

# IWAMA LAW FIRM

FRANK A. IWAMA  
ATTORNEY & COUNSELOR AT LAW

67 WESSEX WAY  
SAN CARLOS, CALIFORNIA  
94070-1740 U.S.A.

TEL (650) 393-4444  
EMAIL frankiwama@gmail.com

## Via Messenger – Hand Delivery

September 28, 2009

The Honorable Mark R. Forcum, Presiding Judge  
San Mateo County Superior Court Appellate Department  
Main Courthouse  
Hall of Justice  
400 County Center  
Redwood City, CA 94063-1655

Re: **Request for Publication (California Rules of Court, Rule 8.1120)**  
*People v. Bullock*, San Mateo County Superior Court  
Appellate Department Case No. 5096  
Superior Court Case No. C367868  
Date of Appellate Opinion: September 22, 2009

Dear Presiding Judge Forcum:

I am the attorney for defendant and appellant, Albert Nelson Bullock, ("Appellant") in the above-entitled matter. We request the Court to publish its September 22, 2009 opinion in this matter pursuant to California Rules of Court ("CRC"), Rule 8.1120 and San Mateo County Superior Court Local Court Rules, ("Local Rules"), Rule 1.7(c) and for the reasons set forth herein why the opinion meets the standard for publication.<sup>1</sup> A copy of this correspondence has been served on all parties of record, as shown by the attached proof of service [CRC, Rule 8.1120(a)(4)].

### SOLE ISSUE ON APPEAL

The sole issue raised on appeal (reversed by the Appellate Court) was precisely framed by the trial court in its Settled Statement, page 1, ¶ Defendant:

"The Defendant (Appellant) requested the court take Judicial Notice of California Vehicle 21455,5(g)(1), the legislative counsel digest of that VC section, and the City of San Mateo contract with Red Flex, particularly The Cost Neutrality clause, all of which I granted. The Defendant (Appellant)

<sup>1</sup> The Court's opinion is concisely stated as "REVERSED." For publication purposes, the Court is respectfully requested to modify its opinion to include relevant facts and law with respect to the opinion. [CRC, Rule 8.888(b)].

Hon. Mark R. Forcum  
San Mateo County Superior Court Appellate Department  
Request for Publication  
September 28, 2009  
Page Two

then made a Motion to Dismiss claiming the City's contract with Red Flex, particularly the cost neutrality clause, violated VC section 21455.5(g)(1). The court denied this motion." (Emphasis added).<sup>2</sup>

During oral argument at the appellate hearing on August 21, 2009, Appellant's counsel re-affirmed that the only issue raised on appeal was the legality of the "cost-neutral" clause (Exhibit "D") in the City of San Mateo/Redflex Traffic Systems, Inc. contract for red light photo enforcement equipment in violation of Vehicle Code §21455.5(g)(1).

**APPELLANT'S REQUEST FOR PUBLICATION**  
**MEETS STANDARD FOR CERTIFICATION**  
**[CRC 8.1105(c) & LOCAL RULES 1.7(c)]**

Research findings support the non-existence of published opinions in the Official Reports regarding an interpretation of California Vehicle Code §21455.5(g)(1) [prohibition against specific contract provisions for red light camera photo enforcement equipment].

The publication of the *People v. Bullock* opinion is significant because the Court's interpretation of the statute creates a question of first impression and implicates a factual situation likely to be the subject of continuing and persistent litigation in pending and future cases involving motorists contesting red light camera violation citations issued by the City of San Mateo (and likely numerous other local government entities with similar "cost-neutral" contracts with Redflex for red light photo enforcement equipment).

Accordingly, the *People v. Bullock* opinion meets the criteria for publication under subdivision (c) of CRC, Rule 8.1105 (Involves a legal issue of continuing public interest) and Local Rules, Rule 1.7.<sup>3</sup>

For the foregoing reasons, Appellant respectfully requests the Court to certify the publication of the *People v. Bullock* opinion.

---

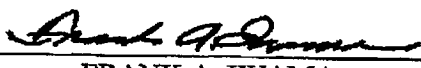
<sup>2</sup> See Appellant's Opening Brief, page 2, lines 15 – 21 (Issue on Appeal), and page 7, lines 10 – 17 (Conclusion).

<sup>3</sup> Local Rules, Rule 1.7(c) provides: "An opinion is published in whole or part in the Official Reports when a majority of the judges in the Appellate Division who participated in the opinion certifies that the opinion meets one or more of the standards set forth in CRC rule 8.1105(c), and the Court of Appeal does not order the case transferred to it for hearing and decision. (CRC rules 8.1105(b), 8.1002.)"

Hon. Mark R. Forcum  
San Mateo County Superior Court Appellate Department  
Request for Publication  
September 28, 2009  
Page Three

Respectfully submitted,

IWAMA LAW FIRM

By   
FRANK A. IWAMA  
Attorney for Appellant Albert Nelson Bullock

Cc: Parties of Record (Proof of Service)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**PROOF OF SERVICE**

*People v. Bullock*

**San Mateo County Superior Court Appellate Department Case No. 5096**

I, M.S. Iwama, declare that I am a resident of the State of California. I am over the age of 18 years and not a party to the above-entitled action. My business address is 67 Wessex Way, San Carlos, California 94070-1940.

On September 28, 2009, I served a true and accurate copy of the document entitled:

**Request for Publication (CRC, Rule 8.1120)**

on the following parties of record:

Commissioner Susan Greenberg  
San Mateo County Superior Court, Traffic Division  
Central Branch Court  
800 N. Humboldt St.  
San Mateo, CA 94401

Albert Nelson Bullock (Appellant)

City of San Mateo Police Department (Respondent – no appearance)  
Automated Photo Enforcement  
2000 South Delaware St.  
San Mateo, CA 94403-1499

First Class Mail pursuant to Code of Civil Procedure § 1013. By placing the document listed above in a sealed envelope with postage thereon fully prepaid, with the U.S. Postal Service at San Carlos, California addressed as set forth herein or on the attached service list.

Dated: September 28, 2009

  
M.S. Iwama

Proof of Service