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State of California

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| OPINION                 | : | No. 14-307         |
|                         | : |                    |
| of                      | : | September 17, 2015 |
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| KAMALA D. HARRIS        | : |                    |
| Attorney General        | : |                    |
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THE HONORABLE PHILIP Y. TING, MEMBER OF THE STATE ASSEMBLY,  
has requested an opinion on the following question:

May an automated photographic enforcement system be used to detect and enforce  
violations of the anti-gridlock law?

CONCLUSION

An automated photographic enforcement system may not be used to detect and  
enforce violations of the anti-gridlock law.

ANALYSIS

The Vehicle Code defines an “automated enforcement system” as “any system  
operated by a governmental agency, in cooperation with a law enforcement agency, that

photographically records a driver's responses to a rail or rail transit signal or crossing gate, or both, or to an official traffic control signal<sup>[1]</sup> described in Section 21450,<sup>[2]</sup> and is designed to obtain a clear photograph of a vehicle's license plate and the driver of the vehicle."<sup>3</sup> These enforcement systems—commonly referred to as “traffic cameras” or “red-light cameras”—may be placed at rail crossings,<sup>4</sup> and at “[t]he limit line, the intersection, or [an official traffic control signal at a place other than an intersection],<sup>[5]</sup> where a driver is required to stop.”<sup>6</sup>

We are asked whether traffic cameras may be used to detect and enforce violations of the Anti-Gridlock Act of 1987, which prohibits drivers from entering intersections or marked crosswalks, notwithstanding a green or yellow traffic signal, when there is insufficient space on the other side of the intersection or crosswalk to accommodate the driver's vehicle without “obstructing the through passage of vehicles from either side.”<sup>7</sup>

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<sup>1</sup> “An ‘official traffic control signal’ is any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and proceed and which is erected by authority of a public body or official having jurisdiction.” (Veh. Code, § 445.)

<sup>2</sup> Vehicle Code section 21450 states: “Whenever traffic is controlled by official traffic control signals showing different colored lights, color-lighted arrows, or color-lighted bicycle symbols, successively, one at a time, or in combination, only the colors green, yellow, and red shall be used, except for pedestrian control signals, and those lights shall indicate and apply to drivers of vehicles, operators of bicycles, and pedestrians as provided in this chapter.”

<sup>3</sup> Veh. Code, § 210.

<sup>4</sup> Veh. Code, § 21362.5, subd. (a).

<sup>5</sup> Veh. Code, § 21455.

<sup>6</sup> Veh. Code, § 21455.5, subd. (a).

<sup>7</sup> Veh. Code, § 22526, subds. (a), (b). In their entirety, these provisions read:

(a) Notwithstanding any official traffic control signal indication to proceed, a driver of a vehicle shall not enter an intersection or marked crosswalk unless there is sufficient space on the other side of the intersection or marked crosswalk to accommodate the vehicle driven without obstructing the through passage of vehicles from either side.

(b) A driver of a vehicle which is making a turn at an intersection who is facing a steady circular yellow or yellow arrow signal shall not enter the intersection or marked crosswalk unless there is sufficient space on the other side of the intersection or marked crosswalk to accommodate the vehicle

Because the Anti-Gridlock Act governs driver behavior at intersections,<sup>8</sup> traffic cameras may be placed at locations where violations of the Anti-Gridlock Act occur. However, as we have previously observed, neither the statute defining automated enforcement systems, nor the statutes authorizing their placement, specify what violations may be enforced through the use of traffic cameras.<sup>9</sup>

In 2012, we examined whether traffic cameras may be used to record unlawful right turns made in violation of Vehicle Code section 22101, subdivision (a),<sup>10</sup> and concluded that they may (so long as the intersection is appropriately marked and signaled).<sup>11</sup> Our analysis there was facilitated by Vehicle Code section 40518, which addresses notices to appear—or “traffic tickets”—issued for violations recorded by automated enforcement systems. Section 40518 specifies that traffic tickets may be issued for violations of Vehicle Code sections 22451 (failure to stop at a rail crossing), 21453 (failure to stop at a red light at an intersection), 21455 (failure to stop at a red light at a place other than an intersection), and 22101 (failure to obey a turning restriction). Section 22101’s presence on this list led us to conclude that the Legislature intended for violations of section 22101 to be enforceable through the use of traffic cameras.<sup>12</sup> But here we are confronted with the question whether a Vehicle Code section *not* enumerated in section 40518—i.e., the anti-gridlock provisions of section 22526—may be enforced the same way. Several principles facilitate our inquiry.

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driven without obstructing the through passage of vehicles from either side.

The Anti-Gridlock Act also prohibits drivers from entering railroad crossings without sufficient space (Veh. Code, § 22526, subds. (c), (d)), but we are not concerned with those provisions here.

<sup>8</sup> Veh. Code, § 22526, subds. (a), (b).

<sup>9</sup> 95 Ops.Cal.Atty.Gen. 59 (2012).

<sup>10</sup> This provision “allows local authorities to regulate and prohibit turning movements at the intersections of highways and streets under their jurisdictions via the use of ‘official traffic control devices’ that indicate the particular regulations or prohibition.” (95 Ops.Cal.Atty.Gen., *supra*, at p. 60.) “An ‘official traffic control device’ is any sign, signal, marking, or device, . . . placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic . . . .” (Veh. Code, § 440.)

<sup>11</sup> 95 Ops.Cal.Atty.Gen., *supra*, at pp. 59, 65-66.

<sup>12</sup> 95 Ops.Cal.Atty.Gen., *supra*, at p. 63.

The “first task in construing a statute is to ascertain the intent of the Legislature so as to effectuate the purpose of the law. In determining such intent, [we] must look first to the words of the statute themselves, giving to the language its usual, ordinary import and according significance, if possible, to every word, phrase and sentence in pursuance of the legislative purpose.”<sup>13</sup> If the statutory language is clear, we “follow its plain meaning unless a literal interpretation would result in absurd consequences the Legislature did not intend.”<sup>14</sup> Moreover, the statutory language must be read “in the context of the statutory framework as a whole in order to determine its scope and purpose and to harmonize the various parts of the enactment.”<sup>15</sup>

In addition, the statutory framework of the Vehicle Code specifically informs our analysis. “The state’s plenary power and its preemption of the entire field of traffic control are stated in Vehicle Code section 21: ‘Except as otherwise expressly provided, the provisions of this code are applicable and uniform throughout the state and in all counties and municipalities therein, and *no local authority shall enact or enforce any ordinance on the matters covered by this code unless expressly authorized therein.*’ Thus, unless ‘expressly provided’ by the Legislature, a city has no authority over vehicular traffic control.”<sup>16</sup> In short, any delegation of authority under the Vehicle Code must be express rather than implied, and should be strictly construed.<sup>17</sup>

Examining the relevant statutory language, we see that section 210 defines an automated enforcement system as one that photographs a driver’s *responses to* a traffic signal,<sup>18</sup> but the anti-gridlock law governs a driver’s action *notwithstanding* a traffic signal indication.<sup>19</sup> Thus, the plain language does not support using automated enforcement systems to enforce the anti-gridlock law. And, as noted above, neither the sections authorizing the placement of automated enforcement systems,<sup>20</sup> nor the section addressing

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<sup>13</sup> *Dyna-Med, Inc. v. Fair Employment & Housing Com.* (1987) 43 Cal.3d 1379, 1386-1387.

<sup>14</sup> *Los Angeles Unified School Dist. v. Garcia* (2013) 58 Cal.4th 175, 186, internal quotation marks and citations omitted.

<sup>15</sup> *Ibid.*

<sup>16</sup> *Rumford v. City of Berkeley* (1982) 31 Cal.3d 545, 550 (italics added).

<sup>17</sup> *City of Lafayette v. County of Contra Costa* (1979) 91 Cal.App.3d 749, 756.

<sup>18</sup> Veh. Code, § 210.

<sup>19</sup> Veh. Code, § 22526, subd. (a).

<sup>20</sup> Veh. Code, §§ 21362.5, subd. (a), 21455.5, subd. (a).

notices to appear,<sup>21</sup> contain any mention of the anti-gridlock law. We take this silence at face value. Because the Vehicle Code does not expressly authorize local jurisdictions to enforce the anti-gridlock law with automated enforcement devices, they may not do so.

In addition, the Vehicle Code evidences particular caution regarding the use of photographs to enforce violations. For instance, the Vehicle Code authorizes the City and County of San Francisco to “install automated forward facing parking control devices on city-owned public transit vehicles, . . . for the purpose of video imaging of parking violations occurring in transit-only traffic lanes,” but directs that the cameras be angled so that they do not “unnecessarily capture identifying images of other drivers, vehicles, and pedestrians.”<sup>22</sup> Another section authorizes local agencies to use automated enforcement systems on street-sweeper vehicles to capture parking violations interfering with street cleaning, but prohibits “the use of information read from license plates for any other purpose.”<sup>23</sup> We believe that the Legislature’s generally circumspect approach to authorizing automated photographic enforcement systems lends further support to our conclusion here.<sup>24</sup>

Accordingly, we conclude that an automated photographic enforcement system may not be used to detect and enforce violations of the anti-gridlock law.

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<sup>21</sup> Veh. Code, § 40518, subd. (a).

<sup>22</sup> Veh. Code, § 40240, subd. (a). This statute also provides time frames for the destruction of captured images, and deems the images confidential. (Veh. Code, § 40240, subds. (e), (f).)

<sup>23</sup> Veh. Code, § 40245, subd. (c).

<sup>24</sup> Further, as a practical matter, we are informed that while automated enforcement systems currently are well situated to capture red-light violations—because they photograph both the red light and the car in the intersection—there is some doubt whether the cameras, as currently placed, capture sufficient information to enforce the anti-gridlock law. For example, a car entering an intersection with sufficient space to proceed fully through the intersection could unexpectedly encounter a car pulling out of a parking place or a jaywalking pedestrian blocking the space into which the driver had intended to move. Because there was sufficient space to pass through the intersection when the car began, this would not be a clear violation of the anti-gridlock law (see Veh. Code, § 22526, subd. (a)), yet it might be recorded as a violation based on a photograph that failed to capture images of the space into which the driver was heading. Should photographic enforcement of the anti-gridlock law be permitted in the future, the task of crafting a statute that ensures fair and accurate enforcement is one best left to the Legislature.