

**University of Tennessee College of Law  
2010-11 Advocates' Prize**

**Transcript of Record**

**In the United States District Court  
for the Southern District of the State of Rio Bravo**

**United States of America**

**V.**

**FEDERAL INDICTMENT  
No. 007-09**

**Joe Zewales**

**COUNT ONE: Attempted Use of a Weapon of Mass Destruction**

The Grand Jury charges:

1. In October 2009, in the Southern District of Rio Bravo, Joe Zewales (pronounced "Zee-Wallace"), the defendant, in an offense occurring in and affecting interstate commerce, did attempt to use a weapon of mass destruction, namely, a destructive device as defined by Title 18, United States Code, Section 921, against persons and property within the United States, to wit, on or about October 15, 2009, Zewales traveled from the State of Arizona to the State of Rio Bravo and attempted to detonate a destructive device on public property. 18 U.S.C. § 2332a.

**COUNT TWO: Possession of a Weapon of Mass Destruction**

2. From at least in or about August 2009, up to and including in or about October 2009, in the Southern District of Rio Bravo, Joe Zewales, the defendant, in an offense occurring in and affecting interstate travel, did possess with intent to use a weapon of mass destruction, namely, a destructive device as defined by Title 18, United States Code, Section 921, against persons and property within the United States, to wit, Zewales and other defendants procured components and materials to assemble a destructive device and agreed that Zewales would travel from the State of Arizona to the State of Rio Bravo and detonate the destructive device on public property in Folsom City. 18 U.S.C. § 2332a.

**COUNT THREE: Attempt to Commit Act of Terrorism**

3. In October 2009, in the Southern District of Rio Bravo, in an offense occurring in and affecting interstate commerce, Joe Zewales, the defendant, unlawfully, willfully and knowingly did transport and receive, and attempt to transport and receive, an explosive with the knowledge and intent that it would be used to kill, injure, and intimidate an individual and to damage and destroy a building, vehicle, and other real and personal property, to wit, Zewales traveled from the State of Arizona to Folsom City in the State of Rio Bravo and attempted to detonate a destructive device on public property with the

intent to kill, injure, and intimidate individuals and to damage and destroy nearby buildings, vehicles, and other real and personal property. 18 U.S.C. § 844(d).

**December 1, 2009**

**A TRUE BILL**

---

Anna J. Flynn  
Foreperson

---

John T. Chance,  
United States Attorney

## **RELEVANT PORTION OF RIO BRAVO STATUTE**

### **Section 444.01**

The legislature of the State of Rio Bravo finds that there is a compelling interest in the cooperative enforcement of federal immigration laws throughout the State and that all state and local government agencies are instrumental in achieving this interest by addressing the issue of illegal immigration. Illegal immigration creates a great risk to the public safety and welfare. The Act is intended to discourage, deter, and punish the unlawful entry and presence of aliens unlawfully present in the United States.

### **Section 444.02**

For any lawful contact, stop, detention or arrest made by a law enforcement official in this State where reasonable suspicion exists that the person is an alien who is unlawfully present in the United States, a reasonable attempt shall be made to determine the immigration status of the person, except if the determination may hinder or obstruct an investigation. Reasonable suspicion shall not be based solely on race, color, or national origin. A person who is arrested shall have the person's immigration status determined and verified with the federal government under 8 U.S.C. Section 1373(c). A law enforcement officer may not solely consider race, color, or national origin except to the extent permitted by the United States or Rio Bravo Constitutions.

### **Section 444.03**

A person is presumed not to be an alien who is unlawfully present in the United States if he or she provides (a) a valid Rio Bravo drivers license, (b) a valid Rio Bravo Identification License, (c) a valid Tribal Identification Card, or (d) other valid federal, state or local government issued identification.

....

**Enacted July 1, 2009.**

**In the United States District Court  
for the Southern District of Rio Bravo**

**United States of America**

**V.**

**Hon. Judge Roy Bean  
No. 007-09**

**Joe Zewales**

**Motion to Suppress**

The Defendant, Joe Zewales, moves this court to suppress evidence seized and a statement made to law enforcement officers on October 15, 2009. Mr. Zewales states the following:

(1) Mr. Zewales, a United States citizen and resident of the State of Arizona, was stopped on October 15, 2009, at approximately 8:00 a.m. in Folsom City, State of Rio Bravo, by Officer Woodrow Call. After Mr. Zewales produced a valid drivers' license for the State of Arizona, Officer Call gave Mr. Zewales a written citation for failure to wear a seat belt. Officer Call then asked about Mr. Zewales's place of employment, intended destination, and reasons for being in Rio Bravo. After a period of at least ten minutes, Officer Call asked Mr. Zewales to produce additional identification, including proof of his immigration status. When Mr. Zewales again produced his drivers' license, (an act which presumptively showed that Mr. Zewales was not an illegal immigrant), Officer Call ordered Mr. Zewales out of his car and continued the unlawful detention without any reasonable suspicion or probable cause of criminal activity. The continued detention and questioning of Mr. Zewales following his receipt of a written citation violated the Fourth Amendment to the United States Constitution and the identically-worded provisions of Article I, Section 4 of the Rio Bravo Constitution. It follows that the search was likewise unlawful.

(2) Officer Call's questions regarding Mr. Zewales's immigration status, and the resulting continued detention, were based on Rio Bravo Statute Section 444. Section 444 is unconstitutional because it allows the detention and questioning of citizens based on racial profiling in violation of due process and equal protection under the 14<sup>th</sup> Amendment of the United States Constitution and Article I, Section 10 of the Rio Bravo Constitution. Again, it follows that the search was likewise unlawful.

(3) After being arrested by Officer Call, Mr. Zewales was taken into custody and interrogated by state and federal law enforcement officers without being read his rights under Miranda v. Arizona or executing a waiver of such rights. Mr. Zewales told officers that he had agreed to transport the vehicle to a location adjacent to the federal courthouse in Folsom City and to contact unnamed persons when the vehicle was in place. Although Mr. Zewales admitted that he expected to be paid \$1,000 for transporting and parking the vehicle, he denied knowing the contents of the vehicle and denied knowing the names of others involved in the incident. After at least three hours of interrogation, Mr. Zewales admitted that the van contained "some sort of explosives," but he did not know when or where they would be used or the intended purpose. The statements made by Mr. Zewales were thus obtained in violation of his rights under the Fifth and Fourteenth Amendments to the United States Constitution and the identically worded provisions of the Rio Bravo Constitution.

For these reasons, Mr. Zewales requests an evidentiary hearing and an order suppressing the evidence and all statements he made to law enforcement officers on Oct. 15, 2009.

---

Augustus McCray and Assoc.  
Attorneys at Law

**In the United States District Court  
for the Southern District of Rio Bravo**

**United States of America**

**V.**

**No. 007-09**

**Joe Zewales**

**ORDER**

The Defendant, Joe Zewales, has filed a motion to suppress evidence, including the statement he gave to law enforcement officers on October 15, 2009. After an evidentiary hearing, this court has concluded that the motion should be denied.

*Findings of Fact*

The Defendant is a United States Citizen. On October 15, 2009, the Defendant was driving a 1998 Chevy Astrovan in Folsom City, State of Rio Bravo, when he was stopped by Officer Woodrow Call for failing to wear a seat belt. In the course of writing a citation for the seat belt violation, Officer Call questioned the Defendant about his immigration status. Although the Defendant had produced a driver's license, Officer Call instructed him to get out of his car. After asking additional questions as to the Defendant's place of employment and intended destination, Officer Call asked the Defendant about the contents of the van; he then instructed the Defendant to open the side door of the vehicle. Officer Call noticed a strong odor of gasoline and chemicals; upon further investigation, Officer Call moved a number of empty cardboard boxes and other materials and immediately saw what he believed to be an explosive device constructed of metal, wires, and canisters. Officer Call immediately called the Folsom City bomb squad and the Federal Bureau of Investigation. Using robotic equipment, the bomb squad deactivated a destructive device as that term is defined under the pertinent federal statutes. The car contained, among other things, three large canisters of gasoline, a large case containing gun powder, and four cases of powerful, commercial-grade explosives.

The Defendant was arrested and taken into custody by the FBI. Special Agent Will Kane interrogated the Defendant for several hours, during which time Agent Kane had information to believe that the Defendant was not acting alone and that other destructive devices were being deployed. The Defendant made the incriminating statement that is the subject of this motion to suppress. The Defendant was not read his

rights under Miranda v. Arizona prior to making the statement, nor did he execute a waiver of such rights.

*Conclusions of Law*

- (1) The Defendant was properly stopped for failing to wear a seat belt.
- (2) Officer Call had reasonable suspicion to ask the Defendant about his immigration status.
- (3) Officer Call's reasonable suspicion was not solely based on the Defendant's race, color or national origin.
- (4) Officer Call's conduct did not violate the United States Constitution or the identically worded provisions of the Rio Bravo Constitution.
- (5) State of Rio Bravo Statute 444.01, 444.02, and 444.03 do not violate the United States Constitution or the identically worded provisions of the Rio Bravo Constitution.
- (6) Special Agent Kane's failure to read the Defendant his rights under Miranda v. Arizona does not require suppression of the Defendant's statement given Kane's reasonable belief of an urgent need to protect the public. In particular, Agent Kane believed that the Defendant was involved in a conspiracy to deliver and use explosive devices with the intent to cause serious bodily injury or death to other individuals. Agent Kane also believed that the offenses were ongoing in nature and that questioning of the Defendant was essential to identify other individuals or explosive devices that created a risk of serious bodily harm or death to the public.

It is therefore ordered that the motion to suppress is denied.

Judge Roy Bean

**In the United States District Court  
for the Southern District of Rio Bravo**

**United States of America**

**V.**

**No. 007-10**

**Joe Zewales**

**CONDITIONAL JUDGMENT**

Pursuant to Rule 11(a)(2) of the Federal Rules of Criminal Procedure, the Defendant, Joe Zewales, hereby enters a conditional plea of guilty to the offense of possession of a weapon of mass destruction contained in Count 2 of the Indictment. With the consent of this Court and the United States, the Defendant reserves the right to have the appellate court review this Court's order denying his motion to suppress.

Judge Roy Bean

**In the United States Court of Appeals  
for the Sixteenth Circuit**

**United States of America**

**V.**

**No. 007-09  
2010-CA-00005.**

**Joe Zewales**

**OPINION**

**Per Curiam**

This appeal comes to us from the Defendant's conditional plea of guilty to one count of conspiracy to use a weapon of mass destruction. The Defendant challenges the trial court's failure to suppress the evidence, including an incriminating statement he made to law enforcement officers on October 15, 2009. Finding no error, we affirm.

*Facts*

On October 15, 2009, the Defendant was cited for failing to wear a seat belt while driving an unmarked panel van from a parking garage in Folsom City, Rio Bravo. After the Defendant produced an Arizona drivers' license, he was given a written citation for failure to wear a seat belt. Officer Woodrow Call then asked the Defendant to provide information about his immigration status. After the Defendant was unable to produce additional identification, Officer Call instructed the Defendant to get out of the van and to open the side panel door of the vehicle. After detecting the odor of gasoline and chemicals, Officer Call removed a plastic tarp covering from the rear compartment of the van and found what appeared to be a destructive device. He immediately contacted a bomb squad and the F.B.I. The bomb squad deactivated the device before anyone was harmed. When questioned by federal authorities, the Defendant admitted that he agreed to transport the vehicle to Folsom City and park next to the federal courthouse. Although he initially denied knowing the contents of the van, he later admitted that he knew the vehicle contained explosives; still, he denied knowing when, where or how the explosives were going to be used.

*Issue One – Detention*

The Defendant filed a motion to suppress his statements on the basis that they were the result of an unlawful detention in violation of the Fourth Amendment to the

United States Constitution and the related provisions of the Rio Bravo Constitution. He argues that after he was given a citation for failing to wear a seat belt, his continued detention was unreasonable and unsupported by either reasonable suspicion of criminal activity or probable cause. Moreover, he argues that Rio Bravo Statute 444 allows a detention to be based on the basis of racial characteristics having no relationship to criminality.

A detention must be reasonable to withstand constitutional scrutiny. See Whren v. United States, 517 U.S. 806, 809-10 (1996); United States v. Mendenhall, 446 U.S. 544, 550 (1980). Traditionally, a detention may be based on an officer's reasonable suspicion that criminal activity is afoot or probable cause to believe that a crime has been committed. Whren, 517 U.S. at 809; Mendenhall, 446 U.S. at 567 (White, J., dissenting). Here, there is no dispute that the initial stop of the Defendant was proper; Officer Call stopped the Defendant for the offense of driving without a seatbelt and wrote a citation for that offense. Further, we do not believe that Officer Call's continued detention of the Defendant after the citation was written was in any way unreasonable. Officer Call testified that the circumstances warranted questioning as to the Defendant's immigration status. Officer Call said he did not base his decision solely on the Defendant's appearance, but rather, on other indicia such as the early morning hour, the Defendant's difficulty communicating in English, the Defendant's apparent nervousness, the Defendant's inability to state his destination, the panel van driven by the Defendant, as well as the possibility that the van contained illegal immigrants, and the Defendant's unusual last name. Although the Defendant had produced a drivers' license, he was unable to produce additional evidence of his immigration status. In short, we agree with the district court's conclusions that the detention was brief and lasted no longer than reasonably necessary.

The Defendant next argues that Rio Bravo statutes improperly allowed Officer Call to detain him based solely on racial profiling in violation of equal protection principles under the 14<sup>th</sup> Amendment to the U.S. Constitution and the like provisions of the Rio Bravo Constitution. Nothing in Rio Bravo Statutes 444.01, et seq., permits an officer to detain an individual based solely on racial factors. Instead, the statute applies during an otherwise lawful stop, arrest, or detention "where reasonable suspicion exists that the person is an alien who is unlawfully present in the United States, a reasonable attempt shall be made to determine the immigration status of the person. . . ." Here, Officer Call testified that his reasonable suspicion was not based solely on the Defendant's race or apparent national origin; instead, he considered a number of circumstances as discussed above. In any event, to the extent that the Rio Bravo statutory provisions implicate matters of race or national origin, they survive equal protection scrutiny. Disparate treatment based on race or national origin is justified where a compelling governmental interest exists and the underlying law is narrowly tailored to achieve that interest. Washington v. Davis, 426 U.S. 229, 248 (1976). The Rio Bravo legislature expressly found a compelling governmental interest as stated in Section 444.01, a finding that is exclusively and uniquely within its province to make. Sections 444.02 and 444.03 contain extensive provisions which narrowly tailor their

application in order to achieve the stated interest. These include provisions that require a lawful stop, arrest or detention; requiring reasonable suspicion; prohibiting actions based solely on race; and presuming the immigration status where one has produced suitable identification, to name a few. Thus, we affirm the district court's conclusions as to this issue.

### *Issue Two – Miranda*

Next, the Defendant contends that law enforcement officers violated his rights under the Fifth, Sixth, and Fourteenth Amendments and related Rio Bravo constitutional provisions by failing to advise him of his Miranda rights prior to being interrogated at length by Federal Agent Kane. We disagree. As the district court correctly observed:

Special Agent Kane's failure to read the Defendant his rights under Miranda v. Arizona does not require suppression of the Defendant's statement given Kane's reasonable belief of an urgent need to protect the public. In particular, Agent Kane believed that the Defendant was involved in a conspiracy to deliver and use explosive devices with the intent to cause serious bodily injury or death to other individuals. Agent Kane also believed that the offenses were ongoing in nature and that questioning of the Defendant was essential to identify other individuals or explosive devices that created a risk of serious bodily harm or death to the public.

Indeed, this case created a real-life version of the ticking time-bomb scenario. Based on Officer Call's discovery and Agent Kane's investigations, the circumstances warranted invocation of the so-called public safety exception to Miranda. See New York v. Quarles, 467 U.S. 649, 655 (1984). Moreover, there is no question that the Defendant's statements were made voluntarily. See Colorado v. Connelly, 479 U.S. 157, 167 (1986). Thus, we affirm the district court's conclusions as to this issue.

### *Conclusion*

For the foregoing reasons, the district court's judgment is affirmed.

**In the United States District Court  
for the Southern District of the State of Rio Bravo**

**United States of America**

**V.**

**No. 007-09  
Judge Bean**

**Joe Zewales**

**Transcript of Suppression Hearing**

The Government calls Officer Woodrow Call.

(Witness takes stand and is sworn).

Direct Examination by Assistant United States Attorney.

Q: State your name and position.

A: Woodrow C. Call, I'm a police officer for Folsom City in Rio Bravo.

Q: How long have you worked in that capacity?

A: Ten years.

Q: Were you on patrol on October 15, 2009?

A: Yes.

Q: Did you make a stop and subsequent arrest of the Defendant?

A: Yes.

Q: Tell the court about that incident.

A: Around 7:30 a.m., I observed a blue Chevy Astro van leaving the parking garage on State Street. The van proceeded North on State Street, turned right onto Church, and then looped back around. When it came around a second time, I noticed that the driver of the van wasn't wearing a seat belt, which is a violation under Rio Bravo law. I activated my blue lights and the Defendant pulled over. I wrote a citation for failing to wear a seat belt.

Q: What happened next?

A: At that point, I determined that I needed to inquire about the Defendant's status as a possible illegal immigrant.

Q: Was this decision based on the Defendant's racial or ethnic background?

A: No, not at all. My decision was based on the type of vehicle the Defendant was driving as well as his nervous demeanor and his difficulty in speaking English. When I asked him where he was going that early in the morning, he said he was going to work, but he did not know the name of his employer. That sort of thing.

Q: What happened after that?

A: He had a current drivers' license for Arizona, but he had no other documents to show his immigration status. At that point, I asked him to step out of the van, which he did. I asked him some additional questions and then instructed him to open the side panel door of the van because that type of vehicle is commonly used to transport illegal aliens. When the door was opened, I noticed a strong odor of gasoline from the rear of the van and a large blue plastic tarp or whatever you'd call it. I moved the tarp and observed what appeared to be an explosive device of some sort. I immediately called in the city bomb squad and arrested the Defendant. The F.B.I. pretty much took over at that point.

Cross Examination by Defense Counsel.

Q: Where were you when you first observed the Defendant's van?

A: Parked along State Street near the State Street garage.

Q: So you were stopped at that time?

A: Yeah, I was doing paperwork probably.

Q: Were you parked on the same side of the street as the Defendant?

A: Yes, he turned right when he left the garage and came right along side me.

Q: The Defendant wasn't speeding when you first saw him?

A: Not that I remember.

Q: The Defendant didn't run any traffic lights or anything?

A: No.

Q: So the only thing you noticed, apparently, was his seat belt?

A: That's correct. From where I was sitting, I could clearly see that he did not have a shoulder strap.

Q: The Defendant's van approached your car from behind while you were stopped at the curb, correct?

A: Yes, but I had a clear view of the van through my side and rearview mirrors, and that is when I noticed the driver wasn't wearing a seat belt.

Q: After you stopped the Defendant, you gave him a written citation.

A: Yes.

Q: So the purpose of the stop was completed at that time?

A: I don't understand your question.

Q: Your initial reason for stopping the Defendant was the seat belt?

A: Yes.

Q: And you wrote a citation and gave it to him?

A: Yes?

Q: So the initial reason for the stop had been completed?

A: Well, at that point, I had developed some additional concerns and reasons for continuing my investigation.

Q: Let's talk about that. You testified that the Defendant has a valid drivers' license, correct?

A: Yes.

Q: In most cases, that would have ended the matter, right?

A: I don't know what you mean.

Q: But you decided to ask additional questions?

A: Yes, as I explained earlier.

Q: You testified that the Defendant had difficulty speaking English?

A: Yes.

Q: Did you notice that he speaks with an accent?

A: Yes, definitely.

Q: Hispanic accent?

A: I wasn't really sure, but yes.

Q: That was the real reason for asking him about his immigration status, was it not?

A: No.

Q: Did you consider that the Defendant has an Hispanic appearance?

A: Not, not in and of itself.

Q: Let's just be honest, if the Defendant had been a caucasian male, you would not have asked him for his immigration documents, would you?

Prosecutor: Objection, speculation.

The Court: Sustained.

Q: You would agree that many persons of Hispanic heritage are American citizens here in Rio Bravo and elsewhere, correct?

A: Sure.

Q: In fact, the Defendant is an American citizen, correct?

A: I did not know that at the time of my investigation.

Q: Did you specifically ask the Defendant if he was an American citizen?

A: I don't recall asking that specifically.

Q: Did you consider that the Defendant has an unusual last name?

A: No. I mainly considered his nervous demeanor and the fact that he did not know his exact destination.

Q: But you certainly didn't close your eyes to other factors, right?

A: I considered everything that I could.

Q: Could you see into the van's rear compartment?

A: No, not until after he opened the side door?

Q: This is a panel van, with no side windows?

A: Correct, yes.

Nothing else, Your Honor.

The Government calls Agent William Kane.

Witness takes the stand and is sworn.

Q: Please state your name and occupation.

A: I am William Winfield Kane, and I'm a special agent for the F.B.I.

Q: Please tell the court about your involvement in this case.

A: I received a call and became the lead agent on the case after the Defendant had been detained on suspicion of involvement with transporting a destructive device. At that point, the Defendant was being held by Folsom City police.

Q: Did you question the Defendant?

A: I did.

Q: Did you read the Defendant his rights under Miranda?

A: Not at that time. Under the exigent circumstances that we had, in which a large bomb had been discovered in a public area, we needed information immediately as to who was involved and whether other destructive devices were present. The Defendant was our only source of information at that point.

Q: Did the Defendant provide information?

A: After we explained to the Defendant the evidence that we had and the range of offenses and punishment he faced for transporting a weapon of that sort, he began to provide small portions of information.

Q: Did the Defendant indicate whether other bombs were involved?

A: He denied knowing at first. However, the nature of the destructive device he had been transporting was consistent with evidence we had developed involving at least two other active, known groups on our terrorist watch list. Our information indicated that those groups could "go active" at any time. As a result, we had no choice but to presume that the Defendant had not been acting alone. That meant we had to investigate so that we could find, or at least rule out, the existence and location of other bombs in the area.

Q: Did the Defendant indicate whether he had acted alone?

A: After several hours, the Defendant still maintained that he did not know anyone else involved by name, and that he did not know what was in the van. He admitted, however, that he had been paid to drive the van to the city and leave it there. He eventually admitted that he drove with the windows down because of the odor of gas and chemicals in the van. Eventually he gave a name that we connected to one of the groups we had been investigating.

Q: Tell the court about that group?

Defense counsel: Objection, irrelevant and hearsay.

Prosecution: Your Honor, certainly this agent may testify as to what he knows and this testimony is relevant to the exigent circumstances at issue.

The Court: I'll let you proceed, but be brief.

Q: Go ahead and answer.

A: The Defendant said that a man paid him to drive the van. This man made some reference to someone named "Automatic Jack." That is an alias we had for someone in our files that who we believe is connected to a large militia entity in the Rio Bravo area.

Q: Okay. Did you have reason to suspect this militia would be involved in the use or transport of destructive devices?

A: Absolutely. That involves extensive evidence from an ongoing investigation.

Nothing else, Your Honor.

Cross Examination by Defense Counsel:

Q: Just so I understand, you did not read the Defendant his Miranda rights prior to obtaining Defendant's statement, correct?

A: Correct.

Q: And, in fact, no other destructive devices were found in Folsom City as a result of questioning the Defendant in this fashion?

A: In hindsight, that is true. But we didn't have the luxury of hindsight.

Q: Other than the hearsay you offered about some figure known as "Automatic Jack," you had no information linking this Defendant so any sort of militia group, right?

A: Well, we had him driving a van containing a bomb; so unless he's acting alone, that's pretty strong proof that he is connected with some sort of group that may use explosives as a terrorist tool.

Q: Your subsequent investigations have not tied the Defendant to a specific group, is that correct?

A: That's correct at this time, but the investigation is still ongoing. We had a strong suspicion that the Defendant was working for a particular militia group and we had good reason to believe that group was moving quickly toward an "operational" phase. Acting with that information in hand made it very unlikely that the Defendant was acting alone.

Q: Did the information obtained from the Defendant result in any arrests of individuals in known militia or terrorist groups?

A: That is ongoing as well. Obviously I cannot get into specifics of that investigation or reveal the source of our information.

Q: Then your answer is "no"?

A: "No" at this time.

Government: Your Honor, the parties would like to admit several stipulations.

Court: Proceed.

Government: Number one: The Defendant was driving a panel van with no side windows. A photograph is attached as exhibit "A". And number two: the City Bomb Squad discovered three canisters of gasoline, a case containing gun powder, and four cases of commercial-grade explosives in the van. In addition, officers found one small explosive charge with a time-release detonation switch.

Court: Anything further?

Defense counsel: Your Honor, we rely on the information contained in the attached study by the Pew Research Center. A copy is attached as exhibit "B." The study relates to our immediate sister state of Arizona and nationally. We have been unable to find a similar study on Rio Bravo. We urge the court to take the statistics into

consideration as to our motion to suppress. The Government has, of course, objected to the material.

Court: Overruled, I'll consider the material if needed.

**In the United States Supreme Court**

**United States of America**

**V.**

**No. 007-09  
2010-SC-00005.**

**Joe Zewales**

**OPINION**

After due consideration, the petition for writ of certiorari filed by the Petitioner, Joe Zewales, is granted as to the following issues:

- (1) Whether the detention and questioning of the Defendant under Rio Bravo Statutes 444.01 et seq. violated the Defendant's rights to be free from unreasonable searches and seizures under the Fourth and Fourteenth Amendments to the United States Constitution?
- (2) Whether the officer's failure to read the Defendant his rights under Miranda v. Arizona requires the suppression of the Defendant's statement?

[END OF RECORD]

## Rules for Advocates' Prize

1. Advocates are confined to arguing only the issues raised by the certified questions.
2. Advocates will be assigned team numbers, and the assigned team number will identify a team. Any identifying information other than the assigned team number in the brief will lead to disqualification.
3. The brief should clearly indicate on the cover page (i) the team number and (ii) whether it is a "Brief for Petitioner" or "Brief for Respondent."
4. Advocates are free to conduct outside research as they see fit.
5. Advocates are free to consult outside sources prior to argument, including practitioners, fellow students, and members of the College of Law faculty. However, no advocate may contact Professor Penny White, Professor Rodd Barckhoff, Professor Carol Parker, Professor Michael Higdon, Professor Judy Cornett, or any person engaged in scoring the briefs regarding the substance of this problem. Advocates may contact Michelle Breeding, the Vice-Chair in Charge of Advocates' Prize, at [mbreedin@utk.edu](mailto:mbreedin@utk.edu) or (615) 719-4110, with any questions or concerns about the problem.
6. All briefs must be printed on 8½ x11 inch paper, using 12-point Times New Roman font for all brief contents, including footnotes, and have at least one-inch margins on all sides. With the exception of the table of contents, questions presented, table of authorities, appendix, footnotes and argument headings, the entire content of the brief must be double-spaced. Otherwise, advocates should comply with the United States Supreme Court Rules.
7. No formal statement of jurisdiction is necessary.
8. The page limit for the brief is thirty-five (35) pages. This limit does not include the questions presented, table of contents, table of authorities, or appendix. Appendices may only be used to recite relevant statutory text (e.g., constitutional provisions, regulations) and material not generally available.
9. The problem contemplates argument by two (2) advocates for the Petitioner and two (2) advocates for the Respondent. However, teams may consist of one (1) or two (2) persons. Two-person teams may divide their allocated speaking time and issues as they see fit.
10. For oral argument, advocates shall prepare to argue for both the Respondent and the Petitioner.

11. Petitioner and Respondent shall each have thirty (30) minutes to argue their respective cases before the court, including time for rebuttal. A maximum of five (5) of the total of thirty (30) minutes may be reserved for rebuttal.

12. Advocates should follow the United States Supreme Court Rules as they relate to appellate procedure. The rules can be found at:

<http://www.supremecourts.gov/ctrules/rulesofthecourt.pdf>

13. The Federal Rules of Evidence apply to this problem.

14. A panel of judges shall determine oral argument scores for each team. Scores must be in the range of 1-100. Judges will not be informed of the team's brief score before oral argument. Overall score is computed by weighing the oral argument score 60 percent and the brief score 40 percent (*Oral Argument* x .60 + *Brief Score* x .40 = *Final Score*). Scores are computed to the nearest hundredth decimal (e.g., 92.75).

15. Each team's scores from the two preliminary rounds will be averaged to determine the final score. The two teams with the top scores will compete in the final round.

### Important Dates

August 20, 2010 Website	Advocates' Prize Problem Posted on Moot Court Board
August 27, 2010	Deadline for Teams to Sign Up for Advocates' Prize
September 10, 2010	Briefs are Due to Records Office no later than 4:00 p.m.
September 15, 2010	Day 1 of Preliminary Round Arguments Arguments will take place from 5:45 p.m. to 6:45 p.m., and 6:45 p.m. to 7:45 p.m.**
September 16, 2010	Day 2 of Preliminary Round Arguments Arguments will take place from 5:45 p.m. to 6:45 p.m., and 6:45 p.m. to 7:45 p.m.**
September 17, 2010	3:00 p.m. to 4:00 p.m.- Final Round  4:30 p.m. to 6:00 p.m.- Reception with the Final Round Judges

\*\*The preliminary rounds of oral arguments will take place Wednesday, September 15, 2010 and Thursday, September 16, 2010. There will be two groups of arguments each day. The first group of arguments will last from 5:45 p.m. – 6:45 p.m., and the second group of arguments will last from 6:45 p.m. – 7:45 p.m. Every team will argue either Respondent or Petitioner each day, and will argue the opposite side on the following day. Teams will be notified of the specific time of their argument and which side they will be arguing 24 hours in advance.

On Friday, September 17, 2010 from 3:00 p.m. – 4:00 p.m., the two top-scoring teams will compete in the final round before a panel of judges presided over by Justice Thomas.