

JUL 12 2010

ALAN CARLSON, Clerk of the Court

RY *[Signature]*

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8 *[Redacted]* SORIANO

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
10 **IN AND FOR THE COUNTY OF ORANGE**  
11 **CENTRAL JUSTICE CENTER**

12 PEOPLE OF THE STATE OF  
13 CALIFORNIA

14 Plaintiff,

15 vs.

16 *[Redacted]* SORIANO

17 Defendant.

Case No.: SA151252PE

**STATEMENT ON APPEAL**

18 This matter came regularly for trial on May 12, 2010. Defendant, represented by counsel,  
19 did not appear at trial. The people were not represented by counsel. Defendant was charged with  
20 violating Vehicle Code §21453(a), failing to stop for a steady circular red signal prior to entering  
21 the intersection at Harbor and Warner within the City of Santa Ana. Evidence of the violation  
22 was based on photos and a video captured by the City of Santa Ana's automated traffic  
23 enforcement system (ATE). There was no law enforcement officer present at the scene of the  
24 alleged offense.

25 Santa Ana Police Department (SAPD) Officer Mark Bell testified for the People in a  
26 narrative format. Defendant's counsel interposed objections to the testimony on the ground of  
27 hearsay and lack of personal knowledge. Officer Bell was the only testifying witness at trial.  
28 Counsel also objected to the admission of Exhibits 1 through *105* and 10 through 16. The court  
accepted the proffered testimony and exhibits subject to counsel's objections to hearsay,

1. authentication, secondary evidence, and confrontation. At the end of the first day of trial, Officer  
2 Bell had completed his case-in-chief testimony and defense counsel commenced cross-  
3 examination. The court continued trial to May 20, 2010. Since defense counsel declined to  
4 stipulate to defendant's identity, i.e., that defendant is the person depicted in the photos, the court  
5 ordered defendant to appear on May 20, 2010. On May 20, 2010, defense counsel stated that he  
6 had no further cross-examination and excused Officer Bell. No other witnesses testified in the  
7 government's case. Defendant was present at the proceedings as ordered by the court. Defense  
8 counsel did not call defendant to testify and did not present evidence. Defense counsel delivered  
9 his closing argument emphasizing issues related to the admissibility of the evidence.

10 Officer Bell testified that he has been an officer with the SAPD for approximately 22  
11 years, with the last six years assigned to the Red Light Photo Enforcement Unit. The officer  
12 received 40 hours of training at Redflex, the Arizona company that contracted with the City of  
13 Santa Ana to provide services related to the ATE system's operation. As part of his training,  
14 Officer Bell has personally observed the installation of the cameras and the speed sensors that are  
15 part of the ATE system at various intersections. Officer Bell did not personally observe the  
16 installation of the ATE system at Harbor and Warner. Officer Bell has also observed that, at  
17 various intersections monitored by the ATE system, traffic boxes located at the intersections  
18 contain computers that are part of the ATE system. Officer Bell did not personally inspect the  
19 traffic box located at Harbor and Warner to confirm it has a computer within the traffic box.

20 Officer Bell had not personally seen a traffic box at the intersection in question. Officer Bell had  
21 not seen inside the protective housing boxes mounted on poles at the intersection in question.

22 Officer Bell testified that he <sup>now?</sup> knew the pole-mounted housings contained cameras and that a  
23 traffic box containing a computer was present at the intersection in question at the time of the  
24 alleged offense based on the fact that he received, from Redflex, transmission of the proffered  
25 exhibits bearing labels indicating the contained photographs were captured at the intersection in  
26 question at listed times. The officer explained that through training and experience he is familiar  
27 with how the ATE system generally operates, is familiar with the requirements of Vehicle Code  
28 §21455 through 21455.7, and knows the steps the City of Santa Ana took to comply with these

*Note by highway robbery.net:  
The handwritten notes on pg. 2  
& pg. 4 may be by Comm. Luze.  
insurance*

1 requirements. In addition, Officer Bell knows the procedures generally followed by Redflex and  
2 the SAPD Red Light Photo Enforcement Unit to issue citations based on evidence obtained by  
3 the ATE system. Officer Bell does not control, maintain, or operate the ATE system. Officer  
4 Bell did not participate in the design, setup, calibration, or creation of operating procedures for  
5 the ATE system. However, someone from Officer Bell's department timed the yellow light  
6 phasing with a stop watch and inspected the intersection monthly for damage and graffiti.  
7 Officer Bell did not witness the circumstances under which the ATE system captured photos or  
8 video. Redflex caused each of the proffered exhibits, except for the DMV photo and the proofs  
9 of publication, to be delivered to Officer Bell.

10           Officer Bell testified that in 2002, the city council for the city of Santa Ana held a public  
11 hearing regarding the installation and use of the ATE system. The City then issued public  
12 announcements about the installation and use of the system. To establish that the City publicly  
13 announced the installation of the ATE system at the intersection of Warner and Harbor Blvd.,  
14 Officer Bell offered Exhibits 10 through 15. Exhibits 10 through 15 are affidavits of publication  
15 executed by employees of the Orange County Reporter, the Orange County Register, and La  
16 Opinion to show that between November 23, 2009 and November 27, 2009 these newspapers  
17 published public announcements notifying the public that the City of Santa Ana operates ATE  
18 systems at specific intersections identified in the announcement, including the intersections at  
19 Warner and Harbor.

20           Officer Bell testified that the City installed and maintains signs announcing the use of the  
21 ATE system. These signs are located at entrances to the City as well as the specific intersections  
22 where the ATE system is in operation, including the intersection of Warner and Harbor. Officer  
23 bell also explained that for a 30-day period, between November and December 2009, persons  
24 captured by the ATE system violating Vehicle Code §21453 at Harbor and Warner received only  
25 warning notices and were not cited for violations.

26           Officer Bell stated that at Warner and Harbor the posted speed limit is 45 mph and that  
27 the yellow change interval at that intersection is set at 4.5 seconds, which meets or exceeds the  
28 minimum values in Section 4D-10 of the California Manual on Uniform Traffic Control Devices.

1: Officer Bell offered Exhibit 16 in support of his testimony. Exhibit 16 is a memorandum from  
2 Vinh Nguyen, Sr. Civil Engineer certifying that the yellow change interval at the Warner/Harbor  
3 intersection is set at 4.5 seconds.

4 Based on his training, Officer Bell explained the operation of the system as follows: At  
5 the intersection of Warner and Harbor there are three photo cameras and one video camera that  
6 automatically take photographs and video of cars crossing the intersection. Embedded on the  
7 roadway, prior to approaching the intersection, are speed sensors set approximately three feet  
8 apart. Officer Bell was sure sensors are present and operational at the intersection in question  
9 because he has seen indicia of their installation on the roadway. When a vehicle drives over the  
10 sensors, the computer calculates the approximate speed of the vehicle based on how much time it  
11 took the vehicle to travel between the two sensors. When the light is red and the approximate  
12 vehicle speed exceeds 16 mph, the cameras commence to take photos and record video.

13 At the time the system captures the photos and video, the computer bundles the data  
14 together and encrypts the photos and video. At the same time, the computer also encrypts on the  
15 photos a data bar with information related to the incident such as: location, date, time, lane used  
16 by the car, and the amount of time the light was red when the car crossed the limit line. Then,  
17 the computer electronically sends the data (including pictures and video) to a computer located at  
18 Redflex's facilities in Arizona through a secured <sup>internet</sup> connection of ~~some sort~~. Officer Bell did not  
19 know what kind of computer, cameras, storage system, transmission system, data connection, or  
20 encryption software the system utilized to capture, store, encrypt, and send the proffered  
21 information to Arizona. If the connection is non-operational, the computer located at the  
22 intersection stores the data and makes future attempts to send the data to Redflex. Redflex  
23 employees also have the ability through their computer system in Arizona to retrieve the data  
24 from the local computer.

25 At Redflex, <sup>second password</sup> Redflex employees retrieve the photos and video now stored at the computer  
26 system in Arizona. The Redflex employees review the photos and video captured by the cameras  
27 at the Santa Ana intersection to determine whether the ATE system properly captured the  
28 incident and whether the photos depict the face of the driver of the car and the license plate

1 number of the car. Using the computer at Redflex, the employee creates a duplicate of the photos  
2 originally captured by the cameras at the intersection. Using the copy, the employee zooms in on  
3 the face of the driver and the license plate number of the car. These modified photos are saved  
4 and become part of Exhibit 1 (the citation with four photos, two of which show the face of the  
5 driver and license plate number of the car). The original photos taken by the camera also remain  
6 on the system unmodified, Exhibits 3A through 3D. Officer Bell explained that during training  
7 at Redflex, he has personally observed Redflex employees following the procedures just  
8 described.

9 Reflex then sends the photos and video to the SAPD Red Light Photo Enforcement Unit  
10 for review. At the Red Light Photo Enforcement Unit a sworn police officer reviews the  
11 evidence and decides if the photos and video depicts a violations of Vehicle Code §21453. If the  
12 officer determines that the photos and video depict a violation, the officer authorizes Redflex to  
13 issue a citation to the registered owner of the vehicle. The officer does not review the  
14 photograph of the driver's face prior to alleging a violation. The officer makes no effort to  
15 identify the driver or compare the photos of a face with DMV, police, or other government  
16 records prior to verifying the charging document. Redflex mails the citation to the register owner  
17 of the vehicle. SAPD files the citation with the court. Some register owners send a form to  
18 SAPD nominating a third party as the driver of the vehicle. When that happens the SAPD officer  
19 may proceed to issue a new citation in the name of the nominated person. Sometimes, the  
20 register owner appears at SAPD to contest the citation. When that happens, the SAPD officer  
21 determines whether the register owner looks like the person depicted in the photos and if not, the  
22 officer will request the dismissal of the case. Other times, the register owner pleads not guilty  
23 and the matter is set for trial. Prior to trial, the SAPD officer determines, based on the DMV  
24 photo of the defendant, whether the defendant appears to be the driver of the car, if not, then the  
25 officer requests a dismissal of the case. Sometimes the photo that purports to identify the driver  
26 of the vehicle is far too unclear to identify a person. When this happens, the officer requests  
27 dismissal of the case.

1 Officer Bell offered the following exhibits and testified as follows with regard to each  
2 exhibit:

3 Exhibit 1 is the Notice of Traffic Violation issued to defendant Marcela Olivia Soriano.  
4 Exhibit 1 includes four photos, two of the photos depict the alleged violation and the other two  
5 photos show identity, i.e., one shows the face of the driver and the other one shows the license  
6 plate of the car involved in the incident. The four photos are derived from Exhibits 3A through  
7 3D. The photo showing the face of the driver and the one showing the license plate are close up  
8 renditions of Exhibit 3C.

9 Exhibit 2 is a declaration of the custodian of records at Redflex. The document is  
10 prepared by Redflex and is sent to SAPD with the photos and video to present at trial.

11 Exhibits 3A through 3D are the photos taken by the camera at the intersection with no  
12 modifications. The information displayed on the data bar of the photos was added by the local  
13 computer at the intersection at the time the cameras captured the photos and video.

14 Exhibit 4 is the DMV photo of the registered owner of the vehicle. The officer retrieved  
15 this DMV photo from DMV's Soundex database.

16 Exhibit 5 is a 12 second video captured by the video camera located at the intersection  
17 and stored by the computer.

18 Exhibit 10 is the proof of publication declaration from the Orange County Reporter  
19 showing that on November 23 and November 25, 2009, the City of Santa Ana announced the  
20 installation and operation of the ATE system at the intersection of Harbor and Warner.

21 Exhibit 11 is a Copy of Notice issued by the Orange County Reporter showing the  
22 announcement of the installation and operation of the ATE system published on November 27,  
23 2009.

24 Exhibit 12 is the proof of publication declaration from the Orange County Register  
25 showing that on November 23 and Novemeber 24, 2009, the City of Santa Ana announced the  
26 installation and operation of the ATE system at the intersection of Harbor and Warner.

1 Exhibit 13 is the proof of publication declaration from the Orange County Register  
2 showing that on November 27, 2009 the City of Santa Ana announced the installation and  
3 operation of the ATE system at the intersection of Harbor and Warner.

4 Exhibit 14 is the proof of publication declaration from the La Opinion showing that on  
5 November 24 and November 25, 2009, the city of Santa Ana announced the installation and  
6 operation of the ATE system at the intersection of Harbor and Warner in the Spanish newspaper.

7 Exhibit 15 is a certified English translation of the Spanish announcement published in La  
8 Opinion on November 24 and November 25, 2009.

9 Exhibit 16 is a memorandum from Vinh Nguyen, Sr. Civil Engineer at the City of Santa  
10 Ana regarding the yellow timing at Warner and Harbor Blvd.

11 Based on the photos and the video (Exhibits 1 through 5), Officer bell testified that, in his  
12 opinion, the photos and video show a violation of Vehicle code §21453 by the defendant, the  
13 registered owner of the vehicle.

14  
15 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
16 true and correct.

17  
18 Dated this twelfth day of July, 2010

19  
20 By:   
21

22 THE TICKET CLINIC, P.C.  
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