

## REGISTER OF ACTIONS

### CASE NO. C-18-334314-A

**John Bridgford Hunt, Appellant(s) vs Boulder City of,  
Respondent(s)**

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Case Type: **Criminal Appeal**  
Date Filed: **08/22/2018**  
Location: **Department 2**  
Cross-Reference Case Number: **C334314**  
Lower Court Case Number: **17CR68**

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#### PARTY INFORMATION

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**Appellant**     **Hunt, John Bridgford**

**Lead Attorneys**  
**Stephen P. Stubbs**  
*Retained*  
702-759-3224(W)

**Respondent** **Boulder City of**

**Steven L. Morris**  
*Retained*  
702-938-2244(W)

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#### EVENTS & ORDERS OF THE COURT

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10/29/2018 | **Minute Order** (11:00 AM) (Judicial Officer Scotti, Richard F.)

**Minutes**

10/29/2018 11:00 AM

- The Court GRANTS Appellants Motion to Dismiss for Vindictive Prosecution and on First Amendment Grounds. The Court finds that the City vindictively prosecuted Appellant John Hunt when they resurrected their 2016 complaint against Mr. Hunt containing 3 additional claims, only six (6) days after Mr. Hunt filed a Civil Rights lawsuit against the City. Additionally, the Court finds Appellant satisfies the requirements needed to establish a presumption of vindictive prosecution and the prosecution fails to prove that the increase in severity of the charge did not result from any vindictive motive. The only evidence that the prosecution provides this Court to rebut Appellants claim of vindictive prosecution is that City Attorney Mr. Olsen was preparing for retirement and did not have a paralegal. This evidence is not sufficient to indicate that the increased charges could not have been brought before the defendant exercised his right. Almost Eleven (11) months elapsed between when the City dismissed all charges and Mr. Hunt filed his civil rights lawsuit. The prosecution had ample time to prepare a complaint the eleven (11) months previous to Mr. Hunt filing his civil rights lawsuit. Furthermore, the Court finds that the City incorrectly states the law of vindictive prosecution. The city lists in their opposition three ways in which vindictive prosecution can occur. However, these three instances are merely examples of when vindictive prosecution can occur and do not constitute an exclusive list. The Court agrees with Appellants broader statement of the law, which provides that Vindictive Prosecution occurs when the government brings criminal charges in response to a defendant exercising a protected statutory or constitutional right. U.S. v. Jenkins, 504 F.3d 694, 699 (9th Cir. 2008). In this case, the prosecution brought criminal charges against Mr. Hunt 6 days after Mr. Hunt exercised his statutory and constitutional rights to file a federal civil rights lawsuit against the City of Boulder City. The filing of the criminal complaint only days after Mr. Hunt filed his civil rights lawsuit, coupled with the facts that the City of Boulder City previously dismissed the criminal case rising from June 8, 2016 and has not received any additional evidence, clearly indicates that the prosecution had a vindictive motive when they refiled their complaint on June 5, 2017. The Court also dismisses the Obstruction Charge against Mr. Hunt

on First Amendment Grounds. Mr. Hunt was asserting his 1st Amendment Right of freedom of speech when he was walking back and forth in the crosswalk. The City of Boulder knew that Mr. Hunt was protesting and still charged him with Obstruction even though the police previous to this incident sent out a press release asking people to use the crosswalk during the enforcement activity. The obstruction charge is an abridgment of free speech and must be dismissed.

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