

Speed camera ticket tossed over typo in Maryland law

by Danny Jacobs

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James Liskow beat his speed camera ticket literally by a letter in the law.

Liskow found what he argued was essentially a typo in the 5-year-old statute, a position that resulted in his \$40 fine being thrown out Monday by the Montgomery County Circuit Court.

How Liskow's case will affect others who have received speed camera tickets is unclear. A spokeswoman for the Montgomery County police said the ruling only impacts Liskow's citation.

But Liskow thinks the ruling favoring his reading of the statute applies to every speed camera ticket issued in the state.

Multiple criminal defense lawyers in Baltimore and the Washington, D.C., suburbs informed of Liskow's feat said they have never even handled a speed camera case. Most people simply pay the fine because the traffic violation does not come with any points on a driver's license.

Liskow, an associate with DeCaro, Doran, Siciliano, Gallagher & DeBlasis LLP in Bowie, said he always fights his speeding tickets.

"That's why I went to law school," he said.

Liskow was snapped driving 45 mph in a 30 mph zone on Georgia Ave. just south of Veirs Mill Road last December. As he prepared to challenge his ticket in Montgomery County District Court earlier this year, he reviewed the state's Transportation Article, Section 21-809. The speed camera law was first introduced as a pilot program for Montgomery County by the General Assembly in early 2006 over then-Gov. Robert L. Ehrlich Jr.'s veto. Liskow lost his challenge in district court and appealed to circuit court.

Liskow's argument was based on the part of the law dealing with evidence at trial, §21-809(e). Liskow received a citation in the mail as required under §21-809(d). That citation included the offending photo, vehicle registration number and date and time of the violation, among other features.

But §21-809(e) — the law regarding evidence police must give to violators — refers to §21-809(b), which includes the "county plan describing the proposed location of the speed monitoring system," "published notice" of the speed camera's location and a signed certificate attesting the camera passed its annual calibration check, among other requirements for the use of a speed-monitoring system. None of that information appears on the citation Liskow received in the mail.

"The county has to send you a phone book full of artifacts," he said. "I can't believe no one has argued this before."

Leonard Stamm, who has handled DUI, DWI and drunk driving cases in Maryland for more than 25 years, reviewed the law Monday and agreed with Liskow's interpretation, saying there appears to be a "mistake" in the statute as to what evidence is required at trial.

"Why do they have to affirm everything under 'B'?" said Stamm, of Goldstein & Stamm P.A. in Greenbelt. "The information that is necessary is under 'D.'"

Lucille Baur, the county police spokeswoman, said the agency is still deciding whether to appeal the circuit court ruling.

"We respectfully disagree with the decision that was rendered," she said. "We do everything we can to administer the program appropriately."

Del. Charles E. Barkley, a Democrat who chaired the Montgomery County delegation when the law was passed, said Monday he had never heard of someone making Liskow's argument. Barkley said legislators "will have to take a look" at the statute again.

"I thought the law was pretty clean," he said.

If a subsection reference needs to be tweaked for technical reasons, the change could be included in General Assembly's annual corrective bill, according to Dan Friedman, chief counsel to the legislature with the Office of the Attorney General. The bill allows legislators to correct errors and omissions in state laws. (Friedman declined to comment on Liskow's interpretation of the speed camera law.)

Ron Ely, a speed camera opponent and editor of the Stop Big Brother Maryland blog, also had never heard of Liskow's defense. Most jurisdictions in the state use a similar speed camera ticket template, he said, so it's likely Liskow's ticket is not unique. Regardless of whether Montgomery County appeals the court ruling, Ely predicted it will address the issue Liskow raised.

"The county will consult with its attorneys and change the wording on the citation," he said. "That's how they usually deal with these things."

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