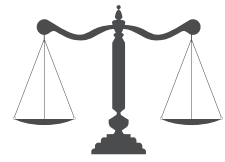


Constitutionality of Red-Light & Speed Safety Cameras



Myth V. Fact

Myth – Cameras wrongly ticket the vehicle owner, not the driver.

Fact: The 7th U.S. Circuit Court of Appeals held in 2009 that **issuing a citation to vehicle owners** (or lessees) **instead of the driver** is constitutionally permissible.

Source: Idris v. City of Chicago. 7th U.S. Circuit Court of Appeals. Jan. 5, 2009. 552 F.3d 564 No. 08-1363.



Myth – Cameras invade drivers' privacy and violate the Fourth Amendment.

Fact: Driving is not a private activity. It is **voluntarily done in plain sight**, on public roads by licensed individuals who agree to abide by traffic laws.

Fact: The U.S. Supreme Court describes driving as a **regulated activity on public roads** where there is **no personal expectation of privacy**.

Fact: In *Katz v. United States*, the U.S. Supreme Court expressed the limitations to one's legal right to privacy, when it wrote: "**What a person knowingly exposes to the public**, even in his own home or office, is **not a subject of Fourth Amendment protection.**"

Source: Katz v. United States, 389 US 347, 351 (1967).

Myth – Cameras presume drivers are guilty.

Fact: There is **no presumption of guilt** in a ticket issued from camera-based evidence. A citation is a summons. Every person who receives a citation for running a red light **has the opportunity to contest their ticket**, just as they can with a traditional traffic ticket.

Fact: In 2010, the 6th U.S. Circuit Court of Appeals ruled that speed cameras in Akron, Ohio, **did not violate due process**, stating, "As the district court found, the ordinance provides for notice of the citation, an opportunity for a hearing, provision for a record of the hearing decision, and the right to appeal an adverse decision. We agree with the district court that the ordinance and its implementation, as detailed in the stipulations, satisfy due process."

Source: Mendenhall v. City of Akron, Nestor Traffic Systems, Inc., (American Traffic Solutions – Intervenor) U.S. 6th Circuit Court of Appeals. No. 09-3061 (6th Cir. March 29, 2010).



Myth – The use of cameras delays immediate notice of the offense.

Fact: Drivers who commit a red-light violation **do not have to be immediately notified** of the offense, but they do have to be **notified within the statute of limitations**, which differ by jurisdiction.



Court Rulings in Support of Road Safety Cameras

Legislation

Washington State Supreme Court. Case No. 84921-8. Mukilteo Citizens for Simple Government vs. City of Mukilteo, Christine Boughman, et al., 272 P.3d 227. Court rules that the city's decision to enact an ordinance on the use of automated traffic safety cameras is not subject to the initiative power. March 8, 2012.



Constitutional

City of Aventura, Florida vs. Richard Masone, 2011 WL 5964359 (Fla.App. 3 Dist.). Third District Court of Appeal, State of Florida, Case No. 3D10-1094. Appeals court reversed lower court's decision, holding that cities have the right to pass ordinances authorizing the use red-light cameras. Nov. 30, 2011.

Drew Whitley and Charles E. Cannon, Jr. v. City of Redbank, Tennessee and American Traffic Solutions, Inc. (ATS); Case No. 10-0362; in the Chancery Court of Hamilton County, Tennessee, Part 1. The court held that (1) the owner of a vehicle can rebut the presumption of guilt by providing the name of the individual who was actually in control of the vehicle at the time of the violation, and (2) the court noted that another case had held that an ordinance with owner-imposed liability did not conflict with state law and was within the police power of the municipality.

Mendenhall v. City of Akron & Nestor Traffic Systems & ATS (Intervenor), 374 Fed.Appx. 598, 2010 WL 1172474 (C.A.6 (Ohio)). Case No: 09-3061. The court affirmed the lower court's ruling that the city ordinance does not violate due process by imposing civil penalties for speeding violations irrespective of whether the owner was in fact driving the vehicle when the violation was recorded.

City of Creve Coeur vs. Mary Nottebrok. Missouri Court of Appeals, Eastern District. Case No. ED96396. Ruling upholds trial court's decision that Creve Coeur was entitled to enact its ordinance authorizing its red-light safety camera program. Oct. 25, 2011.

Evidentiary

State of Florida vs. Sairy Abreu. County Court in and for Miami Dade County, Florida. Case No. 5406-GRS. Judge Steven Leifman denies order to dismiss red-light citation on grounds that statute is unconstitutional, upholding the constitutionality of the Mark Wandall Act. Aug. 31, 2011.

State of Florida v. Zimmer. County Court in and for Broward County, Florida, Case No. 11-005631TI20A. Judge Steven DeLuca entered an order denying defendants motion to dismiss for equal protection and due process violations.

Todd, et al. v. City of Auburn, et al., 425 Fed.Appx. 613, (2011 WL 1189696) (C.A.9 (Wash.)). The court held that the Washington State Code did not require that a traffic camera infraction be treated like a parking ticket in every single respect; the code gives municipalities flexibility in determining fine amounts; the current fines are not excessive; the code allows for compensation based on the value of the services provided; and the contracts in Washington do not violate Washington law.

Privacy Rights

Bell v. American Traffic Solutions, Inc. (ATS), Slip Copy, 371 Fed.Appx. 488, 2010 WL 1141639 (C.A.5 (Tex.)). The court found that plaintiff lacked standing to bring the lawsuit because plaintiff's interest in committing criminal activity is not legally protected. There was no causation shown between the plaintiff's purported privacy injury in receiving a red-light ticket and ATS' failure to obtain a private investigation license.

