

Appeal Memorandum to Case# M-1142-TR-2016004009
State of Arizona vs. Victor J. Aguilar

Below is a photograph of the intersection in question (Trekell and Cottonwood) with the camera positioned on the southbound side of Trekell approximately 100 meters north of the intersection. Observe that the 35 mph speed limit sign is clearly visible in the photo and that it is visible to all southbound drivers. Also observe that, at the time of the photo, there are two cars in the turn lane, exactly how many Espino repeatedly claims is the correct number (I was in the position that the white SUV currently occupies) and that this places the incident well past the 35 mph speed limit sign.



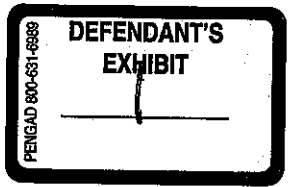
At 7:00 in the audio, I state that the diagram shows me “behind another vehicle” and Espino replies “yes” and then reaffirms, “correct.” I then ask, “What’s wrong with this diagram?” and Espino is given ample opportunity to point out inaccuracies in the diagram. He states that the drawing is inaccurate in failing to show another lane to the right of us but agrees that this is irrelevant because neither of us entered it. “I recognize that I did not put enough lanes here,” I concede the irrelevant point before asking, “Is there anything else wrong with this diagram? Other than that?” At 8:00 in the audio Espino replies “no,” and then “no” again. Thus, Espino explicitly excluded any mention of inaccuracy in my statement – which he affirmed as “correct” only ten seconds after I said it – that I was “behind another vehicle.” But at 3:35 in the audio, Espino had revealed that he was going 45 mph at the time of the incident. As is clearly shown in the diagram that Espino repeatedly affirmed is an accurate representation, I was “behind another vehicle,” which puts the incident well past the 35 mph sign, where the white SUV currently sits. So Espino openly admitted to exceeding the speed limit by 10 mph at the time of the incident.

At 9:20 to 9:50 in the audio, I remind Espino that I had repeatedly asked him how fast he was going at the time of the incident and that he had repeatedly refused to answer my question. At 8:20 in the audio Espino explained his repeated refusal to answer this simple and highly relevant question with the statement, “I don’t have ten hours to waste or to take up writing a citation.” This explanation for his obfuscation makes no sense because it was him – not me – who was causing delays by refusing to answer a simple question. Also, “ten hours” is an exaggeration by a thousand fold, which really does not add to Espino’s credibility. But ten minutes is not an exaggeration of how long Espino wiggled on this hook while under oath. Losing patience with Espino’s relentless obfuscation, I demand, “For the fourth time, I ask again, how fast were you going?” He meekly replies, “45 mph.” Thus, for the second time under oath, Espino confesses that he was driving 45 mph in a 35 mph zone at the time of the incident.

At 10:30 to 11:30 I point out that the stopping distance of a patrol car traveling 45 mph is 97 feet, which is five times the distance of one car length (20 feet) that Espino repeatedly affirmed was accurate. Also, in Espino’s repeated confirmations of the accuracy of the diagram, he never cast doubt on the fact the it clearly shows the traffic light is red. “RED LIGHT” is written in bold letters and a little circle with outward rays around it is clearly a symbol for an illuminated red light. So Espino has openly admitted that he approached within 20 feet of a red light while traveling at 45 mph in a 35 mph zone.

Driving 45 mph only 20 feet from a red light is reckless driving regardless of the posted speed limit, but the fact that Espino openly admits to driving 45 mph in a 35 mph zone would make him the law breaker even if he claims that his repeated affirmations of the accuracy of the diagram somehow overlooked the fact that “RED LIGHT” is printed in bold letters.

If a civilian openly admitted under oath that he was driving 45 mph in a 35 mph zone only 20 feet short of a red light, he would be charged with both reckless driving and with speeding 10 mph over the limit. Of course, asking that a police officer be charged with any offense is asking for the moon, so I ask only that the charge against me of an improper lane change be rescinded, as my lane change would have been routine had there not been a crazy man approaching from behind at reckless speeds well in excess of the posted limit and with a red light only 20 feet in front of us.



Traffic
South

Cottonwood
East

Red Light
☀

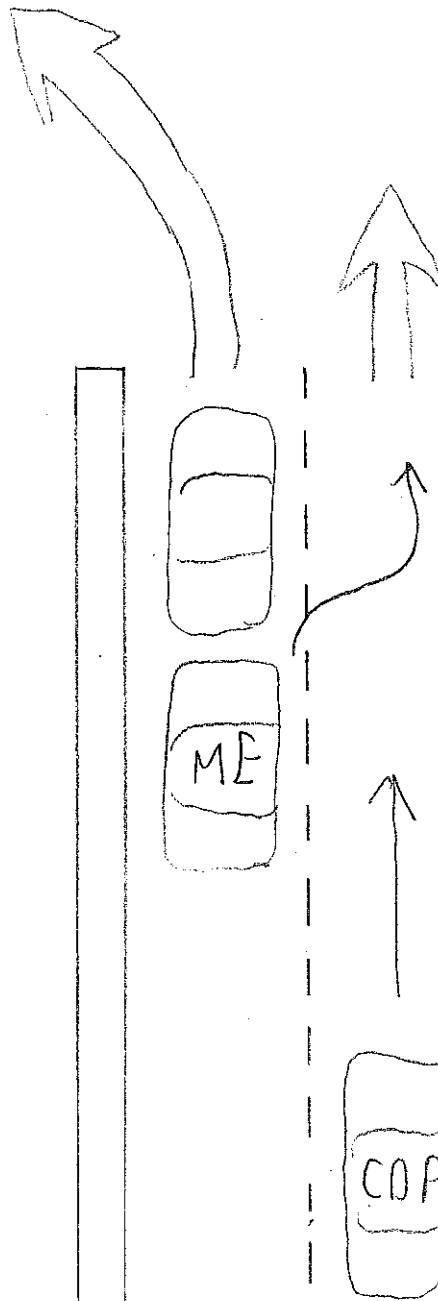


Diagram for
Complaint
161501