

2017 IL App (1st) 152508-U
Nos. 1-15-2508 and 1-15-3421, cons.
Order filed June 6, 2017
Modified Upon Denial of Rehearing July 18, 2017

Second Division

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

MARSHALL SPIEGEL,)	Appeal from the Circuit Court
)	of Cook County.
Plaintiff-Appellant,)	
)	
v.)	No. 15 M 31704
)	
ROLLING MEADOWS PHOTO)	
ENFORCEMENT PROGRAM,)	The Honorable
)	Martin C. Kelley,
Defendant-Appellee.)	Judge, presiding.

PRESIDING JUSTICE HYMAN delivered the judgment of the court.
Justices Pierce and Mason concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court did not err in denying appellant's challenge to red light violation.

¶ 2 Marshall Spiegel challenges the trial court's denial of his complaint for administrative review, after an administrative hearing officer for the City of Rolling Meadows Photo Enforcement Program upheld Spiegel's red light violation. We reject Spiegel's argument that the Photo Enforcement Program is a legal nullity. The trial court did not abuse its discretion in

admitting video footage of the red light violation. Finally, we will not overturn precedent holding the statutes governing red light cameras to be constitutional.

¶ 3

BACKGROUND

¶ 4

On December 29, 2014, the City of Rolling Meadows Photo Enforcement Program issued a Red Light Violation Notice to Marshall Spiegel. The Notice alleged that on December 13, 2014, a vehicle registered to Spiegel ran a red light at the corner of Route 53 and Algonquin Road. The Notice included three photographs depicting the violation, and noted that video footage of violations could be viewed on a website. The Notice required Spiegel to pay a fine of \$100. Spiegel contested the notice, in writing, and the City of Rolling Meadows held an administrative hearing. At the hearing, the administrative officer found that Spiegel had not raised a permitted defense and upheld the violation.

¶ 5

Spiegel filed a *pro se* complaint for administrative review in the Circuit Court of Cook County. In its answer to Spiegel's complaint, Rolling Meadows included a DVD, labeled Exhibit 5, purporting to contain a recording of the violation. A few days later, Rolling Meadows asked the circuit court for leave to file an amended Exhibit 5. According to its motion, Spiegel had been unable to view the video footage on the first DVD, and the amended Exhibit 5 was a second DVD including the video footage in a different computer format. Spiegel objected, arguing that it was unfair to admit the second DVD because he had prepared for the hearing based on the first DVD. The trial court admitted the amended exhibit. (We have viewed both the DVDs contained in our appellate record. The first contains four still photographs of the violation, while the second contains video footage.)

¶ 6

The trial court affirmed the decision of the administrative hearing officer, but stayed imposing the fine until Spiegel's appeal to this court. Spiegel moved to reconsider the trial

court's ruling. In separate notices of appeal, Spiegel challenged the affirmance of the administrative hearing officer's decision and the denial of the motion to reconsider. We have consolidated the appeals.

¶ 7

ANALYSIS

¶ 8

As a preliminary matter, Rolling Meadows filed no brief responding to Spiegel's arguments. Yet we may decide this appeal on its merits as the record and claimed errors are straightforward and can be determined without the aid of an appellee's brief. *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill.2d 128, 133 (1976).

¶ 9

The Violation Notice is Not a Nullity.

¶ 10

Spiegel first argues that the violation notice was a nullity because "the City of Rolling Meadows Photo Enforcement Program is a nonexistent legal entity." He acknowledges the physical existence of the City of Rolling Meadows (and its power to charge him with the violation), but contests the existence of the "Photo Enforcement Program" because, he contends, it is not listed in the Secretary of State's database of legal entities. This is creative, but unpersuasive.

¶ 11

The violation notice, and other paperwork, listed the City of Rolling Meadows as charging Spiegel with the red light camera violation. Further, as Spiegel acknowledges, this court has already held that the City of Rolling Meadows had statutory authority to create a "code hearing unit" for red light camera violations, and "to allow that unit to hear cases involving these violations." *Farrar v. City of Rolling Meadows*, 2013 IL App (1st) 130734, ¶ 18. It apparently did so in the form of its "Photo Enforcement Program," which, as Spiegel's experience shows, has been hearing cases of red light camera violations.

¶ 12

Admission of the Amended Exhibit

¶ 13 Next, Spiegel argues that the trial court erred in admitting amended Exhibit 5 (the second DVD). Spiegel argues that the trial court admitted this new exhibit without foundation or authentication, and this was unfair to him. We review admission of video evidence for an abuse of discretion, and will not overturn the trial court’s decision unless it is “fanciful, unreasonable, or when no reasonable person would adopt the trial court’s view.” *People v. Taylor*, 2011 IL 110067, ¶ 27.

¶ 14 The record includes both versions of Exhibit 5 (and we have viewed both versions). We find that the trial court did not abuse its discretion in admitting this evidence. As for Spiegel’s argument that admission was unfair, we note that the initial violation notice directed Spiegel to a website where he could view the video footage, and the time lapse between Spiegel’s receipt of the first DVD and the second DVD was only a few days. Further, the trial court’s affirmance of the administrative hearing officer’s decision did not take place until several weeks after Spiegel received the second DVD. He had plenty of time to prepare to confront the video footage, and was not prejudiced by the trial court’s decision.

¶ 15 **Constitutionality of Red Light Camera System**

¶ 16 Finally, Spiegel argues that the red light camera system violates due process, and urges us to revisit *Fischetti v. Village of Schaumburg*, 2012 IL App (1st) 111008, ¶¶ 15-22, where this court rejected a number of similar due process arguments. We agree with *Fischetti*’s analysis, and decline Spiegel’s invitation to instead follow the precedent of another jurisdiction.

¶ 17 Affirmed.