

Parrot Central

From: "Parrot Central" <parrotcentral@comcast.net>
To: "Parrot Central 2" <parrotcentral@comcast.net>
Sent: Monday, March 12, 2012 7:36 AM
Subject: Red Light Camera's Ruled Unconstitutional Again
Transportation Committee

PUBLIC HEARING AGENDA

Monday, March 12, 2012

10:00 AM in Room 1E of the LOB

H.B. No. 5458 (RAISED) AN ACT CONCERNING MUNICIPAL AUTOMATED TRAFFIC ENFORCEMENT SAFETY DEVICES AT CERTAIN INTERSECTIONS.

Americans Should Refuse To Pay any Tickets Because Cameras Ruled Unconstitutional

February 8, 2012

Red Light Cameras Ruled Unconstitutional

Here is just a small portion on what I have regarding Red Light cameras. Red light camera violate both the State's and the Federal Constitution. Most states require a 4 second yellow light prior to going red. Cities break the law to get more money by changing that to a 3 second yellow light which results in additional money to them but also violates state law who are the only ones that can set standards. But no one addressed the fact that besides getting more money by changing the yellow light to 3 seconds for profit. The cities would be responsible for any death or injury as a direct result of additional cars and trucks blowing the red light because the city did not give trucks and cars ample time to stop. Cities have blood guilt on their hands. Camera's increase accidents, it doesn't reduce them as the courts have ruled.

The "Due Process" rights of both the operator and the owner are violated and the camera denies the operator to gather evidence at the time of the infraction. The camera also unlawfully shifts the burden of proof from the state to the owner who has NO legal obligation to disclose who was driving. Blowing a red light also is a "Moving Violation" which requires the witness of a police officer.

Only states can impose or regulate traffic control issues. It violates the states Constitution if a city puts up cameras. And also by putting up cameras, there is an Equal Protection Clause violation because the city has unlawfully changed a Moving Violation to just a fine\Summons where all the other towns around them have a different standard imposed on them. If Federal funding is involved, the city has violated the Terms and Conditions of the Federal Funding Clause which there can be NO discrimination in the use of the funds. The camera also presumes you are guilty and not innocent which is also a Constitutional violation.

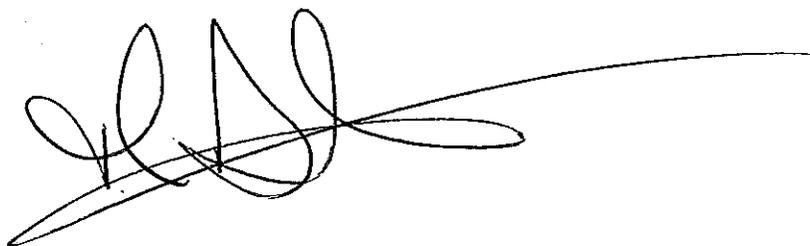
The police are compelled to put you on "Legal Notice" at the time of the infraction. Mailing you a ticket is legally insufficient and does not fulfill this legal obligation. The tickets are also generated by a third party who are NOT cops and are prohibited by law to write and citation or send you a legal summons under the law. What they are doing is impersonating a police officer. It would be like me giving you a ticket. I'm not an officer of the court and subject to accountability as are cops.

You should not pay any ticket from a camera for red light or speeding cameras. The tickets are unconstitutional. Every Supreme court that has heard it in the US has ruled against the city each and every time. Millions of dollars have been returned and cameras have been taken down. There is about 6 class-action suits in Florida as we speak.

Also, red light camera NEVER save lives. Mayors through out the country have used this baseless argument. There is NO evidence to show mailing a ticket to you verses getting one handed to you makes anyone safer. In fact mayors have made intersections more dangerous by shortening the yellow so more go through the red light to get money.

Respectfully,

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The Opposition to Red Light Cameras Is Growing Strong

Have you gotten one yet? A letter in the mail with a picture of your car running a red light, along with a ticket for hundreds of dollars? If you haven't, you might have dodged the bullet. According to ABC News, the debate over red light cameras is too much for some cities. They're actually taking the cameras down, and 15 states have banned them altogether.

For a while, red light cameras were all the rage. Cities started putting them up because, they say, cameras cut down on accidents. However, studies show the cameras don't stop accidents, and critics insist they're just a way for cities that are low on cash to get more money out of their citizens. Take Houston, Texas. In just four years they raked in almost \$50-million from the cameras. Now, the opposition to red light cameras is gaining a lot of ground. Lawyers across the country have filed suit saying they're not only unfair but illegal, and possibly unconstitutional. Their argument is that red light cameras don't take into account **WHO'S** driving the car. Someone might have loaned their car to a friend and ended up with a ticket that they shouldn't be responsible for.

That brings up another problem. Lawyers argue that red light cameras **shift the burden of proof**. What's that mean? Under normal circumstances it's up to law enforcement to prove you **DID** do something, but red light cameras shift that burden to you. Now you have to prove you **DIDN'T** do something. That means you aren't presumed innocent and, according to the lawyers, that's unconstitutional. A law firm in West Palm Beach, Florida, has filed 27 class action lawsuits against several cities, trying to get them to turn off the cameras and refund people's money, and they're winning. They've forced the city of Orlando to refund \$4-million collected from 50,000 tickets. In Houston, 30,000 people have signed a petition to put red-light cameras to a vote in November. A vote is as good as a win; red light cameras have NEVER passed a vote by the general public.

Red Light

The Opposition to Red Light
Cameras Is Growing Strong

Source: tesh.com

A letter in the mail with a picture of
your car running a red light, along

with a ticket for hundreds of dollars. They're actually taking the cameras down, and 15 states have banned them altogether. Studies show the cameras don't stop accidents, and critics insist they're just a way for cities that are low on cash to get more money out of their citizens. Lawyers across the country have filed suit saying they're not only unfair but illegal, and possibly unconstitutional. Their argument is that red light cameras don't take into account WHO'S driving the car. Someone might have loaned their car to a friend and ended up with a ticket that they shouldn't be responsible for. Red light cameras shift the burden of proof.

<http://www.thenewspaper.com/news/16/1688.asp>

Minnesota Supreme Court Strikes Down Red Light Cameras

The Minnesota Supreme Court delivers a unanimous decision striking down the legality of red light cameras.

The Minnesota Supreme Court today delivered the highest-level court rebuke to photo enforcement to date with a unanimous decision against the Minneapolis red light camera program. The high court upheld last September's Court of Appeals decision that found the city's program had violated state law ([read opinion](#)).

The supreme court found that Minneapolis had disregarded a state law imposing uniformity of traffic laws across the state. The city's photo ticket program offered the accused fewer due process protections than available to motorists prosecuted for the same offense in the conventional way after having been pulled over by a policeman. The court argued that Minneapolis had, in effect, created a new type of crime: "owner liability for red-light violations where the owner neither required nor knowingly permitted the violation."

"We emphasized in *Duffy* that a driver must be able to travel throughout the state without the risk of violating an ordinance with which he is not familiar," the court wrote. "The same concerns apply to owners. But taking the state's argument to its logical conclusion, a city could extend liability to owners for any number of traffic

offenses as to which the Act places liability only on drivers. Allowing each municipality to impose different liabilities would render the Act's uniformity requirement meaningless. Such a result demonstrates that [the Minneapolis ordinance] conflicts with state law."

The court also struck down the "rebutable presumption" doctrine that lies at the heart of every civil photo enforcement ordinance across the country.

"The problem with the presumption that the owner was the driver is that it eliminates the presumption of innocence and shifts the burden of proof from that required by the rules of criminal procedure," the court concluded. "Therefore the ordinance provides less procedural protection to a person charged with an ordinance violation than is provided to a person charged with a violation of the Act. Accordingly, the ordinance conflicts with the Act and is invalid."

Article Excerpt:

STATE OF MINNESOTA
IN SUPREME COURT
A06-568
Filed: April 5, 2007

Hanson, J.
State of Minnesota, Appellant,

vs.

Daniel Alan Kuhlman, Respondent.

<http://www.thenewspaper.com/news/18/1804.asp>

Red Light Cameras on Trial in South Dakota, New Mexico

Class action lawsuits against photo enforcement systems in Sioux Falls, South Dakota and Albuquerque, New Mexico moved forward this week.

Class action lawsuits against photo enforcement systems in Sioux Falls, South Dakota and Albuquerque, New Mexico moved forward this week. Motorist I.L. Wiedermann and his attorney, Aaron Eiesland, argued yesterday before Circuit Judge Kathleen Caldwell that Sioux Falls must refund \$1.7 million worth of red light camera tickets it has issued since May 2004. The city and its red light camera vendor countered that anyone who paid \$86 is not entitled to his money back.

Wiedermann's attorney cited the recent Minnesota Supreme Court decision striking down red light cameras as illegal ([read opinion](#)) as well as a Minnehaha Circuit Court ruling that found it unconstitutional for a city to provide no appeal from its rulings on the facts of a case. There is no appeal allowed from a city hearing officer decision in a red light camera case.

Albuquerque likewise may be forced to refund the \$9.3 million worth of tickets it has issued if it loses the class action lawsuit that District Court Judge Valerie Huling recently certified. Plaintiffs argued that the city's camera program created an unfair, city-controlled process to appeal citations using a "nuisance" ordinance to bypass traditional due process protections.

"They've essentially set up a parallel court that has no legal standing," plaintiffs' attorney Rick Sandoval explained to the [Albuquerque Tribune](#) newspaper.

Australian red light camera vendor Redflex ([ASX:RDF](#)) is in charge of both ticketing programs.

Source: [City seeks limits on red-light lawsuit](#) (Sioux Falls Argus Leader (SD), 6/13/2007)

<http://www.argusleader.com/apps/pbcs.dll/article?AID=/20070613/NEWS/706130330/1001>

City seeks limits on red-light lawsuit

Vehicle owners who paid \$86 ticket shouldn't be included, lawyer argues

By Josh Verges

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Published: June 13, 2007

A judge heard arguments Tuesday in a class-action lawsuit against the city of Sioux Falls and Redflex Traffic Systems, the company contracted to photograph vehicles passing through red lights in downtown Sioux Falls.

I.L. Wiedermann of Sioux Falls is fighting the camera enforcement on behalf of himself and 20,000 vehicle owners who also have received \$86 tickets since May 2004.

Circuit Judge Kathleen Caldwell listened to lawyers for the city and Redflex who, respectively, wanted the case significantly limited or thrown out altogether. She said

she would rule on the motions within two weeks.

Bill Garry, representing the city, said that when the thousands who paid their fines did so, they waived their right to contest their tickets. Only Wiedermann and one other man who took his appeal to an administrative hearing officer and then to circuit court should be permitted to fight their tickets, he said.

Richard Casey, a Redflex lawyer, said Wiedermann's claims involve the city, not Redflex, so the company should be removed as a defendant.

Wiedermann and Rapid City lawyer Aaron Eiesland have accused the the city and Redflex of:

- Failing to enact an ordinance prohibiting a right turn on red;
- Altering the timing of stoplights;
- Illegally imposing civil penalties;
- Denying due process.

Eiesland said in court Tuesday that the case is all about money. With what Sioux Falls pays Redflex, the city could man the 10th Street and Minnesota Avenue intersection with police officers 24 hours a day.

In that case, however, Eiesland said the fine money would be funneled through the state and be shared with the public schools. The camera system allows the city an easy and sizeable revenue source.

Part of Wiedermann's claim is that the city has no authority to regulate traffic in a way not outlined by state law. That argument won over the Minnesota Supreme Court, which in March struck down photo cops along Minneapolis streets.

When Wiedermann filed his lawsuit last year, he argued that his due process rights were stripped by a system that punishes a vehicle's owner, not necessarily the driver.

An unrelated Minnehaha Circuit Court ruling since then boosted the due process argument. Judge Bill Srstka in January ruled in favor of Daniels Construction, which complained that the city's appeal system is unconstitutional and gives them no opportunity to argue the facts of their case on appeal.

Garry said Tuesday that because the \$86 penalty is so small, the city's hearing officer provides sufficient due process.

The 10th and Minnesota location was selected for cameras because it has a large number of offenses and because a pedestrian was killed at the intersection.

Edie Adams, 58, an Argus Leader employee, was killed in April 2003 when she was struck by a car.

Reach Josh Verges at 605-331-2335.

Dear Governor,

Supreme Courts around the country have ruled that red light camera's are unconstitutional on at least 5 areas.

Cities and Towns wasted millions of dollars purchasing cameras and equipment just to have them torn down and thrown away. Not limited to that, the cities and towns have had to return millions of dollars due to the unconstitutional cameras.

I can email you this information at your request to a specific address if you would like. The courts have ruled them unconstitutional for the foregoing reasons.

- 1) The government unlawfully shifts the burden of proof who was driving. Owner has no obligation to prove who was driving, the government does.
- 2) The cameras has a presumption of guilt. The government presumes that the owner is driving.
- 3) The cameras deny both owner or driver due process by not being stopped by officer so evidence can be collected.
- 4) Officer MUST stop offender and hand ticket to violator to put them on legal notice.
- 5) Equal protection violation occurs because it is not statewide. If one city uses cameras and the others do not, one citizen retains his constitutional rights when the other does not in cities that have cameras.
- 6) Red light violations are a moving violation if stopped by a officer. That statute is unlawfully changed to a non moving violation when ticket is mailed to you. Equal protection violation. For the driver to be charged with a moving violation, the officer MUST stop vehicle and obtain operator's number.

The state would LOSE millions in court costs because all the ticket holder would have to say is he or she wasn't driving and the state FAILED to prove who was driving and the case would be thrown out.

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