



Written by [Bob Adelman](#) on May 9, 2016

## Driver Arrested for Remaining Silent, Sues Police and State

At 9:30 p.m. on October 16, 2015, attorney Rebecca Musarra was driving in Warren County, New Jersey, [when she was pulled over by two state troopers](#). Trooper Matthew Stazzone followed protocol and asked to see her driver's license, her vehicle registration, and proof of insurance. While she was providing them, Stazzone asked, "While you're looking for that, do you know why you're being pulled over tonight?"



Musarra, aware of her right to remain silent, remained silent. Stazzone asked her again, "Do you know why you're being stopped tonight?" Again, no answer.

Things then went off track. Stazzone said, "If you don't answer my questions, I am going to arrest you." Musarra responded, "Are you detaining me because I refused to speak?" Said Stazzone, "Why aren't you answering my questions? Yeah." Stazzone's partner, Demetric Gosa, added "Yeah. Obstruction."

Musarra then told the officers that she was an attorney and that she had the right to remain silent.

The officers ordered her out of her car, told her to put her keys on top of the car, patted her down, handcuffed her, and placed her in the back of their cruiser. On the way to the police station one of the troopers read Musarra her rights, which included the familiar phrase, "You have the right to remain silent."

When she arrived at the local station, she was removed from the car, patted down again, and placed in a holding cell and handcuffed to a bench.

Stazzone entered Musarra's cell and started asking her questions, and again Musarra refused to answer. Another state trooper then entered the cell and started asking the same questions. Again, Musarra refused to answer them.

When she asked to make a phone call, the troopers turned her down.

Thirty minutes later, the officers' supervisor, Trooper Butler, entered Musarra's cell and asked her to tell him what happened. This time Musarra said she had been arrested for refusing to answer questions, and Trooper Butler reiterated that her silence was "obstruction" of justice. Musarra corrected him, stating that under both federal and state law, silence is not obstruction.

Butler left, reviewed the police cruiser's dashcam video, returned, and told Musarra that Stazzone was a "rookie" and that "we'll mark it up to training." Trooper Butler then said he was going to do Musarra a favor by retrieving her car from the impound lot and waiving any fees. When Trooper Butler walked Musarra to her car, he apologized for Trooper Stazzone's actions.

In an interview with S.P. Sullivan, an investigative reporter for NJ.com, Musarra said she comes from a law-enforcement family (her father is a former prosecutor in Warren County and her mother is a former probation officer) and that she understands that "cops have a difficult job to do" but "there has to be



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some sort of accountability. Who knows what will happen to the next person who comes down the road who decides they have these constitutional rights they want to assert?"

Musarra filed suit against Trooper Stazzone, the New Jersey State Police, and the State of New Jersey in January 2016, outlining (in detail that would make John Grisham proud!) just what happened that night. She rolled out, with the help of high-octane Mount Laurel attorney Kevin Costello, how justice should be meted out in this instance. From the filing Mussara said:

As a direct and proximate result of the said acts of Defendant Stazzone, Plaintiff has suffered violations of her constitutional rights under the Fourth and Fourteenth Amendments to the United States Constitution to be free from unreasonable search and seizure of her person, loss of her physical liberty, and physical and emotional suffering.... The actions taken against Plaintiff were undertaken with a willful and wanton disregard for her rights such that punitive damages are warranted.

In addition to punitive damages, Musarra is also demanding compensatory damages, interest, the cost of the lawsuit, her attorney's fees, "and any other relief the Court deems equitable and just."

Attorneys for the defendants are likely to have a rough go in defending against Mussara. The dashcam video, now in the public domain, shows clearly what happened that night. Musarra's claim under 42 U.S.C. 1983 is clear: "Every person who, under color of any statute, ordinance, regulation, custom or usage, of any State ... subjects ... any citizen of the United States ... to the deprivation of any rights, privileges or immunities secured by the Constitution ... shall be liable to the party injured in an action at law."

The American Civil Liberties Union (ACLU) has created a website, [FlexYourRights.com](#), that teaches what citizens interested in defending their rights during a traffic stop should do, and not do. It's clear that attorney Rebecca Musarra got it almost exactly right. Instructs the ACLU:

Your rights:

You have the right to remain silent. If you wish to exercise that right, say so out loud.

You have the right to refuse to consent to a search of yourself, your car or your home.

If you are not under arrest, you have the right to calmly leave.

You have the right to a lawyer if you are arrested. Ask for one immediately.

While the ACLU frequently comes out in favor of a liberal, progressive agenda, the organization does sometimes hold true to constitutional principles.

As for attorney Musarra's lawsuit, *The New American* will watch for new developments and report on them immediately.



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