

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 JOSE DECASTRO,  
4 Plaintiff,  
5 v.  
6 LAS VEGAS METROPOLITAN POLICE  
7 DEPARTMENT, et al.,  
8 Defendants.

Case No. 2:23-cv-00580-APG-EJY

**Order Denying as Moot the Defendants'  
Motion to Dismiss and Granting the  
Defendants' Motion for Leave to File  
Supplemental Evidence**

[ECF Nos. 66, 83]

8 Plaintiff Jose DeCastro sues the Las Vegas Metropolitan Police Department (LVMPD)  
9 and several LVMPD officers: Branden Bourque, Jason Torrey, C. Dingle, B. Sorenson, Jesse  
10 Sandoval, and C. Doolittle.<sup>1</sup> DeCastro contends that the officers unreasonably searched and  
11 seized him because he was video-recording a police encounter. He also alleges that they used  
12 excessive force and violated his First Amendment right to film police encounters. I previously  
13 granted in part the defendants' motion to dismiss DeCastro's first amended complaint (FAC),  
14 granting DeCastro leave to amend most claims. ECF No. 44.

15 DeCastro thereafter filed a second amended complaint (SAC). ECF No. 61. The  
16 defendants moved to dismiss the SAC. ECF No. 66. They also subsequently moved for leave to  
17 file a document showing that DeCastro had been convicted in Justice Court of misdemeanor  
18 offenses arising out of this incident. ECF No. 83.

19 The defendants filed a motion for summary judgment that raises the same arguments as  
20 the motion to dismiss. ECF No. 86. DeCastro opposed summary judgment. ECF No. 90. He  
21 also subsequently moved for leave to file additional briefing to address the Eighth Judicial  
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<sup>1</sup> DeCastro also sued the State of Nevada and an officer named Citco, but I dismissed those  
defendants for failure to timely serve them. ECF Nos. 85; 94.

1 District Court, Clark County, Nevada recently overturning his conviction. ECF No. 92. I granted  
2 leave for the parties to submit cross briefs on the impact of DeCastro's convictions being  
3 overturned. ECF No. 93.

4 I deny the defendants' motion to dismiss as moot because I will address the issues raised  
5 in that motion on the fuller record that will come from the summary judgment briefing. I grant  
6 the motion for leave to supplement the record to show DeCastro was initially convicted of  
7 misdemeanor charges arising out of this incident. But, as referenced above, I also granted  
8 DeCastro leave to supplement the record with evidence that the convictions were overturned, and  
9 I ordered additional briefing on the impact of his convictions being overturned.

10 I THEREFORE ORDER that the defendants' motion to dismiss **(ECF No. 66) is**  
11 **DENIED as moot** because I will address the parties' arguments on the summary judgment  
12 record.

13 I FURTHER ORDER that the defendants' motion for leave to file supplemental evidence  
14 **(ECF No. 83) is GRANTED.**

15 DATED THIS 23rd day of August, 2024.



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ANDREW P. GORDON  
UNITED STATES DISTRICT JUDGE

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