

Ending the Tickets for Revenue Scam

Background

In 1995 Geo. McCalip filed a motion to dismiss a speeding ticket in Santa Barbara arguing that the Municipal Court lacked jurisdiction to hear the case because the legislature had only granted the court the right to accept pleas of guilty or no contest and he had the right to enter a plea of not guilty. Senior Assistant D.A., Gerry Franklin raised a necessity argument and the State Court of Appeal refused to hear the case.

Bottom line? Santa Barbara County spent \$6,000 to get Mr. McCalip's \$60 and in 1998 the Municipal Courts became part of the Superior Courts.

Take away? A well-crafted case can change the system.

Laying the Groundwork

Certain friends of Mr. McCalip are currently working to get speeding tickets that involve illegal speed traps as defined in Vehicle Code § 40802(a)(2). Defendants will schedule each of these cases for court, but not appear. Instead, Mr. McCalip will appear and, when the judge or commissioner calls the case, announce his presence as an expert witness for the defense. He will point out that the court lets the prosecution present a witness without an attorney present and claim the same right for the defense. Should the judge not allow Mr. McCalip to testify, the case will go to federal court as a due process issue.

Bottom line? This will effectively put an end to *People v Carlucci* in which the California Supreme Court ruled that it is not a denial of due process for the prosecuting attorney to not be present in court for an infraction hearing.

Take away? The federal court will help establish, beyond any doubt, that infraction cases do have prosecuting attorneys.

Round One

We will bring lawsuits against prosecuting attorneys in select traffic cases for malicious prosecution. We have at least one red light camera case where the judge stated the case was in violation of the law and involved malicious prosecution. This round will consist of four to six cases around the state.

Bottom line? Plaintiff who wins a malicious prosecution lawsuit is entitled, per Civil Code § 3294(a), to damages plus, "damages for the sake of example and by way of punishing the defendant."

Take away? The prosecuting attorneys are collateral damage in this round. We are sending a message to the insurance companies holding their bonds:

- We are here.
- We are serious
- We are going to take your money.

Round Two

Without tipping our hand, suffice it to say that this will involve a class action lawsuit on behalf of everyone issued an illegal red light camera ticket and/or an illegal speed trap ticket within the three years prior to the date the suit is filed. As a federal civil rights suit brought under RICO it will be the first trillion dollar lawsuit filed in federal court.

Bottom line? The State will have to settle. The (non-negotiable) terms will be:

1. Everyone in the class gets their conviction(s) reversed, the point(s) removed from their record and their fine(s) refunded. Those who had already beaten their tickets will have the equivalent of their fines refunded as compensation for their effort.
2. Many members of the class have had insurance rate increases due to the convictions that are reversed per point 1. The State of California having been a party to this, the Attorney General, the Insurance Commissioner and their staffs shall work diligently to assure that all such increases are reversed and the monies refunded.
3. As is evidenced by the number of red light camera cases in the class, the State of California has abused automated enforcement systems. Consequently, automated enforcement systems are, by federal court order, henceforth and forever banned in the state of California.
4. As is evidenced by the number of illegal speed trap cases in the class, the State of California has abused electronic enforcement of speed limits. Consequently, electronic enforcement of speed limits is, by federal court order, henceforth and forever banned in the state of California.
5. As evidenced by the existence of this lawsuit, the state of California has abused due process. Therefore Penal Code § 19.6 is hereby repealed, *People v Carlucci* is overturned and anyone accused of any crime is entitled to all the rights of anyone else accused of any other crime. Said rights include but are not limited to:
 - a. The right to a trial by a fully informed jury.
 - b. The right to have a prosecuting attorney present in court.
 - c. The right to have said prosecutor responsible in his or her person, as well as his or her office, for discovery.
 - d. The right to a public defender if the defendant cannot afford an attorney.
6. As restitution for abusing tickets for revenue, anyone convicted of any infraction shall not be required to pay a total of more than \$50 for said conviction.

Take away? Payback is a bitch and the tickets for revenue scam is over.

Round Three

Any member of the class who qualifies will be encouraged to sue the prosecuting attorney in his or her case for malicious prosecution.

Bottom line? We intend to personally bankrupt every prosecuting attorney involved in the tickets for revenue scam.

Take away? We, the people are the citizens. The prosecuting attorneys are public servants. This is a message long overdue and we expect it to reverberate well beyond California.