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FC: Photo radar update: Colorado Supreme Court upholds ruling

From: Declan McCullagh (declan@well.com)

Date: Thu Nov 07 2002 - 07:21:09 PST

- Next message: [Declan McCullagh: "FC: Biometric technologies and their problems, from German magazine c't"](#)

- Previous message: [Declan McCullagh: "FC: Windows1984.com launches to oppose DRM, Palladium"](#)

- Messages sorted by: [date] [thread] [subject] [author]

Previous Politech message:

"Denver judge says yep, photo radar program is bad news"

<http://www.politechbot.com/p-03571.html>

From: "Diamond, Richard" <Richard.Diamond@mail.house.gov>

Subject: Colorado Supreme Court upholds ruling against photo radar

Date: Wed, 6 Nov 2002 14:05:53 -0500

Here's a summary of the latest camera news.

1. Colorado: Colorado's Supreme Court upholds a ruling declaring Denver's photo radar program illegal. 11/5

2. Sacramento: A judge has contested the trial procedure for red light cameras as flawed. "I think the police, the DA, the traffic court, the whole thing is corrupt," he said. 11/4

3. New Zealand: A speed camera issues tens of thousands of speeding tickets, yet the accident rate is up 30 percent. 5/11

The full text of every article summarized above appears below --

Richard Diamond

Office of the Majority Leader

U.S. House of Representatives

202-225-6007 / www.freedom.gov

1. Read the original judge's decision in full (see especially footnote #7):

<http://freedom.gov/auto/cases/denver.pdf> 11/6

Sue Lindsay, Photo-radar ruling against city upheld, Rocky Mountain News, November 5, 2002

http://www.insidedenver.com/drmr/local/article/0,1299,DRMN_15_1524325,00.html

The Colorado Supreme Court Monday refused to hear the city's appeal of a lower court ruling dismissing four photo-radar tickets.

Last January, Denver County Judge Mary Celeste dismissed the \$40 tickets because they weren't issued by police officers, as required by current law.

In May, a district court judge dismissed the city's appeal of Celeste's ruling. Denver District Judge Joseph Meyer said the city can appeal county court rulings dismissing traffic tickets only when a statute is declared unconstitutional or unenforceable.

The city then appealed to the Supreme Court, which now has refused to hear the case.

The ruling pertains only to the four tickets challenged by Denver lawyers Gary Piroso, Stuart Barr and one of their clients, Adell Shaflee, but the case already has had a broad impact on Denver's program.

The city dropped 446 pending photo-radar cases - each potentially worth at least \$40 to the city - in response to Celeste's ruling.

The city also temporarily suspended photo radar to address the challenges raised in the case. Photo-radar vans were put back on the street in June under a newly enacted state law confining them to residential neighborhoods, school zones and parks.

A separate class-action suit seeking refunds for people who already had paid photo-radar tickets was dismissed by another Denver district court judge in September.

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2. Matthew Barrows, Back-seat driver: Judge fights red-light camera ticket -- and wins, Sacramento Bee, November 4, 2002

Presumed guilty.

That's what Ed Jaszewski says is the attitude at Sacramento County traffic court when it comes to motorists contesting red-light camera tickets.

Like thousands of drivers, Jaszewski was captured on film while allegedly running a red light, in his case at Watt Avenue and Fair Oaks Boulevard.

But of all the drivers who have cried foul over the process, Jaszewski is unique in two respects: He has worked as a traffic court judge and, unlike most people, he fought his ticket and won.

Last year at this time, Jaszewski, an attorney, was volunteering as a pro tem judge at traffic court.

He said he mostly was presiding over run-of-the-mill cases such as speeding citations or stop sign violations when one day a batch of red-light photo enforcement cases landed on his desk.

Jaszewski said he learned how the tickets usually are handled by the court when he acquitted one of his first cases.

"The next thing I know, I'm handed a note that the traffic commissioner wanted to see me," he said.

He stepped into the hallway to meet the commissioner, who wanted to make sure Jaszewski was clear on how the camera system works.

On the same day, Jaszewski went home, opened his mailbox and found a red-light citation with his name on it inside.

It should be noted that Jaszewski isn't certain whether he ran a red light on the day in question. He says he's pretty sure the light was yellow when he crossed the intersection, but maybe it was red.

What he is insistent about, however, is that the trial procedure is flawed.

For one thing, he said, the prosecution never lays a legal foundation for the evidence. In most cases in which a photo is used as evidence, the photographer is called to the stand to verify that it's legitimate, that it hasn't been doctored.

[Snip --DBM]

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3. Jim Chipp, Gorge speeding tickets on the increase, The Independent Herald, 05.11.2002

<http://www.mytown.co.nz/story/mytstorydisplay.cfm?storyID=3002703&thecity=wellingto>

Despite the Ngauranga Gorge fixed speed camera issuing more tickets, the accident rate in the area is not changing for the better.

Due to interruptions, last year the camera only issued 7459 speeding tickets (20 a day) but it had issued 10,500 (about 38 a day) by October this year.

However, Land Transport Safety Authority accident figures show that serious accidents involving injury on the gorge have remained steady at two a year since 1999.

And less serious injury accidents and non-injury accidents have slowly increased over the same period, from a total of 35 in 1999 to 47 in 2001 (a rise of 30 percent).

National police infringement bureau head Inspector Matt Fitzsimons says the fixed camera did not operate for all of 2001, because of technical difficulties dealing with the new variable speed limits made possible by the Ngauranga Gorge Automated Traffic Management System.

The variable speed limit wasn't gazetted until May last year.

"It took quite a while for us to get that issue sorted out," Mr Fitzsimons says.

The camera's tolerance in the area is now set at 10kph rather than the 85 percentile mark used internationally, in which the camera trigger is set to catch the fastest 15 percent of drivers.

Mr Fitzsimons says he is unable to give the total revenue collected by the cameras, and neither can anybody else, because the figures are not collected.

[Snip --DBM]

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Photo-radar ruling against city upheld

By Sue Lindsay, Rocky Mountain News
November 5, 2002

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