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FILED
LOS ANGELES SUPERIOR COURT
JAN 14 2009
John A. Clarke, Executive Officer/Clerk
By Debra A. Bird, Deputy

APPELLATE DIVISION OF THE SUPERIOR COURT
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

PEOPLE OF THE STATE OF CALIFORNIA,) No. BR [REDACTED]
Plaintiff and Respondent,) Santa Monica Trial Court
v.) No. C [REDACTED]
[REDACTED],) MEMORANDUM JUDGMENT
Defendant and Appellant.

This cause having been submitted for decision, and fully considered, judgment is ordered as follows:

The judgment is reversed.

In this timely appeal,¹ defendant and appellant [REDACTED] challenges her conviction for failing to stop for a red light, raising multiple claims of error. (Veh.

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¹After filing a notice of appeal from the judgment of conviction in this case, defendant filed a separate notice of appeal from the order engrossing the settled statement on appeal. Subsequently, we gave notice of our intent to dismiss that appeal as having been taken from a nonappealable order, and afforded defendant an opportunity to respond. On April 21, 2008, after consideration of defendant's response, this court dismissed the appeal from the order engrossing the settled statement.

1 Code, § 21453, subd. (a).)² Finding merit in her contention of insufficient evidence, we
2 reverse.

3 FACTUAL AND PROCEDURAL BACKGROUND³

4 Defendant was cited for the above-referenced violation based on photographic
5 evidence obtained pursuant to the automated traffic enforcement system statutes.
6 (§§ 21455.5 - 21455.7.) The citation alleged that on March 29, 2007, at 7:52 a.m.,
7 defendant failed to stop for a red light at the intersection of Washington Boulevard and
8 Helms Avenue in Culver City. The matter proceeded to a court trial on May 31, 2007.

9 At trial, Culver City Police Sergeant Allan Azran testified that he was in charge
10 of the City's photo traffic enforcement program, which involves the maintenance and
11 operation of automated red light camera systems at certain intersections. Azran
12 explained that when a motorist enters an intersection on a red light, the cameras are
13 activated and automatically take a series of photographs and record the date and time of
14 the violation, the speed of the vehicle, and the length of time that the light had been red
15 before the violation occurred.

16 With respect to the subject citation, Azran testified that the camera system for
17 westbound Washington Boulevard at Helms was activated on March 29, 2007, at
18 7:52 a.m. The photographs and video produced by the system, and the data imprinted
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20
21 ²“A driver facing a steady circular red signal alone shall stop at a marked limit line, but if
22 none, before entering the crosswalk on the near side of the intersection or, if none, then before
23 entering the intersection, and shall remain stopped until an indication to proceed is shown, except
24 as provided in subdivision (b) [regarding stopping before making turns].” (Veh. Code, § 21453,
25 subd. (a).)

26 All further statutory references are to the Vehicle Code unless otherwise indicated.

27 ³The record of the proceedings in this case is set forth in an Engrossed Settled Statement on
28 Appeal, which followed defendant's filing of a proposed statement on appeal. In engrossing the
settled statement, the trial court expressly rejected defendant's submission of a verbatim transcript
as unreliable. Nevertheless, defendant's opening brief contains multiple citations to such transcript.
Since the transcript is not part of the record on appeal, we may not consider it. (*People v. Szeto*
(1981) 29 Cal.3d 20, 35.) Further, we accept the settled statement as accurate because the trial court
is the final arbiter of such matters. (*People v. Earnest* (1995) 33 Cal.App.4th Supp. 18, 21.)

1 thereon, showed that a dark Chrysler traveling at approximately 37 miles per hour on
2 westbound Washington entered the intersection after the light had been red for .16
3 seconds. Azran testified that the previous yellow light phase was 3.6 seconds. Based on
4 this data, Azran opined that the vehicle was 10 feet behind the limit line of the
5 intersection when the light turned red. Azran testified that defendant was the driver of
6 the vehicle shown in the photographs and video, which were admitted into evidence as
7 prosecution exhibits.

8 Defendant did not deny that she was the driver of the vehicle shown in the
9 photographs and video. Instead, she testified that the sidelight was green, and that as she
10 proceeded through the intersection, "the lights flashed and it frightened her and that she
11 did not know what had happened." Defendant presented two photographs that were
12 received into evidence as defense exhibits 1 and 2,⁴ which she testified showed that the
13 light was green when she went through the intersection. She requested that the court
14 dismiss the citation.

15 In rebuttal, Azran testified that the flashes described by defendant were likely
16 produced by the activation of the camera system. He reiterated, with reference to the
17 photographs and video, that the light was red at the time defendant entered the
18 intersection.

19 The court denied defendant's dismissal request, and found her guilty of the
20 charged infraction.

21 CONTENTIONS ON APPEAL


- 22 1. The evidence is insufficient to support defendant's conviction.
- 23 2. Defendant was denied an opportunity to review the original photographic
24 evidence prior to trial.
- 25 3. The video shown prior to and at trial was not intended for use in court.

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27 ⁴The photographs, which were also obtained from the red light camera system, showed a
28 wider view of the same location than the prosecution's photographic exhibits, and included both the
overhead and side traffic signals.

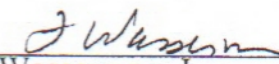
1 likelihood of accidents. This standard is set forth in section 4D.08 of the California
2 Manual on Uniform Traffic Control Devices (MUTCD), compliance with which is
3 mandatory under section 21400 et seq. Section 4D.08 prohibits, inter alia, the
4 simultaneous display of circular red and green lights "in different signal faces on any
5 one approach," except for circumstances not relevant here. The traffic signals facing
6 defendant when she approached the intersection of Washington and Helms displayed a
7 combination of simultaneous red and green signals which is prohibited by the MUTCD
8 and the Vehicle Code. The prosecution therefore failed to prove the essential elements
9 of a violation of section 21453, subdivision (a), that defendant failed to stop when
10 "facing a steady circular red signal alone," and on this basis, we must reverse
11 defendant's conviction.

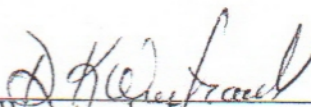
12 In light of our disposition, we do not find it necessary to address the remaining
13 contentions on appeal.

14 The judgment is reversed.⁵

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Dymant, J.

18 We concur.

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20 _____
Wasserman, J.

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22 _____
Weintraub, J.

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28 ⁵Retrial is barred by the double jeopardy clause of the Fifth Amendment. (*Burks v. United States* (1978) 437 U.S. 1, 12.)