

1 **MTD**

2 JACOB T. S. VALENTINE (16324)
3 CHRISTOPHER PETERSON (13932)
4 **AMERICAN CIVIL LIBERTIES**

5 **UNION OF NEVADA**

6 4362 W. Cheyenne Ave.

7 North Las Vegas, NV 89032

8 Telephone: (702) 366-1226

9 Facsimile: (702) 718-3213

10 Email: jvalentine@aclunv.org

11 peterson@aclunv.org

12 *Attorneys for Plaintiff*

Hearing: 11/13/2025

Time: 8:30am

13 **JUSTICE COURT**
14 **LAS VEGAS, NEVADA**

15 STATE OF NEVADA,

16 Plaintiff,

17 v.

18 JORDAN POLOVINA,

19 Defendant

Case Number: 25-CR-054145

Department: 03

**Motion to Dismiss
for Selective Prosecution**

20 Defendant Jordan Polovina files this Motion to Dismiss the foregoing case for selective
21 prosecution. This Motion is supported by the following Memorandum of Points and Authorities
22 and any attached exhibits. Pursuant to NRS 239B.030 the undersigned affirms that the proceeding
23 document does not contain the social security number of any person.
24

Dated: November 10, 2025.

**American Civil Liberties
Union of Nevada**



JACOB T. S. VALENTINE (16324)
4362 W. Cheyenne Ave.
North Las Vegas, NV 89032
Tel.: (725) 235-3119

1 **Memorandum of Points and Authorities**

2 **A. Statement of the case**

3 On May 23, 2025, Las Vegas Metropolitan Police Officers cited Mr. Polovina on a single
4 charge of Stopping or Standing in a Pedestrian Flow Zone, a violation of CCC 16.13.030. Mr.
5 Polovina entered a not guilty plea on July 21, 2025.

6 **B. Statement of facts**

7 On May 23, 2025, Mr. Polovina was cited for allegedly stopping and standing to “play [an]
8 instrument” on a pedestrian bridge within the Resorts Corridor in violation of CCC 16.13.030
9 which prohibits stopping and standing on the pedestrian bridges. The body-worn camera footage
10 from the officers that cited Mr. Polovina shows that these officers ignored around 46 other
11 individuals who were stopped and standing on the same pedestrian bridge before, during, and after
12 the officers cited Mr. Polovina. Body-Worn Camera Footage, attached as Exhibit A. The
13 individuals who were stopped and standing are detailed below:

- 14 • A man can be seen directly to the right of the escalators stopped to take pictures. BWC
15 of Officer A at 0:00:15 - 0:00:20 (officers walk past); *Id.* at 0:02:30 – 0:06:14
16 (individual can still be seen taking pictures).
- 17 • The officers had to walk around three people who have set their bag down and stopped
18 to take and review multiple pictures. *Id.* at 0:00:32 - 0:00:56 (officers walk past);
19 0:02:00 (in view still taking pictures); 0:04:59 (Mr. Polovina points out the three people
20 to officer and states that their actions also violate the law, the officer agrees but does
21 nothing); 0:05:34 (take pictures of themselves with the officers in the background);
22 0:06:21 (stop taking pictures).
- 23 • After these officers begin to engage with Mr. Polovina, another individual stops and
24 stands about 10 feet away. *Id.* at 0:01:00 - 0:01:08.

- 1 • A group of six stop in order to have a conversation directly behind the officers. *Id.* at
2 00:01:31 – 00:02:13.
- 3 • Four others stop behind the officers, two take in the view, one to take a phone call, and
4 the third takes pictures. *Id.* at 0:03:58 – 0:04:18.
- 5 • Two individuals stop to take pictures directly across from the officers: *Id.* at 0:04:24
- 6 • Another three can be seen on the far end of the bridge taking pictures and talking. *Id.*
7 at 0:05:05 – 0:06:52.
- 8 • Three more stop to have a conversation. *Id.* at 0:06:19 – 0:06:37.
- 9 • A family of four stop to reorganize their bag, talk, and take pictures. *Id.* at 0:06:59 –
10 0:09:25.
- 11 • A group of two and a singular person stop to take pictures. *Id.* at 0:07:57.
- 12 • Six individuals stop to take and review pictures. *Id.* at 0:09:59 – 0:11:24.
- 13 • Two more individuals stop directly across from these six to have a conversation. *Id.* at
14 0:10:15 – 0:10:25.
- 15 • Another group of two stop to discuss something, organize their bags, and rest. *Id.* at
16 0:12:11 – 0:13:50.
- 17 • A couple takes pictures of each other. *Id.* at 0:13:40.
- 18 • Three individuals stop to talk. *Id.* at 0:16:27 – 0:17:15.
- 19 • The BWC video footage ends with a family of three taking a selfie five feet in front of
20 the officers. *Id.* at 0:19:29.

21 All of these stopping and standing individuals are clearly in view of the officers as can be seen
22 from the body-worn camera footage. In fact, Mr. Polovina points out that a group of stopped
23 individuals were violating CCC 16.13.030 and the officer agrees with him. *Id.* at 0:04:59

1 Instead of citing any of these 46 other individuals, the officers targeted Mr. Polovina
2 because he allegedly stopped and “play[ed] [an] instrument” on the pedestrian bridge. Polovina
3 Criminal Complaint attached as Exhibit B. The only difference between Mr. Polovina and these
4 46 other individuals is that Mr. Polovina was playing an instrument instead of taking a picture or
5 taking in the view.

6 The officers were not independently targeting Mr. Polovina however and were instead
7 trained and instructed by LVMPD and the City of Las Vegas to ignore violations of CCC 16.13.030
8 when the pedestrians stopped to take pictures or take in the view.¹ Therefore, had Mr. Polovina
9 been taking in the view or taking a picture instead of playing an instrument he would not have
10 been cited or prosecuted.

11 **C. Argument**

12 CCC 16.13.030 states that “it is unlawful for any person to (1) stop or stand within any
13 Pedestrian Flow Zone, or (2) engage in any activity while within a Pedestrian Flow Zone with the
14 intent of causing another person who is within a Pedestrian Flow Zone to stop or stand.” CCC
15 16.13.030. A pedestrian flow zone includes pedestrian bridges within the Resorts Corridor. CCC
16 16.13.020. CCC 16.13.030 includes only one exception for people that “stop or stand while waiting
17 for access to an elevator or escalator for purposes of entering or exiting a Pedestrian Flow Zone.”
18 CCC 16.13.030. Those in violation of CCC 16.13.030 are guilty of a misdemeanor. CCC
19 16.13.050.

20 The Fourteenth Amendment bars selective prosecution, even when a Defendant violates
21 the law, when the decision to prosecute is based upon the exercise of a protected statutory right,
22 such as a right guaranteed under the First Amendment. *Wayte v. United States*, 470 U.S. 598, 608,

23
24 ¹ See Stopping on Las Vegas Strip bridges punishable by \$1K fine, jail time, 8 News Now (Jan. 1, 2024),
<https://www.8newsnow.com/news/local-news/stopping-on-las-vegas-strip-bridges-punishable-by-1k-fine-jail-time/>;
see also Clark County Nevada (@ClarkCountyNV), X (Jan. 2, 2024, 6:30 PM),
<https://x.com/ClarkCountyNV/status/1742372938618425611>.

1 105 S. Ct. 1524, 1531 (1985). If a defendant can show that (1) “the prosecution of the defendant
2 was based on an impermissible motive” and (2) “other similarly situated individuals have not been
3 prosecuted” the claims against the defendant must be dismissed. *United States v. Sutcliffe*, 505
4 F.3d 944, 954 (9th Cir. 2007) (citing *United States v. Culliton*, 328 F.3d 1074, 1081 (9th Cir.
5 2003)); *United States v. Mayer*, 503 F.3d 740, 747 (finding that charges that result from selective
6 prosecution must be dismissed).

7 **1. Mr. Polovina was prosecuted for playing his cello in a traditional public forum, a
8 protected activity under the First Amendment.**

9 Prosecuting a defendant for the exercise of their First Amendment rights is an
10 impermissible motive so a defendant cannot be prosecuted if they prove that the prosecution is
11 based upon an activity protected under the First Amendment. *United States v. Steele*, 461 F.2d
12 1148, 1151 (9th Cir. 1972). The first step in showing that the prosecution was based upon an
13 activity protected by the First Amendment requires a defendant to show that they were engaged in
14 an activity protected by the First Amendment. The First Amendment protects both expressive
15 speech and expressive conduct. *303 Creative LLC v. Elenis*, 600 U.S. 570, 600, 143 S. Ct. 2298,
16 2320 (2023). Street performing is a form of expressive speech or expressive conduct and is
17 protected under the First Amendment. *Berger v. City of Seattle et al.*, 569 F.3d 1029 (9th Cir.
18 2009). The First Amendment protections for street performers performing on public streets are
19 particularly strong as “the protections afforded by the First Amendment are nowhere stronger than
20 in streets and parks, both categorized for First Amendment purposes as traditional public fora.” *Id.*
21 at 1035–36. “The sidewalks and pedestrian bridges along Las Vegas Boulevard (“the Strip”)
22 constitute a traditional public forum for First Amendment purposes.” *Santopietro v. Las Vegas*
23 *Police Dep't Officer s C. Howell Badge 9634*, No. 2:12-cv-01648-JCM-EJY, 2024 U.S. Dist.
24 LEXIS 94922, at *8 (D. Nev. May 28, 2024) (citing *Venetian Casino Resort, L.L.C. v. Loc. Joint*
Exec. Bd. of Las Vegas, 45 F. Supp. 2d 1027, 1036 (D. Nev. 1999)). Therefore, street performers

1 along the strip and on the pedestrian bridges are performing in a way which is highly protected
2 under the First Amendment.

3 Here, Mr. Polovina was performing his cello on a pedestrian bridge on the Las Vegas Strip.
4 As street performing is a protected activity under the First Amendment and the pedestrian bridges
5 of the Las Vegas Strip are traditional public fora, Mr. Polovina was engaged in an activity protected
6 by the First Amendment.

7 **2. The officers ignored 46 other individuals who violated the same law and had Mr.**
8 **Polovina been taking pictures like many of the others instead of performing he**
9 **would not have been cited and prosecuted.**

10 A claim of selective prosecution also requires a defendant to show that others similarly
11 situated generally have not been prosecuted for conduct similar to that which the defendant was
12 prosecuted. *United States v. Scott*, 521 F.2d 1188, 1195 (9th Cir. 1975); see *United States v. Oaks*,
13 527 F.2d 937 (9th Cir. 1975). The code which Mr. Polovina was charged under states that:

14 “it is unlawful for any person to (1) stop or stand within any
15 Pedestrian Flow Zone, or (2) engage in any activity while within a
16 Pedestrian Flow Zone with the intent of causing another person who
17 is within a Pedestrian Flow Zone to stop or stand. A person is not in
18 violation of this Section if they stop or stand while waiting for access
19 to an elevator or escalator for purposes of entering or exiting a
20 Pedestrian Flow Zone.”

21 CCC 16.13.030. Notably, a plain reading of this statute indicates that any person who stops or
22 stands within a Pedestrian Flow Zone unless waiting, regardless of intent, is in violation of the
23 ordinance. *Id.* People who stop to take photographs and who stop to take in the view are not exempt
24 from this prohibition.²

25 Here, Mr. Polovina was cited because he was engaged in expressive activities on a
26 pedestrian bridge within the Las Vegas Strip. The officers targeted Mr. Polovina by issuing

² This is confirmed in the 30(b)(6) deposition of Clark County in the case *McAllister v. Clark County*, No. 2:24-cv-00334 (D. Nev. filed Feb. 16, 2024), at 109:11 – 24, 112:17 - 118:15, 121:4 - 11 relevant portions attached as Exhibit C (full text can be provided if needed).

1 criminal citations for stopping only to Mr. Polovina and not the 46 other individuals taking
2 photographs, having static discussions, and making static phone calls on the bridge. If Mr.
3 Polovina had not been performing, and had instead been taking pictures, Mr. Polovina would not
4 have been prosecuted. Mr. Polovina even pointed out a group of individuals who had stopped to
5 an officer who admitted that “technically” they were also violating the law. The justification the
6 officer writing the complaint to charge Mr. Polovina even found the fact that Mr. Polovina was
7 engaged in expressive activity important enough to include in the citation he issued to Mr.
8 Polovina. *See* Polovina Criminal Complaint (“subject did stop and play instrument”) attached as
9 Exhibit B.

10 **3. Regarding the enforcement of CCC 16.13.060, LVMPD officers are expressly**
11 **instructed and trained to target protected expressive activity and ignore non-**
12 **expressive activity.**

13 LVMPD has made it clear from their 30(b)(6) deposition testimony in the case *McAllister*
14 *v. Clark County*, No. 2:24-cv-00334 (D. Nev. filed Feb. 16, 2024), that officers will not be citing
15 individuals who stop to view the strip or stop to take pictures. Walsh Deposition, relevant portions
16 attached as Exhibit D (full text can be provided if needed) at 35:4-37:10, 39:1-5, 40:1-9, 47:1-10,
17 50:1-6. LVMPD trains its officers that stopping to take a picture and stopping to view the strip are
18 “incidental viewing purposes” which LVMPD believes should not be considered to violate CCC
19 16.13.030. *Id.* at 35:1-10. Importantly, LVMPD does not consider and trains officers not to
20 consider the length of time of a stop or the intent behind a stop when determining whether a stop
21 is merely incidental, instead certain activities are wholly considered to be “incidental”. *Id.* at 35:21-
22 25, 37:16-19, 50:11-13, 50:23-51:5, 55:2-7. LVMPD expressly exempts non-expressive activities
23 such as stopping to view the strip or take a photograph from enforcement while not exempting
24 expressive activities such as street performing regardless of the length of time each activity takes.
In fact, LVMPD trains its officers to enforce CCC 16.13.030 against individuals in activities that

1 are well established to be protected by the First Amendment. *Id.* at 74:15-75:15.

2 LVMPD’s enforcement policy expressly exempts individuals engaged in non-expressive
3 conduct such as casually talking on pedestrian bridges or taking in the view while directing
4 enforcement at street performers.

5 This testimony regarding LVMPD’s policy and training aligns with the manner in which
6 the officers who cited Mr. Polovina ignored the individuals on the bridge who stopped to take
7 pictures or take in the view and how the officers instead honed in on Mr. Polovina for playing an
8 “instrument.” The officers, due to the training and advisement they have received even included
9 an allegation that Mr. Polovina had an “instrument” in their citation. The officers targeted Mr.
10 Polovina and ignored the 46 other individuals on the pedestrian bridge because they are trained to
11 engage in this discriminatory enforcement of CCC 16.13.030.

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1 **Certificate of Electronic Service**

2 I hereby certify that service of the above and forgoing Motion to Dismiss for Selective
3 Prosecution was hereby served November 10, 2025, via electronic e-filing service and email
4 through:

- 5 • This Courts E-Filing Odyssey E-File and Serve
- 6 • Via email to:

7 STATE ATTORNEY’S OFFICE
8 W. Jake Merback, Deputy State Attorney
9 E-mail: William.Merback@clarkcountyanv.gov
Attorneys for Plaintiff, State of Nevada

10
11 /s/ Suzanne Lara
12 Suzanne Lara
13 An employee of
14 **American Civil Liberties**
15 **Union of Nevada**
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Exhibit A

Officer Bodyworn Camera Footage

This exhibit will be presented in video format at the hearing on the Motion to Dismiss for Selective Prosecution.

Exhibit B
Polovina Citation

25CR054145

3

7/21

In Municipal Court of _____
 In Justice Court of Clark County
 Court Case #

**State of Nevada
 CLARK COUNTY**

Las Vegas Metropolitan Police Department

COURT

Event # **LV2505000832210**

ID # **NEW 88239730**

Adult Juvenile

Traffic Criminal
 Accident Meter #
 Parking Civil
 Infraction

TRAFFIC/CRIMINAL/CIVIL COMPLAINT

School Zone Hazmat
 Construction Zone S.T.E.P.
 Urban Rural

Injuries Crime Report
 Officer's Report

Evidence Logged Arrest

Aircraft Clock Number
 Radar Other
 Explain:

Travel Direction: N S E W

Beat/Area: **M3** Mile Marker:

At Location: **LAS VEGAS BLVD / PARK AVE, LAS VEGAS, NV 89109**

Violation Date: **5/22/25** Time: **2033** Issue Date: **5/22/25** Time: **2038**

Day Code: 1 2 3 4 5 6 7

Had Been Drinking: Yes No Unknown

Defendant Type: Driver Passenger Pedestrian

Test Type: PBT Blood Breath UA
 Drugs Suspected Results: %

Other Explain: **SUBJECT**

THE UNDERSIGNED CERTIFIES AND SAYS THAT IN THE STATE OF NEVADA

NAME (Last, First, Middle): **POLOVINA JORDAN TIMOTHY** Social Security #:

Address: Physical Mailing **3816 VIDALIA AVE NORTH LAS VEGAS NV 89031 US** City: State: Zip: City:

DOB: **04/17/1985** Race: **W** Sex: **M** Height: **6'5"** Weight: **248** Hair: **BRO** Eyes: **HAZ**

OLI # **140 788 3470** CDL State: **NV** Class: **C** Expiration: **4/17/32** Restrictions: **B** Endorsements: **NONE**

Vehicle has current proof of insurance? Yes No **N/A** Expiration Date of Insurance Card: **N/A**

DID OPERATE THE FOLLOWING VEHICLE/MOTOR VEHICLE AT THE ABOVE LISTED LOCATION:

Commercial Vehicle US DOT #: VIN #:
 16+ Pass Vehicle

Vehicle License: Lic. State: Expiration: Year: Make: Model: Type: Color:

Reg. Owner: Same Address:

DID THEN AND THERE COMMIT THE FOLLOWING OFFENSE(S):

Violation **1 STOP/STAND/CAUSE OTHERS TO STOP WITHIN PEDESTRIAN BRIDGE 66205**

Posted Speed: Actual Speed: Cited Speed: NRS CFR County Code Municipal Code

SUBJECT DID STOP AND PLAY INSTRUMENT IN THE MIDDLE (ALONG NORTH WALK) OF A PEDESTRIAN BRIDGE (WITH SIGNS POSTED) IN THE RESORT CORRIDOR OF CLARK COUNTY NEVADA. NRS/County/City # **16.13.030**

Violation **2**

To Wit: **25 - CR - 054145 CITIM Citation Image 18291084**

Municipal Code

I certify (or declare) under penalty of perjury that I am the complainant and I have reasonable grounds/probable cause to believe and do believe that the defendant committed the above offense(s) contrary to the law.

Officer/Complainant's PRINTED Name: **T. NYE** Officer/Complainant's Signature: **[Signature]** P#: **17092** Bureau: **CC42B**

SEE REVERSE FOR ALL COURT INSTRUCTIONS - NOTE: CIVIL INFRACTIONS ARE NOT CRIMINAL OFFENSES

Las Vegas Municipal Court Las Vegas Justice Court Juvenile Justice Services Goods/Boys Justice Court North Las Vegas Municipal Court Henderson Municipal Court Boulder City Municipal Court

Township/Justice Court: Court Mandatory Phone:

You are hereby ordered to appear to answer to the above charge(s) **21st** day of **JULY** year **2025** at **730** a.m.

WITHOUT ADMITTING HAVING COMMITTED THE ABOVE OFFENSE(S), I HEREBY PROMISE TO RESPOND AS DIRECTED ON THIS NOTICE AND WAIVE MY RIGHT TO BE TAKEN IMMEDIATELY BEFORE A MAGISTRATE (NRS 484A.630 AND NRS 484A.750).

Defendant's Signature **X [Signature]** Interpreter Needed? **IMAGED PC** LANGUAGE Refused

Cellphone: **(702) 611-2853** Refused Email: Refused

LVMPD GA 203 (Rev. 01/23) BY PROVIDING THE ABOVE CONTACT INFORMATION YOU ACKNOWLEDGE THAT THE COURT MAY CONTACT YOU BY TEXT OR EMAIL.



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(This Page does NOT get printed)

IMAGED
PC

ARREST REPORT/NOTES FOR TESTIFYING IN COURT

On all offenses, complaints issued must have an arrest report hand-printed in the to-wit section on the front of the complaint or in the spaces provided below. This report must contain a sufficient amount of information to establish the corpus delicti, and physical evidence, witnesses, and any specific acts of defendant which increased the seriousness of the offense.

Body worn camera recording available.

Introduction:

On May 22, 2025, at approximately 2033 hours, Officer B. Bettencourt P#18042 and I, Officer T. Nye P#17052, while operating as marked bicycle patrol unit 7M76B, were patrolling the Resort Corridor on Las Vegas Blvd. South. We observed a male, later identified by his Nevada driver license as Jordan Polovina (DOB 04/17/1985), playing an instrument with a speaker. Polovina was against the north wall, in the middle of the pedestrian bridge located at the intersection of Las Vegas Blvd. / Park Ave., Las Vegas, NV 89109. The pedestrian bridge is located in the Resort Corridor of Clark County, Nevada, and it has signs posted regarding the pedestrian flow zone. We conducted a person stop on Polovina for Stop/Stand/Cause Others to Stop Within Pedestrian Bridge under County Code 16.13.030.

Contact With:

We stopped Polovina, identified ourselves as police, and notified him that he was being stopped for loitering in the pedestrian flow zone. I asked him for identification, and he identified himself with a Nevada driver license. Polovina excitedly uttered that security had asked him to get away from the Denny's, where he usually plays music.

Record Check:

I conducted a record check to confirm Polovina's identity. The record check revealed that I had stopped Polovina for the same offense on 05/24/2024, on the same bridge, and given him a warning regarding loitering in the pedestrian flow zone.

Conclusion:

Due to the fact Jordan Polovina (DOB 04/17/1985) did stop and play an instrument on a pedestrian bridge where signs were posted regarding the pedestrian flow zone, in the Resort Corridor of Clark County, Nevada, I cited him for Stop/Stand/Cause Others to Stop Within Pedestrian Bridge under County Code 16.13.030.

IMAGED
PC

EVIDENCE: Yes No LOCATION:
WITNESSES: (include addresses and phone numbers)

Las Vegas Justice Court

JUN 26 2025

KG

By:

JUVENILE'S PARENT(S) NOTIFIED Deputy No

Parent/Guardian Name

RECEIVED
JUN 02 2025
CONVENTION CENTER
AREA COMMAND
Address

In Municipal Court of
 In Justice Court of Clark County
 Court Case #

**State of Nevada
 CLARK COUNTY**

Las Vegas Metropolitan Police Department

PROSECUTOR

Event # **LV 290500083222**
 ID # **88234730**

Adult Juvenile

TRAFFIC/CRIMINAL/CIVIL COMPLAINT

Traffic Criminal
 Accident Meter #
 Parking Civil
 Infraction

School Zone Hazmat
 Construction Zone S.T.E.P.
 Urban Rural

Injuries Crime Report
 Officer's Report

Evidence Logged Arrest

Aircraft Clock Number
 Radar Other
 Explain:

Travel Direction: N S E W Beav/ Area: **M-3** Mile Marker:

At Location: **LAS VEGAS - BLVD / PARK AVE, LAS VEGAS, NV 89109**

Violation Date: **5/22/15** Time: **2033** Issue Date: **5/22/15** Time: **2033**

Day Code: 1 2 3 4 5 6 7

Had Been Drinking: Yes No Unknown

Defendant Type: Driver Passenger Pedestrian

Test Type: PBT Blood Breath UA

Other Explain: **SUBJECT**

Drugs Suspected Results: %

THE UNDERSIGNED CERTIFIES AND SAYS THAT IN THE STATE OF NEVADA

NAME (Last, First, Middle): **FOLDVINA, JORDAN TIMOTHY** Social Security #:
 Address: Physical Mailing **3816 VIDALIA AVE, NORTH LAS VEGAS, NV 89031** City: State: Zip: City: US
 DOB: **04/17/1985** Race: **W** Sex: **M** Height: **65"** Weight: **248** Hair: **BRO** Eyes: **HAZ**
 OLNI ID: **1407883470** CDL State: **NV** Class: **C** Expiration: **4/1/13** Restrictions: **B** Endorsements:
 Vehicle has current proof of insurance? Yes No **NIA** Expiration Date of Insurance Card: **NIA**

DID OPERATE THE FOLLOWING VEHICLE/MOTOR VEHICLE AT THE ABOVE LISTED LOCATION:

Commercial Vehicle - US DOT #: VIN #:
 16+ Pass Vehicle
 Vehicle License: Lic. State: Expiration: Year: Make: Model: Type: Color:
 Reg. Owner: Same Address:

DID THEN AND THERE COMMIT THE FOLLOWING OFFENSE(S):

1 Violation: **STOPSTAND/CANOE OTHERS TO STOP WITHIN PEDESTRIAN BRIDGE**
 Posted Speed: Actual Speed: Cited Speed: NRS CFR County Code Municipal Code
 To Wit: **SUBJECT DID STOP AND PLAY INSTRUMENT IN THE MIDDLE (ACROSS NORTH WALL) OF A PEDESTRIAN BRIDGE (WITH SIGNS POSTED) IN THE RESORT CORRIDOR OF CLARK COUNTY, NEVADA.** (PL)
 NRS/County/City # **16-13-030**
 2 Violation: CODE
 To Wit: NRS CFR County Code Municipal Code
 NRS/County/City #

I certify (or declare) under penalty of perjury, under the laws of the State of Nevada that I have reasonable grounds/probable cause to believe and do believe that the above named person committed the above offense(s) contrary to the law.

Officer/Complainant's PRINTED Name: **I. NYE** Officer/Complainant's Signature: **[Signature]** P#: **17097** Bureau: **1142B**
SEE REVERSE FOR ALL COURT INSTRUCTIONS - NOTE: CIVIL INFRACTIONS ARE NOT CRIMINAL OFFENSES
 Las Vegas Municipal Court Las Vegas Justice Court Juvenile Justice Services Goodsprings Justice Court North Las Vegas Municipal Court Henderson Municipal Court Boulder City Municipal Court
 Township/Justice Court: Court Mandatory Phone:
 You are hereby ordered to appear to answer to the above charge(s). **21st** day of **JULY** year **2015** at **730** a.m./p.m.
 WITHOUT ADMITTING HAVING COMMITTED THE ABOVE OFFENSE(S), I HEREBY PROMISE TO RESPOND AS DIRECTED ON THIS NOTICE AND WAIVE MY RIGHT TO BE TAKEN IMMEDIATELY BEFORE A MAGISTRATE (NRS 484A.630 AND NRS 484A.750).
 Defendant's Signature **X [Signature]** Interpreter Needed? LANGUAGE
 Cellphone **(702) 611-2873** Refused Email Refused

273014

Exhibit C
Deposition of Clark County

McAllister, et al. v. Clark County

Deposition of:
Abigail Frierson

September 19, 2025



**WESTERN REPORTING
SERVICES, INC.**

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UNITED STATES DISTRICT COURT

DISTRICT COURT OF NEVADA

* * * * *

LISA MCALLISTER, an individual;)
BRANDON SUMMERS, an individual; and)
JORDAN POLOVINA, an individual,)

Plaintiffs,)

vs.)

CASE NO.
2:24-cv-00334

CLARK COUNTY, a political subdivision)
of the state of Nevada,)

Defendant.)

DEPOSITION OF ABIGAIL FRIERSON

Taken on Friday, September 19, 2025

At 9:09 a.m.

At 602 South Tenth Street

Las Vegas, Nevada

Reported by: Janice David, CCR No. 405

1 APPEARANCES:

2 For the Plaintiffs: MARGARET A. MCLETCHIE
 ATTORNEY AT LAW
 3 MCLETCHIE LAW
 4 602 South Tenth Street
 Las Vegas, Nevada 89101

5 For American Civil CHRISTOPHER M. PETERSON
 Liberties Union of ATTORNEY AT LAW
 Nevada: 4362 West Cheyenne Avenue
 North Las Vegas, Nevada 89032

7 For the Defendant: JOEL K. BROWNING
 8 DEPUTY DISTRICT ATTORNEY
 CLARK COUNTY DISTRICT
 9 ATTORNEY'S OFFICE
 CIVIL DIVISION
 10 500 South Grand Central Parkway
 Suite 5075
 11 Las Vegas, Nevada 89155

12

13 I N D E X

14		Page
15	ABIGAIL FRIERSON	
16	Examination by Ms. McLetchie	3,265
17	Examination by Mr. Browning	256

18

19 EXHIBITS MARKED FOR IDENTIFICATION

20	No.	Description	Page
21	1	Amended Notice of Taking Deposition	46
22	2	E-mail Correspondence	104
23	3	Chapter 16	110
24	4	E-mail Correspondence	110
25	5	X Post	140

1 (NRCF/FRCP Rule 30(b)(5)(A) and 30(b)(5)(C), as
2 applicable, was waived by the parties.)

3 Whereupon --

4 ABIGAIL FRIERSON, having been first duly sworn
5 to tell the truth, the whole truth, and nothing but
6 the truth, was examined and testified as follows:

7 * * * * *

8 EXAMINATION

9 BY MS. MCLETCHE:

10 Q. Hi, Ms. Frierson. I'm Maggie McLetchie. I --
11 we were talking, a little bit before we got started,
12 about the fact that you have never been deposed
13 before.

14 A. That's correct.

15 Q. Have you ever testified in court before?

16 A. Oh, I believe on one occasion.

17 Q. And you are an admitted attorney. Is that
18 correct?

19 A. That's correct.

20 Q. So, you understand that your testimony today
21 is under oath.

22 A. Yes.

23 Q. You mentioned that you haven't attended a
24 deposition -- you haven't had your deposition taken
25 before, but have you ever attended a deposition?

1 didn't ask about -- if they had other places to
2 protest. I was asking specifically if you know what
3 culinary was told to address their concerns.

4 And if you don't know, you don't know. I'm
5 just asking whether you know.

6 A. I don't know what words were said. That's my
7 understanding of how that got resolved.

8 Q. Okay. The -- what about taking photos? Is
9 stop -- is there an exception in the ordinance for
10 stopping and taking photos?

11 A. There is -- the prohibition is on stopping and
12 standing, which means continue to move forward. So,
13 if you're taking photos while you're moving, there is
14 no prohibition on that. Or video while moving, I
15 think that would be acceptable.

16 Q. Okay. So, the -- during the proceedings in
17 2022 there was a lot of discussion about concerns
18 about impact on First Amendment activity and the --
19 Commissioner Jones, for example, asked about -- asked
20 whether Metro would enforce the law on people stopping
21 to look at landmark -- stopping, not if they kept
22 walking, stopping to look at landmarks or take photos.
23 And -- and I believe the response was that Metro would
24 use a reasonableness approach.

25 Do you remember -- do you remember that in

1 enforce this but -- but if you look here at the last
2 line of the big paragraph, the county issued a press
3 release to the media, the public. Right?

4 A. Uh-huh. Yes.

5 Q. So -- and presumably the county wants
6 public -- the media to share the information with the
7 rest of the public. Right?

8 A. Yes.

9 Q. And it says there, This is not interpreted to
10 mean that tourists and locals cannot take photos along
11 the boulevard while on a pedestrian bridge, but rather
12 it's intended to mean the safe and continuous movement
13 of pedestrians on the bridges to ensure pedestrian
14 safety on the bridges.

15 Do you see that?

16 A. Yes.

17 Q. Okay. And as I'm sure you are aware, there
18 was a tweet by one of the county commissioners about
19 this doesn't apply to tourists stopping to take
20 photos.

21 A. I have to see that one.

22 Q. Well -- well --

23 A. Yeah.

24 Q. The -- and there was discussion, including by
25 Commissioner Jones, during the 2022 proceedings

1 wanting to make clear that it wouldn't stop people
2 from -- that the county wasn't trying to stop people
3 from taking photos. So, I want to know what the
4 county's position is.

5 Is it a violation of the ordinance to stop on
6 a pedestrian bridge to look at a landmark or take
7 photos?

8 A. I don't think -- I don't believe that this
9 says that the locals are stopping and taking the
10 photos. So, as I said earlier, they can move and take
11 photos. Yeah. I don't think that this statement
12 references stopping.

13 Q. When you take a photo, do you stop?

14 A. Sometimes.

15 Q. You -- when you take photos, are you -- you
16 can -- you can walk and take a photo at the same time?

17 A. They're not usually great ones, but I do have
18 a photo -- or I have a couple of photos where we were
19 walking, because it wasn't safe or legal to stop where
20 we were taking the photo.

21 Q. Okay. But you would agree that most people,
22 the vast majority of the circumstances when they stop
23 to take photos on the strip, when they take photos on
24 the strip, they're stopping. Right?

25 A. I don't -- I don't know about when folks -- I

1 couldn't speak to what happens the majority of the
2 time on the strip. Generally I think people prefer to
3 stop to take photos, but I don't know that people
4 would stop if they're stopping at a place where it's
5 not legal to stop.

6 Q. This doesn't say -- this doesn't say that --
7 this is not interpreted to mean that tourists and
8 locals can't take photos along the boulevard while on
9 a pedestrian bridge, so long as they're moving.
10 Right? It doesn't -- it doesn't clarify that to the
11 public, does it?

12 A. It does say but rather it is intended to
13 maintain safe and continuous movement of pedestrians
14 on the bridge.

15 Q. Right. But, I mean, in theory, for example,
16 if pedestrian bridges aren't crowded, you could have
17 safe and continuous movement on pedestrian bridges --
18 you could have -- you could have safe and continuous
19 movement on the bridges even if a tourist stops for a
20 minute to take some photos on the side of the bridge.
21 Right?

22 A. I feel like that's a pretty fact-specific
23 question. I don't know if I can answer that in a
24 generality.

25 Q. Okay. Well, did the county ever look at that

1 question?

2 A. About whether tourists could stop and take
3 photos or whether stopping and taking photos was safe?

4 Q. Whether there could be an exception for
5 allowing people to stop and take -- and -- stop and
6 take photos along the bridges, as it seems like the
7 county suggested to the public that there was an
8 exception for.

9 MR. BROWNING: Objection: misstates the
10 evidence on record.

11 THE WITNESS: The county considered the issue
12 of stopping to take photos. The determination was
13 made that maintaining continuous movement of
14 pedestrians was necessary to ensure pedestrian safety.

15 BY MS. MCLETTCHIE:

16 Q. Where is it in the record that the county
17 considered having an exception to the ordinance for
18 First Amendment activity?

19 A. Oh, I'm sorry. I don't know that they
20 considered the exception. I'm saying the issue was
21 always part of the discussion.

22 Q. Okay. Do you think -- is it fair to say the
23 public was confused and is still confused about
24 whether they can take photos on the bridges?

25 MR. BROWNING: Objection: calls for

1 speculation.

2 THE WITNESS: It's hard for me to tell what --
3 to answer the question of what the public believes,
4 but I do know obviously this issue was the top of mind
5 at least for Jen Cooper.

6 BY MS. MCLETTCHIE:

7 Q. It was the top of mind for Jen Cooper, and the
8 county decided to issue a press release -- release to
9 clarify that people could take photos on the bridges.
10 Right?

11 A. It was included in the press release. Yes.

12 Q. And the -- you said it was at the -- at top of
13 mind for Jennifer Cooper. And Jennifer Cooper did not
14 clarify that you can take photos so long as you don't
15 stop moving.

16 A. I think it's implied here with the second
17 clause of the statement.

18 Q. So, I think everybody -- everybody knew that
19 the ordinance stopped -- criminalized stopping or
20 standing on the pedestrian bridges. Right?

21 A. Yes.

22 Q. So, everybody knew that if they -- you would
23 know that if you kept walking and took a photo, you
24 wouldn't be in violation. Right?

25 A. I don't know what everyone knew.

1 Q. Okay. The concern about taking photos on the
2 pedestrian bridge, for example, the one that was
3 discussed by Commissioner Jones, the concern was
4 never, "Well, is this going to ban taking photos while
5 you're moving." The concern was, the tourist and
6 locals wouldn't be able to stop and take photos.
7 Right? There was concern and discussion about that.
8 Right?

9 A. There was discussion. Yes.

10 Q. So, I just want to make it really clear. Is
11 it -- are you telling me now that the -- it's the
12 county's position -- it's now the county's position,
13 despite this press release and despite statements
14 by -- by -- statements by -- statements by --
15 statements by others, that it is, in fact, illegal to
16 stop even for -- for twenty seconds and to -- to take
17 a photo on a pedestrian bridge in the strip -- on the
18 strip?

19 MR. BROWNING: Objection: form, compound,
20 argumentative.

21 THE WITNESS: I -- nowhere is there an amount
22 of time listed in the ordinance. If the person who's
23 taking the photos intent is to stop or prevent someone
24 else from moving, then that person could be in
25 violation of the ordinance. But for all practical

1 purposes, if it's incidental movement...

2 BY MS. MCLETTCHIE:

3 Q. Okay. I'm just getting more and more
4 confused.

5 A. Okay.

6 Q. So, the -- I understand that taking action
7 with the intent that other people stop is a violation,
8 but it doesn't say that stopping with the intent of
9 stopping is a violation. Right? It says stopping is
10 a violation.

11 A. Right. Stop -- well, you have to have the
12 intent -- you have the -- the requisite criminal
13 intent but, yes, to stop -- so it's not just stopping.
14 You have to have the intent to stop, I think,
15 actually.

16 Q. Okay. So, if somebody holds you still, you're
17 not stopping. But do you think you can infer, from
18 the fact that someone is stopped, that they chose to
19 stop?

20 A. I think that's a fact-specific inquiry.

21 Q. So, you're saying that in the criminal -- any
22 criminal case stemming from the violation of this
23 ordinance, Metro needs to show not only that the
24 person, in fact, stopped but also that it was their
25 intent to stop?

1 the prohibition on stopping or standing -- is there a
2 prohibition -- is there a prohibition for -- I'm
3 sorry.

4 Is there an exception for taking photos?

5 A. There is no exception for taking photos in the
6 ordinance.

7 Q. So, it is unlawful for any person to stop or
8 stand within a pedestrian flow zone and take a photo;
9 right, period?

10 A. If they had the requisite intent to stop or
11 stand, yes.

12 Q. So, let's look at this ordinance for a second.
13 I see -- I see two things that are criminalized.

14 A. Where are we looking?

15 Q. 16.13.030. It says -- it has two things;
16 right, that it -- that are unlawful. One is to stop
17 or stand with any -- with -- within any pedestrian
18 flow zone. Right?

19 A. Right.

20 Q. And then the second, there is no -- it doesn't
21 say with intent. Right?

22 A. It does not say with intent.

23 Q. And then separately it says in -- or engage in
24 any activity while within a pedestrian flow zone with
25 the intent of causing another person who's in a flow

CERTIFICATE OF REPORTER

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I, Janice David, a Certified Court Reporter licensed by the State of Nevada, do hereby certify:

That I reported the deposition of the witness, ABIGAIL FRIERSON, commencing on September 19, 2025, at the hour of 9:09 a.m.;

That prior to being examined, the witness was by me first duly sworn to testify to the truth, the whole truth, and nothing but the truth; that I thereafter transcribed my related shorthand notes into typewriting and that the typewritten transcript of said deposition is a complete, true, and accurate record of testimony provided by the witness at said time.

I further certify (1) that I am not a relative or employee of an attorney or counsel of any of the parties, nor a relative or employee of any attorney or counsel involved in said action, nor a person financially interested in the action, and (2) that pursuant to Rule 30(e), transcript review by the witness was not requested.

IN WITNESS WHEREOF, I have hereunto set my hand in my office in the County of Clark, State of Nevada, this 16th day of October, 2025.



Janice David, CCR No. 405

Exhibit D
Deposition of LVMPD

McAllister, et al. v. Clark County

Deposition of:
Andrew Walsh

September 23, 2025



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UNITED STATES DISTRICT COURT
DISTRICT COURT OF NEVADA

LISA MCALLISTER, an)	
individual; BRANDON SUMMERS,)	
an individual; and JORDAN)	
POLOVINA, an individual,)	
)	
Plaintiffs,)	CASE NO.
)	
vs.)	2:24-cv-00334
)	
CLARK COUNTY, a political)	
subdivision of the state of)	
Nevada,)	
)	
Defendant.)	
)	

DEPOSITION OF ANDREW WALSH

30(B)(6) Las Vegas Metropolitan Police Department

Taken on Tuesday, September 23, 2025

At 9:01 a.m.

At the Law Offices of McLetchie Law

602 South Tenth Street

Las Vegas, Nevada

FIRM NO. 021F JOB NO. 29175
REPORTED BY: DANA TAVAGLIONE, RPR, CCR 841

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I N D E X

WITNESS: ANDREW WALSH

EXAMINATION	PAGE
Examination by Mr. Peterson	4
Examination by Mr. Browning	162

E X H I B I T S

WALSH/PLAINTIFF'S	PAGE
1 Fed. Rev. Civ. P. 30(b)(6) Deposition Notice of Non-Party Las Vegas Metropolitan Police Department	23
2 LVMPD Administrative Notice, LVMPD-000236	25
3 X printout of tweet in re Clark County ordinance	41
4 M-S000032 through M-S000036, newspaper article	55
5 Clark County, NV Code of Ordinances, Title 16, Roads and Highways, Chapter 16.06, Special Events sections, no Bates	62
6 CC-072 through CC 124, County Commissioner Hearing packet	94
7 LVMPD-000491, 11/22/23, Media request	134

1 LAS VEGAS, NEVADA; TUESDAY, SEPTEMBER 23, 2025

2 9:01 A.M.

3 -oOo-

4 (Upon the oath being administered to the
5 witness, counsel present agreed to waive
6 statements by the court reporter pursuant
7 to Rules 30(b)(5)(a) and 30(b)(5)(c) of
8 the NRCP/FRCP.)

9

10 Thereupon --

11

ANDREW WALSH,

12 having been first duly sworn to testify to the
13 truth, was examined and testified as follows:

14

15

EXAMINATION

16 BY MR. PETERSON:

17 Q. Sir, can you give your name and spell it,
18 for the record.

19 A. Sure. It's Andrew, A-N-D-R-E-W, W-A-L-S-H,
20 Walsh.

21

22 MR. PETERSON: And Christopher Peterson,
23 attorney for the plaintiffs, from the ACLU of
24 Nevada. Why don't we just go ahead and introduce
ourselves. Maggie, do you want to go next?

25

MS. McLETCHE: Maggie McLetchie, also

1 counsel for plaintiffs, along with Mr. Peterson.

2 MR. WHITMIRE: James Whitmire, attorney for
3 Metro and the witness.

4 MR. YATES: Andrew Yates, attorney for
5 Metro and the witness as well.

6 MR. BROWNING: Joel Browning on behalf of
7 defendant, Clark County.

8 BY MR. PETERSON:

9 Q. Okay. Mr. Walsh, what is your current rank
10 at LVMPD?

11 A. I am the undersheriff.

12 Q. Okay. So I'll refer to you as Undersheriff
13 Walsh.

14 A. That's fine.

15 Q. Do you have any prior deposition experience?

16 A. Yes.

17 Q. When have you been deposed before?

18 A. Oh, my memory here, probably about five
19 years ago. I know, I remember the attorney was
20 Brent Bryson, who was on a -- in his office; and
21 then I may have had one or two other experiences.
22 That's the most memorable one.

23 Q. Do you remember what the nature of that case
24 was?

25 A. Yes.

1 congregating or causing others to stop, except for
2 incidental viewing purposes?

3 MR. WHITMIRE: Object to scope.

4 THE WITNESS: Yes.

5 BY MR. PETERSON:

6 Q. Okay. So, to clarify, it is LVMPD's
7 position that the ordinance does not prohibit people
8 from stopping, standing, or congregating if they do
9 so for incidental viewing purposes?

10 MR. WHITMIRE: Object to form. Scope.

11 THE WITNESS: Yes.

12 BY MR. PETERSON:

13 Q. Do you know why LVMPD has exempted
14 incidental viewing purposes from other forms of
15 stopping, standing, or congregating that would be
16 prohibited by Clark County Code 16.13.030?

17 MR. WHITMIRE: Object. Scope.

18 THE WITNESS: Yes.

19 BY MR. PETERSON:

20 Q. Why?

21 A. Well, there's a couple of things to
22 consider. One is people will stop and -- on the
23 bridge and look north, south, east, west, take a
24 picture of a casino, take a picture of something
25 exciting on the strip, take a selfie. People will,

1 in addition to incidental viewing purposes, it's
2 people stop to tie their shoe or if they drop
3 something and have to pick it up, that's -- our
4 intention is to not take any type of education,
5 warning, or enforcement action against those
6 individuals.

7 Q. Is it LVMPD's position that those actions do
8 not violate Clark County Code 16.13.030?

9 MR. WHITMIRE: Objection. Scope.

10 THE WITNESS: Yes.

11 MR. BROWNING: Calls for legal conclusions.

12 BY MR. PETERSON:

13 Q. Now, you listed a few activities there that
14 it appears that LVMPD considers to be part of
15 incidental viewing purposes. Just to clarify, is
16 stopping to tie your shoe considered part of the
17 exemption that is for incidental viewing purposes?

18 A. I would phrase it as more of incidental
19 activity for tying your shoe. "Incidental viewing
20 purposes," in particular, describes people stopping
21 to view the strip or wherever they might be on one
22 of the bridges. But there's other incidental
23 behavior that I think those are the items that I
24 mentioned fall into separate categories, other than
25 viewing. Tying your shoe is not viewing, but it's

1 also incidental in nature.

2 Q. And we'll come back to that.

3 I actually want to ask a few more questions
4 about the term "incidental viewing purposes." In
5 determining whether or not someone has stopped for
6 incidental viewing purposes, does LVMPD consider
7 whether or not the stop was intentional?

8 MR. WHITMIRE: Object to -- object. Scope.

9 MR. BROWNING: Legal conclusion. Join.

10 THE WITNESS: Yes.

11 BY MR. PETERSON:

12 Q. All right. If someone stops intentionally
13 for incidental viewing purposes, does LVMPD consider
14 that a violation the of Clark County Code 16.13.030?

15 A. No.

16 Q. Okay. Does LVMPD have a set length of time
17 that's allowed if someone stops for incidental
18 viewing purposes?

19 A. No.

20 Q. What is LVMPD's basis to believe that
21 incidental viewing purposes are permitted under
22 Clark County Code 16.13.030?

23 MR. WHITMIRE: Objection on that one,
24 scope.

25 MR. BROWNING: Speculation. Join.

1 determined -- sorry. Sorry. Let me think about this
2 for a minute. Now I want to ask you, you mentioned
3 when describing the activities that be exempted from
4 the ordinance, I believe you said something about
5 taking a picture; is that correct?

6 A. Yes.

7 Q. Okay. So is it LVMPD's understanding that
8 taking a picture would be exempted from 16.13.030?

9 A. Yes.

10 Q. All right. What is the basis to believe
11 that taking a picture, stopping -- sorry. Let me
12 rephrase that. What is the basis to believe that
13 stopping to take a picture is allowed under
14 Clark County Ordinance 16.13.030?

15 A. Our, Metro's interpretation of the law is,
16 my interpretation as well, is that this is for flow,
17 the flow of pedestrian traffic. Somebody stopping
18 to take a photograph is not directly related to what
19 was causing the disorder issues on the bridges. So
20 the intent of the law was to reduce the disorder.
21 If someone is stopping to take a photograph and
22 promote that type of -- to promote that type of
23 behavior is not harmful to us in any way.

24 Q. So -- I'm sorry. Could you say that just
25 one more time, please.

1 A. Yeah, I don't think that the intent of the
2 law is to stop people from stopping to take a
3 photograph of the many iconic things that you can
4 see from the bridges on Las Vegas Boulevard and the
5 resort corridor.

6 Q. I think you said something about taking a
7 photograph does not contribute to the disorder on the
8 pedestrian bridge; is that correct?

9 A. Yes.

10 Q. So just to clarify, is it LVMPD's position
11 that stopping or standing that does not contribute to
12 the disorder on the pedestrian bridges is exempted
13 from Clark County Ordinance 16.13.030?

14 A. Yes.

15 Q. Okay. Is that reflected in the language of
16 Clark County Ordinance 16.13.030?

17 A. I haven't read the ordinance in awhile.
18 I'd have to see it again.

19 MR. PETERSON: Okay. I will come back to
20 that. Okay. Now, going back specifically to the
21 photograph --

22 Can I mark this. I believe we're at
23 Exhibit 3; is that right?

24 THE REPORTER: Yes.

25 / / /

1 Q. Does LVMPD direct its officers to only
2 enforce against people who have stopped in a manner
3 that would impede the flow of traffic or lead to
4 people congregating on the pedestrian bridges?

5 A. Yes.

6 Q. How has that direction been communicated to
7 your officers?

8 A. Through this Administrative Notice, through
9 the two videos that were a part of the training
10 associated with this ordinance.

11 Q. And the limitation we just described, is
12 that reflected in Clark County Ordinance 16.13.030?

13 MR. WHITMIRE: Object. Scope.

14 THE WITNESS: I'd have to review the
15 ordinance again.

16 BY MR. PETERSON:

17 Q. Do you know where LVMPD -- or sorry.

18 Do you know why LVMPD believes that
19 Clark County Ordinance 16.13.030 is limited only to
20 stops that impede other pedestrians and/or lead to
21 people congregating on the pedestrian bridges?

22 MR. WHITMIRE: Object. Scope.

23 THE WITNESS: Yes.

24 BY MR. PETERSON:

25 Q. Why does LVMPD believe that?

1 stopping," end quote?

2 A. Yes.

3 Q. Okay. Can you explain what "incidental
4 stopping" means.

5 A. Tying your shoe, stopping to pick something
6 up if you dropped it, stopping to take a photograph.

7 Q. How long is an incidental stop?

8 A. Couple seconds. Couple -- long enough to
9 take a photograph and keep moving, however long that
10 would take.

11 Q. Has LVMPD provided guidance to its officers
12 as to what the length of an incidental stop would be?

13 A. No.

14 Q. Have they provided any guidance on where an
15 incidental stop -- an acceptable incidental stop may
16 occur on the pedestrian bridges?

17 A. It could occur anywhere on the pedestrian
18 bridge.

19 Q. Okay. Now, LVMPD has provided guidance to
20 its officers that an incidental stop would include
21 tying your shoe; is that correct?

22 A. Yes.

23 Q. LVMPD has provided guidance to its officers
24 that an incidental stop would include taking
25 photographs?

1 A. Yes.

2 Q. LVMPD has provided guidance to its officers
3 that incidental stop would include stopping to view
4 the strip?

5 A. Yes.

6 Q. Is there any other conduct that LVMPD has
7 described to its officers as being only an incidental
8 stop that they should not enforce?

9 A. It's kind of a -- no. I don't know of any
10 other in addition to the ones you mentioned, but
11 it's -- all the examples are provided to the work
12 force so that if there are other examples, the
13 officers have discretion to understand that
14 something that is incidental -- I could think of a
15 variety of things that would be incidental, that
16 officers could consider incidental.

17 Q. Did LVMPD make the decision -- oh, sorry.
18 Let me think. Did LVMPD determine that incidental
19 stopping is exempted from Clark County Ordinance
20 16.13.030 based upon its own internal enforcement
21 authority?

22 MR. WHITMIRE: Objection. Scope.

23 THE WITNESS: Yes.

24 BY MR. PETERSON:

25 Q. Okay. So even if this -- even if incidental

1 MR. WHITMIRE: Object to form. Scope.

2 THE WITNESS: So an intentional stopping to
3 take a photograph, I don't think there's any other
4 way to do it other than intentionally.

5 BY MR. PETERSON:

6 Q. So is that -- is that a "yes"?

7 A. Yes.

8 MR. PETERSON: Okay. I'm going to mark
9 this as -- are we Exhibit 4? Is that where we're
10 at?

11 THE REPORTER: Four, yes.

12 MR. PETERSON: Okay. I'll give this to
13 opposing counsel, Mr. "Whitmeer." Sorry.

14 MR. WHITMIRE: "Whitmire."

15 MR. PETERSON: "Whitmire." Okay.

16 MR. WHITMIRE: I'm keeping a running count.

17 MR. PETERSON: Yeah, please do. Okay.

18 MR. WHITMIRE: One, two, three so far.

19 MR. PETERSON: Okay. All right. Writing
20 it down.

21 MR. WHITMIRE: That's all right.

22 MR. PETERSON: No, it's not all right. I'm
23 going to do better.

24 (Whereupon Walsh/Plaintiff's Exhibit
25 No. 4 was marked for identification.)

1 and I'm going to take a break.

2 MR. PETERSON: Sounds good.

3 (Pause in the proceedings.)

4 MR. PETERSON: Shall we go back on the
5 record and get started again?

6 MR. WHITMIRE: Yep.

7 BY MR. PETERSON:

8 Q. All right. And I just ask everybody this
9 question: Did you review any documents during the
10 break?

11 A. No.

12 Q. Okay. Did you talk to anyone about
13 preparing for this deposition during the break?

14 A. No.

15 Q. All right. So let's go and get back in it.
16 In the guidance you provide your officers related to
17 Clark County Ordinance 16.13.030, do you talk at all
18 about First Amendment activity?

19 A. Yes.

20 Q. Okay. What do you say about First Amendment
21 activity?

22 A. In the videos, there is a reference to
23 First Amendment activity. Basically describes that
24 the interpretation is constitutionally, as long as
25 there's another place for constitutional protected

1 activity to occur nearby, then the pedestrian bridge
2 ordinance has been deemed to be constitutionally
3 valid in other jurisdictions.

4 So it basically describes a scenario where
5 First Amendment activity wouldn't -- this wouldn't
6 infringe on someone's First Amendment rights since
7 there were other locations nearby to where they
8 could take place in protected activity.

9 Q. Is it fair to say your guidance is that the
10 Clark County Ordinance 16.13.030 does not exempt
11 First Amendment activity?

12 MR. WHITMIRE: Object to form.

13 MR. BROWNING: Legal conclusion.

14 THE WITNESS: There's no mention of the
15 First Amendment in the ordinance. That's correct.

16 BY MR. PETERSON:

17 Q. So the guidance to your officers -- so the
18 guidance you provide your officers is to direct
19 people engaging in First Amendment activity to go to
20 other sidewalks where 16.13.030 is not in effect?

21 A. Yes.

22 Q. Now, theoretically, if Clark County stated
23 that any intentional stopping within a pedestrian
24 flow zone, except for stopping to wait for an
25 elevator or escalator, is prohibited by 16.13.030,

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CERTIFICATE OF DEPONENT

PAGE	LINE	CHANGE	REASON

* * * * *

I, ANDREW WALSH, deponent herein, do hereby certify and declare the within and foregoing transcription to be my deposition in said action; under penalty of perjury; that I have read, corrected and do hereby affix my signature to said deposition.

ANDREW WALSH Deponent Date

