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2	The state of the s	ELAR ALAD
3		LOS ANGELES SUPERIOR COURT
4		JAN 1 4 2009
5		John A. Clarke, Executive Officer/Clerk
6		By Destrice An / Buil Deputy
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8	APPELLATE DIVISION OF THE SUPERIOR COURT	
9	STATE OF CALIFORNIA, COUNTY OF LOS ANGELES	
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11	PEOPLE OF THE STATE OF CALIFORNIA, No. BR 045791	
12	Plaintiff and Respondent,	Santa Monica Trial Court
13	v.	No. C127079
14	WILLIAMS,) MEMORANDUM JUDGMENT
15	Defendant and Appellant.	}
16		_)
17	This cause having been submitted for decision, and fully considered, judgment is	
18	ordered as follows:	
19	The judgment is reversed.	
20	In this timely appeal, defendant and appellant Williams challenges her	
21	conviction for failing to stop for a red light, raising multiple claims of error. (Veh.	
22	///	
23	///	
24	///	
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26	¹ After filing a notice of appeal from the judgment of conviction in this case, defendant filed a separate notice of appeal from the order engrossing the settled statement on appeal. Subsequently,	
27	we gave notice of our intent to dismiss that appeal as having been taken from a nonappealable order,	

and afforded defendant an opportunity to respond. On April 21, 2008, after consideration of defendant's response, this court dismissed the appeal from the order engrossing the settled statement.

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Code, § 21453, subd. (a).)² Finding merit in her contention of insufficient evidence, we reverse.

FACTUAL AND PROCEDURAL BACKGROUND³

Defendant was cited for the above-referenced violation based on photographic evidence obtained pursuant to the automated traffic enforcement system statutes. (§§ 21455.5 - 21455.7.) The citation alleged that on March 29, 2007, at 7:52 a.m., defendant failed to stop for a red light at the intersection of Washington Boulevard and Helms Avenue in Culver City. The matter proceeded to a court trial on May 31, 2007.

At trial, Culver City Police Sergeant Allan Azran testified that he was in charge of the City's photo traffic enforcement program, which involves the maintenance and operation of automated red light camera systems at certain intersections. Azran explained that when a motorist enters an intersection on a red light, the cameras are activated and automatically take a series of photographs and record the date and time of the violation, the speed of the vehicle, and the length of time that the light had been red before the violation occurred.

With respect to the subject citation, Azran testified that the camera system for westbound Washington Boulevard at Helms was activated on March 29, 2007, at 7:52 a.m. The photographs and video produced by the system, and the data imprinted

²"A driver facing a steady circular red signal alone shall stop at a marked limit line, but if none, before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection, and shall remain stopped until an indication to proceed is shown, except as provided in subdivision (b) [regarding stopping before making turns]." (Veh. Code, § 21453, 23 subd. (a).)

All further statutory references are to the Vehicle Code unless otherwise indicated.

³The record of the proceedings in this case is set forth in an Engrossed Settled Statement on Appeal, which followed defendant's filing of a proposed statement on appeal. In engrossing the settled statement, the trial court expressly rejected defendant's submission of a verbatim transcript as unreliable. Nevertheless, defendant's opening brief contains multiple citations to such transcript. Since the transcript is not part of the record on appeal, we may not consider it. (People v. Szeto (1981) 29 Cal.3d 20, 35.) Further, we accept the settled statement as accurate because the trial court 28 lis the final arbiter of such matters. (People v. Earnest (1995) 33 Cal.App.4th Supp. 18, 21.)

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thereon, showed that a dark Chrysler traveling at approximately 37 miles per hour on westbound Washington entered the intersection after the light had been red for .16 seconds. Azran testified that the previous yellow light phase was 3.6 seconds. Based on this data, Azran opined that the vehicle was 10 feet behind the limit line of the intersection when the light turned red. Azran testified that defendant was the driver of the vehicle shown in the photographs and video, which were admitted into evidence as prosecution exhibits.

Defendant did not deny that she was the driver of the vehicle shown in the photographs and video. Instead, she testified that the sidelight was green, and that as she proceeded through the intersection, "the lights flashed and it frightened her and that she did not know what had happened." Defendant presented two photographs that were received into evidence as defense exhibits 1 and 2,4 which she testified showed that the light was green when she went through the intersection. She requested that the court dismiss the citation.

In rebuttal, Azran testified that the flashes described by defendant were likely produced by the activation of the camera system. He reiterated, with reference to the photographs and video, that the light was red at the time defendant entered the intersection.

The court denied defendant's dismissal request, and found her guilty of the charged infraction.

CONTENTIONS ON APPEAL

- 1. The evidence is insufficient to support defendant's conviction.
- 2. Defendant was denied an opportunity to review the original photographic evidence prior to trial.
 - 3. The video shown prior to and at trial was not intended for use in court.

⁴The photographs, which were also obtained from the red light camera system, showed a wider view of the same location than the prosecution's photographic exhibits, and included both the 28 overhead and side traffic signals.

4. The photographic evidence was unreliable.

5. The court erred in admitting evidence that was different from its original version.

- 6. The testifying officer acts as an agent for the red-light camera system vendor.
- 7. Defendant's due process rights were violated because the officer who signed the citation did not testify, and because the burden of proof was improperly shifted.

DISCUSSION

Sufficiency of the evidence

In considering a challenge based on insufficiency of the evidence, we apply the substantial evidence standard of review. This standard requires that we ""... review [] the entire record in the light most favorable to the prosecution to determine whether it contains evidence that is reasonable, credible, and of solid value, from which a rational trier of fact could find [the elements of the offense] beyond a reasonable doubt." [Citations.]" (*In re George T.* (2004) 33 Cal.4th 620, 630-631.)

Applying the above principles, we conclude that there is insufficient evidence to support defendant's conviction for violating section 21453, subdivision (a). The photographs admitted into evidence as defense exhibits 1 and 2 showed that there were two signals at the intersection facing defendant's direction of travel: one overhead; and one on the side, at a lower elevation. Sergeant Azran testified, referring to the photographs and video, that the light turned red when defendant's vehicle was approximately 10 feet from the limit line. However, defense exhibits 1 and 2 show that only the overhead light was red when defendant's vehicle was at this location; the sidelight remained green, and did not turn red until her vehicle had already entered the intersection. Thus, when defendant approached the intersection, there were two inconsistent traffic signals: one that was green, directing her to proceed, and one that was red, directing her to stop. (§§ 21451, subd. (a), 21453, subd. (a).)

Not surprisingly, traffic signals facing in the same direction must display the same information for through traffic in order to avoid driver confusion and the

likelihood of accidents. This standard is set forth in section 4D.08 of the California 1 Manual on Uniform Traffic Control Devices (MUTCD), compliance with which is mandatory under section 21400 et seq. Section 4D.08 prohibits, inter alia, the simultaneous display of circular red and green lights "in different signal faces on any one approach," except for circumstances not relevant here. The traffic signals facing 5 defendant when she approached the intersection of Washington and Helms displayed a combination of simultaneous red and green signals which is prohibited by the MUTCD and the Vehicle Code. The prosecution therefore failed to prove the essential elements of a violation of section 21453, subdivision (a), that defendant failed to stop when "facing a steady circular red signal alone," and on this basis, we must reverse 10 defendant's conviction. 11 In light of our disposition, we do not find it necessary to address the remaining 12 contentions on appeal. 13 The judgment is reversed.5 14 15 16

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We concur.

Wasserman, J.

Weintraub, J

⁵Retrial is barred by the double jeopardy clause of the Fifth Amendment. (*Burks v. United* 28 | *States* (1978) 437 U.S. 1, 12.)