

IN THE COUNTY COURT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

TRAFFIC DIVISION

CASE NO.: 5406-GRS

THE STATE OF FLORIDA,
Plaintiff,

JUDGE STEVEN LEIFMAN

vs.

SAIRY ABREU,
Defendant.

**ORDER DENYING MOTION TO DISMISS RED LIGHT CITATION AS THE
STATUTE IS UNCONSTITUTIONAL**

THIS CAUSE came on to be heard on August 8, 2011 on the Defendant's Motion to dismiss her red light citation on constitutional grounds. The Court having heard argument of counsel for the State and Defense, considered the written memoranda filed by counsel including the *amicus curiae* brief filed by the Cities, and being otherwise fully advised in the premises, finds:

The Defendant received a red light citation issued by a police officer for violation of §316.075, Fla. Stat. She filed a motion to dismiss this citation arguing that red light citations issued by police officers are now rendered unconstitutional by the passing of §316.0083, which authorized the use of cameras to enforce red light violations. She argues the differing penalties created for camera enforced violations have created an inequitable classification based solely on how the same red light violations are enforced. The class whose violation is enforced by cameras pays \$158.00, receives no points, nor blemishes on their driving record. The class whose violation is enforced by police officers pays significantly higher fines, receives points on their driving record, and consequently may pay higher insurance premiums. It is the Defendant's

position that the determination of two sets of penalties depending on how the same violation is enforced is an arbitrary classification which violates equal protection.

When construing the constitutionality of statutes, which relate to the same or closely related subjects, they are regarded as *in parti materia* and must be construed together and compared to each other. *Zapo v. Gilreath*, 779 So. 2d 651, 654 (Fla. 5th DCA 2001). This requires the court to construe related statutes together so they illuminate each other and can be harmonized, if possible. *Id.* Both §316.075 (violations enforced by a police officer) and §316.0083 (violations enforced by cameras) relate to red light violations. The Defendant agrees that §316.075, the police enforced red light violation, was constitutional when passed, but argues it is only the effect of the difference in the penalties imposed for camera enforced violations which causes the statute to now be unconstitutional. The Court must look to §316.0083 and determine if the difference in penalties created between the two statutes presents a valid equal protection challenge.

The State argues that the Defendant has failed to show that he is similarity situated to those whose violation is enforced by cameras. It is a prerequisite to an equal protection claim that there be a showing that the Legislature has adopted a classification that affects two similarly situated groups in an unequal manner. *T.M. v. State*, 689 So. 2d 443, 444 (Fla. 3d DCA 1997). "Equal protection is not violated merely because some persons are treated differently than other persons. It only requires that persons similarly situated be treated similarly." *Troy v. State*, 948 So. 2d 635, 645 (Fla. 2007). The Constitution does not require things that are different in fact to be treated as if there were the same. *Tigner v. State of Texas*, 310 U.S. 141, 147 (1964). The State argues that the two groups of red light violators are not required to be treated in the same manner as they are factually different from each other. This argument is based primarily on the

distinction between who is held responsible for the violation. In the case of the police officer enforced violation, it is the driver who is held responsible. The camera enforced violation holds the owner responsible, even though he may have not been the driver when the camera detected the vehicle entering the intersection. While the Court is mindful of these distinctions, the fact remains that in both cases the same violation has occurred; only the method of detection is different.

Even if the Defendant is similarly situated to those whose violations are enforced by cameras, the different penalties may not violate equal protection. "The law may differentiate between persons similarly situated if there is a rational basis for doing so." *Tiedemann v. Dept. of Management Services*, 862 So. 2d 845 (Fla. 4th DCA 2003). The Legislature has wide discretion in creating statutory classifications and there is a presumption in favor of validity. *North Ridge General Hospital v. City of Oakland Park*, 374 So. 2d 461, (Fla. 1979). The one attacking the classification scheme has the burden of proving that the distinctions are arbitrary and unreasonable. *Id.* So long as there is any reasonable basis for distinguishing between different categories, equal protection is not violated. *Id.* at 464-5. If any state of facts can reasonably be conceived that will sustain the legislative classification, the statute meets the rational relationship test. An equal protection challenge must be rejected if there is a plausible reason for the classification. *Gallagher v. Motors Ins. Corp.*, 605 So. 2d 62, 69 (Fla. 1992).

The parties agree that the challenged statute does not involve a fundamental right or suspect classification; therefore, it is evaluated by the rational relationship test. In applying this test the court must determine (1) whether the statute serves a legitimate governmental purpose and (2) whether it was reasonable for the legislators to believe that the challenged classification would promote that purpose. *State, Dept. of Ins. v. Keys Title and Abstract Co., Inc.*, 741 So.2d

599, 602 (Fla. 1st DCA 1999). The goal of the Legislature in passing §316.0083, as argued by the State and supported by the legislative history, was to implement the use of red light cameras to promote public safety by reducing the number of traffic accidents caused by red light violations in a cost efficient manner. The use of cameras expands the enforcement against red light violators at a much lesser cost than having police officers stationed at dangerous intersections. Promoting public safety in a cost effective manner is a legitimate governmental purpose. It is rational for the Legislature to reasonably believe that to implement the use of camera enforcement required that those violators be treated differently due to the camera's limited ability. Cameras are only able to identify the vehicle and not the driver committing the violation. Because of this the Legislature made the registered owners liable for the violation regardless of who was the actual driver and crafted a different set of penalties to account for this difference. It is reasonable for points not to be assessed against camera violators since there is no way for the camera to show that the owner was the driver. The Legislature was also concerned about the burden camera violation would cause to the court system and allowing for a method of payment prior to a citation being issued is a reasonable way to avoid economic impact to the court system.

The burden is on the Defendant challenging the classification to negate every conceivable basis which might support the classification. *Lehnhausen v. Lake Shore Auto Parts Co.*, 410 U.S. 346, 364 (1973). In this case the Defendant failed to show there was any basis to negate the classification. She only argues money disguised as safety is the true goal of the statute. Therefore, Defendant has failed to meet her burden to show that the statute is unconstitutional.

This Court finds that §316.0083 is not unconstitutional. The differences in its penalties are rational related to a legitimate state interest and therefore have no negative effect on the constitutionality of §316.075.

WHEREFORE, it is **ORDER AND ADJUDGED** that the Defendant's Motion to Dismiss is **DENIED**.

DONE AND ORDERED at Miami, Miami-Dade County, Florida this 31st day of August, 2011.



STEVE LEIMAN
COUNTY COURT JUDGE