

Newsletter October 2004

RED LIGHT CAMERA RULING: THE COURT DECIDES!



As discussed in our previous newsletter, the issue of the legality of traffic violation convictions based on the cameras located at intersections was before the Courts for a variety of reasons discussed in detail in our [Newsletter No. 10, August 11, 2003](#). Now the Traffic Commissioner of San Francisco has ruled on that controversial topic. And since the case was consolidated with the cases in Los Angeles and San Diego, this decision is probably of utmost importance for the State. While the case, *People v Amad* is merely a single traffic case, the ruling will be significant for almost all such convictions.

1. THE COMMISSIONER RULED THAT THE SCIENTIFIC RELIABILITY OF THE SYSTEM WAS ADEQUATE FOR ADMISSION INTO EVIDENCE. (Recall that a key argument advanced by the opponents was that there had been no proof that the automatic camera was reliable and accurate from a scientific point of view.)
2. THE COMMISSIONER RULED THAT DESPITE THE PRIVATE NATURE OF THE COMPANY THAT RAN THE AUTOMATIC CAMERAS, THE EVIDENCE COULD BE ADMITTED BEFORE THE COURT. (Recall that it was argued that the private company designing and operating the system was paid on a conviction rate and thus was inherently biased to obtain maximum convictions.) The City, he wrote, "...retains the necessary authority and oversight to be deemed the operator."
3. BUT THE COMMISSIONER RULED THAT THE CITY REQUIRED ADDITIONAL FOUNDATION TO PROVE THE RELIABILITY OF THE PHOTOS OF THE LICENSE

PLATES AND TO WHO WAS THE DRIVER OF THE VEHICLE. (The rules of evidence require additional proof aside from the fuzzy pictures that the vehicle was not only registered to the defendant but was driven by him or her.)

While both the City and the Defense attorneys claimed victory, in reality this ruling almost guaranties that, absent reversal by a higher court, that this system of conviction will be the norm.



BRAVE NEW WORLD HAS ARRIVED.

Comes down to this: the City cannot afford not to use the technology and the people have found themselves willing to be under surveillance in any public place at any time to achieve greater security. In 2002 San Francisco achieved 9300 red light convictions using these cameras...count the dollars. Instead of a police or traffic officer, with salary and benefits, writing out the ticket, the City merely sits back and gets the evidence from a private entity who forwards the information to the City for prosecution. Since most tickets are automatically paid by the offender, it is fast, easy, and profitable.

And studies from Chicago, which use cameras to control "crime" on every street corner, indicated widespread satisfaction among the public with the use of such cameras since it made them feel safer.

The Commissioner will require the City to present more appropriate foundation for the entry of the judgment: better proof of ownership and actual driving of the vehicle. However, since the overwhelming majority of persons "convicted" do not contest the violation, this will not stop the tidal wave of use of this efficient method of gaining revenue.

More importantly, of course, we have now entered into a world in which technology allows inexpensive surveillance of citizens, day and night, on every street and the State can use that information to achieve convictions...and eventually civil attorneys will use them to achieve verdicts in whatever cases emerge from events on the street.

So...is that so bad?

Anyone seeing the state of traffic or walking along a dark street at night understands the value of such efficient police presence. Red lights are run on a regular basis and this seems an intelligent way to reduce that danger without costing the City a fortune. Further, the Commissioner's requirement for better evidence being presented to prove ownership and driving is a good ruling to ensure that the Courts do not simply rely on automatically generated "evidence."

But we have also lost something: the ability to walk the street without being watched; the ability to know that the government is not "always there," carefully making sure we are doing the right thing. The parks...all office buildings...all street corners...are now carefully photographed. When you kiss your lover on a park path...you are being photographed. When you "check out" that new car parked on the street, admiring its lines, you are being photographed.

The courts were arguing convictions for traffic violations and, indeed, that matters.

But what perhaps mattered more...privacy...seems to have been lost in the shuffle for efficient revenue gain and security. And that...is a shame.

Now if you want a truly private walk...go far from the City and enjoy the woods...



For now...