

Posted: 12:02 p.m. Friday, July 25, 2014

Federal judge upholds activist Antonio Buehler's right to film officers

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Antonio Buehler talks to his supporters and the media at the Travis County Jail in August 2012 after his arrest for filming Austin police officers.

By [Jazmine Ulloa](#)

American-Statesman Staff

A federal lawsuit filed by local activist Antonio Buehler against the Austin Police Department has cleared a hurdle as a U.S. magistrate judge this week upheld his constitutional right to photograph and film police officers.

In an order filed Thursday, Judge Mark Lane denied motions to dismiss the case, finding that private citizens have the right to record officers in public places as they perform their official duties and that such a right had clearly been established in Buehler's case.

The judge dismissed his claims of excessive force and malicious prosecution, but Lane said the officers were not immune from allegations that they had arrested and searched him without probable cause, according to the documents filed in the U.S. Western District of Texas.

Lane also declined to dismiss claims that the police department had failed to establish a policy and provide training addressing how officers should proceed when being videotaped or photographed by citizens.

The city can now appeal the judge's decision to the 5th U.S. Circuit Court of Appeals. If the appeal is denied, the case moves forward until a settlement is reached or the parties go to trial.

Requests for comment to the city attorney representing the department were not immediately returned Friday.

Daphne Silverman, Buehler's lawyer, said she and her client were pleased with Lane's detailed analysis in support of his First Amendment and constitutional rights.

"This ruling is a clear signal to law enforcement that the public can now photograph and videotape police officers so long as they don't interfere with the officer's duties," she said.

Buehler, a 37-year-old Army veteran and founder of the Peaceful Streets Project, has been in dispute with the department since officers arrested him New Year's Day 2012 as he videotaped a woman getting arrested on Lamar and 10th Street. Buehler has alleged he was trying to capture the officers abusing the driver and her passenger, and he later founded Peaceful Streets, in which members record police encounters and post them online.

The National Press Photographers Association in May filed an amicus brief in support of his case, which the organization says is not an isolated incident but "part of a nationwide phenomenon where police have interfered with citizens' rights to photograph and video-record officers engaged in official business in public spaces."

"NPPA follows these cases closely, and strives to ensure that the crucial role that journalists and citizens play in promoting discussions of public concern is not diminished," the brief states.

To read more about his case, [read here](#).

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