



National Campaign to Stop Red Light Running

FOR IMMEDIATE RELEASE

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Supreme Court ruling on drivers' right to confront accusers may apply to photo enforcement violations *Communities and camera contractors should prepare*

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WASHINGTON, DC (July 30, 2009) — A recent Supreme Court ruling has raised questions as to whether technicians who calibrate photo enforcement cameras or perform back-room processing can be required to testify if the accused violators challenge the citations in court.

The *Melendez-Diaz v. Massachusetts* ruling, issued June 25, said a defendant has the right to cross-examine the experts who prepared crime lab reports. In the majority opinion, Justice Antonin Scalia said technicians who prepared these reports acted as "witnesses" for the prosecution. Under the 6th Amendment, in all criminal prosecutions the accused has the right "to be confronted with the witnesses against him."

While the ruling does not appear to apply to photo traffic enforcement programs where infractions are considered civil violations, the ruling's impact is less clear when photo enforcement violations are considered criminal offenses. Defense attorneys already have said they hope to start requiring police to make available technicians who calibrate radar guns or other equipment used to catch speeders.

Judging from questions sprouting up across the internet, the ruling is attracting interest from people wondering if they can use it to contest red light camera and speed camera citations.

"Violators often object that they cannot challenge their accuser if it is a camera. In fact, the camera isn't the accuser, but does provide photographic evidence of the offense, which the jurisdiction can use to make the accusation," said Leslie Blakey, Campaign executive director. "This new ruling may spur more court cases and lawsuits on the basis of the right to challenge the human elements of the evidentiary chain."

In the recent ruling, Scalia wrote for a 5-4 majority that reversed the conviction of Luis Melendez-Diaz, who was found guilty of selling cocaine. At the trial, the prosecution submitted a certificate from a state lab that said the bags contained cocaine. The defendant's lawyer objected and wanted the analysts to testify in person. The objection was overruled, and the defendant found guilty. That conviction was overturned by the Supreme Court ruling.

In writing the dissenting opinion, Justice Anthony M. Kennedy said the ruling "has vast potential to disrupt criminal procedures that already give ample protections against the misuse of scientific evidence."

Requiring testimony from photo enforcement company technicians and processors could prove particularly onerous because many of those functions are performed in facilities located great distances from the jurisdiction where the violation occurred.

"We're concerned about the potential impact of this ruling on photo enforcement programs across the country," Blakey said. "We don't want to see anything jeopardize the public safety benefit of automated enforcement."

The National Campaign to Stop Red Light Running is a national advocacy group guided by an independent advisory board that includes leaders from the fields of traffic safety, law enforcement, transportation engineering, health care and emergency medicine, as well as crash victims. More information on the Campaign can be found at www.stoppedlightrunning.com.