

APRIL 18, 2018
PRESS CONFERENCE
ICE AGENTS SANCHEZ & BENITEZ

The District Attorney's Office will not be filing criminal charges against Immigration and Customs Enforcement Agents Ramiro Sanchez and Dimas Benitez, regarding an incident that occurred in Delano California on March 13, 2018. My decision is based on the following:

First, there is no credible evidence that either agent lied in their statement to Delano Police Officer Nino, and second, I do not believe that legally we can pursue charges of giving false information to a peace officer pursuant to Vehicle Code section 31.

The evidence presented to us by the Delano Police Department in support of the request for the VC 31 charge is as follows: On March 13, 2018, Agents Sanchez and Benitez were conducting surveillance in Delano when they observed an individual matching the description of a person they were looking for. The individual, Santo Hilario Garcia, and a female, Marcelina Garcia Profecto, entered a dark-colored Ford Explorer Sport Trac along with a third person and drove away from the apartment complex.

Both agents followed the Ford in separate unmarked vehicles. They followed the Ford to Robert Kennedy High School where the passenger, a student at the school, was dropped off. The Ford drove northbound on Hiatt Avenue and stopped for a red light at Cecil Avenue. When the light changed, the Ford turned westbound on Cecil at which point the agents attempted a traffic stop by activating their emergency lights. The Ford yielded to the right and stopped. Both agents got out of their vehicles and approached on foot. Before they reached the car, the Ford took off at a high rate of speed and continued westbound on Cecil Avenue. Both agents returned to their vehicles and followed the subject vehicle.

After a brief period of time, the agents stopped following the Ford and pulled their vehicles over to the side of Cecil Avenue. They did this because they observed the driver of the Ford Explorer driving recklessly and passing other motorists at a high rate of speed. After discussing the situation, both agents decided to look for the subject vehicle. They continued to travel west on Cecil. They came upon the accident and stopped their vehicle, recognizing the Ford Explorer they had attempted to stop a few minutes earlier.

Three civilian witnesses were interviewed about the accident. All three witnesses stated the Ford was not being followed or chased by police at the time of the accident. These statements are consistent and corroborate the statements of both agents.

The only interviews of Agent Sanchez and Agent Benitez occurred at the scene of the accident. Neither interview was recorded. Agent Sanchez told Officer Nino that after the traffic stop the Ford fled westbound at a high rate of speed. Agent Sanchez returned to his vehicle and began to follow in the same direction as the Ford, he stated he was not in "pursuit with emergency lights/sirens." Agent Benitez told Officer Nino that he followed behind Agent Sanchez, stating both vehicles (his and Sanchez') were obeying all laws/regulations and they were not in "pursuit".

It is these statements the Delano Police Department contends are dishonest and inaccurate. The basis for the VC 31 charge according to the Delano Police Department is that the agents' statements are contradicted by the video surveillance evidence seized from a residence on Cecil Avenue.

It appears to me, from my review of the surveillance video, that both agents were obeying traffic rules, and in the relevant ten second clip that was provided to my office, neither agent's vehicle appeared to be overtaking the Ford. The agents' cars can be seen on the video approximately ten seconds behind the Ford. During this time period captured on the video, the first agent's vehicle, driven by Agent Sanchez, had emergency lights on and the second agent, Agent Benitez, had his rear emergency lights on. There is no evidence presented from which I am able to conclude one way or another that either vehicle had the sirens activated. According to the time stamp on the surveillance video, the agent vehicles were ten seconds behind the Ford and there was an unidentified civilian vehicle in between the Ford and the agents' vehicles. The civilian was operating his car in a normal manner and did not appear to be yielding to any law enforcement activity.

Agent Sanchez' exact words were that he was not in "pursuit with emergency lights/siren." As I said there is no evidence that the siren was on or off. As to the lights, which were on, it is a reasonable interpretation of the evidence that the emergency lights that were activated for the traffic stop remained on after he jumped in his vehicle to follow the Ford. He was never asked if he turned his lights off after the traffic stop. As to Agent Benitez, he stated they were obeying all traffic regulations and he was not engaged in a "pursuit."

A "pursuit," as that term is used in the law enforcement world, describes actively attempting to apprehend a suspect who is attempting to avoid arrest while operating a motor vehicle at high speed and using evasive driving techniques. Were the agents following the Ford, yes, were they speeding and/or passing cars in order to catch up to the Ford, no. That is not depicted on the video evidence nor any witness statement that has been provided.

There is no evidence to suggest that either agent was in a "pursuit" at either of the relevant times. Not after the Ford abruptly took off after the traffic stop, and certainly not when the Ford crashed into the pole, killing the occupants. Therefore, there is no evidence to support a filing of a VC 31 charge against either agent.

Finally, even if we assume for the sake of argument that the agents were engaged in a "pursuit," we must examine the elements of Vehicle Code section 31. In 2016 in *People v. Morera-Munoz* (2016) 5 Cal.App.5th 838 the law was clarified regarding the elements of Vehicle Code section 31. The court stated that in order to violate the statute the false statement must pertain to a material fact. The *Morera* opinion describes the materiality aspect as rising to such a level as to "corrupt an investigation."

As I have previously stated, the evidence the Delano police department is relying on is the statement of Agent Sanchez wherein he said he was not in a "pursuit with emergency lights/sirens," and Agent Benitez who said he was not in a "pursuit." These statements are not material. The only way they could be considered material is if the pursuit with lights and sirens was a factor in the cause of the accident. Three civilian witnesses stated the Ford Explorer was not being chased or followed by law enforcement at the time of the accident. That, in combination with the Delano Police Department's conclusion that the primary collision factor was an unsafe turn with an associated factor of unsafe speed, leads me to find the statements are not material. Therefore there is no violation of Vehicle Code section 31.

As I stated in the beginning of my remarks, neither agent will face criminal charges as a result of this incident.