

MAY 07 2010

Settled Statement on Appeal, People vs. [REDACTED] Macias, Case #V01632BJM BY _____

DEPUTY

Defendant [REDACTED] Macias, represented by Attorney Robert Conaway, was tried for an alleged violation of California Vehicle Code Section 21453(a), Failing to Stop for a Red Light, on March 26, 2009 in Department V-14 of the Victorville Superior Court, Commissioner Patrick L. Singer presiding. Attorney Conaway presented a motion to suppress evidence alleging the camera system operators were required to be licensed private investigators, the product of the still and video cameras was inadmissible hearsay, the testimony of officers Baker and Rose constituted inadmissible hearsay, and the exchange of data between Victorville and the system operator was an illegal transfer of private data. The court reviewed the motion, found no legal basis for the arguments and denied it. Officer Baker testified that the evidence was collected by means of an automated Red Light Camera enforcement system which revealed that defendant's vehicle was southbound on Hesperia Road approaching Bear Valley Road in the number four lane at 1356 hours on January 10, 2009. Photograph one, the first photo taken, showed the vehicle before the crosswalk at 16 miles per hour approaching a solid red light which had been red for .36 seconds. The second photo, the last one taken, showed the defendant's vehicle making a right turn at the intersection at 16 miles per hour with the light being red for 1.79 seconds for an elapsed time of 1.43 seconds. The third photograph showed the passenger compartment of the vehicle with defendant clearly identified in the photograph and the fourth photo showed the rear license plate of the vehicle. The fifth and final photo was a DMV photo of defendant taken from his Driver's License. Officer Baker then showed defendant, counsel and the court the twelve second video clearly showing the light phasing from green to yellow to red and the defendant's vehicle approaching the light and turning right without coming to a stop. In response to counsel's questions, officer Baker testified further he was assigned to the Victorville substation of the San Bernardino Sheriff's Department in the Traffic Division. He had been trained in the operation and procedures involving the Automated Red Light Camera Enforcement System in a 20 hour course in Arizona at Redflex headquarters. He was not sure at what frames per second the video feed operated but that it was a digital process. He believed the feed showed the events in real time. The cameras are tested automatically each morning via computer feeds. There is a technician available in Victorville if a problem arises. The cameras themselves are not calibrated but are checked daily for problems and the digital feeds are provided to Redflex via the internet. He did not know whether the images were encrypted or compressed. He was aware the Redflex operators provided a certification of the records and defendant's counsel submitted this certification and the first photo of the sequence into evidence. He did not know any of the three employees who signed the certification document and was not aware of their qualifications or background. Officer Baker testified he did not review the records at Redflex at any time, only those which were sent to Victorville. He did testify either he or another officer reviewed all photographic evidence and returned it to Redflex before the citation was authorized by the local authorities. He did not review the original video feed as this is transmitted directly to Reflex. Defendant's attorney made a closing argument and asserted some facts which were not introduced into evidence concerning video images. Defendant's attorney did not request a continuance and had not requested the presence of any Redflex employees at trial. The court found defendant guilty of the

charge and assessed a fine of \$200 to be paid within 60 days. Defendant's attorney requested traffic violator school for his client and the court denied the request.

Appellant's counsel provided written response to the proposed settled statement on appeal on September 8. The court had conducted a hearing on September 2nd, giving defendant's counsel until September 9th to provide any suggested modifications. The statement concerning August 19 was incorrect as a number of continuances had been requested and granted. The court considered the response of counsel, made several changes to the proposed statement and finalized it on September 11th. Appellant's counsel then filed his formal objection to the settled statement on September 14. The court reviewed it and found no new information beyond that considered in the document received on September 8th. The court has made three minor changes after reviewing all the documents.

Grounds for Appeal

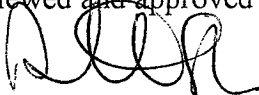
Insufficient substantial evidence to support the conviction. Appellant contends the officers could not authenticate the photographic evidence introduced at trial. Officer Baker's testimony was that the images appeared to show actual events in real time. He also described the process where digital images were sent from the camera system directly to Redflex, and then relayed to the Victorville station for verification by officers there. No affirmative evidence was presented by defense to show any manipulation or modification of the photographic images.

Admitting hearsay evidence by way of declaration from Redflex employees concerning the photographic evidence provided to the court through the local authorities. Officer Baker provided the sworn declaration of the Reflex employees indicating the processing of the photographic evidence and testified the images appeared to show actual real time events. No request for continuance was made. No subpoenas had been issued for Redflex employees to appear at trial. No affirmative evidence was presented to establish any modification or manipulation of the photographic evidence provided to the court.

Admitting hearsay evidence by way of the photographs and video feed provided to the court through the local authorities. The photographs and video feed can not constitute hearsay and no evidence was presented to indicate these products had been manipulated or modified.

Evidence was illegally gathered as Redflex is not a licensed investigator. The court could find no legal basis for this argument. Additionally, Officer Baker testified the Notice to Appear was authorized by local authorities before issuance.

Reviewed and approved as the Settled Statement on Appeal on May 7, 2010.



Patrick L. Singer, Commissioner
Victorville Superior Court
County of San Bernardino

COUNTY OF SAN BERNARDINO
DECLARATION OF SERVICE BY MAIL

STATE OF CALIFORNIA

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CASE NO: V016329BJM

COUNTY OF SAN BERNARDINO

THE UNDERSIGNED HEREBY DECLARES: I AM A CITIZEN OF THE UNITED STATES OF AMERICA, OVER THE AGE OF EIGHTEEN YEARS, A RESIDENT OF THE ABOVE-NAMED STATE, AND NOT A PARTY TO NOR INTERESTED IN THE PROCEEDINGS NAMED IN THE TITLE OF THE ANNEXES DOCUMENT. I AM A DEPUTY COUNTY CLERK OF SAID COUNTY. I AM READILY FAMILIAR WITH THE BUSINESS PRACTICE FOR COLLECTION AND PROCESSING OF CORRESPONDENCE FOR MAILING WITH THE UNITED STATES POSTAL SERVICE. CORRESPONDENCE WOULD BE DEPOSITED WITH THE UNITED STATES POSTAL SERVICE THAT SAME DAY IN THE ORDINARY COURSE OF BUSINESS. ON THE DATE OF MAILING SHOWN BELOW, I PLACED FOR COLLECTION AND MAILING FOLLOWING ORDINARY BUSINESS PRACTICES, AT THE REQUEST AND UNDER THE DIRECTION OF THE COUNTY CLERK AND EX-OFFICIO CLERK OF THE SUPERIOR COURT IN AND FOR THE STATE OF CALIFORNIA AND COUNTY ABOVE-NAMED, WHOSE OFFICE IS AT THE 401 NORTH ARROWHEAD AVENUE, SAN BERNARDINO, CALIFORNIA, A SEALED ENVELOPE WHICH CONTAINED A TRUE COPY OF EACH ANNEXED DOCUMENT, AND WHICH ENVELOPE WAS ADDRESSED TO THE ADDRESSEE, AS FOLLOWS:

ROBERT D. CONAWAY
P O BOX 865
BARSTOW, CA 92312-0865

DISTRICT ATTORNEY
APPELLATE SERVICES UNIT
412 HOSPITALITY LANE
SAN BERNARDINO, CA 92415

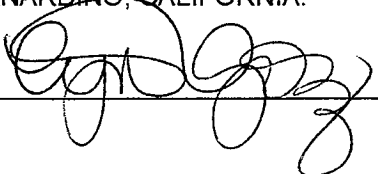
NAME OF DOCUMENT MAILED: **SETTLED STATEMENT ON APPEAL**

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I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

EXECUTED ON May 11, 2010, AT SAN BERNARDINO, CALIFORNIA.



 _____, DEPUTY

PROOF OF SERVICE