he give him a
24 ticket?

1 A Yes, he gave him a ticket.

2 Q And that took about five minutes,
3 five-and-a-half minutes, as far as you remember?

4 A As far as I remember.

5 MR. HANSEN: Objection, leading.

6 THE COURT: Sustained.

7 BY MR. MAIL:

8 Q About how long did that take, do you remember?

9 A Yeah, it was, you know, five minutes, couple
10 minutes.

11 Q Was that delay particularly troublesome for
12 any reason?

13 A Yes.

14 Q How so?

15 A We were flying home, so weather, you know,
16 weather's always a factor.

17 MR. MAIL: Thank you, Nicole. I have no further
18 questions at this time.

19 THE COURT: Cross?

20 CROSS EXAMINATION

21 BY MR. HANSEN:

22 Q Mrs. Puryear, you were pulled over while you
23 were riding in your brother John's truck, correct?

24 A Yes.

1 Q You were seated in the back seat directly
2 behind your husband, Mr. Puryear?

3 A Yes.

4 Q And you saw the officer when he first
5 approached your brother's truck, correct?

6 A I saw the officer when he put his sirens on
7 behind us.

8 Q Okay. Your brother pulled over, correct? He
9 pulled -- he stopped the truck, right?

10 A Right, yes.

11 Q The officer got out of his vehicle and
12 approached your brother's truck?

13 A Yes.

14 Q And he approached on the same side that you
15 were sitting on, correct?

16 A Yes.

17 Q He didn't approach on the driver's side; he
18 approached on the passenger's side.

19 A Yes.

20 Q And when he approached on the passenger's
21 side, he asked for your husband's license?

22 A Yes.

23 Q He also asked for your brother's license.

24 A Not at that time.

1 Q Okay. He had got both of those identifying
2 documents, though, correct?

3 A Yes.

4 Q And did he get both of them before he returned
5 to his squad car?

6 A Yes.

7 Q And when he first approached, when
8 Officer Page first approached, your testimony just a
9 little bit ago was that he told you, being an occupant,
10 why he stopped the vehicle, correct?

11 A Yes.

12 Q You said that -- you recall that he told all
13 of you that he stopped the vehicle because he saw
14 Mr. Puryear not wearing his seatbelt.

15 A Yes.

16 Q Okay. And even after he ran everyone's
17 license and came back to the car, Officer Page said
18 again he didn't see your husband wearing his seatbelt.

19 A Yes.

20 Q Now, Mrs. Puryear, we're stating the obvious
21 here, but you're here because your husband asked you to
22 be here today, correct?

23 A I'm here because I was in the car.

24 Q And the reason you know about today is because

1 your husband told you about today's date and time?

2 A Well, I was present there.

3 Q Right. But today wasn't scheduled then. At
4 some point --

5 A Right.

6 Q -- after that you were told about today's
7 court date and time.

8 A Yes.

9 Q You came willingly.

10 A Yes.

11 MR. HANSEN: Nothing further.

12 THE COURT: Redirect?

13 MR. MAIL: No further questions, your Honor.

14 THE COURT: Ma'am, you may step down. Once again,
15 do not discuss your testimony with anyone else, please.

16 Thank you.

17 MR. MAIL: At this time, your Honor, I will call
18 Eric Puryear.

19 A VOICE: I don't have to (indiscernible).

20 MR. MAIL: No, you don't.

21 THE COURT: Sir, I'll have you approach my clerk as
22 well. Raise your right hand, if you would, please,
23 sir.

24 MR. CLERK: You do solemnly swear that the

1 testimony you're about to give is the truth, the whole
2 truth and nothing but the truth, so help you God?

3 THE WITNESS: I do.

4 THE COURT: You may put your hand down, sir. Have
5 a seat in the witness chair, if you would, please, sir.

6 A VOICE: I'm used to looking at it coming up from
7 that perspective.

8 THE COURT: Once again, sir, keep your voice up so
9 we can all hear you. We have to make sure that we
10 record your responses, so you have to answer all
11 responses. I cannot accept a nod of the head.

12 MR. MAIL: Good afternoon, Eric. I'll have you
13 state and spell your full name for the record.

14 THE WITNESS: Eric David Puryear, E-r-i-c,
15 D-a-v-i-d, P-u-r-y-e-a-r.

16 ERIC D. PURYEAR,
17 called as a witness herein, having been first duly
18 sworn, was examined and testified as follows:

19 DIRECT EXAMINATION

20 BY MR. MAIL:

21 Q Eric, for a bit of background in this case,
22 I'll have you briefly explain what you do for a living.

23 A I'm an attorney at law licensed in the states
24 of Illinois and Iowa.

1 Q And what is your -- if you have a focus, what
2 sort of cases do you typically work on?

3 A Criminal defense and family law are big parts
4 of it. I would say criminal defense is probably the
5 area of law that I've practiced the longest.

6 Q Turn to October 21, 2012. You were riding
7 with your brother in his truck?

8 A My brother-in-law, yes.

9 Q Your brother-in-law, excuse me. And your wife
10 and daughter as well.

11 A Yes, sir.

12 Q At about 4:45 -- or 4:40, excuse me, there was
13 a traffic stop?

14 A Yes.

15 Q Prior to that, minutes prior to that, did you
16 at all notice a police officer or police vehicle pass
17 you from the other direction going the other way?

18 A No, I did not.

19 Q Is there anything about your profession that
20 puts you on greater awareness --

21 MR. HANSEN: Objection.

22 BY MR. MAIL:

23 Q -- for police vehicles?

24 THE COURT: Sustained.

1 MR. HANSEN: Thank you.

2 BY MR. MAIL:

3 Q Is there anything about the particular area
4 you were traveling in that would have put you on alert
5 or have you looking out for police vehicles?

6 MR. HANSEN: Objection.

7 THE COURT: Sustained.

8 BY MR. MAIL:

9 Q Were you on the look-out for police vehicles?

10 A I most certainly was as I always am in the
11 northwest suburbs.

12 Q And why is that?

13 MR. HANSEN: Objection.

14 THE COURT: Sustained.

15 BY MR. MAIL:

16 Q I want to turn our attention to the stop
17 itself -- Well, let's talk about the duration of the
18 travel in the vehicle. Were you wearing your seatbelt?

19 A I always wear my seatbelt and I was most --

20 MR. HANSEN: Objection, it's non-responsive.

21 BY THE WITNESS:

22 A -- certainly wearing it here.

23 THE COURT: Sustained.

24 MR. HANSEN: I'm sorry -- I'm sorry I interrupted,

1 but what I heard is non-responsive.

2 BY MR. MAIL:

3 Q Were you wearing your seatbelt on this
4 particular occasion?

5 A Yes.

6 Q At what point did you put your seatbelt on?

7 A Before Nicole even got into the car. So
8 before the car began moving.

9 Q Do you remember what you were wearing that
10 day?

11 A Yes. I have a black zippered sweatshirt, I
12 guess it's blackish-grayish. Maybe the thread is a
13 combination of black and gray, very small thread, so at
14 a distance it probably looks like a dark gray.

15 Q I'll ask you about the nature of the seatbelt
16 in this truck. Where does the seatbelt come out of and
17 wear it across your chest?

18 A The seatbelt comes out of the B-pillar just
19 slightly to the rear of the seat and then it comes
20 across over my shoulder locking into the -- to the
21 buckle receptacle located along my left side, so it's a
22 three-point seatbelt out of the B-pillar like a lot of
23 trucks have.

24 Q Do you know what the color of the seatbelt is

1 in this case?

2 A Yes, it is a dark gray.

3 Q Essentially the same color as what you were
4 wearing --

5 MR. HANSEN: Objection, leading.

6 BY MR. MAIL:

7 Q Is that right?

8 THE COURT: Sustained.

9 MR. HANSEN: Objection.

10 THE COURT: Sustained.

11 BY MR. MAIL:

12 Q How does that compare to the color of what you
13 were wearing at the time?

14 A The colors are very, very similar.

15 Q Now, let's turn our attention to the stop
16 itself. The officer came up to your window; is that
17 right?

18 A That is correct.

19 Q And what did the officer do?

20 A The officer advised that I was not wearing my
21 seatbelt and asked me why I was not wearing it, to
22 which I responded that I was wearing it. I always wear
23 my seatbelt.

24 Q And what happened then?

1 A The officer then demanded my information.

2 Q Did you provide the information?

3 A Yes. I handed him my driver's license and my
4 bar card, my driver's license being an Iowa license and
5 my bar card because I can see a pretextual stop and
6 that caused me great concerns for my safety. My hope
7 was that if he knows I'm a lawyer, he won't do anything
8 improper.

9 MR. HANSEN: Objection, Judge. I'll ask that the
10 last portion of the answer be stricken as
11 non-responsive.

12 THE COURT: Last portion shall be stricken.

13 MR. HANSEN: Thank you.

14 BY MR. MAIL:

15 Q Why did you provide that, the bar card?

16 MR. HANSEN: Objection. It's not relevant.

17 THE COURT: Sustained.

18 BY MR. MAIL:

19 Q So the officer took your license. What did he
20 do then?

21 A The officer returned to his vehicle.

22 Q I know we're jumping around here, but let's
23 step back. You were traveling on Route 176 --

24 A That is correct.

1 Q Do you remember whether the sun was in your
2 eyes at that time?

3 A Yes, I was particularly focused on the sun
4 today. The reason the sun was so -- yes, the sun was
5 in my eyes.

6 Q Okay. As we stated earlier, as I asked
7 earlier, it was late afternoon?

8 A Yes.

9 Q When the officer returned after going back to
10 his car, came back to your side window, what did the
11 officer do at that point?

12 A The officer handed me back my driver's license
13 which I began to put into my wallet again in the front
14 section. He stated that he didn't see my seatbelt, but
15 he would take my word for it that I was wearing it.

16 Q Now, did he say he didn't see your seatbelt or
17 he didn't see you wearing your seatbelt?

18 A He says I didn't see it, "it" referencing the
19 seatbelt.

20 Q But he explained that he would take your word
21 for it?

22 A That is correct.

23 Q At that point what did you do?

24 A After he stated he'd take my word for it, the

1 officer began to walk back towards his squad car that's
2 parked behind us and I had to kind of lean my head out
3 the window pretty much to get ahold of him, and I said,
4 "Officer," and he then returned, at which point I said,
5 "I would like your name and badge number, please."

6 Q Why would you have asked for that?

7 A Well, --

8 MR. HANSEN: I'm going to object why Mr. Puryear
9 asked for the name and badge number is relevant to the
10 Fourth Amendment question before this Court.

11 THE COURT: Sustained.

12 MR. MAIL: Your Honor, it is relevant to the First
13 Amendment issue that we're dealing here with, the
14 retaliation. This is an expression of Mr. Puryear's
15 constitutional right to freedom of speech, freedom of
16 expression, and I believe it's directly relevant to
17 that.

18 THE COURT: Sustained. Move on.

19 BY MR. MAIL:

20 Q What was the officer's response to your asking
21 for his badge number?

22 A The officer then advised me that he would
23 write me a citation and that he would put his name and
24 badge number on that.

1 Q Prior to that, did you inform the officer that
2 you were going to file a complaint?

3 A I never uttered the word "complaint." I did
4 not do anything other than ask for his name and badge
5 number.

6 Q Had you done anything to indicate any sort of
7 disrespect or lack of courtesy with the officer?

8 MR. HANSEN: Objection, still leading and form of
9 the question.

10 THE COURT: Sustained.

11 BY MR. MAIL:

12 Q Other than what you've described to this
13 point, were there any other -- was there any other
14 conversation with the officer prior to him deciding to
15 write you the citation?

16 A No. Based upon being an attorney, I know it's
17 generally good to say fewer words and to show respect,
18 and based upon the apprehension I was in for being
19 stopped when I know there was no basis for the stop, I
20 certainly wouldn't mouth off. I don't want him to hurt
21 myself, my wife or my daughter.

22 MR. HANSEN: I'll object, Judge. I'll ask that the
23 entire portion of the answer with the exception of "no"
24 be stricken as non-responsive.

1 THE COURT: Sustained. It's non-responsive to the
2 question.

3 MR. HANSEN: Thank you.

4 BY MR. MAIL:

5 Q Do you have any recollection of how long it
6 took for the officer to write the citation?

7 A Yes. I know it took him longer to write the
8 citation than I believe had previously passed in the
9 stop. It was something on the order of five or six
10 minutes.

11 Q Over that five- or six-minute period, were you
12 -- did you believe you were free to leave?

13 A Oh, I knew I most certainly was not free to
14 leave.

15 Q Why was that?

16 MR. HANSEN: Objection. Whether or not the
17 defendant's free to leave is a legal question that has
18 to do with the Fourth Amendment question before this
19 Court. Whether he thinks he was free to leave might be
20 relevant. He's answered that question. Anything
21 further is not relevant.

22 THE COURT: His thinking to leave is relevant. You
23 may get into that area. Other than that, it's
24 sustained.

1 MR. MAIL: I'm sorry, your Honor, I didn't hear
2 what you just said.

3 THE COURT: I'll let -- his thinking he couldn't
4 leave is relevant. The remainder is not relevant.

5 MR. MAIL: What made him think that?

6 THE COURT: Sustained. You may reask the question.

7 MR. MAIL: Okay.

8 BY MR. MAIL:

9 Q What made you believe you were not free to
10 leave?

11 A Well, the officer had my driver's license
12 which I need for driving as well as piloting an
13 aircraft and it's quite apparent when a cop initiates a
14 traffic stop, that anyone who attempts to leave is not
15 going to find themselves in a very good position.

16 Q You mentioned piloting an aircraft. Where
17 were you headed at that time?

18 A We were headed to the Lake in the Hills
19 airport. That's K3CK, I believe.

20 Q Is there any reason that that five- or
21 six-minute delay would have been particularly
22 burdensome on that day?

23 A Yes. I have a single-engine, four-seat
24 propeller-driven aircraft. I am not an

1 instrument-rated pilot, which means that in order to
2 fly, I have to fly under visual flight rules. That
3 means I have to maintain visual reference to the
4 horizon, have a visibility of three statute miles,
5 remaining certain distances from clouds and otherwise
6 avoid fog in particular.

7 Q Were you going -- on your way to fly that
8 aircraft?

9 A Yes, we had flown in Davenport, Iowa, the
10 airport from Davenport, to Lake in the Hills, visited
11 friends and family, and then we were returning to the
12 airport for the return flight; and the sun was setting,
13 the temperature and dew point spread was coming down
14 which is an indicator for fog.

15 Q So along that -- those same lines, did this
16 five- to six-minute delay, was that the extent of the
17 delay caused by issuing this further citation or were
18 there other delays occasioned by that?

19 MR. HANSEN: Just for the record, we're outside
20 what would be relevant to the Fourth Amendment question
21 before this Court. We've established -- we've talked
22 about the reasonable, articulable suspicion for the
23 stop. We talked about the basis for the actual
24 citation. We talked about the total length of the

1 stop. What happens after the stop is over isn't
2 relevant.

3 THE COURT: Wrap it up. I'll give you a little bit
4 of leeway, but you need to wrap it up.

5 MR. MAIL: Thank you, your Honor.

6 BY MR. MAIL:

7 Q Did this -- did the additional writing of the
8 citation occasion any further delay later on?

9 A Yes, upon arriving at the airport I must
10 perform a preflight inspection upon the aircraft before
11 I can operate the aircraft. It took me some amount of
12 time to get myself in a mentally right state of mind to
13 be able to fly an aircraft after wrongfully being
14 issued a citation.

15 MR. HANSEN: Objection. Ask that the answer, the
16 argumentative portion of the answer, be stricken and
17 disregarded.

18 THE COURT: Sustained. It shall be stricken.

19 MR. HANSEN: Thank you.

20 BY MR. MAIL:

21 Q And, Mr. Puryear, finally, was there any added
22 difficulty traveling later that day due to the delay?

23 A Yes. The sun was setting. We ended up
24 touching down just after dark. My goal was to land

1 before dark. We had planned the entire day around
2 landing at the appropriate time, and throughout the
3 entire flight back I continuously monitored the
4 weather, prepared to divert to other airports in the
5 event that fog had been produced as the conditions were
6 ripe for fog as the sun was setting.

7 Q And I know I said it was the final question,
8 but who were you traveling with?

9 A Traveling with my wife Nicole and our
10 daughter, who is one-and-a-half years old.

11 Q So it wasn't merely your safety that was at
12 stake.

13 A No. My primary concern is my daughter's
14 safety and my wife's safety.

15 MR. MAIL: Thank you, Eric. Nothing further.

16 THE WITNESS: Thank you.

17 THE COURT: I need to take a break momentarily for
18 security reasons. I'll take a five-minute break.

19 Fitz, does that work for you?

20 COURT SECURITY OFFICER: Yes.

21 THE COURT: All right. We'll take a five-minute
22 break.

23 (A recess was had.)

24 THE COURT: Parties ready to continue?

1 MR. HANSEN: The Village is ready.

2 MR. MAIL: Ready, your Honor.

3 THE COURT: You may proceed.

4 CROSS EXAMINATION

5 BY MR. HANSEN:

6 Q Good afternoon, Mr. Puryear.

7 You first noticed the officer when he was
8 behind you or behind the vehicle that you were riding
9 in, correct?

10 A That is correct.

11 Q And you testified to -- to your attorney's
12 questions, Officer Page first approached the side of
13 the vehicle in which you were riding?

14 A Yes.

15 Q And you had a conversation in which he told
16 you that he didn't believe you were wearing your
17 seatbelt, correct?

18 A That's correct.

19 Q And he did in fact eventually issue a citation
20 for not wearing a seatbelt, correct?

21 A No, he issued it in retaliation for me asking
22 for his badge number.

23 Q I'm sorry, I don't think that's an answer to
24 the question. I think I said -- I think my question

1 was, he eventually issued you a citation for not
2 wearing your seatbelt, correct?

3 A Yes, he took my license, returned it, and then
4 issued me a citation for no seatbelt after I asked for
5 his badge number as he was on his way back to his car,
6 yes.

7 Q Okay. Now, you testified that you were
8 concerned about -- you testified that you were
9 traveling to Lake in the Hills airport that afternoon,
10 correct?

11 A That is correct.

12 Q And one of the things that had caught your
13 attention was the lateness of the day?

14 A Everything was on -- was on track time-wise
15 until the traffic stop.

16 Q Okay. The ten-minute traffic stop.

17 A And the resulting delays, yes.

18 Q The traffic stop started and ended in
19 approximately ten-and-a-half minutes, correct?

20 A Yeah, there are other delays that resulted,
21 but that's the duration of the stop itself, yes.

22 Q And now there was a point in time at which
23 Officer Page had returned to your vehicle and indicated
24 that he was going to give you a warning, correct?

1 A No, he did not come and say he's going to give
2 me a warning. He returned my license to me, said he
3 would take my word for it, and the stop was over.

4 Q And you say the stop was over because he
5 actually started walking away from the truck that you
6 were in, correct?

7 A Yes, the officer returned -- was returning to
8 his squad car and I believe we all heard him testify
9 earlier that he was done.

10 Q Mr. Puryear, but you're the one on the stand
11 now, so I just need you to answer my questions as I ask
12 them to you.

13 Officer Page was walking away from the car at
14 that point in time, correct?

15 A What point in time?

16 Q After he gave you back your license the first
17 time.

18 A Yes, he was returning to his vehicle.

19 Q Okay. And that's when you put your head out
20 the window and spoke to him and asked him a question,
21 correct?

22 A That is correct.

23 Q That's when Officer Page returned to your
24 vehicle.

1 A Yes.

2 Q And that's when Officer Page -- after that is
3 when Officer Page issued you a citation, correct?

4 A Only after first speaking to me telling me he
5 was going to write me a citation and would write his
6 name and badge number on there and then demanded and
7 took from my hand my ID.

8 Q And all of that happened after you stuck your
9 head out the window and asked him an additional
10 question, correct?

11 A That is correct.

12 MR. HANSEN: Nothing further.

13 THE COURT: Redirect?

14 REDIRECT EXAMINATION

15 BY MR. MAIL:

16 Q You mentioned that there were resulting
17 delays.

18 A Yes. The first delay --

19 MR. HANSEN: Objection. There is no question
20 pending.

21 THE COURT: Sustained.

22 BY MR. MAIL:

23 Q What were those resulting delays?

24 A Well, first our vehicle instead of facing the

1 correct direction, being in the correct lane to proceed
2 to the intersection, had to be brought back around a
3 rather disjointed intersection into the correct lane.
4 That probably took about a minute or two. There were
5 also delays at the airport. In order to safely operate
6 an aircraft, a pilot must be in the right frame of mind
7 and that is not just my thought, that's the FAA's
8 thought on the matter too and their regulation
9 promulgated under the FAR, which is part of the Code of
10 Federal Regulations now.

11 So first I had to put myself in the right
12 state of mind and essentially calm down from being
13 upset about being written a ticket where I didn't do
14 anything, and then we were able to proceed. I had to
15 do the preflight inspection of course and, again, that
16 is a safety issue and it needs to be done correctly and
17 I have to correctly check everything off on the
18 checklist and otherwise just has to be redone.

19 MR. HANSEN: I'll object, Judge, and ask that the
20 answer be stricken as irrelevant. Doesn't have
21 anything to do with the Fourth Amendment question.

22 THE COURT: Sustained.

23 MR. HANSEN: Thank you.

24 THE COURT: Entire response shall be stricken.

1 MR. MAIL: Nothing further.

2 MR. HANSEN: I have no recross.

3 THE COURT: You may step down, sir. Thank you.

4 You may call your next witness.

5 MR. MAIL: Your Honor, I have no further witnesses.

6 THE COURT: Very good. Village?

7 MR. HANSEN: Make a motion for directed finding at
8 this point, Judge.

9 MR. MAIL: Your Honor, at this point we made the
10 necessary prima facie case that a violation --

11 MR. HANSEN: I'm sorry, Counsel. Can I argue
12 first.

13 THE COURT: Let's let Mr. Hanson argue. Then I'll
14 give you a response. It's his motion.

15 MR. HANSEN: Judge, the motion that's before the
16 Court in writing raises three issues: One, that the
17 stop was unsupported by reasonable suspicion; second,
18 that the duration of the stop was unreasonable; and,
19 third, something having to do with the issue being --
20 the citation being issued as in retaliation against
21 Mr. Puryear in violation of his First Amendment rights.

22 I will also note that what Mr. Puryear asked
23 is for this Court to suppress the physical evidence
24 following the traffic stop performed on October 21,

1 2012. I'll address these in order. First of all, the
2 question of whether or not this particular officer had
3 reasonable, articulable suspicion is clear. Officer
4 Page had reasonable, articulable suspicion. He
5 testified that he could clearly see the vehicle, he
6 could see in the vehicle, he was able to see the
7 position of the defendant and the position of his
8 seatbelt behind the defendant when he saw this vehicle
9 traveling opposite -- going the opposite direction.

10 He testified that he was able to notice all of
11 these things and only after he noticed these things did
12 he conduct a U-turn and then stop the vehicle in which
13 the defendant was riding. Frankly, Officer Page's
14 actions after he made those observations are all
15 consistent with that and all testified to by the
16 defendant and his witnesses. Officer Page apparently
17 told the occupants of the vehicle when he approached
18 exactly why he stopped them, which is the same thing he
19 noted from the stand.

20 He didn't believe Mr. Puryear was wearing his
21 seatbelt which as a passenger in Illinois you're
22 required to do. He mentioned that twice to the
23 occupants of the vehicle. All of these things
24 established that he had a reasonable, articulable

1 suspicion for the traffic stop.

2 The fact of the matter is, Officer Page could
3 be wrong about it and that doesn't erase the
4 reasonable, articulable suspicion. We can look at this
5 in another context, Judge. Think about an improper
6 lane usage stop. The law and the case law on an ILU,
7 for example, specifically says that an officer has that
8 reasonable, articulable suspicion when he sees that
9 vehicle moving within a lane or crossing lane lines and
10 when he approaches he might find something out which
11 means that in fact a violation did not occur. But the
12 Supreme Court is clear that that doesn't mean that
13 there wasn't reasonable, articulable suspicion.

14 All you need for the basis of a Terry stop is
15 that the officer has to have more than a hunch, and in
16 this particular case, Officer Page had it given his
17 observations of the inside of the vehicle, the position
18 of Mr. Puryear being turned 45 degrees to his left, and
19 the position of the seatbelt as Officer Page could see
20 it. That creates a basis for a traffic stop.

21 The second issue that they've raised is the
22 duration of the stop was unreasonable. First of all,
23 the only reason the stop was prolonged is because
24 Mr. Puryear prolonged the stop in asking for more

1 information from the officer. The officer was walking
2 away. Mr. Puryear sticks his head out the window and
3 asks for the officer's ID and badge number. The stop
4 was over by Mr. Puryear's own legal conclusion at that
5 point until he stuck his head out and asked
6 Officer Page for more information.

7 But, more importantly, Judge, it doesn't
8 matter. There's nothing that happens or that the
9 Village gains after that point in the stop which the
10 Court is being asked to suppress. Other than Officer
11 Page's initial observations and the fact that he
12 eventually IDs Mr. Puryear when he first approaches the
13 vehicle, there is no additional evidence gained by the
14 officer during this supposed prolongment. There is
15 nothing to suppress.

16 So the Court could find that, yes,
17 Officer Page prolonged the stop by five minutes, but
18 the result would be to suppress any evidence that's
19 occurred after that unreasonable prolongment and there
20 isn't any. There is no remedy here for the supposed
21 Fourth Amendment violation. A prolongment doesn't
22 erase the validity of the entire stop. The prolongment
23 on this particular issue like this would make
24 suppressible any evidence gained as a result of that

1 unreasonable duration.

2 I don't think the duration was unreasonable.
3 If it was, it was a result of Mr. Puryear's question,
4 but, third, it doesn't matter. There is nothing to
5 suppress because of it.

6 Lastly, Judge, we have this issue because of
7 the retaliation against Mr. Puryear in violation of his
8 First Amendment rights. There is no case cited here
9 which says that an allegation of retaliation somehow
10 falls under the purview of a Fourth Amendment motion to
11 suppress. In this particular case, the Illinois Code
12 of Criminal Procedure specifically says that a person
13 can raise a motion to suppress challenging the seizure
14 or a search. There's no search in this particular
15 case. There is only a seizure. And the seizure in
16 this case is justified by reasonable, articulable
17 suspicion.

18 If Mr. Puryear wants to raise an issue that
19 has to do with retaliation of the First Amendment, it's
20 certainly possible; he can do that. This isn't the
21 court to do it in. This certainly isn't the motion to
22 do it in. There is nothing here which would suggest
23 that it somehow becomes a Fourth Amendment issue just
24 because he puts it in a motion to suppress.

1 All in all, Judge, all you have is the
2 testimony from one witness who knows what Officer Page
3 saw. That's Officer Page. He's the only person who
4 knows how he formed his suspicion to stop this vehicle.
5 Everyone else doesn't know where Officer Page was until
6 he was right behind their vehicle. Everyone else
7 doesn't know Officer Page's vantage point. Everyone
8 else doesn't know what he thinks he saw or didn't see.
9 They know what they saw, but that doesn't obviate
10 Officer Page's reasonable, articulable suspicion.

11 This is at the end of the day a question of
12 fact that will ultimately be decided by a trier of
13 fact, but the Fourth Amendment question of whether or
14 not the stop in itself was justified is clear. There
15 has been not enough evidence presented for this case to
16 go forward. Officer Page had the reasonable,
17 articulable suspicion for a Terry stop. This
18 particular hearing should end at this point with a
19 motion being granted in the Village's favor.

20 MR. MAIL: Your Honor, in response --

21 THE COURT: Counsel, -- Yes.

22 MR. MAIL: Yes.

23 It's not just about what the officer says,
24 though. It's also about what he does. And in this

1 case, we're required, our burden is to make a showing,
2 prima facie case, that Mr. Puryear's Fourth Amendment
3 rights or his constitutional rights were violated in
4 such a way that a motion to suppress would be proper.

5 Now, case law in Illinois is very clear -- I
6 have a case that I printed, People versus Leach.

7 Your Honor, may I approach.

8 THE COURT: You may.

9 MR. MAIL: And I'll direct the Court's and
10 Counsel's attention to paragraph 12 of this case where
11 it indicates -- It actually cites several cases: The
12 Cosby case, the Brownlee case -- standing for the
13 proposition that a traffic stop ordinarily ends with
14 the return of paperwork and -- Cosby, the request for
15 consent to search in both of the instant cases, cases
16 in that -- there was actually two cases in Cosby that
17 were being reviewed -- followed the officer's returning
18 of the defendant's paperwork. At that point the
19 traffic stops came to an end. Much the same case with
20 Brownlee and in People versus Leach.

21 Illinois is very consistent on this. The
22 traffic stop ends with the return of paperwork. And in
23 that -- in this case, even if we accept the officer's
24 testimony, it's very clear that he returned to the

1 vehicle, he returned Mr. Puryear's paperwork, along
2 with Mr. Cackler's paperwork; the stop was over. He
3 was walking back to his squad car. End of the stop.

4 Now, Counsel argues that, you know, an officer
5 can still have probable cause even though during the
6 course of a traffic stop the officer learns of
7 something that makes it clear that no violation
8 occurred. Okay. Even if there was probable cause on
9 the first stop, the initial traffic stop -- and, again,
10 we dispute that because I believe we've made the
11 showing in this case through two -- three witnesses
12 that the officer came to the car, explained that no
13 citation would issue, and you heard Ms. -- you heard
14 Nicole Puryear testify and Eric Puryear testify that
15 the officer's exact words were "I did not see the
16 seatbelt; I'll take your word for it." He didn't see.

17 So he couldn't have probable cause based on
18 that. He couldn't have any reason to believe that a
19 traffic violation had occurred. By his own admission
20 to them, even if we accept his version which is that he
21 thought -- or he believed he saw Mr. Puryear not
22 wearing his seatbelt, after determining that that was
23 not the case, after returning Mr. Puryear's paperwork,
24 his license, and Mr. Cackler's paperwork, that stop was

1 over. The question then becomes did he have probable
2 cause to effect another seizure?

3 I don't think there's any question here that
4 there was a seizure. Speculation objections aside,
5 Mr. Puryear was not free to leave at that point. His
6 license had been taken from him. He needed that
7 license to continue lawfully traveling. He needed that
8 in order to leave. So he remained where he was. There
9 was no probable cause for that second stop, for that
10 second seizure.

11 And the law is very clear that where a search
12 or a seizure is not supported by probable cause, the
13 Fourth Amendment has been violated. And that's exactly
14 what has happened here. Mr. Puryear, his Fourth
15 Amendment rights were violated. He was unreasonably
16 seized by the officer who had essentially detained him
17 without probable cause, if not for the first traffic
18 stop, then on the second. We've made the necessary
19 showing to shift the burden to the State in this case.
20 Certainly I would ask that -- the Court to deny the
21 motion for directed finding.

22 On the other issue, on the First Amendment
23 issue, your Honor, we're asking the Court to suppress
24 the complaint, the citation here. That's the outcome,

1 the result, of the violation of Mr. Puryear's
2 constitutional rights. I believe it's entirely
3 consistent with Illinois law, Illinois case law,
4 constitutional law, that where there's a violation of
5 constitutional rights effected by an officer in a case
6 like this, that evidence should be not be admissible
7 later on. And what flows from the violation of
8 Mr. Puryear's constitutional rights, if not -- again,
9 if not the unreasonable seizure, then the retaliation,
10 -- and I've cited case law in my motion relating
11 directly to that point, that Mr. Puryear had the right,
12 had the freedom, to express his disagreement with
13 Officer Page's actions. The right to do so, the
14 freedom to do so without fear of reprisal, again, as
15 the cases I've cited indicates, is what distinguishes
16 our country from a police state. One should not have
17 to worry about, oh, am I going to get punished, am I
18 going to get a ticket, for speaking up, for speaking
19 out. But that's what happened here. And that's
20 exactly why this Court should suppress the citation,
21 should suppress everything that followed. And there's
22 nothing inconsistent with Illinois case law on that
23 point, or Illinois Rules of Criminal Procedure.

24 The -- and it's not -- may not be physical

1 evidence, but there's very little that you could
2 analogize it to, it is simply the fruits of the
3 unreasonable seizure, the fruits of the retaliation,
4 that should be -- that should be quashed here, should
5 be suppressed here, your Honor, and I would ask this
6 Court to do so.

7 THE COURT: Mr. Hansen.

8 MR. HANSEN: First of all, the cases that Counsel
9 cites, the McCurdy case and the City of Houston case,
10 are not Illinois state actions on which a motion was
11 brought to suppress based upon a First Amendment right.
12 There is no case, there is no statute, cited which
13 would say that this Court in a motion to suppress can
14 suppress physical evidence or otherwise because of an
15 allegation of retaliation. That simply doesn't fall
16 within the purview of a motion to suppress under the
17 Fourth Amendment of the Constitution, the Illinois
18 Constitution or Illinois criminal procedure. There
19 simply isn't any basis for it.

20 Second of all, this issue of there being one
21 stop and then a second, again, there's been no evidence
22 identified, if we're going to use the way that Counsel
23 breaks it down, that can be quashed as a result of the
24 second seizure. There isn't anything. There's no

1 statement from Mr. Puryear that's been put into
2 evidence, there's no physical evidence that's been
3 recovered. All the evidence that Officer Page talked
4 about occurred as the traffic stop -- before the
5 traffic stop began or as it was occurring or during
6 that initial conversation he had with Mr. Puryear.
7 There simply isn't anything that they can identify that
8 should actually be suppressed because of the supposed
9 illegal seizure.

10 Second of all, -- or, third, the idea of this
11 being -- of the traffic stop ending when the paperwork
12 was given back, I agree. I think that's good law. A
13 traffic stop does end at that point. But the person
14 here who continues the conversation is Mr. Puryear.
15 Even if the traffic stop was over, Mr. Puryear says
16 that he wants Officer Page's name and badge number. He
17 continues the stop.

18 The point is that all of the evidence that
19 would be sought that the Village would seek to
20 introduce at trial on this point occurs before any of
21 that conversation takes place. It doesn't matter if
22 the traffic stop ended when Officer Page first gave
23 Mr. Puryear back his license. All of the Village's
24 evidence comes before that. All of the Village's

1 evidence comes as a basis of Officer Page's reasonable,
2 articulable suspicion.

3 And, lastly, Judge, I'll point out, Officer
4 Page could have let Mr. Puryear drive away and sent him
5 a citation in the mail. He could have issued a
6 summons. He has 18 months for a statute of limitations
7 to issue this kind of citation to Mr. Puryear. The
8 fact that he changed his mind doesn't somehow create a
9 Fourth Amendment issue. Whether he had Mr. Puryear's
10 question as the basis for that doesn't change the fact
11 that the allegation in the ticket is a seatbelt
12 allegation that he was able to articulate to this Court
13 his reasonable suspicion for believing that that
14 seatbelt violation occurred and the fact of the matter
15 is at this point in the proceeding, the defendant has
16 not introduced any evidence to actually shift the
17 burden.

18 The only person who knows what Officer Page
19 saw or can testify anything about that is Officer Page.
20 He was able to testify that he reasonably and
21 articulably had that suspicion that Mr. Puryear was not
22 wearing his seatbelt as a passenger in that vehicle on
23 a highway just like this particular section of the
24 vehicle code makes illegal. There was a basis for the

1 stop. The motion should be denied.

2 MR. MAIL: Your Honor, in response --

3 THE COURT: No response. It's his motion. You've
4 had your response.

5 MR. MAIL: Your Honor, if I may briefly for the
6 record.

7 THE COURT: You may not. Thank you.

8 The Court has heard the evidence in this case
9 and whether I agree with the way the officer did this
10 or not, again, this is -- I'm not here to -- really to
11 critique the officer and what he did here other than to
12 review it as to exactly what facts and what occurred on
13 the day in question.

14 There is no question to me that the officer
15 delayed the release of this defendant. The officer
16 came -- he observed the vehicle which at the time when
17 he observed the vehicle he observed what he believed to
18 be a passenger without a seatbelt. He approached the
19 vehicle once he stopped that vehicle -- once
20 approaching that vehicle, stopping that vehicle, he
21 took a license from the parties. He came back. He
22 made a decision to not write a ticket at that point.
23 He then left the vehicle and then came back upon a
24 response once the defendant in this case exercised

1 First Amendment right. He was never stopped from
2 exercising that First Amendment right. He exercised it
3 and at that point then the officer did return and did
4 issue a citation to the defendant.

5 There is no question that his actions, the
6 officer's actions, certainly did prolong to me this
7 stop. No question. The issue here, though, is we're
8 here on a motion to suppress and, again, I have to view
9 it in that purview. The officer I believe had
10 reasonable, articulable suspicion of a traffic
11 violation. Whether a fact finder at trial agrees with
12 that or not, again, I listened to the evidence today,
13 clearly I think there is certainly facts present which
14 a fact finder most clearly could agree that the
15 defendant was wearing a seatbelt on the date in
16 question.

17 However, the issue is whether the officer had
18 the observation and had reasonable, articulable
19 suspicion on the date in question to make the stop.
20 Again, I believe that he did have sufficient
21 reasonable, articulable suspicion to make the stop.
22 Probable cause I believe did exist. Whether at trial
23 the Village would be able to meet its burden of proof,
24 proof beyond a reasonable doubt, that's a whole other

1 issue, a whole other question. For this particular
2 matter, this hearing on a motion, I believe that
3 probable cause existed and the stop was reasonable.
4 While I believe the duration was unreasonable and
5 certainly was prolonged, there's nothing to suppress
6 from that point on.

7 This is not like the Leach case. In the Leach
8 case and cases that were cited, those were cases in
9 which then they conducted a search of the vehicle and
10 then they found contraband and then charged the
11 defendant with that contraband. The contraband,
12 therefore, was suppressed. In this particular case
13 while I find that the duration was unreasonable and
14 certainly prolonged, once again, it is not something
15 which was in the -- is in the purview of a motion and I
16 do not believe that the Fourth Amendment -- there was a
17 Fourth Amendment violation here in any way, shape or
18 form.

19 Retaliation is not an appropriate challenge
20 for this type of motion or this type of case. Again,
21 it's not within the purview of a motion to suppress. I
22 agree that the defendant certainly has a First
23 Amendment right to express. He certainly did express
24 that particular day and, again, whether -- whether the

1 retaliation is an issue, it's not an issue to be
2 covered by this motion. It certainly may be an issue
3 appropriate for other motions -- I should say for other
4 petitions or other lawsuits which may be appropriate to
5 file in other jurisdictions, but in a case of this
6 nature for a seatbelt violation and for a motion to
7 suppress, it's not an appropriate -- it's not
8 appropriate for the purview of this Court.

9 On that basis, the motion for directed finding
10 is hereby granted.

11 MR. HANSEN: Thank you.

12 THE COURT: I will set the matter down for trial.

13 MR. MAIL: Your Honor, out of curiosity, will this
14 be placed on any particular judge's trial list?

15 THE COURT: Well, here's the issue I have. I have
16 been told that I'm only going to be in this courtroom a
17 little bit longer. I've been in this courtroom now
18 seven years and I'm going to be taking over a different
19 court call. I am officially moving. It would remain
20 on my court calendar only through -- well, we don't
21 know for sure. In fact, we're meeting today. I may be
22 moved as soon as March 1st. Certainly somewhere
23 probably about the middle of March is a strong
24 likelihood.

1 If I was doing a bench trial, I could schedule
2 it within a month. If it's a jury trial, you're
3 looking at into April. I'm scheduled clear out into
4 April. I'm out to April 22nd, that week, or 29th.

5 And I don't know for sure exactly which judge
6 is going to take over my assignment as I am changing
7 assignments. I have my suspicions, but I don't know
8 for sure.

9 MR. MAIL: We're going to stick with a jury trial
10 in this matter.

11 THE COURT: Absolutely. Then I'll give you an
12 April date. I can give you April 22nd or April 29th,
13 whatever works in your calendar. Does either one of
14 those dates work for either one of you?

15 DEFENDANT PURYEAR: We are checking, your Honor.
16 There is a bit of a logistical difficulty in that I
17 have to clear off not only my calendar but one of my
18 associates. We have four lawyers at the firm and
19 taking half of us out is a --

20 THE COURT: Understood. We would start on a
21 Monday. That's when this Village does meet. I would
22 think we could pick a jury probably in a Monday
23 afternoon. We'd proceed to evidence probably on
24 Tuesday. I would think that the evidence shouldn't be

1 that extensive. I would think it should probably
2 conclude on Tuesday.

3 DEFENDANT PURYEAR: Yes, I anticipate two days.

4 THE COURT: If we have to go into May, that's fine
5 also. Just -- I'm giving you my soonest date would be
6 April 22nd. I have a 29th available, May 6th, 13th,
7 20th; 27th is Memorial Day.

8 DEFENDANT PURYEAR: It looks like we are available
9 for May 20th and May 21st, sir.

10 THE COURT: Then I will set the matter for
11 May 20th. That's Victoria Day, those of you from
12 Canada. I'll schedule it for May 20th then at 10:00
13 o'clock.

14 MR. HANSEN: Judge, can we also have a deadline for
15 any pretrial motions to be filed.

16 THE COURT: Let's do a deadline 30 days before
17 that. I think that should give you more than enough
18 time. That deadline would be April 22nd for any
19 motions.

20 DEFENDANT PURYEAR: You said April 22nd, sir.

21 THE COURT: Second, for deadline on motions,
22 correct.

23 Any objection to returning the exhibits so you
24 can use those for preparation for trial?

1 MR. HANSEN: Not from the Village.

2 MR. MAIL: No, your Honor.

3 THE COURT: All right. They shall be returned.

4 COURT SECURITY OFFICER: They're all yours,
5 correct?

6 THE COURT: I've kind of picked the file apart
7 because I had everything out. Of course I was
8 reviewing everything for days. I've earmarked
9 everything. I will take my little sticky notes off and
10 other notes and I'll put them back in the file for you.
11 Part of preparation.

12 MR. HANSEN: I'm sorry, you said the 20th or the
13 27th works best for you?

14 DEFENDANT PURYEAR: The 20th --

15 THE COURT: 27th is Memorial Day. The 20th --

16 DEFENDANT PURYEAR: The 20th and the 21st are the
17 dates that we have put down on our calendar and firmly
18 expect to have this trial --

19 THE COURT: What I will do is, I will block the
20 calendar then and make sure that we -- I'd like only
21 this case set that day.

22 THE CLERK: Okay.

23 THE COURT: Can you ask your supervisor if she can
24 do that for me.

1 THE CLERK: Yes.

2 THE COURT: I don't want to burden the judge
3 because this is going to take time and I want to make
4 sure -- I don't want -- if they're clearing their
5 calendars, I want to make sure that they're free to go.
6 I don't want another case to take precedent. So I just
7 want to make sure. I want a priority setting, that's
8 all. I'm going to mark on the calendar "this case
9 only."

10 Again, my apologies, but I know by that date I
11 will not be in this courtroom, so --

12 A VOICE: (Inaudible) sign this on here?

13 MR. HANSEN: No, just want you to look at it before
14 I hand it up to the judge.

15 MR. MAIL: Yeah, that's fine.

16 MR. HANSEN: Okay.

17 Thanks, Judge.

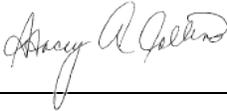
18 THE COURT: Oh, I'm sorry, he had these two also.
19 Sorry.

20 (Which was and is all of the evidence
21 offered at the hearing of said cause
22 this date.)
23
24

1 STATE OF ILLINOIS)
) SS:
2 COUNTY OF MCHENRY)

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I, Stacey A. Collins, an Official Court Reporter of the 22nd Judicial Circuit of Illinois, do hereby certify the foregoing to be a true and accurate transcription to the best of my ability and based on the quality of the recording of all the proceedings heard on the electronic recording system in the above-entitled cause.



Stacey A. Collins, CSR
Official Court Reporter
Date: 02-15-13