

my brief

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN MATEO
APPELLATE DEPARTMENT

PEOPLE OF THE STATE OF CALIFORNIA,

Case No. AD 51 [REDACTED]

Plaintiff and Respondent,

Appeal from Central Judicial District
Case No. C37 [REDACTED]

Vs.

PAUL D. B [REDACTED]

APPELLANT'S OPENING BRIEF

Self Represented

PRELIMINARY STATEMENT

Appellant's ticket was for failing to stop at a red light on westbound Hillsdale Blvd at Norfolk. According to the citation received in the mail, Appellant was 0.16 seconds late, or 1/6th of a second.

Because of the small late time, Appellant decided to thoroughly research the situation.

- Appellant researched red light traffic safety in general
- Appellant researched legal requirements for using Photo Enforcement
- Appellant researched the Red Flex Photo Enforcement System now in use by the city of San Mateo
- Appellant checked the Red Flex System for compliance to legal requirements, which has included collection of actual field data for the intersection of Hillsdale & Norfolk.

Appellant's findings

Appellant argues the Red Flex System is in direct violation of the law in three ways.

1. The contract between San Mateo and Red Flex is illegal

2. The Red Flex System is not calibrated and operating properly
3. The yellow light timing is too short

1. Contract Argument

Vehicle Code Section 21455.5 provides that a contract between a government agency and a manufacturer or supplier of automated enforcement equipment may not include a provision for payment of compensation to the manufacturer or supplier based on the number of citations generated or percentage of revenue generated as a result of use of the equipment.

The purpose of the statute is to avoid an incentive to the camera operator, as a neutral evaluator of evidence, to increase the number of citations issued and paid through the use of the equipment. San Mateo's contract with Red Flex contains a provision tying payment to revenue generated by the system. "Cost Neutrality" Section 6.5 contains a provision that ties payment to the amount of revenue generated.

The photographic evidence against Appellant should be inadmissible as a result of the contract being illegal.

2. Calibration and System Operation Argument

Vehicle Code Section 21455.5 provides that the government agency shall certify that the equipment is properly installed, calibrated and operating properly. Appellant's citation shows a late time of 0.16 seconds. At the speed Appellant was going, according to the ticket, that would put Appellant 11 feet back of the limit line with the light fully illuminated red.

However, when Appellant initially viewed video footage online, at real speed, it appeared the light turned red right when Appellant got to the limit line.

Appellant used the pause button to get frame by frame pictures. The video is 30 frames per second according to officer testimony in trial court, which is 0.033 seconds per frame. Appellant's exact speed is known so each frame can be calculated to be 2.2 feet. Printing out last few frames showed hard evidence Appellant was only 1 or maybe 2 frames late which equals a late time of only 0.033 to 0.066 seconds (2.2 to 4.4 feet). This is much less than what the citation stated, 0.16 seconds (11 feet).

The Red Flex System is sending out erroneous information and therefore not calibrated properly. Appellant believes late times are inflated on citations by 0.10 to 0.13 seconds.

The photographic evidence against Appellant should be inadmissible as a result of the system not being properly calibrated.

Also, Appellant questions validity of all previous tickets issued with less than 0.10 second late times to other drivers in the past.

3. Yellow Light Timing Argument

What should the yellow time be? The posted speed limit for westbound Hillsdale Blvd at Norfolk is 35 MPH. The California Manual for Uniform Traffic Control Devices (CMUTC) Table 4D-102 provides a minimum yellow time versus speed. Every 5 MPH increase in speed requires a 0.3 or 0.4 second increase in yellow time. At 35 MPH, the minimum yellow time is 3.6 seconds. The manual also gives an option of increasing the yellow time based on field review or appropriate judgment. That judgment may be based on 85th percentile speed, intersection geometry, and field observation of traffic behavior. Appellant requested to see city's 85th percentile study, but none was provided.

Appellant proceeded to purchase a radar gun to conduct an 85th percentile speed study himself, after researching the proper methodology. Appellant took measurements at four (4) locations.

- (1) Approaching the bridge east of the intersection, Westbound, in Foster City where the speed limit is 40 MPH, the 85th percentile speed was 47 MPH, 7 MPH higher than posted.
- (2) Westbound at the top of the bridge, still in the 40 MPH zone and right before the 35 MPH sign, the 85th percentile speed was still 47 MPH, still 7 MPH higher than posted.
- (3) Westbound on the curve dropping down to Norfolk where the speed limit is now 35 MPH the 85th percentile speed was 42 MPH, again 7 MPH higher than posted.
- (4) And then just for additional data, Eastbound just after Norfolk heading up the curve to the bridge the 85th percentile speed was 44 MPH, 9 MPH higher than posted.

There are also other factors which should be taken into account for the length of yellow.

- (a) Westbound on Hillsdale about 1/3 mile before Norfolk, the road is straight and the posted speed limit is 40 MPH, This is in Foster City. Hillsdale then goes up over a bridge crosses the San Mateo city limit and curves down rather abruptly to the Norfolk intersection. At the San Mateo city limit, at the top of the bridge, the posted speed limit is reduced to 35 MPH, only about 750 feet before the light (emphasis).
- (b) Because Hillsdale curves, the signal is not even visible until only about 500 feet away.
- (c) Hillsdale is significantly downhill the last 500 feet toward the intersection. Automobile braking is less effective going downhill.

In conclusion, based on CMUTC the yellow time for westbound Hillsdale should be above the

Table minimum of 3.6 seconds for four good reasons.

- (1) The 85th percentile speed is 7 MPH higher. (corresponds to at least 0.4 seconds additional yellow time)
- (2) The speed limit is reduced from 40 MPH to 35 MPH right before this signal.
- (3) The signal is not visible from far away because of the curve.
- (4) The road is coming downhill toward the intersection.

The yellow time should be at least 4.0 seconds based on the first reason alone. Taking into account all reasons, it should be at least 4.2 seconds.

In addition the actual yellow light is not even visible for 3.6 seconds. The City of San Mateo Public Works Department certifies that the yellow time is 3.6 seconds. However, in reality it is only about 3.5 seconds, because it takes about 0.1 seconds for the light to come on. The yellow is only fully illuminated for 3.5 seconds.

End result is the yellow is 3.5 seconds, and should be about 4.2 seconds, for basic safety reasons given.

The photographic evidence against Appellant should be inadmissible because the yellow light timing is not in accordance with the CMUTC.

More importantly, the intersection is unsafe to all drivers because the yellow light timing is too short. It will remain unsafe until the City accounts for the actual speed of traffic and other factors Appellant mentions. There is no reason NOT to increase the yellow timing, from a safety standpoint.

Appellant believes San Mateo should look at what the city of Glendale does with its Redflex system, for example. Glendale adds 0.4 second to the minimum yellow time at all photo enforced intersections, and explains everything very well on their city website.

Other Arguments Appellant didn't have time to research

The San Mateo Photo Enforcement is unfair to drivers from outside San Mateo. Locals get 30 days of warning tickets. Appellant from Los Altos visits San Mateo only a few times each year.

The fine is too high. \$446.00 is simply unfair.

Before trial in my fact finding, Appellant heard that the photographic evidence can be "enhanced" by the Police Department. Is that legal? How can an agency be allowed to do ANY enhancement when they have access drivers license pictures?

The Police Department is required to have a screening procedure. What is it? Grace time? Do they ticket folks that are only 0.01 seconds late?

CONCLUSION

Appellant's arguments herein are same as what were presented in trial court.

Appellant believes all three main arguments presented are clear and supported by hard evidence.

- (1) Contract Argument
- (2) Photo System Calibration Argument
- (3) Yellow Light Timing Argument

Appellant was given no explanation of "guilty" verdict in trial court.

Appellant requests a reversal of the trial court judgment.

Dated: December 9, 2009

Respectfully submitted,

By _____

PAUL B. [REDACTED]
Appellant (self represented)