SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE

MINUTE ORDER

Date: 01/15/2009 Time: 01:32:13 PM Dept:

Judicial Officer Presiding: Appellate Panel
Clerk: Giovanni Galon

Bailiff/Court Attendant:

Case Init. Date: 07/02/2008

Case No: 30-2008-00080937-CL-MC-CJC Case Title: PEOPLE OF THE STATE OF CA vs. Fischetti

Case Category: Civil - Limited Case Type: Misc Complaints - Other

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Causal Document & Date Filed:

Appearances:

Appellate Panel Judge(s):

Honorable Mary Fingal Schulte, Acting Presiding Judge
Honorable Steven L. Perk, Judge

Trial Court Case Number: SA120279PE

The court, having reviewed and considered this matter, finds that the opinion filed December 18, 20008, meets the standards for publication set forth in California Rules of Court, Rule 8.1105(c). The opinion advances a new construction and clarification of a statute and involves a legal issue of continuing public interest. Therefore, appellant's request for publication is granted, and the opinion is certified for publication.

APPELLATE DIVISION

SUPERIOR COURT OF CALIFORNIA

COUNTY OF ORANGE

PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff and Respondent, vs. THOMAS JAMES FISCHETTI, Defendant and Appellant.	CASE NO. 30-2008-00080937 JUDGMENT ON APPEAL from the SUPERIOR COURT of ORANGE COUNTY CENTRAL JUSTICE CENTER HON. GLENN MONDO COMMISSIONER

Based upon evidence obtained via an automated photographic enforcement system, appellant was convicted of failing to stop for a red signal, in violation of Vehicle Code § 21453(a). The record discloses that the City of Santa Ana sought to comply with warning requirements of Vehicle Code § 21455.5(b) by issuing warning notices only for the first photographic enforcement cameras installed within the City.

The trial court's determination that the City complied with § 21455.5(b) is inconsistent with the structure and purpose of the statute as a whole. Because § 21455.5(a) provides that "the intersection" may be equipped with an automated enforcement system, "automated enforcement system" in § 21455.5(b) cannot refer to a municipality's overall automated enforcement plan, but must instead refer to each individual automated system operated at an intersection within the municipal jurisdiction. The

"dictionary" definition of the word "system" (e.g., Merriam-Webster's Collegiate Dictionary (10th ed. 1993), p. 1194) does not comport with the trial court's analysis and conclusion, in the absence of any evidence that the sets of equipment located variously at intersections throughout the City are somehow interactive with, or dependent upon, each other - if such systemic interaction were necessary, operation of automated enforcement equipment at a lone intersection would be impossible. From the perspective of the motorists for whom the statutory requirements were intended to provide protection, it would not make sense for the geographic scope of the 30-day warning period to be determined arbitrarily by the size of the municipality operating the automated enforcement system. The Legislature in 2003 rejected an amendment to SB 780 which would have expressly provided for the warning period of § 21455.5(b) to occur "during the first 30 days after the first recording unit is installed," and the omission of this language from the amendments enacted in that year is indicative of a legislative intention to avoid linkage of the 30-day warning period with a municipality's initial installation of automated enforcement equipment. (City of Santa Cruz v. Municipal Court (1989) 49 Cal.3d 74, 88-89.) Because under § 21455.5(b) compliance is required "[p]rior to issuing citations under this section," the City exceeded its jurisdiction by commencing the prosecution of appellant without having complied with the warning requirements.

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The judgment is reversed, with direction that the charge be dismissed.

STEVEN L. PERK Judge