

12-28-11

APPELLATE DIVISION
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO

FILED
SUPERIOR COURT
COUNTY OF SAN BERNARDINO
APPEALS DIVISION

DEC 28 2011

People of the State of California
Plaintiff and Respondent

Court Case # V053926ADW
BY [Signature]

Appeal Case #

DEPUTY

Vs.

Volume 1 of 1
Pages 1 through 55 inclusive

1215 1700751

[Redacted] WINTER

Defendant and Appellant

- Augment
- Supplemental

CLERKS TRANSCRIPT ON APPEAL

Criminal Case of Limited Jurisdiction

Trial Judge: COMMISSIONER PATRICK L. SINGER

- Barstow District, 235 East Mountain View Avenue, Barstow, CA 92311
- Big Bear District, 477 Summit Boulevard, P.O. Box 2806, Big Bear Lake, CA 92315
- Chino District, 13260 Central Avenue, Chino, CA 91710
- Fontana District, 17780 Arrow Highway, Fontana, CA 92335
- Joshua Tree District, 6527 White Feather Road, Joshua Tree, CA 92252
- Juvenile District, 900 E. Gilbert Street, San Bernardino, CA 92415-0942
- Needles District, 1111 Bailey Street, Needles, CA 92363
- Rancho Cucamonga District, 8303 N. Haven Avenue, Rancho Cucamonga, CA 91730
- Redlands District, 216 E. Brookside Avenue, Redlands, CA 92373
- San Bernardino District, 351 N. Arrowhead Avenue, San Bernardino, CA 92415-0240/0210
- Twin Peaks District, 26010 State Highway 189, P.O. Box 394, Twin Peaks, CA 92391
- Victorville District, 14455 Civic Drive, Victorville, CA 92392

Appearances:

For Appellant and Defendant Plaintiff

[Redacted] WINTERS
[Redacted]
HESPERIA, CA 92345

For Respondent and Defendant Plaintiff

DISTRICT ATTORNEY
APPELLATE SERVICES UNIT
412 HOSPITALITY LANE, FIRST FLOOR
SAN BERNARDINO, CA 92415-0042

CHRONOLOGICAL INDEX
THE PEOPLE VS. ██████████ WINTER
CASE NO. V053926ADW

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ALPHABETICAL INDEX
THE PEOPLE VS. ██████████ WINTER
CASE NO. V053926ADW

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1	38	112111	PROPOSED STATEMENT ON APPEAL
1	26	090111	REQUEST FOR NEW TRIAL (TRIAL DE NOVO)
1	1	080311	REQUEST FOR TRIAL BY WRITTEN DECLARATION

NAME OF COURT: Superior Court of the State of California County of San Bernardino STREET ADDRESS: 14455 Civic Drive Civil:Ste100 Crim/Traf:Ste200 MAILING ADDRESS: 14455 Civic Drive Civil:Ste100 Crim/Traf:Ste200 CITY, STATE ZIP: Victorville, CA 92392 BRANCH NAME: Victorville District	FOR COURT USE ONLY
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT: ██████████ WINTERS	
REQUEST FOR TRIAL BY WRITTEN DECLARATION (Vehicle Code Section 40902)	
TO BE FILLED OUT BY COURT CLERK	CITATION NUMBER V053926A CASE NUMBER V053926ADW
A. DUE DATE (this form and any unpaid bail): 08/19/11	

B. Bail amount required: \$ TOTAL BAIL 490.00

C. Bail amount already deposited by defendant: \$0.00

D. Date mailed or delivered by clerk: 07/14/11

E. Mail or deliver completed form, evidence, and mail to the Clerk of the San Bernardino Superior Court at(mailing address):

14455 Civic Drive
Victorville, CA 92392

REQUEST FOR TRIAL

- I have reviewed the *Instructions to Defendant (Trial by Written Declaration)* (form TR-200).
- I request to have a trial by written declaration.
- The facts contained in the Declaration of Facts on the reverse are personally known to me and are true and correct.
- I know that I have the right not to be compelled to be a witness against myself. I understand and agree that by making any statement, I am giving up and waiving that right and privilege.
- EVIDENCE The following evidence supports my case and includes everything I want the court to consider in deciding my case:

a. <input type="checkbox"/> photographs (specify total number):	e. <input type="checkbox"/> diagram
b. <input type="checkbox"/> medical record	b. <input type="checkbox"/> car repair receipt
c. <input type="checkbox"/> registration documents	c. <input type="checkbox"/> insurance documents
d. <input type="checkbox"/> inspection certificate	d. <input checked="" type="checkbox"/> other (specify):

PEOPLE v. DEFENDANT (Name): [REDACTED] Winters	CASE NUMBER: V053926ADw
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6. DECLARATION OF FACTS (Type or print only. State what happened and explain all the items of evidence you checked in item 5 on the reverse and tell how they support your case. You may add additional pages.)

(Name): [REDACTED] Winters

(Current mailing address):

[REDACTED] Hesperia Ca 92345

STATEMENT OF FACTS (begin here):


Please see the attached motion called MOTION TO DISMISS

7. Number of pages attached: 2

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: August 2 2011

..... [REDACTED] Winters
(TYPE OR PRINT NAME)


.....
(SIGNATURE)

Donovan James Winters
[REDACTED]
Hesperia, CA 92345
760-[REDACTED]
Pro Per

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO, VICTORVILLE DISTRICT

PEOPLE OF THE STATE OF CALIFORNIA,

vs.

[REDACTED] Winters

Case No. VO53926ADW

MOTION TO
DISMISS

This matter is set for Trial by written Declaration on August 19, 2011 of the above mentioned court.

Vehicle Code 21455.5(g) (1) states:

A contract between a governmental agency and a manufacturer or supplier of automated enforcement equipment may not include provision for the payment or compensation to the manufacturer or supplier based on the number of citations generated, or as a percentage of the revenue generated, as a result of the use of the equipment authorized under this section.

In *People v Franco* (unpublished, Appellate Division, County of Orange, case 30-2008-93057, Nov. 21, 2008) Judge Moss observed:

The purpose of the statute is to avoid an incentive to the camera operator, as a neutral evaluator of the evidence, to increase the number of citations issued and paid through the use of the equipment.

The contract between City of Victorville and Redflex has a clause which states:



“The Customer agrees to pay Redflex within thirty.(30) days after the invoice is received. City shall be obligated to pay the cumulative balance invoiced by Redflex, in accordance with terms set forth above, to the extent of gross cash received by the City from automated red light violations. In the event that a balance remains unpaid due to a deficit in gross cash received by the payment, an accounting of such gross receipts supporting the amount withheld. In the event

that the contract ends or is terminated and an invoiced balance is still owed to Redflex, all subsequent receipts from automated red light violations for a period of 12 months from date of termination will be applied to such balance and paid to Redflex." (Exclusive agreement between City of Victorville and Redflex Traffic systems, inc. for photo red light enforcement program Exhibit "D" COMPENSATION & PAYMENT)

Therefore, Redflex has an incentive to ensure sufficient revenues are generated to cover the monthly fee. This violates both the spirit and letter of Vehicle Code 21455.5(g).

Therefore, defendant requests an immediate dismissal of this case.

Respectfully submitted this 2nd day of August, 2011.



~~_____~~ Winters

PEOPLE OF THE STATE OF CALIFORNIA

CASE NUMBER V053926A

vs.

[REDACTED] Winters

PROOF OF SERVICE BY MAIL

I am over the age of 18 and not a party to this action.

I reside at [REDACTED] Ave, California in the County of San Bernardino.

I served copies of the "Discovery Request Rebuttal" in the above case by enclosing them in envelopes and depositing the sealed envelopes with the United States Postal Service with the postage fully prepaid.

The envelopes were addressed and mailed as follows:

Address:

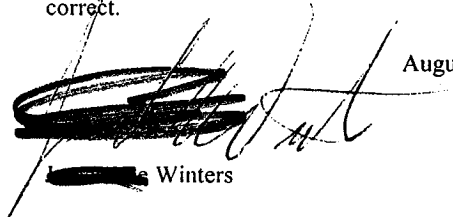
Victorville Superior Court
14455 Civic Center Drive
Victorville Ca 92392

Date Mailed: August 2, 2011

Mailed From: Hesperia, California

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

August 2, 2011

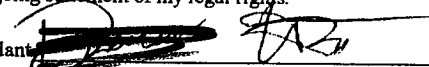

[REDACTED] Winters

SUPERIOR COURT OF THE COUNTY OF SAN BERNARDINO, CALIFORNIA
LEGAL RIGHTS OF A DEFENDANT CHARGED WITH A MISDEMEANOR OR INFRACTION

1. RIGHT TO KNOW THE CHARGE: You have a right to know what criminal charges have been filed against you.
2. RIGHT TO AN ATTORNEY: You have a right to be represented by an attorney at all stages of your case, including arraignment.
3. FREE ATTORNEY: You have the right to have an attorney appointed to represent you if you do not have the money to hire one (on Misdemeanor cases only.) (Upon conclusion of the criminal proceedings, the court shall, after a hearing, make a determination of your present ability to pay all or a portion of the cost of counsel. If the court determines that you have such present ability it shall order you to pay such cost. Such order shall have the same force and effect as a civil judgment and shall be subject to execution against your property or assets.)
4. CONTINUANCE AND DELAY: You have a right to a continuance (a delay) to obtain an attorney to prepare your defense.
5. RELEASE ON BAIL AND DETENTION HEARING: If you are in custody, you have the right to be released on your own recognizance or by posting reasonable bail. If you are not released on your own recognizance, you have the right to a hearing to determine if there is probable cause to continue you in custody subject to posting bail.
6. PROBABLE CAUSE HEARING: If you are in custody you have the right to demand a hearing as to whether there is probable cause to believe that an offense has been committed by you. This hearing must be made immediately at the time the motion is made, unless, for good cause, a continuance of not more than 3 days is granted. If probable cause is not found the offense must be dismissed.
7. PLEAS AVAILABLE: You have the right to enter the following pleas to charges pending against you: (a) Guilty, (b) Not Guilty, (c) Nolo Contendere (No Contest). A nolo contendere plea has the same effect as a guilty plea and will be accepted by the court as a guilty plea, but it cannot be used against you in a Civil suit. (d) Not Guilty by reason of insanity, (e) Not Guilty by reason of former jeopardy, (f) Not Guilty by reason for former judgment, (g) you may admit a prior, (h) you may deny a prior.
8. TRIAL BY JURY OR COURT: If you plead not guilty, you have the right to a public trial by jury (Misdemeanor cases only). Trial by jury requires presence of 12 impartial citizens who must all agree on your guilt or innocence to make a verdict.
9. CONFRONT WITNESSES: At any trial you have the right to confront, see, hear, and cross-examine all witnesses testifying against you.
10. SUBPOENA WITNESSES: At any trial, without cost, to have this court issue subpoenas to require all favorable witnesses testify on your behalf.
11. NO SELF-INCRIMINATION: At any trial you have the right to remain silent and refuse to take the witness stand and to refrain from incriminating yourself. Such silence cannot be held against you. You have this right on the issue of guilt. If you elect, you can testify on your own behalf.
12. SPEEDY TRIAL: you have the right to have your trial:
(a) within 30 days of your first appearance in court if you are in jail, or
(b) within 45 days of your first appearance in court if you are not in jail, and if good cause is not shown, the charges must be dismissed if trial is not afforded you within the times specified.
13. RIGHT TO KNOW PENALTY: You have the right to know the maximum penalty for each offense charged against you.
(a) If you are convicted of a misdemeanor, each offense carries a maximum penalty of 1 year in the county jail, a \$2000 fine or both. Some misdemeanor charges may have a lesser maximum penalty.
(b) Some misdemeanor charges carry a minimum sentence that must be imposed by the court. You will be advised of the minimum on each charge individually.
(c) If you are convicted of an infraction, each offense carries a maximum penalty of a fine only.
(d) If you are convicted of a sex offense, you will be required to register as a sex offender under Section 290 of the Penal Code.
(e) If you are convicted of possessing, using, cultivating, selling, or transporting a controlled substance (narcotic, drug or marijuana) you will be required to register as a narcotic offender under Section 11590 of the Health and Safety Code.
(f) If you are an alien a conviction for a crime could result in deportation or exclusion from admission to the U.S., or denial or naturalization as a citizen of the U.S.
(g) If you are granted probation, unless the court finds compelling or extraordinary circumstances to the contrary, you will be ordered to make restitution (pay damages) to the victim or restitution fund or do community service in lieu of payment.
14. CONTINUANCE OR DELAY FOR SENTENCING: If you plead guilty, nolo contendere (no contest) or are found guilty, you have the right to be sentenced not less than 6 hours nor more than 5 days after you plead or are found guilty unless you waive (give up) the statutory time for sentencing.
15. SEPARATE COUNSEL OR TRIAL: If you are charged jointly with a co-defendant, you may be entitled to separate attorney and/or a separate trial if conflict exists between you.
16. PRIORS: If charged with a prior conviction of some offense, your right to a jury trial, to confront witnesses, to subpoena witnesses and your right against incrimination, as to validity of such prior, exist separate from the same rights relating to your guilt on the new charge.
17. PRESUMPTION OF INNOCENCE: You are presumed innocent until proven guilty beyond a reasonable doubt.
18. COURT COSTS: Depending on your ability to pay, you may be charged for probation/court costs, pursuant to Penal Code Section 1203.1b.

DO NOT SIGN THIS STATEMENT UNLESS YOU FULLY UNDERSTAND IT

I represent to the Court that I have read and fully understand the foregoing statement of my legal rights.

Dated 08/02/11 Signature of Defendant 


I declare under penalty of perjury that I have interpreted this Legal Rights form from the English language into the _____ language and I represent the Court to the defendant understood my translation.

Dated _____ Signature of Interpreter _____

CERTIFICATION

I certify that the defendant handed to me the foregoing statement and he stated to me that he did read the foregoing statement and understood the same and this statement is hereby made a part of the docket.

Dated _____ Initialed by _____ Judge

NAME OF COURT: SUPERIOR COURT OF SAN BERNARDINO CALIFORNIA STREET ADDRESS: 14455 Civic Drive MAILING ADDRESS: 14455 Civic Drive CITY, STATE ZIP: Victorville, CA 92392-000 BRANCH NAME: Victorville District			FOR COURT USE ONLY
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT: [REDACTED] WINTERS			
OFFICER'S DECLARATION (Trial by Written Declaration-Vehicle Code, § 40902)			
RETURN DATE: 09/26/2011	ARRESTING/CITING OFFICER NAME/ID NO: BARBARA HILL	CITATION NUMBER V053926A	
AGENCY NAME: VICTORVILLE PD/SN BDNO SHERIFF		OFFICE (IF ANY): SHERIFF	
		CASE NUMBER V053926ADW	

INSTRUCTIONS: The defendant in the case listed above has opted for trial by written declaration pursuant to Vehicle Code section 40902. The officer named above shall check all statements that apply, date, sign, and complete and return this form to the court named above by the return date.

1. **OFFICER'S DECLARATION:** Except as expressly stated below, I have personal knowledge of the facts stated herein. The events occurred in the County of (specify): _____ at about the date, time, and location stated in the citation.
 - a. At the time of the citation I was a peace officer on-duty for the exclusive or main purpose of traffic enforcement not for the exclusive or main purpose of traffic enforcement, and I was was not wearing a uniform as required by the Vehicle Code section 40800. Any vehicle used by me complied with Vehicle Code section 40800.
 - b. The offense(s) were not committed in my presence.
 - c. Any statement(s) made by the defendant were voluntary, recorded. verbatim not verbatim and is/are reasonably complete and accurate in substance.
 - d. Safety is an element of the violation alleged. In my opinion, the defendant's operation of the vehicle was unsafe.
 - e. Any equipment used by me to gather evidence in support of this violation was properly maintained, in good working order.
 - f. Any traffic sign, signal, or device mentioned was official and properly located, maintained, in good working order, and clearly visible to a driver of a vehicle controlled, governed, or affected by such sign, signal, or device.
 - g. Any diagram(s) submitted is/are not exact or to scale, but is/are reasonably complete, accurate, and fairly depict(s) the location, situation, and events described.
 - h. Speed supported by the patrol vehicle's speedometer was a significant factor. Pursuant to department policy, the patrol vehicle used in connection with this citation was officially calibrated on (date): _____ The result was (specify): _____ The calibration was considered by me in determining defendant's speed.
 - i. Defendant was identified by Driver's License or other (specify): _____
2. **THE METHOD(S) USED TO DETERMINE THE SPEED OF THE INVOLVED VEHICLE WAS/WERE:**
 - a. Odometer
 - b. Visual estimation
 - c. Pacing
 - d. Radar (see items 4,5,6, below)
 - e. Laser
 - f. Aircraft
 - g. Other (specify): Sensors
3. Engineering and traffic survey (ETS) not required per Vehicle Code section 40802, subdivision (b).
4. ETS completed within five(5) years prior to date of alleged violation.
 - a. ETS attached
 - b. ETS on file with the court
5. ETS completed within five(5) years prior to date of alleged violation.
 - a. ETS attached

(Continued on reverse)

PEOPLE v. DEFENDANT (Name):

~~XXXXXXXXXX~~ WINTERS

CASE NUMBER

V053926ADW

- 5. b. ETS on file with the court
- c. Arresting/citing officer has successfully completed a radar operator course of not less than 24 hours approved and certified by the Commission on Peace Officer Standards and Training (POST).
- d. Laser or other electronic device was used to measure speed. Arresting/citing officer successfully completed an additional training course of not less than two hours approved and certified by POST.
- e. The speed measuring device used to measure the speed of defendant (Serial No: _____) meets or exceeds the minimum operational standards of the National Highway Traffic Safety Administration (NHTSA) and was last calibrated on (date): _____ by an independent certified laser/radar repair and testing/calibration facility.
- f. Equipment accuracy check conducted on (date): _____ at (time): _____ and again on (date): _____ at (time): _____
- 6. ETS completed within seven (7) and ten (10) years prior to the date of the alleged violation.
 - a. A registered engineer has evaluated the section of the highway in question and has determined that no changes in roadway or traffic conditions have occurred
 - b. All of the elements marked under item 5, above, which are applicable.

7. FACTS AND CIRCUMSTANCES (Type or print only. State what happened):

See attachment

Continued on attachment.

8. OTHER EVIDENCE AND STATEMENTS (Explain any other evidence and statements):

Continued on attachment.

9. DIAGRAM(S) (specify): _____

Attached.

10. Number of pages attached 13

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 08/22/11

Barbara Hill
(TYPE OR PRINT NAME)

Barbara Hill
(SIGNATURE OF OFFICER)

ID Number: D4274

Agency NCIC Number: 3600

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO

Victorville District

14455 Civic Drive Victorville, CA 92392

Defendant: WINTERS, [REDACTED]

Citation Number: V053926ADW

TRIAL BY DECLARATION

LAW ENFORCEMENT STATEMENT

This citation was issued as a result of evidence collected by the automated traffic enforcement system (ATES). The basic system consists of sensors buried in the roadway, a computer, digital cameras and strobes mounted above the roadway in weatherproof boxes. If a vehicle passes over the sensors at a speed greater than the predetermined rate the cameras record the incident.

A vehicle must be travelling greater than 15 mph to capture a straight through violation and greater than 13 mph for the system to capture a violation when the vehicle is turning.

The system is connected to the traffic signal controller, red light phase only. It is inactive during the green and amber phases.

The data line on the photographs show this incident occurred on Saturday, June 11, 2011, at approximately 22:42 hours, at the intersection of Bear Valley Road and Industrial Blvd. The defendant's vehicle was East bound in the number 3 lane at an unknown speed. The posted speed limit on Bear Valley Road is 45 mph, and the yellow phase at this intersection for this lane is 4.3.

Photo A shows the defendant's vehicle approximately 10 feet West of the West limit line of Bear Valley Road. The signal is visible in the photo and is in the red phase. The data line indicates the signal had been red for 0.27 seconds. The elapsed time for the incident is 0.00 seconds.

Photo B pictures the defendant's vehicle approximately 4 feet East of the limit line and within the intersection. The signal has been red for 0.56 seconds and the elapsed time for the total incident is 0.29 seconds.

- The vehicle made a right turn from _____ to _____.
- The vehicle was travelling in a straight line from West to East.
- The vehicle made a left turn from _____ to _____.

The two remaining color photographs are used for driver and vehicle identification purposes only.

In addition to the digital still photographs, a 12 second video on the incident is available.

Victorville Police Department

Barbara Hill

Date: 08/22/11

Barbara Hill, Sheriff's Service Specialist

CITY OF VICTORVILLE
COURT EVIDENCE PACKAGE CHECKLIST



Court Information

Name and Location of Court: Victorville Superior Court
14455 Civic Dr.
Victorville, CA 92392

Court Date: 9/26/2011 Time:

Citation Number: V053926A

Defendant Information

Name: [REDACTED] WINTERS

Address: [REDACTED] HESPERIA, CA 92345

Violation Information

Statute: VC 21453(A) Failure to Stop at Red Light

Violation Date: 6/11/2011 Violation Time: 10:42 PM

Intersection Location: BEAR VALLEY RD AND INDUSTRIAL BLVD EB

Vehicle State: CA Vehicle Plate: 3XXK924

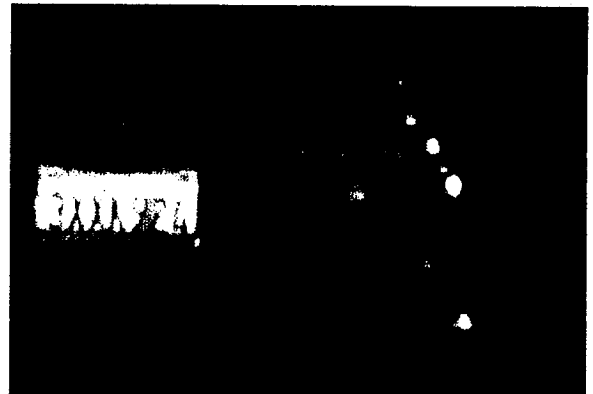
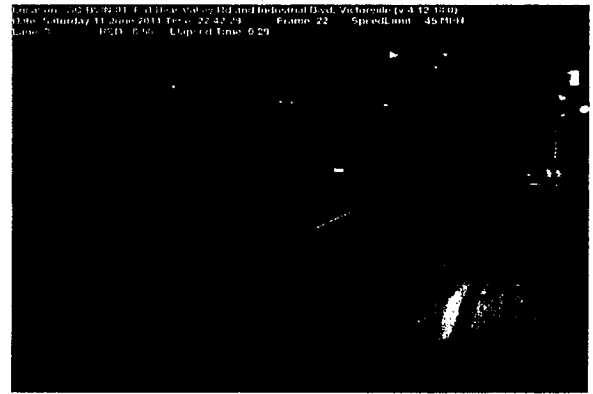
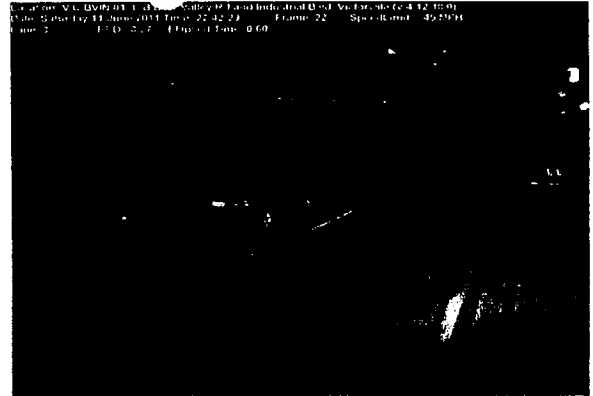
Exhibits

	Date Item Completed
Copy of Notice to Appear:	<u>AUG 17 2011</u>
Citation Back:	<u>AUG 17 2011</u>
Declaration:	<u>AUG 17 2011</u>
Copy of Images (4):	<u>AUG 17 2011</u>

Completed By

NOTICE OF TRAFFIC VIOLATION

Victorville Police Department						
NOTICE TO APPEAR Automated Traffic Enforcement V053926A						
DATE OF VIOLATION June 11, 2011		TIME 22:42				
NAME (FIRST, MIDDLE, LAST) [REDACTED] WINTERS						
ADDRESS [REDACTED]						
CITY HESPERIA		STATE CA		ZIP CODE 92345		
DRIVER LIC. NO.		STATE CA	CLASS C	COMMERCIAL <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	AGE 22	BIRTH DATE [REDACTED]
SEX M	HAIR Red	EYES Blue	HEIGHT 5'10"	WEIGHT 165		
VEH. LIC. NO. [REDACTED]		STATE CA		<input type="checkbox"/> COMMERCIAL VEHICLE (Veh. Code, § 15210(b)) <input type="checkbox"/> HAZARDOUS MATERIAL (Veh. Code, § 353)		
YR. OF VEH. 1995	MAKE HONDA	BODY STYLE 2 Door Automobile				
REGISTERED OWNER OR LESSEE [REDACTED] WINTERS						
ADDRESS [REDACTED]						
CITY HESPERIA		STATE CA		ZIP CODE 92345		
CODE AND SECTION VC 21453(A)			DESCRIPTION Failure to Stop at Red Light			
LOCATION OF VIOLATION At Bear Valley Rd and Industrial Blvd			City/County of Occurrence Victorville / San Bernardino			
<input checked="" type="checkbox"/> VIOLATION WAS NOT COMMITTED IN MY PRESENCE. THE ABOVE IS DECLARED ON INFORMATION AND BELIEF AND IS BASED ON PHOTOGRAPHIC EVIDENCE I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THE FOREGOING IS TRUE AND CORRECT						
16-Jun-11 DATE ISSUED		BARBARA HILL DECLARANT		D4276 ID NO		
YOU MUST RESPOND TO THE COURT ON OR BEFORE: WHEN: Date: 17-Aug-11 Clerk's Office Hours Monday - Friday 8:00 AM - 4:00 PM						
WHAT TO DO: FOLLOW THE INSTRUCTIONS ON THE REVERSE.						
WHERE: Victorville Superior Court 14455 Civic Center Drive Victorville, CA 92392 760-245-6215						
Judicial Council of California Form (Rev. 09/20/05) (Veh. Code, § 40518)			SEE REVERSE TR-115			



Certificate of Mailing

I, JOHN CAMERON of Redflex Traffic Systems Inc., 23751 N. 23rd Avenue, Suite 150, Phoenix, Arizona 85085-1854, do certify that I am over 18 years old and not a party to the above entitled case. On Thursday, June 16, 2011, I placed this Notice to Appear in an envelope addressed to the registered owner, lessee, or identified driver as shown above, sealed it, and deposited the envelope in a United States Postal Service receptacle located at the United States Postal Service office in Phoenix, Arizona. In the ordinary course of business, the envelope is sealed, affixed with proper postage, and mailed. I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: 16 Jun 11 JOHN CAMERON (Code of Civil Procedure 1013a(3), 2015.5)

In .tant - Read Carefully

THIS CITATION IS BASED ON PHOTOGRAPHIC EVIDENCE

The vehicle identified on the front was photographed in violation of a traffic signal. You may see the photographs and video. Contact: Victorville Police Department at (760) 241-2911. If you were not driving the vehicle at the time of the violation either contact the Victorville Police Department or complete the enclosed "Affidavit of Non-Liability" form to identify the driver and return as requested.

WHAT TO DO

You have been issued a citation that charges you with a traffic infraction. You must respond by following one of the procedures below by the date on the front (see "WHEN"). If you do not, you may lose your license to drive, and your money penalties may increase.

1. If you do NOT contest the violation
 - a. (Pay the bail amount) (See "BAIL INFORMATION" below) Your bail will be forfeited to the court. You will not have to appear in court. You will be convicted of the violation, and it will appear on your record at the Department of Motor Vehicles (DMV). A point count will be charged to your DMV record for this offense and your insurance may be adversely affected.
 - b. (Traffic school) You may be able to avoid the point count and adverse affect on your insurance by attending traffic school. Contact the court to request traffic school. You must pay the bail amount, and you may have to pay other fees.
2. If you contest the violation (select one)
 - a. (Court trial) Send a certified or registered letter not later than five days prior to the appearance date, or come to the court by the appearance date to request a court trial on a future date when an officer and witnesses will be present. You will be required to submit the bail amount. You will be given a date for your trial.

-OR-

 - b. (Trial by written declaration) Send a certified or registered letter postmarked not later than five days prior to the appearance date, or come to the court on or before the date on the front and request a trial by written declaration. Submit the bail amount. You will be given forms to allow you to write a statement and submit other evidence without appearing in court. An officer will also submit a statement. The judicial officer will consider all of the evidence at the same time and decide the case.

WRITING TO THE COURT

If you write to the court, always write the citation number and your driver license number on your letter. Use of certified or registered mail is required. Do not send your copy of the citation. Keep it for your own records.

BAIL INFORMATION

The "bail" is the amount you must pay or deposit for the charged violation.

Bail Amount: Please refer to the Court's Courtesy Notice for bail information, which is mailed to you separately from the court.

Make the check or money order payable to *The Clerk of the Court*. Write the citation number and your driver license number on your check or money order. You may deposit the bail in person, by mail or by phone.

NIGHT COURT TRIALS are not available for this citation.

JUVENILES

If you are under 14, you must be accompanied by your parent or guardian when you appear in court. Bring this citation and your driver license.

ONLINE INFORMATION

You may obtain additional information at:
<http://www.co.san-bernardino.ca.us/courts>

Important:
Arraignments will be held on Wednesdays at 1:30pm.

DECLARATION OF CUSTODIAN OF RECORDS
California Evidence Code 1280

I, undersigned, being a duly authorized co-custodian of records for: REDFLEX TRAFFIC SYSTEMS, Inc. (RTS), 23751 North 23rd Ave., Suite 150, Phoenix, AZ 85085, with personal knowledge of the facts set forth below, and authority to certify said records, do hereby attest to the following:

- The Photographic Evidence (images and video) was received from the intersection to the Back Office using an automated/secure VPN connection on June 11, 2011 at 10:45 PM
- An automated verification routine was run when the images/data were received in the Back Office on June 11, 2011 at 10:45 PM and PASSED to confirm the digital signature was valid and the data had not been tampered with. The "Digital Signature Valid" label at the bottom on each original picture in this evidence package indicates the successful completion of the Image Verification Routine.
- A duplicate copy was made of the original images in .jpg format on June 11, 2011 at 10:45 PM for editing purposes (zooming, cropping, lightening, or darkening) for citation printing purposes.
- The system that captured this violation was checked using a three-fold approach. First, an automated process checks the system daily for the presence of incidents, and that the number of incidents generated is within the normal daily average for the approach. Anomalies are reported and reviewed daily by an RTS maintenance technician. This verifies that the system had power and communication lines working at the approach. Secondly, RTS personnel review each incident three times to verify the proper functioning of the system by viewing the video, data gathered, and still photographic images. If any abnormality had been found during this incident-review process, the incident would have been rejected and not issued, and the problem would have been reported to the RTS Maintenance Department for tracking and resolution. Third, the RTS Maintenance Department performs routine maintenance of the system as needed, or when a problem is reported.

I am an employee of Redflex Traffic Systems. The attached records were prepared in the ordinary course of business, by the personnel of Redflex Traffic Systems, Inc. for which I was a co-custodian of records, at or near the times of the acts, conditions, or events depicted therein. I certify that the copies contained inside the court package are true copies of the business records of Redflex Traffic Systems.

Contained in the package is a Court Evidence Checklist showing the details of the Trial Date and Location, the Defendant Information, the Violation Information, and a description of each exhibit with the date and name of the person who prepared the records. This checklist is generated from information contained in the RTS database. The Court Information was provided by the City of Victorville at the time the records were requested. The Defendant Information was obtained when the license plate of the vehicle was searched through California Department of Motor Vehicles, or was provided on an Affidavit of Non-Liability by the registered owner of the vehicle. The Violation Information was captured by the computer at the intersection at the time the violation occurred and was transmitted via an encrypted line to be stored in the RTS database in Phoenix, Arizona.

The exhibits in the package include:

- A Copy of the Notice to Appear -- This is a true and correct copy of the citation sent to the violator on the date shown in the Certificate of Mailing at the bottom on the Notice to Appear. All of the data and images printed on this citation were printed using an automated computer program that retrieves data from the database following the processing procedure performed on violation incidents. The images shown on the Notice to Appear are copies of the original images where the Operations Associates employed by RTS have enhanced the images by lightening/darkening, zooming, and cropping the original image for better readability. A proprietary system is used for this function that only allows the user to perform these three functions -- the color or content of the image cannot be changed. A Certificate of Mailing, pursuant to VC 40518, is included at the bottom of the Notice to Appear indicating that the notice was delivered to the registered owner within the 15 day requirement of the vehicle code.
- 4 Full Size Photos -- These photos are provided to depict photographic evidence of the violation. These are the original, unmodified images received by RTS via an encrypted line from the camera system at the intersection. These images were reviewed by RTS personnel in the normal course of business at or near the time the registered owner's Notice to Appear was created. The first photo shows the car behind the violation line and shows that the light is red. The databar at the top of each photo is attached to the photo by the camera system software at the intersection. It shows the violation details, including the location, date/time, speed limit, vehicle speed, and the elapsed time into the red phase when the photo was taken. The second photo shows that the car proceeded through the intersection while the light was still red. The third photo shows a photograph of the driver of the violating vehicle and the fourth photo shows a photograph of the license plate of the violating vehicle.

As co-custodian, I can testify to the records identity and method of preparation. The source of the information and method of preparation were such as to indicated their trustworthiness. If I were called as witness in this matter, I could and would competently testify under oath to the foregoing facts.

I hereby declare under penalty of perjury under the laws of the State of California, that the aforementioned is true and correct.

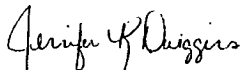
Executed at: Phoenix, Arizona

Executed on: August 17, 2011

Co-Custodian of Records

Co-Custodian of Records

Co-Custodian of Records



(Signature)

(Signature)

(Signature)

Bill Harper

Jennifer R. Dwiggers

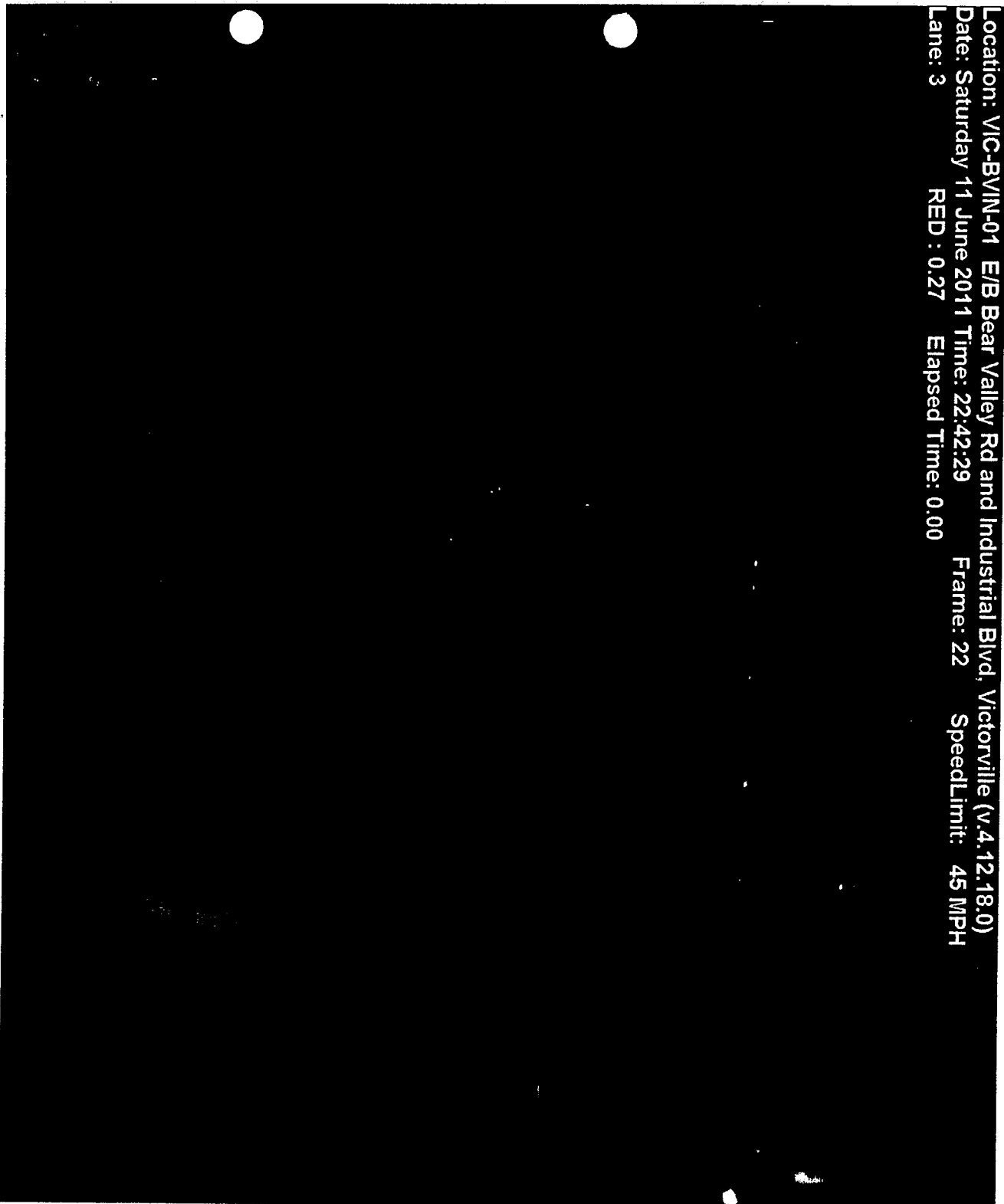
Robert Salcido

(Printed Name)

(Printed Name)

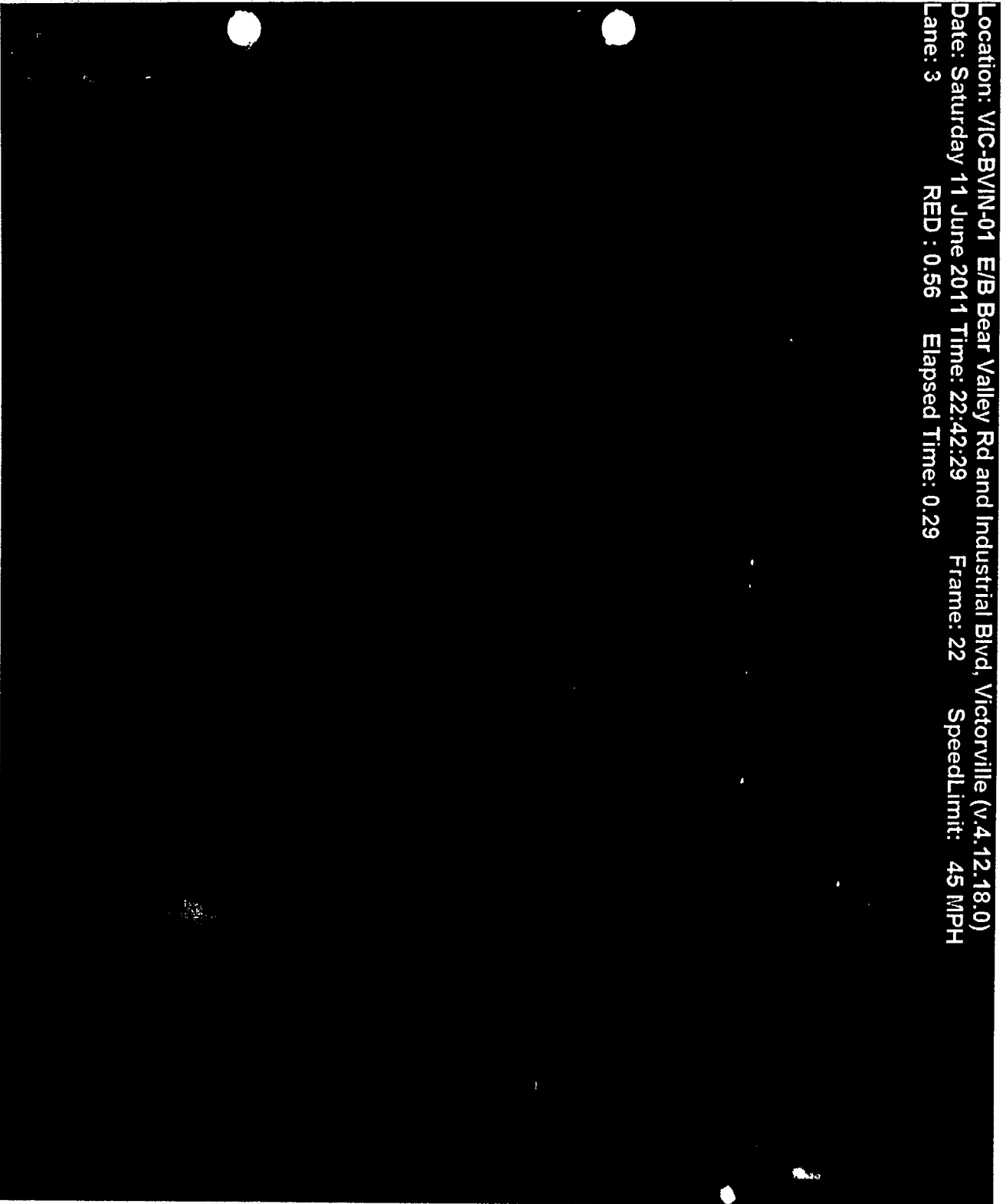
(Printed Name)

Location: VIC-BVIN-01 E/B Bear Valley Rd and Industrial Blvd, Victorville (V.4.12.18.0)
Date: Saturday 11 June 2011 Time: 22:42:29 Frame: 22 SpeedLimit: 45 MPH
Lane: 3 RED : 0.27 Elapsed Time: 0.00



A Scene Image
Page 1 File C:\CourtPackImages\Victorville\V053926A\VIC-BVIN-01_0022_3_20110611_224229.inc [Digital Signature Valid]

Location: VIC-BVIN-01 E/B Bear Valley Rd and Industrial Blvd, Victorville (V.4.12.18.0)
Date: Saturday 11 June 2011 Time: 22:42:29 Frame: 22 SpeedLimit: 45 MPH
Lane: 3 RED : 0.56 Elapsed Time: 0.29

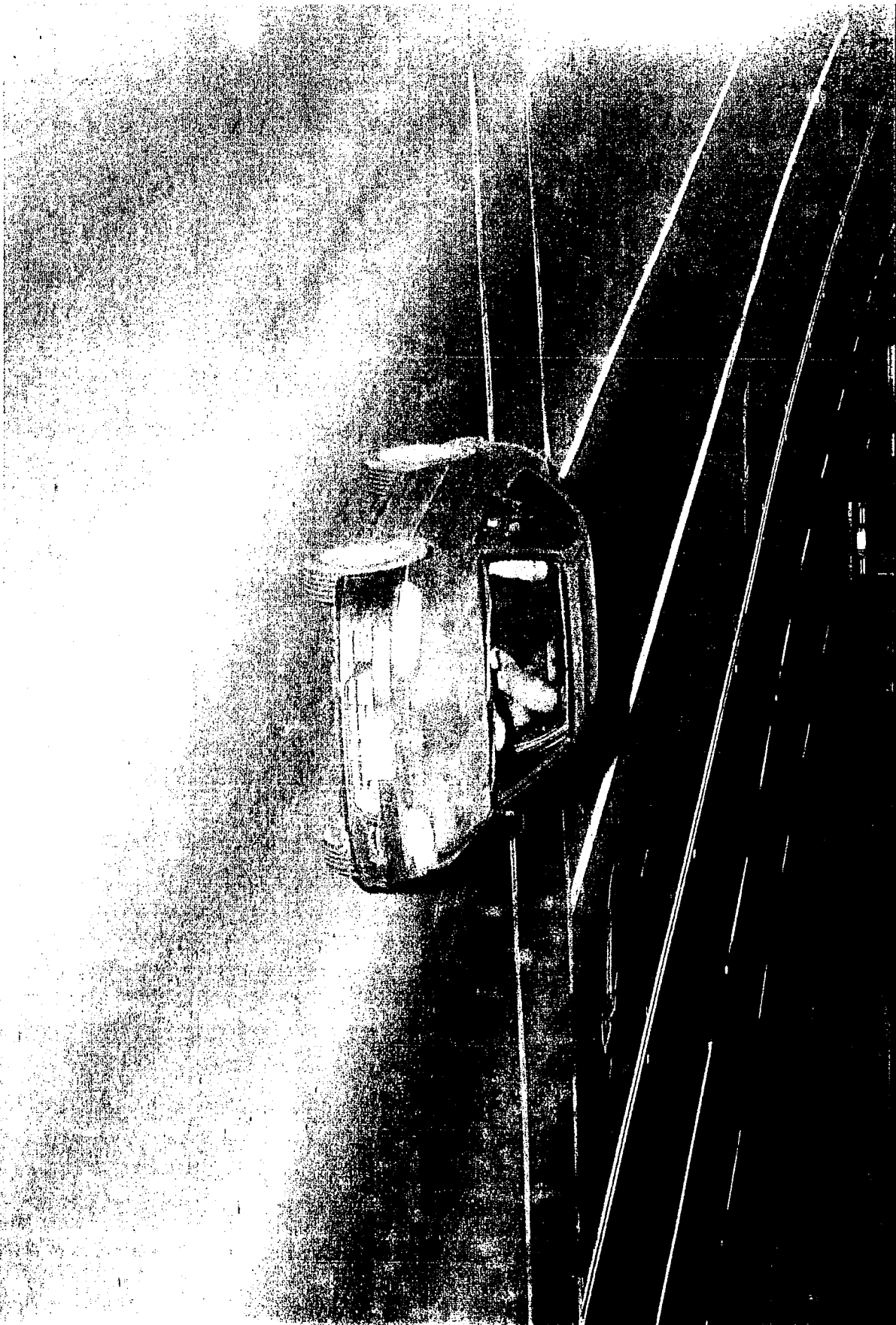


B Scene Image

Page 2 File C:\CourtPackImages\Victorville\053926A\VIC-BVIN-01_0022_3_20110611_224229.inc

[Digital Signature Valid]

Location: VIC-BVIN-01 E/B Bear Valley Rd and Industrial Blvd, Victorville (v.4.12.18.0)
Date: Saturday 11 June 2011 Time: 22:42:29 Frame: 22 Speedlimit: 45 MPH
Lane: 3 RED : 0.84 Elapsed Time: 0.57



Location: VIC-BVIN-01 E/B Bear Valley Rd and Industrial Blvd, Victorville (v.4.12.18.0)
Date: Saturday 11 June 2011 Time: 22:42:29 Frame: 22 SpeedLimit: 45 MPH
Lane: 3 RED : 0.56 Elapsed Time: 0.29

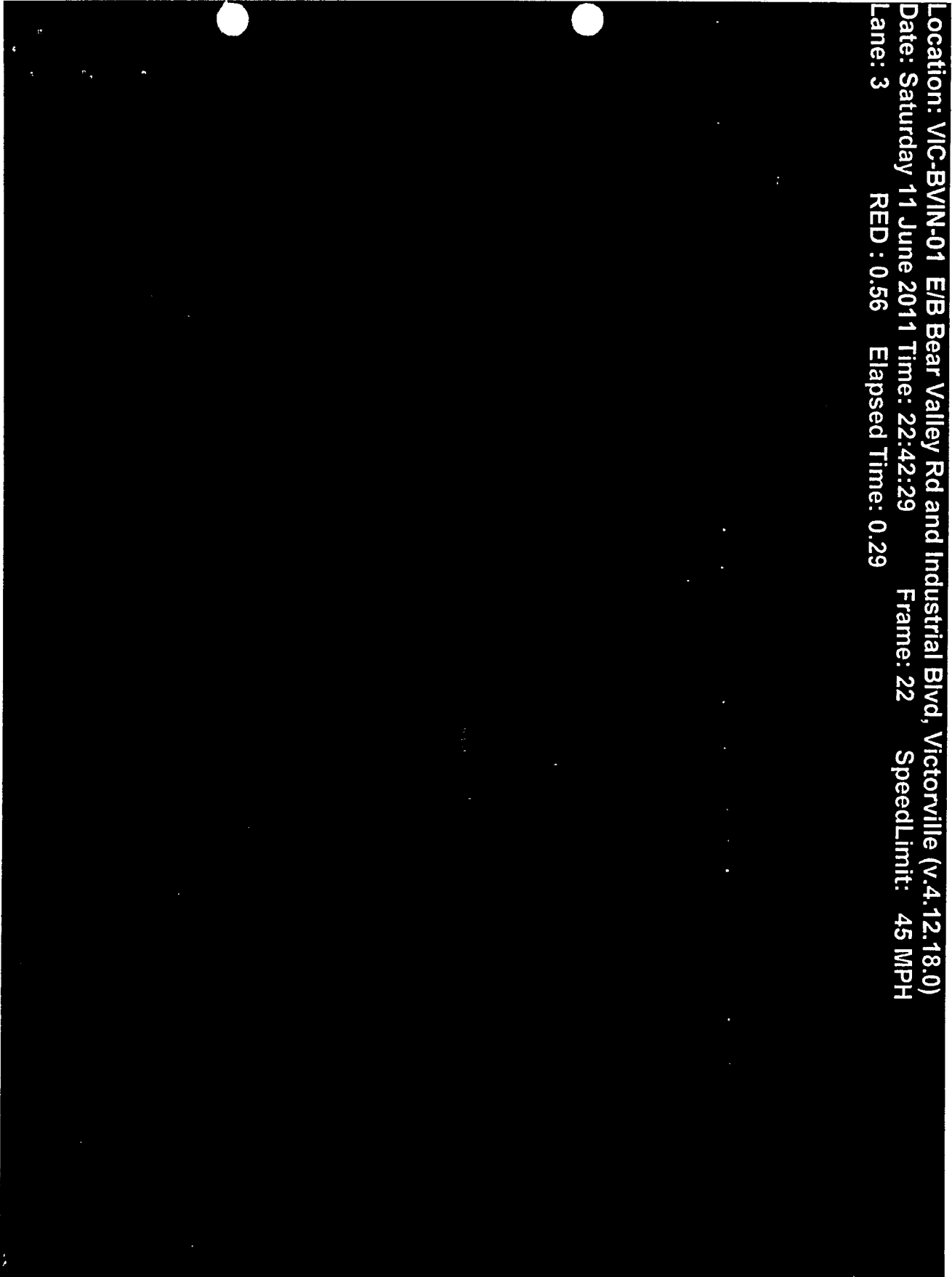


Plate Image

Page 4 File C:\CourtPackImages\Victorville\053926A\VIC-BVIN-01_0022_3_20110611_224229.inc

[Digital Signature Valid]

Message From Terminal/Unit: CLET. Operator: CLETS (CLETS)

Date/Time Sent: 08-AUG-2011 15:14:40

4BJR0VC6900.IV

DATE: 08/08/11 TIME: 15:14

INSURANCE INFORMATION ON FILE

POSSIBLE FILE CODES: A(3XXK924) S(3XXK924)

REG VALID FROM: 03/26/11 TO 03/26/12

LIC# [REDACTED] YRMD:95 MAKE:HOND BTM :2D VIN : [REDACTED]

R/O :WINTERS [REDACTED] S, [REDACTED] CITY:HESPERIA C.C.:36

ZIP#:92345

SOLD:00/00/95 RCID:05/02/11 OCID:05/14/11 LOCD:3

TYPE:11 POWR:G VEH :12 BODY:0 CLAS:AD *-YR:11

REC STATUS:

05/06/11 SMOG DUE 03/26/13

03/25/98 PREV LIC STEFNEB

CLEARANCE INFORMATION RECORDS:

OFFICE	WORK DATE	TECH/ID	SEQ #	VALUE	FICHE DATE	TTC
629	03/07/07	15	0005	00105.00	03/09/07	F00
149	04/03/08	51	1869	00051.00	04/04/08	POT
629	12/23/08	11	0005	00017.00	12/25/08	H00
141	03/12/09	16	1567	00066.00	03/16/09	POT
RI3	03/25/10	50	7374	00067.00	03/25/10	POT
V43	07/09/10	KD	0005	00018.00	07/10/10	H00
RI3	03/24/11	40	7271	00067.00	03/24/11	POT
C94	05/02/11	6V	0015	00059.00	05/06/11	F00
C94	04/30/11	6P	0037	00059.00	PRIOR SUSPENSE	

12/18/2003-ODOMETER: 93,538 MILES ACTUAL MILEAGE

END

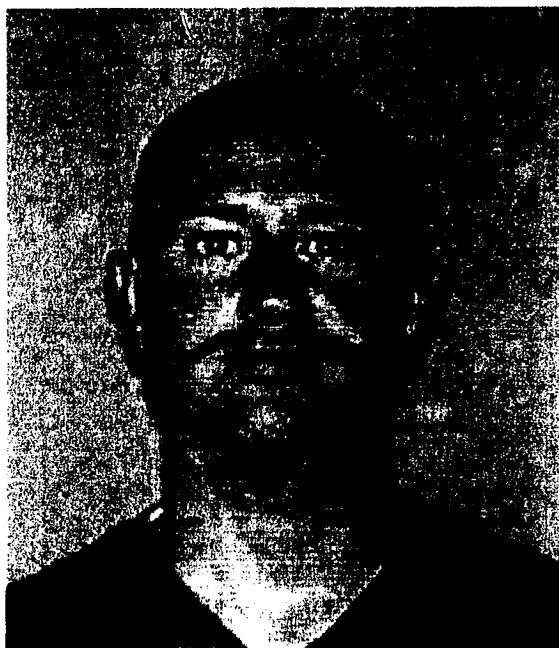
Message From Terminal/Unit: CLE1 Operator: CLETS(CLETS)
Requested By:
Date/Time Sent: 08-AUG-2011 15:15:09
4BJR0VC69 ID
DATE:08-08-11*TIME:15:15*
DMV RECORD FOR LAW ENFORCEMENT USE ONLY
DL/NO: [REDACTED] *B/D: [REDACTED] *NAME:WINTERS [REDACTED] *
MAIL ADDR AS OF 06-25-10: [REDACTED] HESPERIA 92345*
IDENTIFYING INFORMATION:
SEX:MALE*HAIR:RED*EYES:BLU*HT:5-10*WT:165*
LIC/ISS:06-25-10*EXPIRES:10-21-14*CLASS:C NON-COMMERCIAL
& M1 MOTORCYCLE*
ENDORSEMENTS:NONE*
ORIGINAL DL ISSUE DATE:04-17-06*
LATEST APP:
DL TYPE:RENEWAL*ISS/DATE: 06-25-10*OFFICE: VIC*BATES:POL*
RESTR:MUST WEAR CORRECTIVE LENSES WHEN DRIVING,
ORGAN AND TISSUE DONOR: [REDACTED] UPDATED:06-25-10
LICENSE STATUS:
VALID*
DEPARTMENTAL ACTIONS:
NONE
CONVICTIONS:
NONE
FAILURES TO APPEAR:
NONE
ACCIDENTS:
NONE
END

**CALIFORNIA DEPARTMENT OF MOTOR VEHICLES
IMAGE RECORD FOR:**

[REDACTED] WINTERS

D9	EXPIRES: 10/21/2014	CLASS: F	SEX: M
HAIR: RED	EYES: BLU	HEIGHT: 510	WEIGHT: 165
DATE OF BIRTH: [REDACTED]			
ADDRESS: [REDACTED], HESPERIA, CA 92345			

PHOTO DATE: 06/01/2010	PHOTO OFFICE: 629	APPLICATION DATE: 06/25/2010	APPLICATION OFFICE: 629
ISSUE DATE: N/A	ISSUE OFFICE: N/A	RESTRICTIONS: 0	



SIGNATURE:

FINGERPRINT:



This photograph is a true copy of the photograph that is contained on the Department of Motor Vehicles photo database and delivered over the Department of Justice Cal-Photo communications network.

Date: _____ /s/ _____

NAME OF COURT: SUPERIOR COURT OF SAN BERNARDINO CALIFORNIA
STREET ADDRESS: 14455 Civic Drive
MAILING ADDRESS: 14455 Civic Drive
CITY, STATE ZIP: Victorville, CA 92392
BRANCH NAME: Victorville District

FOR COURT USE ONLY



PEOPLE OF THE STATE OF CALIFORNIA
vs.
DEFENDANT: [REDACTED] WINTERS

DECISION AND NOTICE OF DECISION
(Trial by Written Declaration-Vehicle Code, § 40902)

CITATION NUMBER

V053926A

CASE NUMBER

V053926ADW

1. The court's decision was entered on (date): 8-23-11

2. Bail amount: ~~\$544.00~~ \$490

3. **THE COURT FINDS** the defendant

- a. Violation #1: 1) 21453(A) VC-1 Not guilty Guilty. Fine: \$ 490 Dismiss. Fee: \$ _____
- b. Violation #2: _____ Not guilty Guilty. Fine: \$ _____ Dismiss. Fee: \$ _____
- c. Violation #3: _____ Not guilty Guilty. Fine: \$ _____ Dismiss. Fee: \$ _____
- d. Violation #4: _____ Not guilty Guilty. Fine: \$ _____ Dismiss. Fee: \$ _____

THE COURT ORDERS

4. Defendant shall pay the following amount:
- a. Total fines: \$ 490
 - b. Total fees: \$ 0
 - c. Total fines and fees (a plus b): \$ 490
 - d. Credit for bail ordered applied: \$ 490

e. TOTAL AMOUNT OWED (c minus d): \$ 0 TO BE PAID BY (date): _____

5. Clerk shall refund to defendant the following amount:
- a. Bail amount: \$ _____
 - b. Subtraction of total fines (if any): \$ _____
 - c. Subtraction of total fees (if any): \$ _____
 - d. Credit for bail ordered applied: \$ _____

e. TOTAL AMOUNT ORDERED REFUNDED (a minus d): \$ _____ (should be received by mail within 60 days)

6. Other orders (specify):

Date: 8-23-11

JUDICIAL OFFICER

IF YOU WISH TO REQUEST A NEW TRIAL, YOU MUST SUBMIT A REQUEST FOR NEW TRIAL (TRIAL DE NOVO) (FORM TR-220) WITHIN 20 DAYS OF THE DATE STATED IN ITEM 2 OF THE CLERK'S CERTIFICATE OF MAILING (see

FOR USE BY COURT CLERK: The evidence submitted by defendant is enclosed.
(Certificate of mailing on reverse)

PEOPLE v. DEFENDANT (Name): [REDACTED] WINTERS	CASE NUMBER V053926ADW
---	---------------------------

CLERKS'S CERTIFICATE OF MAILING

1. I am not a party to this action.
2. I caused the *Decision and Notice of Decision* to be served by enclosing a copy in an envelope addressed as shown below and caused the envelope to be deposited with the United States Postal Service with first-class postage fully prepaid
at (city): Victoryville , California
on (date): 08/05/11
3. I certify that the foregoing is true and correct.

Date: 08/05/11

Clerk, by [Signature] , Deputy

DEFENDANT (name and address):
[REDACTED] WINTERS
[REDACTED]
HESPERIA, CA 92345

Agency (name and address):
VICTORVILLE PD/SN BDNO SHERIFF

NAME OF COURT: SUPERIOR COURT OF SAN BERNARDINO CALIFORNIA
STREET ADDRESS: 14455 Civic Drive
MAILING ADDRESS: 14455 Civic Drive
CITY, STATE ZIP: Victorville, CA 92392
BRANCH NAME: Victorville District



FOR COURT USE ONLY

RECEIVED
SEP 01 2011
VICTORVILLE DISTRICT

PEOPLE OF THE STATE OF CALIFORNIA
vs.
DEFENDANT: ~~XXXXXXXXXX~~ WINTERS

REQUEST FOR NEW TRIAL (TRIAL DE NOVO)
(Trial by Written Declaration-Vehicle Code, § 40902)

CITATION NUMBER
V053926A

CASE NUMBER
V053926ADW

1. The clerk mailed the court's *Decision and Notice of Decision* (form TR-215) in my trial by written declaration to me on (date): **08/25/11**
2. I am submitting this request to the court within 20 days of the date in item 1. (*The court must receive this request within 20 days of the date in item 1.*)
3. I am dissatisfied with the court's decision. I request a new trial (trial de novo) for the following violations (*specify*):

21453(A) UC-I

Date: 8/30/2011

~~XXXXXXXXXX~~ WINTERS
(TYPE OR PRINT NAME)

~~XXXXXXXXXX~~
(SIGNATURE)

IF YOU WISH TO REQUEST A NEW TRIAL, YOU MUST SUBMIT A REQUEST FOR NEW TRIAL (TRIAL DE NOVO) WITHIN 20 DAYS OF THE DATE STATED IN THE CLERK'S CERTIFICATE OF MAILING (see item 1 above).

PEOPLE OF THE STATE OF CALIFORNIA

CASE NUMBER V053926ADW

vs.

~~_____~~ Winters

PROOF OF SERVICE BY MAIL

I am over the age of 18 and not a party to this action.

I reside at ~~_____~~, California in the County of San Bernardino.

I served copies of the "Request for New Trial (Trial De Novo)" in the above case by enclosing them in envelopes and depositing the sealed envelopes with the United States Postal Service with the postage fully prepaid.

The envelopes were addressed and mailed as follows:

Address:


Victorville Superior Court
14455 Civic Center Drive
Victorville Ca 92392

Date Mailed: August 30, 2011

Mailed From: Hesperia, California

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

August 30, 2011


~~_____~~ Winters

NAME OF COURT: SUPERIOR COURT OF SAN BERNARDINO CALIFORNIA STREET ADDRESS: 14455 Civic Drive MAILING ADDRESS: 14455 Civic Drive CITY, STATE ZIP: Victorville, CA 92392 BRANCH NAME: Victorville District	FOR COURT USE ONLY
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT: ██████████ WINTERS	
ORDER AND NOTICE TO DEFENDANT OF NEW TRIAL (TRIAL DE NOVO) (Trial by Written Declaration-Vehicle Code, § 40902)	
	CITATION NUMBER V053926A
	CASE NUMBER V053926ADW

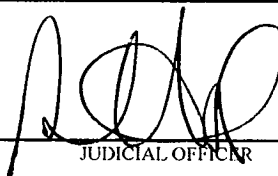
- The court has received your *Request for New Trial (Trial de Novo)*.
- The request is DENIED, and your case is closed because your request was
 - not received on time
 - otherwise not in compliance with law or rules (*explain*):

- A new trial is GRANTED.
 - Date and time of trial (*specify*): 10-4-11, 8:30 AM
 - Place of trial (*specify*): DEPT V-14, VICTORVILLE

SUBPOENA OFFICER HILL

Be present and ready for trial with your attorney (if you want to hire an attorney to represent you). Your witness must come to court with you. Bring other evidence that you want the court to consider unless it has been retained by the court.

Date: 9-7-11



JUDICIAL OFFICER

(Certificate of mailing on reverse)

PEOPLE v. DEFENDANT (Name): <u>[REDACTED] WINTERS</u>	CASE NUMBER V053926ADW
--	----------------------------------

CLERKS'S CERTIFICATE OF MAILING

1. I am not a party to this action.
2. I caused the *Order and Notice to Defendant of New Trial (Trial de Novo)* to be served by enclosing a copy in an envelope addressed as shown below and caused the envelope to be deposited with the United States Postal Service with first-class postage fully prepaid

at (city): Victorville, California

on (date): 9/13/11

3. I certify that the foregoing is true and correct.

Date: 9/13/11

Clerk, by [Signature], Deputy

DEFENDANT (name and address):

[REDACTED] WINTERS
[REDACTED]
HESPERIA, CA 92345

Agency (name and address):

VICTORVILLE PD/SN BDNO SHERIFF
14200 AMARGOSA ROAD
VICTORVILLE, CA 92399-2

S U B P O E N A

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO

Victorville District
14455 Civic Drive
Victorville, CA 92392-2
(760) 245-6215

THE PEOPLE OF THE STATE OF CALIFORNIA TO:

WITNESS #1: BARBARA HILL
VICTORVILLE PD/SN BDNO SHERIF
14200 AMARGOSA ROAD
VICTORVILLE, CA 92399-2

YOU ARE ORDERED TO APPEAR AS A WITNESS ON 10/04/11 AT 8:30 am IN DEPARTMENT V14
OF THE VICTORVILLE SUPERIOR COURT

LOCATED AT 14455 CIVIC DRIVE, VICTORVILLE, CA 92392-2

OFFENSE LOCATION: Bear Valley Rd and Industrial Blvd

TO TESTIFY AS A WITNESS IN THE CASE OF:

THE PEOPLE OF THE STATE OF CALIFORNIA VS. ██████████ WINTERS

CITATION NO: V053926A

CASE NO: V053926ADW

VIOLATION DATE: 06/11/11

CHARGES: 1) 21453(A) VC-I

IF YOU FAIL TO APPEAR, THE CITATION WILL BE DISMISSED



Subpoena Issued: 09/13/11

OTSSUBPE2/REV 20100618

Stephen H. Nash, COURT EXECUTIVE OFFICER

By: 

Deputy Clerk