

Appendix B Notable Case Law for Radar Tickets

Listed below are ten significant case law examples which pertain to the use of radar in speed enforcement by police departments. The first two cases deal primarily with the reliability and accuracy of radar. The next six cases all deal with the various aspects of police officer training and field testing of the radar units. The last two cases specifically address the K-55 model radar gun by M.P.H. Industries, Inc. of Chanute, Kansas.

State of Florida v. Aquilera (1979). This famous case is known widely as the Miami Radar Trial. After a local television reporter showed a house clocked at 28 mph and a palm tree clocked at 86 mph, the story broke nation wide and radar was quickly shown to be less than accurate. In this particular case the Dade County Court sustained a Motion to Suppress the results of radar units in 80 speeding ticket cases. The court's opinion stated that the reliability of radar speed measuring devices as used in their present modes and particularly in some cases, has not been established beyond and to the exclusion of every reasonable doubt, nor has it met the test of reasonable scientific certainty.

United States v. Fields (1982). The District Court in Ohio ruled that it was impossible to determine from the radar results whether the defendant was traveling at 43 mph or whether the Speedgun Eight radar unit was measuring the rotation of the ventilation fan at the sewage pumping station next to the officer's car. The court also found that the officer was not qualified to operate the radar unit since he did not know the requirements for correct operation of the unit. In addition, the officer did not calibrate the unit before its use.

Commonwealth of Kentucky v. Honeycutt (1966). This case is a very common prosecution weapon against the 24 hours of classroom and 16 hours of field training requirement. In this case the court ruled that an officer should not be required to know the scientific principles of radar. The court also ruled that the officer only needs to know how to properly set up, test and read the radar unit. As such, a few hours of instruction should be enough to qualify an officer to operate the radar unit.

State of Connecticut v. Tomanelli (1966). In the case, which is the same year as the Honeycutt case, the Supreme Court of Connecticut ruled that "outside influences may affect the accuracy of the recording by a police radar set sufficient to raise a doubt as to the reliability of the speed recorded." The court also stated that tuning forks must be proved to be accurate to be accepted as valid tests of a radar unit. In order to establish the accuracy of the radar unit the operator must testify to the following:

1. That he made tuning fork tests before and after the defendant's speed was recorded.
2. That the tests were made by activating 40, 60 and 80 mph tuning forks and by observing that the unit responded correctly in each case.

State of Minnesota v. Gerdes (1971). The Supreme Court of Minnesota ruled that where the only means of testing the accuracy of a radar unit is an internal mechanism within the unit, and there is no other evidence of the motorist's speed other than the radar reading, the conviction cannot be sustained. The court also established the following conditions for proving the accuracy of the radar unit:

1. The officer must have adequate training and experience in the operation of the radar unit.
2. The officer must testify as to how the unit was set up and the conditions the unit was operated under.
3. It must be shown that the unit operated with a minimum possibility of distortion from external interference.
4. The unit must be tested with an external source, such as a tuning fork or an actual test run with another vehicle that has an accurately calibrated speedometer.

People of New York v. Perlman (1977). The Suffolk County District Court ruled that the radar device was not proved to be accurate since no external test had been performed before or after the arrest. This case is significant since it established the criteria of testing before and after a citation is issued.

State of Wisconsin v. Hanson (1978). In this landmark case, the Supreme Court of

Wisconsin set minimum conditions for the use of radar as evidence. Sufficient evidence to support a speeding conviction with moving radar will require testimony by a competent operating officer that:

1. He had adequate training and experience in radar operation;
2. The radar unit was in proper working condition at the time of the arrest;
3. The radar unit was used in an area where there was a minimum possibility of distortion;
4. The input speed of the officer's car was verified, the car's speedometer was expertly tested within a reasonable period after the citation was issued; and
5. All testing was done without the use of the radar unit's own internal calibration device.

State of Florida v. Allweiss (1980). The Pinellas County Court ruled that the testing methods for radar equipment are legally insufficient. "The use of such a tuning fork furnished by the manufacturer in this court's opinion is tantamount to allowing the machine to test itself. A tuning fork furnished by the manufacturer is but an extension and part of the total speed measuring apparatus which is furnished by the manufacturer upon delivery.

State of Delaware v. Edwards (1980). The court found that evidence based solely on the reading from a K-55 moving radar unit was not sufficient for a conviction since the unit has not been proven to be reliable.

State of Ohio v. Oberhaus (1983). The court sustained a Motion to Suppress the results of a K-55 moving radar unit. The court further ruled that the K-55 unit was only acceptable in the stationary mode.