


JAN 28 2010

ALAN CARLSON, Clerk of the Court

*H. Potter*  
BY H. POTTER  
*[Signature]*

APPELLATE DIVISION  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE

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7	PEOPLE OF THE STATE OF	)	CASE NO. 30-2009-00270350
8	CALIFORNIA,	)	
9		)	
10	Plaintiff and	)	JUDGMENT ON APPEAL
11	Respondent,	)	from the
12		)	SUPERIOR COURT
13	vs.	)	of
14		)	ORANGE COUNTY
15	 ROMERO,	)	CENTRAL JUSTICE CENTER
16		)	
17	Defendant and	)	
18	Appellant.	)	HON. DANIEL M. ORNELAS
19		)	COMMISSIONER
20		)	
21		)	
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Based upon evidence obtained via an automated photographic enforcement system within the City of Santa Ana, appellant was convicted of failing to stop for a red signal, in violation of Vehicle Code § 21453(a). On appeal, appellant contends that the evidence is insufficient to support the judgment because the People failed to show the City complied with Vehicle Code § 21455.5(b). Section 21455.5(b) provides, in pertinent part, "Prior to issuing citations under this section, a local jurisdiction utilizing an automated traffic enforcement system shall commence a program to issue only warning notices for 30 days." Appearing as "real party in interest," the City of Santa Ana Police Department contends that the requirements of § 21455.5(b) were satisfied by the issuance of warning notices during a 44-day period in 2003 when the first photographic enforcement equipment was installed within the City's

1 jurisdictional limits, and that no additional 30-day warning  
2 notice program was necessary when photographic enforcement was  
3 installed at the particular intersection at which appellant's  
4 violation was recorded.

5 Vehicle Code § 21455.5(b) states,

6 Prior to issuing citations under this  
7 section, a local jurisdiction utilizing an  
8 automated traffic enforcement system shall  
9 commence a program to issue only warning  
10 notices for 30 days. The local jurisdiction  
11 shall also make a public announcement of the  
12 automated traffic system at least 30 days  
13 prior to the commencement of the enforcement  
14 program.

15 The record indicates that the "local jurisdiction" which utilized  
16 the automated traffic enforcement system in this case was the  
17 City of Santa Ana, and that the City sought to comply with §  
18 21455.5(b) by making public announcements and issuing warning  
19 notices during a 44-day period when the first automated  
20 enforcement equipment was activated (at an unspecified location)  
21 in 2003. The trial court evidently concluded that the  
22 requirements of § 21455.5(b) were satisfied by the actions taken  
23 by the City in 2003. Appellant contends that "automated  
24 enforcement system" refers not to the entirety of all automated  
25 cameras located at intersections throughout the City, but rather  
26 to the set of photographic equipment installed at each individual  
27 intersection, and that his conviction should be reversed because  
28 there is no evidence that warning notices or public announcements  
were issued pursuant to § 21455.5(b) with regard to the  
intersection at which the violation occurred in this case. The

1 case thus presents a clearly defined issue of statutory  
2 construction.

3 Our task in construing a statute is to  
4 ascertain and give effect to the  
5 Legislature's intent. [Citation.] We begin by  
6 examining the words of the statute, giving  
7 them their usual and ordinary meaning and  
8 construing them in the context of the statute  
9 as a whole. [Citations.] If the plain  
10 language of the statute is unambiguous and  
11 does not involve an absurdity, the plain  
12 meaning governs. [Citations.] If the statute  
13 is ambiguous, the court may consider a  
14 variety of extrinsic aids, including the  
15 apparent purpose of the statute. [Citation.]

16 (Leonte v. ACS State and Local Solutions, Inc. (2004) 123  
17 Cal.App.4th 521, 526-527.)

18 The trial court's implied construction of Vehicle Code §  
19 21455.5(b) appears to be inconsistent with the plain meaning of  
20 the word "system" as used in § 21455.5, as well as with the  
21 structure and purpose of the statute as a whole. Section  
22 21455.5(a) provides that ". . . the intersection . . . may be  
23 equipped with an automated enforcement system," and §  
24 21455.5(a) (1) authorizes a governmental agency utilizing "the  
25 system" to "[i]dentif[y] the system by signs that clearly  
26 indicate the system's presence and are visible to traffic  
27 approaching from all directions . . . ." Based upon this  
28 intersection-specific usage, "automated enforcement system" in §  
21455.5(b) cannot refer to a municipality's overall automated  
enforcement plan, but must instead refer to each individual set  
of automated equipment operated at an intersection within the  
municipal jurisdiction.

Other references to "system" and "equipment" within the

1 statutory scheme are consistent with this construction. Vehicle  
2 Code § 21455.7(a) prescribes change intervals for yellow lights  
3 "[a]t an intersection at which there is an automated enforcement  
4 system." Section 21455.5(d), permitting specified operational  
5 aspects of "the system" to be contracted out if a governmental  
6 agency "maintains overall control and supervision of the system,"  
7 does not necessarily refer to the entire aggregation of automated  
8 enforcement equipment operated by a governmental agency, inasmuch  
9 as the agency may elect to "contract out" the operation of  
10 intersection-specific systems within its jurisdiction to multiple  
11 contractors. Similarly, because the statute does not require  
12 governmental agencies to grant operational responsibilities  
13 exclusively to a single contractor, the prohibition in §  
14 21455.5(d) against contracting out certain operational activities  
15 "to the manufacturer or supplier of the automated enforcement  
16 system" is not evidence of a legislative intent for each agency  
17 to operate a single "system." Contrary to "real party's"  
18 assertion, Vehicle Code s 21455.6(a) does not require  
19 municipalities to conduct a public hearing every time use of an  
20 automated enforcement system is proposed; it requires the  
21 governing body to hold such a hearing only "prior to authorizing  
22 the city or county to enter into a contract for use of the  
23 system" - if a system is installed at a new intersection pursuant  
24 to an existing contract, there is no need for a hearing.

25 Even if use of the word "system" in Vehicle Code § 21455.5  
26 were ambiguous, the legislative history of § 21455.5 demonstrates  
27 that the word refers to the set of equipment installed and  
28 operated at an individual intersection and not to a

1 municipality's entire aggregation of such equipment. Section  
2 21455.5 was originally enacted in 1995 via SB 833, which,  
3 according to the Legislative Counsel's Digest, expanded the use  
4 of "automated rail crossing enforcement systems" codified the in  
5 Vehicle Code § 22451 to encompass "all places where a driver is  
6 required to respond to an official traffic control signal showing  
7 different colored lights." With this expansion, the system was  
8 renamed "automated enforcement system." Mirroring the  
9 intersection-specific language of § 21455.5(a), § 22451 provides  
10 that a notice to appear may be issued in accordance with Vehicle  
11 Code § 40518 "[w]henver a railroad or rail transit crossing is  
12 equipped with an automated enforcement system." Vehicle Code §  
13 21362.5(a), enacted in conjunction with § 40518 in 1994, refers  
14 to the same "system" in a clearly intersection-specific context:  
15 "Railroad and rail transit grade crossings may be equipped with  
16 an automated rail crossing enforcement system if the system is  
17 identified by signs clearly indicating the system's presence and  
18 visible to traffic approaching from each direction." The purpose  
19 of the warning requirements was set forth in the legislative  
20 findings and declarations of the Rail Traffic Safety Enforcement  
21 Act, which added automated rail crossing enforcement systems to §  
22 22451 in 1994: "Automated rail crossing enforcement systems that  
23 photographically record violations occurring at rail crossing  
24 signals and rail crossing gates are a significant deterrent to  
25 these violations where motorists are aware of the presence of the  
26 automated systems."

27 An amendment to § 21455.5 proposed in 2003 (SB 780) would  
28 have required warning notices to be issued "during the first 30

1 days after the first recording unit is installed." The  
2 Legislature's rejection of this language in a year when other  
3 amendments to the statute were enacted provides further evidence  
4 of a legislative intention for the 30-day warning period to apply  
5 instead to each installation of automated enforcement equipment  
6 at an intersection. (See City of Santa Cruz v. Municipal Court  
7 (1989) 49 Cal.3d 74, 88-89; People v. Adams (1976) 59 Cal.App.3d  
8 559, 565-566.) Section 21455.5 was instead amended via AB 1022,  
9 and the 2003 Legislative Counsel's Digest noted that "[e]xisting  
10 law authorizes the limitline, intersection, or other places where  
11 a driver is required to stop to be equipped with an automated  
12 enforcement system" and that "[e]xisting law requires that, at an  
13 intersection at which there is an automated enforcement system in  
14 operation the minimum yellow light change interval be established  
15 in accordance with the Traffic Manual of the Department of  
16 Transportation."

17 Although no published decision has directly addressed the  
18 issue, published opinions discussing the statute appear to have  
19 assumed that "system" refers to the automated enforcement  
20 equipment at each intersection: "Former Vehicle Code section  
21 21455.5 (Stats.2001, ch. 496, § 1) authorized the use of  
22 automated traffic enforcement systems at intersections where  
23 drivers are required to stop."<sup>1</sup> (Leonte v. ACS State and Local  
24 Solutions, Inc., *supra*, 123 Cal.App.4th at 526; see also In re  
25 Red Light Photo Enforcement Cases (2008) 163 Cal.App.4th 1314,  
26 1327: "Best notes he produced evidence the City of West Hollywood  
27 violated Vehicle Code section 21455.5, subdivision (b) by not

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1 Subdivision (b) of the cited 2001 version of § 21455.5 was identical to the current subdivision.

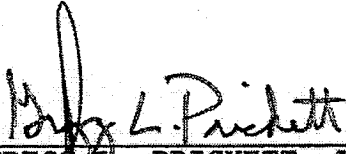
1 issuing warning notices for the first 30 days after the  
2 installation of automated traffic enforcement systems in certain  
3 intersections.") The People's own trial exhibit 4, containing  
4 information regarding the automated enforcement equipment  
5 operated by the City of Santa Ana, refers to "each intersection  
6 where an Automated Red Light Enforcement System is installed" and  
7 to "[t]he intersections where the Automated Red Light Enforcement  
8 Systems are operated." This intersection-specific construction is  
9 also consistent with the common definition of "system" as a group  
10 of regularly interacting or interdependent items forming a  
11 unified whole (Merriam-Webster's Collegiate Dictionary (10<sup>th</sup> ed.  
12 1993), p. 1194), a definition which does not comport with "real  
13 party's" construction of the word - although the automated  
14 enforcement equipment operating at a particular intersection must  
15 interact in a manner necessary to produce photographic images of  
16 a violation, sets of equipment operating at different  
17 intersections within a municipality need not interact with each  
18 other in order to function, and a municipality might even elect  
19 to operate incompatible types of equipment at different  
20 intersections. Nor would it make sense for the scope of the 30-  
21 day warning period to be limited temporally and defined  
22 arbitrarily by the geographic size of the municipality in  
23 question, inasmuch as the legislatively stated purpose of the  
24 warning requirement is to deter red light violations and that  
25 purpose is best achieved by the issuance of new warnings and  
26 announcements to proximate users each time automated enforcement  
27 equipment commences operation at an intersection.


28 Because the People failed to show compliance with the

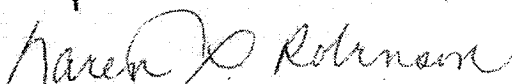
1 express requirement of Vehicle Code § 21455.5(b) that  
2 municipalities utilizing automated enforcement systems comply  
3 with the specified warning requirements "[p]rior to issuing  
4 citations," appellant's conviction must be reversed. (See Ralph  
5 v. Police Court (1948) 84 Cal.App.2d 257, 258-259; People v.  
6 Municipal Court (Pellegrino) (1972) 27 Cal.App.3d 193, 206.)

7 The judgment is reversed, with direction that the charge be  
8 dismissed.

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GREGORY H. PRICKETT, Acting Presiding Judge\*

  
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GREGORY H. LEWIS, Judge

  
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KAREN L. ROBINSON, Judge

\* Sitting by assignment of the Chief Justice of the California Supreme Court.