

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JOSE DECASTRO,

Plaintiff,

v.

CITY OF IRONTON, MCKNIGHT, SPOLJARIC, WAGNER, BLANKENSHIP, FOUCH,
CHAPMAN, and JOHN DOES 1 THROUGH 5,
Defendants.

Case No. 2:24-cv-00435-DJA

PLAINTIFFS SUR-REPLY TO DEFENDANTS REPLY IN SUPPORT OF MOTION TO DISMISS
(DOC. 31)

1. Plaintiff Jose DeCastro, appearing pro se, submits this short Sur-Reply to correct several misstatements in Defendants Reply (Doc. 31).

2. 1. No Final Judgment on the Merits

3. The dismissal in the prior Ohio case was procedural and based on jurisdictional and pleading grounds. The court did not reach the merits of Plaintiffs constitutional claims, nor did it conduct fact-finding or resolve contested issues. Therefore, res judicata does not apply under Fed. R. Civ. P. 41(b), which states that dismissals for lack of jurisdiction or venue are not adjudications on the merits.

4. 2. This Case Involves New and Distinct Facts

5. Plaintiffs current claims arise from events that occurred on March 22, 2022, at approximately 5:01

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PM, when Plaintiff was arrested while peacefully livestreaming in a public building without warning. This specific set of facts, and the timing of the arrest, were not the subject of the previous litigation.

6. 3. Jurisdiction and Venue Arguments Are Procedural, Not Substantive

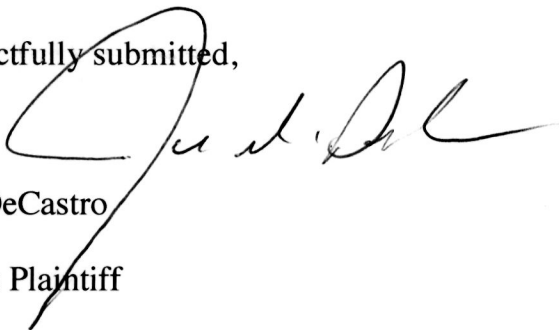
7. Even if this Court concludes that jurisdiction or venue is lacking, transfer is the appropriate remedy under 28 U.S.C. 1406(a). Dismissal is not required and is disfavored, especially when it would unfairly prejudice a pro se litigant who is actively prosecuting the case.

8. 4. Defendants Continue to Overstate Their Own Procedural Cleanliness

9. Defendants claim Plaintiff failed to perfect service or establish jurisdiction. However, Plaintiff made good-faith efforts to serve all Defendants, and if any technical issues remain, Plaintiff is willing to correct them promptly with leave of court.

10. WHEREFORE, Plaintiff respectfully requests that the Court disregard or give minimal weight to Defendants Reply arguments and deny the Motion to Dismiss in its entirety, or in the alternative, transfer the case to the Southern District of Ohio.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jose DeCastro', written over a horizontal line.

Jose DeCastro

Pro Se Plaintiff

1258 Franklin Ave.

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CERTIFICATE OF SERVICE

I hereby certify that on May 13, 2025, I served a true and correct copy of the foregoing Sur-Reply to Defendants Reply in Support of Motion to Dismiss (Doc. 31) by United States Mail, First Class, postage prepaid, addressed as follows:

Dawn M. Frick, Esq.

Surdyk, Dowd & Turner Co., L.P.A.

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Katherine F. Parks, Esq.

Thorndal Armstrong, PC

6590 S. McCarran Blvd., Suite B

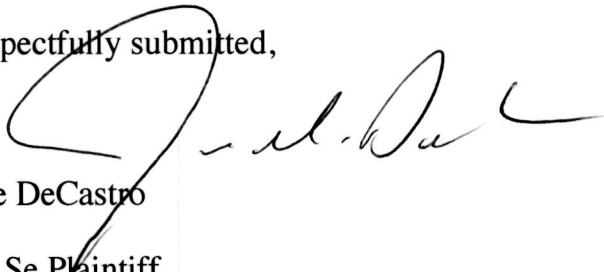
Reno, NV 89509

Lambert Law Offices

215 S. 4th Street

Ironton, OH 45638

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jose DeCastro". The signature is fluid and cursive, with a large loop at the beginning and a long, sweeping tail.

Jose DeCastro

Pro Se Plaintiff

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