

ARIZ. A DEPARTMENT OF PUBLIC SAFETY
CONTINUATION / SUPPLEMENTAL REPORT

DR NUMBER (Required Field)
2009-020080

CONTINUATION REPORT SUPPLEMENTAL REPORT

WITNESS LIST CONTINUED:

United States Border Patrol, Supervisory Border Patrol Agent Scott A. Schultz, Acting Supervisory Border Patrol Agent Carlos Diaz, Border Patrol Agent Ernesto Gomez, Canine Agent Brandon Griffiths.
INVOLVED K-9: "JERRY-C".

NARRATIVE:

On April 14, 2009 at 2201 hours, I was contacted at the Wellton D.P.S. Office via telephone by the Arizona Department of Public Safety Dispatcher in Tucson, and informed that the United States Border Patrol was requesting a DPS Officer at their checkpoint on Interstate 8, eastbound at milepost 78. The request was in reference to a male subject that was stopped at the checkpoint after a K-9 alerted to the vehicle. After the K-9 alert, the driver was instructed to pull the vehicle over into the secondary area. The driver, who was the only occupant, and later identified as Steven Lee Anderson, was refusing to move the vehicle from the roadway. While enroute I contacted the checkpoint via telephone for an update. I was informed the subject was still locked inside his vehicle, still parked in the commercial vehicle traffic lane(traffic was being rerouted to the opposite lane) and he was still refusing too pull into secondary or exit the vehicle, he had also begun to video tape the Agents. I asked the DPS Dispatcher to contact the Yuma County Sheriff's Office to see if they had a Deputy close by that could assist, I was informed that the Deputies arrival time would be approximately 45 minutes, so the Deputy was cancelled, and DPS Officer J. Mitchell #3473 from the Gila Bend area advised he would respond to assist. At this time I contacted the acting supervisor M. Duran #3635, via my cell phone, and asked him if he had been informed of the situation at the checkpoint. Duran had not been contacted so I relayed the information I had. It was determined that Duran would contact the District Four Commander G. Anderson, and inform him. I arrived at the checkpoint at 2247 hours. I observed a maroon colored Hyundai, the vehicle was parked in the right traffic lane at the stop sign. The driver still seated in the drivers seat. I was met by several Agents. I was informed by Agent Spoonamore #K30, that he and his K-9, JERRY-C, was working the line when the Hyundai entered the checkpoint. Spoonamore stated that as the Hyundai passed his location his K-9 alerted to it. Spoonamore said he requested the primary Agent, E. Gomez, to have the driver of the Hyundai pull the vehicle into the secondary area. Gomez stated at this time the driver,(Anderson) refused to move the vehicle. Spoonamore said he explained to Anderson that his K-9 had alerted to the vehicle, and that the K-9 was trained to alert to concealed humans or certain narcotics. The driver was also instructed by Supervisory Agent S. Schultz to move the vehicle to the secondary, but still refused and was becoming increasingly more aggitated yelling that the Border Patrol didn't have the authority to search his vehicle without a warrant.

Because I didn't know if the drivers physical or mental state may be impaired I placed my vehicle directly behind the Hyundai, I also placed stop sticks in front of the left rear tire and one in front of the right front tire, two Border Patrol Agents were also positioned approximately 30 to 40 feet in front of the vehicle with stop sticks. I then attempted to speak with Anderson at the drivers side window.

Anderson would only lower the window approximately a half inch. I identified myself to Anderson as an Arizona Department of Public Safety Patrolman and asked that he lower the window so that I could speak with him. Anderson refused asking if he could leave now. All this time he was pointing a video camera in my direction. I informed Anderson that the K-9 had alerted to the vehicle and that was probable cause for the Border Patrol to have him pull to secondary so they could further investigate, and that was why he was asked to pull to the secondary. He said how can the dog alert to me at 75 miles per hour. I told him the dog alerted after he entered the checkpoint. Anderson asked if the K-9 could sniff again, I asked Agent Spoonamore if we could have the K-9 sniff again and he said he would rather wait until the vehicle was secondaried. Again Anderson asked if he could leave and I told him that he could not leave that he was being placed under arrest for blocking a highway and resisting and order. I read Anderson his Miranda warnings from a Miranda card at 2300 hours. I informed Anderson that he should exit the vehicle, that he was going to have too eventually. Officer Mitchell arrived at the scene at this time. Anderson had stopped talking and was just staring blankly at me by this time making no effort to come out of the car or respond to questions. I updated Officer Mitchell of the situation. It was decided that because Officer Mitchell was a fresh face that he try a last time to persuade Anderson to leave the car. Officer Mitchell identified himself as an Officer and asked Anderson if he recognized Mitchell as an Officer, Anderson stated that he did. Mitchell asked Anderson if there was any medical reason that prevented him from exiting the vehicle, he stated there was not. This attempt was not successful. I contacted acting supervisor Duran and informed him that the driver wasn't responding and that entry into the vehicle appeared the only alternative. LT. Anderson was contacted and gave consent to use force if necessary to bring the situation to an end.

At this time a plan was formulated that Officer Mitchell would go to the passenger side window. Officer Mitchell would break the front passenger side glass and deploy a Taser on Anderson to incapacitate him, and simultaneously Agent Spoonamore would break the drivers window so Anderson could be subdued and the door unlocked. Because of the window tint on the window the window did not shatter and Agent Spoonamore had to strike the window several times with his ASP in a effort to open a hole large enough to safely reach through. Agents instructed Officer Mitchell to activate the Taser for a second time, but then told him to stop after a short time.

<input type="checkbox"/> PENDING	OFFICER NAME	BADGE NO.	LOCATION CODE	SUPERVISOR NAME	DATE
CLOSED BY: <input checked="" type="checkbox"/> ARREST <input type="checkbox"/> OTHER	M.R. Jones	2819	23040300		

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Disclosures Made

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Anderson was brought out of the vehicle through the open drivers door by Border Patrol Agents. Anderson was placed on the ground and handcuffed by the Agents. After being handcuffed Anderson was brought to his feet. He was bleeding from the left side of his face. He was taken into the Border Patrol Office and immediately administered first aid by Agent Spoonamore, a certified Emergency Medical Technician. Gause and patches were applied to the head area of Anderson and the bleeding appeared controlled. I contacted Anderson inside the office and told him that this situation did not have to come to this. I then told him I was going to give him his Miranda Rights again, now that we were in a more calm and quiet environment. He was given his rights at 2330 hours. He said he understood and declined to answer questions. I took still photos of Anderson at this time.

The vehicle was removed from the roadway to the secondary area by Agents. A K-9 was again administered with negative results. A search of the vehicle by Agents was also negative.

I left the checkpoint with Anderson at 2400 hours enroute to Yuma to obtain medical treatment. I turned on my vehicles dome light several times while on the way to check the condition of Anderson. His eyes were always open and he appeared ok. I decided to go to a 24 hour Urgent Care first located at 284 W. 32nd St. I felt they wouldn't be as busy as the emergency room and treatment could be expedited. I contacted Officer Horstman via DPS radio and asked if he could meet me there to watch Anderson while I spoke with Care personel about treatment and cost. Horstman and I arrived at the Clinic at approximately the same time at 0057 hours. The facility first asked if he had health insurance, which he did not. They then advised the cost for treatment would be approximately \$530.00 which Anderson declined. Anderson stated a couple of times he felt he was alright and would rather not have stiches if possible. I explained to him that he would need to see medical personel before the Yuma County Jail would accept him. As I was preparing to leave the Urgent Care at 0118 hours Anderson said he needed to go to the bathroom, I said we will be at the Emergency Room in about five minutes, will you be alright until then, he said that he would be but he had to go pretty bad, I told him that I would get there as quickly as possible. I arrived at the hospital at 0121 hours. I took Anderson immediately into the ambulance entrance and immediately let him go into the restroom by the door. I was approached by Dr. Richeмонт and was asked what I had. I told him that I had a male subject under arrest but that he may need stiches, Dr. Richeмонт stated we will take a look and had Anderson go to examining room #17 where he was examined and treated by Dr. Richeмонт. Anderson was given 11 total stiches in 3 different areas on the forehead and left side of the face. A Doctors release was then given by Dr. Richeмонт. I departed the Hospital at 0217 hours and went to the Arizona Department of Public Safety Office in Yuma to do paperwork. I took some after treatment photos of Anderson at this time also. I left the office at 0311 and Anderson was booked into jail with no further incidents at 0321 hours.

Two video cameras were seized and entered into evidence.

- 1.) JVC "Everio" Video Camera. s/n 123G1223.
- 2.) JVC "Everio" Video Camera. s/n 152B2198. (no battery attached to this camera)

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I observed a maroon colored Hyundai, the vehicle was parked in the right traffic lane, generally used for commercial vehicles. I was met by several Agents. I was informed by Agent Spoonamore #K30, that he and his K-9, JERRY-C, was working the line when a maroon colored Hyundai entered the checkpoint. Spoonamore stated that as the Hyundai passed his location his K-9 alerted to it. Spoonamore said he asked the primary Agent, E. Gomez to have the driver of the Hyundai move the vehicle into the secondary area. Gomez stated at this time the driver, (Anderson) refused to move the vehicle. Spoonamore said he explained to Anderson that his K-9 had alerted to the vehicle, and that the K-9 was trained to alert to concealed humans or certain narcotics. The driver was instructed several times to move the vehicle to the secondary but refused and was becoming increasingly more aggitated yelling that the Border Patrol didn't have the authority to search his vehicle without a warrant. Before making contact with Anderson I placed stop sticks in front of the left rear and right front tire. I then attempted to speak with Anderson at the drivers side window. Anderson would only lower the window approximately a half inch. I identified myself to Anderson as an Arizona Department of Public Safety Patrolman and asked that he lower the window so that I could speak with him. Anderson refused asking if he could leave now. All this time he was pointing a video camera in my direction. I informed Anderson that the K-9 had alerted to the vehicle and that was probable cause to further investigate, and that was why he was asked to pull to the secondary. He said how can the dog alert to me at 75 miles per hour. I told him the dog alerted after he entered the checkpoint. Again he asked if he could leave and I told him that he could not leave that he was under arrest for blocking a highway and resisting and order. I read Anderson his Miranda warnings from a Miranda card at 2300 hours. I informed Anderson that he should exit the vehicle, that he was going to have too eventually. Officer Mitchell arrived at the scene at this time. Anderson had stopped talking and was just staring blankly at me at this time making no effort to come out of the car. I updated Officer Mitchell of the situation. It was decided that Officer Mitchell would try a last time to persuade Anderson to leave the car. Officer Mitchell identified himself as an Officer and asked Anderson if he recognized him as an Officer. The final attempt was not successful. At this time a plan was formulated to have Officer Mitchell go to the passenger side window. Officer Mitchell was going to break the front passenger side glass and deploy a Taser on the driver to incapacitate him, and simultaneously Agent Spoonamore would break the drivers window so the driver could be subdued and the door unlocked. Everything worked according to plan. Agent Spoonamore had to strike the window several times in a effort to open a hole large enough to reach through. It is believed that flying glass fragments from the widow caused cuts to the left side of Andersons face. He was brought out the open drivers door and handcuffed. He was then taken into the Border Patrol Office and was administered first aid by Agent Spoonamore who is a certified EMT. I contacted Anderson again at 2330 hours and informed him that he was under arrest and what the charges were. I told him that I was going to give him his Miranda Warnings again now that things were calmer and quieter. He said he understood his rights and declined to answer questions. After the vehicle was moved into the secondary area, another K-9 sniff and search resulted in negative results. At 2400 hours I departed the checkpoint with Anderson in custody and took him to the emergency room at the Yuma Regional Medical Center where he received 11 stitches total in three different areas on the left side of the face and forehead. Anderson was then booked into the Yuma County Adult Detention Center. Supplement reports will be included with this report from the Border Patrol and Officer Mitchell.

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