

CITY OF DAYTONA BEACH

**MINUTES – Red Light
Camera Violations**

**SPECIAL
MAGISTRATE
HEARING**

April 22, 2014 10:30 AM
City Commission Chambers
301 South Ridgewood Avenue,
Daytona Beach, Florida

ATTENDEES:

Mr. David Vukelja, Special Magistrate

STAFF:

Anthony E. Jackson, Assistant City Attorney
Gary Sault
Tiffany Enborg
Mallory Taylor
Ofc. Shawn Clark
Ofc. Eric Ryan

Ms. Aimee Hampton, Secretary

Approval of Minutes by:  _____ Special Magistrate

Mr. Vukelja called the Hearing to order at 11:55 a.m.

Mr. Vukelja approved the minutes of the February 11, 2014 and March 11, 2014 Red Light Camera Proceeding Minutes.

Mr. Vukelja asked if there were any announcements.

Ms. Hampton stated the following cases have been resolved:

Case 5

CITATION NO. 0160156197 - Tamas, Horvath is cited for Section 316.074(1) or Section 316.075(1)(c), Florida Statutes, - Photo/Camera - Failure to Stop at Steady Red Signal

Case 6

CITATION NO. 0160155591 - Tamas, Horvath is cited for Section 316.074(1) or Section 316.075(1)(c), Florida Statutes, - Photo/Camera - Failure to Stop at Steady Red Signal

Ms. Hampton swore in members of staff.

Hearing of Cases

Case 1

CITATION NO. 0160154506 - Burgess, Kim L. is cited for Section 316.074(1) or Section 316.075(1)(c), Florida Statutes, - Photo/Camera - Failure to Stop at Steady Red Signal

Ms. Kim Burgess came forward and was sworn. Ms. Burgess reviewed the video and stated she was not contesting that it happened but it was not her that was driving as she was at work in Flagler Avenue in New Smyrna Beach. Ms. Burgess stated her daughter is also on the registration. Ms. Burgess stated any one of her children could have been driving.

Mr. Jackson stated unfortunately per the statute Ms. Burgess is liable.

Ruling

Mr. Vukelja found the Respondent liable for the violation and imposed the fine of \$158 plus \$50 administrative costs.

Case 2

CITATION NO. 0160154437 - Cutler, David G. is cited for Section 316.074(1) or Section 316.075(1)(c), Florida Statutes, - Photo/Camera - Failure to Stop at Steady Red Signal

Mr. David Cutler came forward and was sworn. Mr. Cutler stated he would like to contest the violation as it was not him who was driving the vehicle it was a Pep Boys worker.

Mr. Jackson stated an Affidavit of Defense transferring the liability was not submitted.

Mr. Cutler stated he believed the burden was on the state to prove it was him driving the vehicle. Mr. Cutler stated he was driving the red Durango that was in front and the Denali behind him was a Pep Boys service tech that was driving.

Mr. Jackson stated the statute clearly states the owner of the vehicle is liable unless they meet the allowable defenses as stated in the statute. Mr. Jackson stated furthermore the City was not permitted to video the driver as it was against DOT regulations.

Mr. Cutler stated he did not receive the notice because he was working in New York and furthermore he was not the only person on the registration.

Mr. Jackson stated the statute states when there are two registered owners the citation is issued to the first owner.

Further argument was provided by the Defendant.

Further argument was provided by the City.

Ruling

Mr. Vukelja found the Respondent liable for the violation and imposed the fine of \$158 plus \$100 administrative costs.

Case 3

CITATION NO. 0160155654 - Johnson, Michael R. is cited for Section 316.074(1) or Section 316.075(1)(c), Florida Statutes, - Photo/Camera - Failure to Stop at Steady Red Signal

Mr. Michael R. Johnson came forward and was sworn. Mr. Johnson reviewed the video and said he believed the light was yellow and it turned red while he was under the light.

Mr. Vukelja stated according to the video it looked like it was red prior to the stop bar.

Mr. Johnson stated the yellow light barely allows enough time for one car to pass under the light.

Ruling

Mr. Vukelja found the Respondent liable for the violations and imposed the fine of \$158 plus \$50 administrative costs.

Case 4

CITATION NO. 0160156415 - Russo, Thomas R. is cited for Section 316.074(1) or Section 316.075(1)(c), Florida Statutes, - Photo/Camera - Failure to Stop at Steady Red Signal

Mr. Thomas Russo came forward and was sworn. Mr. Russo reviewed the video and stated he was not driving but did not know who was driving.

Mr. Russo stated he was not going to pay the violations.

Ruling

Mr. Vukelja found the Respondent liable for the violation and imposed the fine of \$158 plus \$50 administrative costs.

Case 7

CITATION NO. 0160150292 - Walker, Samuel is cited for Section 316.074(1) or Section 316.075(1)(c), Florida Statutes, - Photo/Camera - Failure to Stop at Steady Red Signal

Mr. Samuel Walker came forward and was sworn.

Mr. Jackson stated this was a case where the liability was transferred by Affidavit from the registered car owner and the City attempted to subpoena Sheila Rizzo but the mail was returned.

Ms. Hampton stated she sent the subpoena via certified mail and called the phone number on the paperwork for Ms. Rizzo and left a voice mail message but did not receive a returned call.

Ruling

Mr. Vukelja found the Respondent not liable.

Case 8

CITATION NO. 0160155478 - Works, Caneese Y. is cited for Section 316.074(1) or Section 316.075(1)(c), Florida Statutes, - Photo/Camera - Failure to Stop at Steady Red Signal

Ms. Caneese Works came forward and was sworn. Ms. Works reviewed the video and explained she did not stop because her breaks were going bad and she was afraid she would slide through the intersection.

Ruling

Mr. Vukelja found the Respondent liable for the violations and imposed the fine of \$158 plus \$50 administrative costs.

Miscellaneous Business

Case 1

CITATION NO. 0160154079 – Benedict, Jonathan M. is cited for Section 316.074(1) or Section 316.075(1)(c), Florida Statutes, - **Photo/Camera - Failure to Stop at Steady Red Signal**

Mr. Jackson stated the notice of hearing was not sent to the attorney of record and additionally the violation was a right hand turn on red and therefore the City was requesting a dismissal.

Ruling

Mr. Vukelja vacated the previous order upholding the notice of violation based upon the due process errors expressed by the city.

Case 2

CITATION NO. 01601548312 – Newton, James. is cited for Section 316.074(1) or Section 316.075(1)(c), Florida Statutes, - **Photo/Camera - Failure to Stop at Steady Red Signal**

Mr. Jackson stated the notice of hearing was not sent to the attorney of record and additionally the violation was a right hand turn on red and therefore the City was requesting a dismissal.

Ruling

Mr. Vukelja vacated the previous order upholding the notice of violation based upon the due process errors expressed by the city.

Adjournment

The meeting was adjourned at 11:37 a.m.