

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO
APPELLATE DIVISION

DATE/TIME : OCTOBER 20, 2006 DEPT. NO : 12A
JUDGE : MARYANNE G. GILLIARD-PRESIDING CLERK : BARBARA WILSON
: PATRICIA ESGRO BAILIFF : NONE
: MICHAEL SAVAGE
REPORTER : NCR

PRESENT:

THE PEOPLE OF THE STATE OF CALIFORNIA
Plaintiff/Respondent

VS. Appellate Division No.: 05TR159226
Superior Court No.: 05TR159226

PRO FER

[REDACTED] MOORE, Defendant/Appellant

Nature of Proceedings: APPEAL FROM THE SUPERIOR COURT

The above entitled cause came on for oral argument on OCTOBER 20, 2006. The appellant was present. There was no appearance by the People. The matter was taken under submission. The Court now rules as follows:

Appellant received a citation from an automated enforcement traffic violation system which produced photographs that did not show the condition of the signal light when appellant entered the intersection. Without photographs showing appellant committing the violation, the system must be proven reliable beyond a reasonable doubt in order for the People to meet their burden of proof.

Appellate courts utilize the substantial evidence test to determine whether the prosecution has introduced sufficient evidence to meet its burden of proof beyond a reasonable doubt. (People v. Augborne (2002) 104 Cal. App. 4th 362, 371.) In determining whether substantial evidence supports the conviction, the appellate court reviews the entire record, draws all reasonable inferences in favor of the judgment, and determines whether a rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. (People v. Hughes (2002) 27 Cal.4th 287, 357 (citing People v. Raley (1992) 2 Cal. 4th 870, 889.))

At trial, appellant produced a calibration report that she received from the California Highway Patrol. Appellant claimed that this report suggested that the calibration of the camera that captured her photograph had only a 30-day warranty, and that the camera was last calibrated five months before it generated her photograph.

BOOK : 12A
PAGE : 29
DATE : OCTOBER 20, 2006
CASE NO. : 05TR159226 05TR159226
CASE TITLE : PRO V MOORE

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COUNTY OF SACRAMENTO

BY: BARBARA WILSON,
Deputy Clerk

Updated 6/18/99 AEL

CASE NUMBER: 05TR159226
 CASE TITLE: PEO V MOORE
 PROCEEDINGS:

DEPARTMENT: 12A

In response to appellant's questions about the calibration report, the People's witness Officer Joe Marsac testified that the cameras are calibrated every six months and "it was probably due for calibration. And I don't know what that statement means, to be honest with you. It looks like it's something that Microprecision, which is the company, puts on there about their techniques, and I'm not quite sure what it means. I don't know."

Given the evidence adduced at appellant's trial, this Panel finds that a rational trier of fact could not reasonably find, beyond a reasonable doubt, that the camera was properly calibrated when it recorded appellant's alleged violation. Therefore, we find that substantial evidence does not support appellant's conviction.

The conviction is reversed with directions to dismiss the complaint.
 (People v. Kriss (1979) 96 Cal.App.3d 913, 921.)

I hereby certify that I am not a party to the within action, and that I deposited a copy of this document in sealed envelopes with first class postage prepaid addressed to each party or the attorney of record in the U. S. Mail at 720 - 9th Street, Sacramento, CA on October 25, 2006.

DISTRICT ATTORNEY
 Attn: Writs & Appeals
 901 G Street
 Sacramento, CA 95814
 (via inter-office mail)

Appeals Clerk (hand delivered)

BOOK : 12A
 PAGE : 29
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