

OFFICE OF THE
DISTRICT ATTORNEY
COUNTY OF SANTA BARBARA
JOYCE E. DUDLEY
District Attorney



DA 11-76

RELEASE NUMBER

November 30, 2011

RELEASE DATE

Joyce E. Dudley

APPROVED BY JOYCE E. DUDLEY, DISTRICT ATTORNEY

Hilary Dozer, Chief Deputy District Attorney

CONTACT PERSON (805) 568-2300

***** PRESS RELEASE *****

November 30, 2011

Re: People v. Tony DeNunzio

The Santa Barbara District Attorney's office has concluded its evaluation of the evidence arising from an incident on October 21, 2011, involving Santa Barbara Police Department Officer Aaron Tudor and Mr. Tony DeNunzio. We have reviewed reports prepared by the Santa Barbara Police Department, independently interviewed percipient witnesses, obtained additional real evidence, including medical records, and viewed available video, including the "dash-cam" video from the police vehicle. As a result of this investigation, this office will file criminal charges against Mr. DeNunzio for violating California Vehicle Code sections 23152(a) (driving under the influence of alcohol) and 23152(b) (driving with a blood alcohol level above .08), as well as allegations of two prior convictions for alcohol-related driving offenses (July 6, 2009 and January 6, 2004), and a violation of California Vehicle Code section 14601.2 (driving on a suspended driver's license).

Mr. DeNunzio was arrested for the Vehicle Code violations listed above and for violating Penal Code section 148(a)(1), willfully resisting, delaying, or obstructing an officer in the performance of his duties.

The above filing decision is in part based upon the "dash-cam" video utilized by Officer Tudor on October 21, 2011, viewed in real time and slow motion. This evidence is augmented by statements of various witnesses who were contacted and interviewed by Santa Barbara Police Department officers and by investigators of the District Attorney's Office.

This investigation reveals two divergent views regarding the force utilized by Officer Tudor. They are both reasonable assessments of the arrest procedure in this case. Various witnesses describe Officer Tudor's actions as appropriate based upon their subjective evaluation of the actions of Mr. DeNunzio. Other witnesses describe the unfolding event quite differently.

There are thirteen known percipient witnesses to many of the events described above. Some were able to view only a portion of the events as they unfolded. We cannot make a determination of responsibility and potential criminal liability by blindly counting up the number of witnesses for or against a particular resolution. Our decision is based upon an extensive evaluation of the totality of legally available evidence and a determination of the level of proof associated with that evidence. A fair and just decision by this office requires no less.

For a criminal allegation to be sustained at trial there must be proof beyond a reasonable doubt of every fact necessary to sustain the charge. We must be mindful of that very high standard of proof when evaluating a case for a criminal filing. As there are credible percipient witnesses who characterized the actions of Officer Tudor as unreasonable, we cannot say there is sufficient available proof beyond a reasonable doubt to justify a filing of the charge of Penal Code section 148(a)(1) by a jury. As there are credible percipient witnesses who characterized Officer Tudor's actions as appropriate based upon the actions of Mr. DeNunzio, we also cannot say there is sufficient available proof beyond a reasonable doubt to justify filing charges against Officer Tudor.

□ SANTA BARBARA OFFICE
1112 Santa Barbara Street
Santa Barbara, CA 93101
(805) 568-2300
Fax: (805) 568-2453

□ SANTA MARIA OFFICE
312-D East Cook Street
Santa Maria, CA 93454
(805) 346-7540
Fax: (805) 346-7588

□ LOMPOC OFFICE
115 Civic Center Plaza
Lompoc, CA 93436
(805) 737-7760
Fax: (805) 737-7732